

ADVOCACY REPORT

OFFICE OF CLIENTS' RIGHTS ADVOCACY

Spring, 2003

ASSISTIVE TECHNOLOGY

CCS Refusal to Provide Proper Size Stroller Reversed

M.P. is a 2-year-old consumer for whom California Children's Services (CCS) agreed to provide a specialized stroller for positional support to assist in learning communication skills, self-care, and other essential activities. The CCS Physical Therapist ordered a stroller which was a size too large, stating the equipment would only be provided if it would have a useful life of at least three years.

The stroller was so large that no positional support was possible. When M.P.'s legal guardian demonstrated this at the next CCS clinic, the doctor stated she would have to accept the one provided and should store it until M.P. grows into it.

M.P.'s guardian contacted OCRA. After researching and determining no law exists to support CCS's position, OCRA drafted a letter for the guardian to submit to CCS requesting an appeal and, alternatively, a list of medical experts from which to choose, to obtain a second binding opinion, as required by law.

Three work days later, CCS contacted the guardian and arranged for her to return the over-sized stroller in exchange for a proper fitting stroller. Doug Harris, Associate CRA, Redwood Coast Regional Center, Lake County.

Continuous Tracking System in Family Home Allows Consumer to Live with His Father.

J.C. is a 19-year-old consumer with aphasia, severe cerebral palsy and mental retardation. He is totally dependent on others for personal care and

activities of daily living and requires postural support at all times. He lives with his father. The regional center decided it would only provide a partial tracking system for J.C. for transfers to and from his bed, bathroom, and living room. This system involves being hoisted via a lift and sling into a wheelchair, moved to the next location where the lift again hoists him in order to place him into bed, tub, sofa, or chair. It also requires the care provider to carry a 15-pound battery pack/controller from station to station, a task which the father's health may not long allow.

J.C.'s father indicated the need for a continuous tracking system which eliminates the need for lifts in and out of the wheelchair, reducing by half the number of transfers for any inside mobility, and completely eliminating the need to lift and carry the controller/battery pack. The family's bathroom is also too small to allow a care provider to maneuver the wheelchair and lift/sling system safely.

OCRA contacted J.C.'s orthopedic specialist for information. She agreed with the need for the continuous tracking system, basing her opinion on the consumer's status following very recent surgery requiring leg casts for several months, which makes transfers even more difficult. OCRA drafted a detailed letter based on these discussions which the orthopedist signed and sent to the regional center. J.C.'s father also contacted his own physician who attested to the father's inability to sustain the exertion involved in even the partial tracking system of transfers on an ongoing basis.

On OCRA's advice, J.C.'s father requested a hearing to appeal the refusal to provide the continuous tracking system. Prior to the hearing, based on the additional information provided, the regional center agreed to provide the continuous tracking system. Rather than face unnecessary institutional care, J.C. will be able to reside at home in the community with his father. Doug Harris, Associate CRA, Redwood Coast Regional Center, Lake County.

BENEFITS

OCRA Advocates for CCS Services.

M.N. has been diagnosed with Achondroplasia and is in the Early Start Program at SARC. CCS denied the parent's request for physical therapy

services. M.N.'s parents decided to appeal the decision. They called OCRA seeking assistance in preparing for their hearing.

OCRA provided extensive background investigation and case analysis in order to provide technical assistance to the family and developed arguments and supporting documentation for the case. OCRA also informed the family of the potential arguments that CCS would make and prepared the family to be ready to respond to these arguments.

The parents were strong self-advocates and, with assistance, capable of representing the interests of M.N. Prior to hearing, CCS settled the case and agreed to provide physical therapy services to M.N. Marvin Velastegui, CRA, Gloria Torres, Associate CRA, San Andreas Regional Center.

Maximum IHSS Benefits Obtained!

J.S. had been receiving 102 hours of In-Home Supportive Services (IHSS) for several years before he contacted OCRA regarding the number of hours he received. After reviewing the information provided by the family, OCRA agreed to provide technical assistance to J.S.'s father and her to help her obtain additional IHSS hours for protective supervision. J.S.'s father contacted the IHSS worker to request additional IHSS hours and provided evidence that established the need for protective supervision. However, according to the IHSS worker's assessment, J.S. did not have a severe impairment.

OCRA agreed to represent J.S. at hearing to establish the need for protective supervision in light of her severe impairment. Both J.S. and her father testified at the hearing. The father's detailed completion of the PAI IHSS Appeals Packet was entered into evidence. The administrative law judge agreed with J.S. and her family and ordered the county to provide 283 hours of service to J.S. Matt Pope, CRA, East Los Angeles Regional Center.

Consumer Receives Significant Increase in IHSS Hours.

A.A.'s mother contacted the CRA to obtain assistance with her IHSS hearing. IHSS had performed a re-evaluation. The consumer was 8 and had autism. Her mother helped A.A. in every area of personal care. In addition,

the consumer's mother vigilantly watched her because A.A. would open the door locks and run out of the house or play with dangerous objects. After its re-evaluation, the county awarded A.A. 13.75 hours per month. The parent believed that her daughter was entitled to more hours and appealed the IHSS decision. The mother calculated the time per task after she contacted the CRA. The CRA offered to assist her by writing a brief explaining the time per task that the parent had calculated and the reasons why the consumer needed protective supervision. The parent agreed to postpone the hearing and have the CRA write the brief. The CRA retrieved documents from IHSS and the regional center and prepared the parent for the hearing. The judge agreed to increase the hours from 13.75 to 195 per month. Bernadette Bautista, CRA, Inland Regional Center.

OCRA Helps Consumer Obtain Zero Share of Cost Medi-Cal.

S.V. is a 34-year-old regional center consumer. She moved into an ICF-DDH facility in 1988. When she entered the facility her SSI personal and incidental (P&I) benefits were reduced to the institutional level. In 2002, she became eligible for Title II Social Security benefits as a Disabled Adult Child (DAC). Because her DAC benefits exceeded the P&I money allowed by law to residents in an ICF, S.V.'s SSI benefits were terminated. S.V. also had to reapply for Medi-Cal benefits when her SSI was terminated. In June 2002, she was granted Medi-Cal benefits with a \$659.00 monthly share of cost.

S.V. filed an appeal arguing that she was entitled to a zero share of cost Medi-Cal. OCRA agreed to represent S.V. at the administrative hearing. The hearing officer found in S.V.'s favor. He determined that she was entitled to zero share of cost Medi-Cal because she met the DAC eligibility criteria for zero share of cost Medi-Cal under Pickle Medi-Cal. S.V. only lost her SSI benefits because she became eligible to receive Social Security DAC benefits. She did not lose her benefits because she was admitted to a long term care facility as the County of Santa Barbara argued. S.V. is now in supported living with zero share of cost Medi-Cal. Katherine Mottarella, CRA, Tri-Counties Regional Center.

CCS Grants Reevaluation for Eligibility.

L.E. and Y.R. are infant clients of North Los Angeles County Regional Center who were denied eligibility by California Children's Services (CCS). Their parents were not given proper notice of the denial nor information on the appeal process. L.E. and Y.R. were only eligible for emergency Medical due to their immigrant status. Both children have cerebral palsy and seizure disorder. Both families are monolingual Spanish-speaking and all CCS correspondence was in English only.

OCRA agreed to represent the consumers and consulted with the regional center neurologist to provide documentation of the children's medical eligibility. The written appeals addressed the violation of CCS regulations in not granting proper notice and argued that the evidence showed the consumers have qualifying conditions. CCS responded by acknowledging notice was not proper and agreed to refer L.E. and Y.R. to a third-party "neutral" doctor to determine whether the consumers are medically eligible. Tim Poe, CRA, North Los Angeles County Regional Center.

Defective Notice Rescinded.

IHSS proposed to eliminate all the protective supervision hours and some of the other personal care hours provided by IHSS for D. L. This would result in loss of two-thirds of D.L.'s IHSS hours.

The supported living provider contacted OCRA for help with the loss of IHSS services. After reviewing the notice of action, which stated no reasons for the reduction, and failed to acknowledge D.L.'s current living situation, and psychological assessments, OCRA prepared a state hearing request for continuation of IHSS hours at the prior level.

When OCRA pointed out to the county appeal representative that there was no basis provided for the reduction in IHSS, the county rescinded the action entirely and re-authorized the original number of hours of IHSS. Doug Harris, Associate CRA, Redwood Coast Regional Center, Lake County.

IHSS Hours Increased.

J.G. has cerebral palsy and mental retardation. In October, 2002, J.G.'s mother applied for IHSS for her child. Both of J.G.'s parents work full time, but J.G.'s grandmother was available to be his service provider. The IHSS worker authorized personal care services for J.G., but did not authorize any related services, such as meal preparation and clean up, laundry, or shopping. In January, 2003, J.G.'s IHSS worker changed and the county sent another notice of action authorizing the same amount of services. In April, 2003, J.G.'s mother asked OCRA to review both of J.G.'s notices and asked if there was any way to increase J.G.'s hours.

OCRA reviewed the notices and learned that the County had denied J.G. related services because they considered J.G.'s grandmother to be an alternative resource for the services. OCRA asked J.G.'s mother whether she or J.G.'s grandmother had signed a form acknowledging that the grandmother was an alternative resource and thereby voluntarily waiving the right to payment for the services during the intake process. J.G.'s mother replied that neither had.

OCRA advised J.G.'s mother to appeal J.G.'s current authorization of services. OCRA wrote a position statement for J.G.'s mother to take to her hearing against the county. In addition to asserting J.G. required an increase of hours, OCRA argued that the county should be equitably estopped from denying a retroactive underpayment to J.G.'s grandmother since October, 2002, for the related services she rendered free of charge during that time. The Administrative Law Judge did not agree to apply equitable estoppel against the county. However, the judge ordered the county to reassess J.G. to include consideration of related services, and the amount determined would be retroactive three months from the date J.G.'s mother filed her appeal. The county has re-assessed J.G. and increased his services by 45 hours. Brian Capra, CRA, Westside Regional Center.

OCRA Assists in Favorable Federal Ruling with Substantial Benefits for the Consumer.

F.I. is a 43-year-old consumer with mild mental retardation and a variety of behavior problems that made it difficult for him to remain employed without a lot of support. During a period in 1995, F.I. made more than \$500 per month bagging groceries. The Social Security Administration (SSA)

terminated his benefits as a disabled adult child under his father's Social Security account because in 1995, \$500 was the amount SSA said a person could earn without SSA assuming a recipient could engage in work.

The CRA unsuccessfully represented F.I. in administrative proceedings contending that the employment supports F. I. received from government agencies such as the Department of Rehabilitation and the regional center constituted subsidies that should be deducted from his salary. The administrative law judge ruled that only subsidies paid by the employer could be subtracted from the employee's salary.

The CRA co-counseled with PAI and the National Senior Citizens Law Center and filed litigation on behalf of F.I. and others similarly situated. The class action was rejected by the District Court. PAI appealed the decision. The SSA put into effect a national policy accepting part of F.I.'s arguments (accepting subsidies paid by parties other than the employer) and offered to settle F.I.'s claim by reinstating his former status. With that settlement offer, the Ninth Circuit decided the case was moot, and ordered the SSA to fulfill its settlement offer. F.I. just received checks totaling approximately \$41,000. Frank Broadhead, CRA, Redwood Coast Regional Center, Ukiah.

OCRA Representation Secures Holding that Consumer Was Not Fired for "Misconduct."

M.M. took such pride in her work at an athletic club's laundry department that she kept her job there for years, despite having to spend more than an hour and a half on BART and the bus to get to work each day. M.M. never liked the uphill walk that formed the last part of her morning commute. She chose to hitch a ride up the hilly half-mile from the bus terminal to the athletic club. After she mentioned an unpleasant incident she had had with one driver, her supervisor ordered her never again to hitchhike up the hill. She disobeyed. She got fired.

M.M. began looking for work elsewhere. In the meantime, M.M. needed money and applied for Unemployment Insurance Benefits (UIB). The Employment Development Department (EDD) denied UIB benefits, concluding that she had committed "misconduct" by hitchhiking to work after being told she could not.

M.M.'s case manager contacted OCRA, which recommended that M.M. appeal EDD's decision. M.M. decided to appeal, and OCRA represented her. At the hearing, her testimony, the testimony of her job coach, and OCRA's legal arguments persuaded the administrative law judge that the employer had no authority to create rules or give orders about how she was to travel to her workplace. The judge held that such a rule was not reasonable or related to the work. M.M. therefore did not commit misconduct and was eligible for UIB. Marsha Siegel, CRA, Regional Center of the East Bay.

Consumer Wins SSI Benefits.

M.W. had been denied SSI benefits despite a report that clearly indicated a diagnosis of mental retardation and serious impairment of life and social functional skills. OCRA recommended that the regional center submit a letter from its own psychologist to Social Security that substantiated the consumer's lack of current skills to become gainfully employed. OCRA reviewed the letter and immediately submitted it to the SSA. M.W. was awarded SSI based upon the letter without the need for a hearing. Filomena Alomar, Assistant CRA, Valley Mountain Regional Center.

Reduction in IHSS Hours Prevented.

P.Y.'s disabilities result in her needing significant assistance with personal care and other activities of daily living. When the Alameda County IHSS office proposed reducing her IHSS hours from 171 hours per month to 97.4 hours, her parents were distressed and offended. They wanted to appeal. Because their primary language is Mandarin, they asked their daughter's Asian Community Mental Health Services case manager to help them present the problem to OCRA.

OCRA agreed to represent P.Y. at her IHSS hearing. Working with the bilingual case manager, OCRA explained to her parents how to establish the number of IHSS hours she needed. Using PAI's "IHSS Fair Hearing and Self-Assessment Packet in Chinese," her mother prepared a daily log to use at the hearing. Her parents are concerned, because when there is nothing else to do, P.Y. will pick at her skin and hands, causing redness and sores. OCRA and P.Y.'s parents agreed to request protective supervision at the hearing. The resulting administrative law judge decision rejected the

county's proposed reduction in IHSS hours and granted the request for protective supervision.

After reviewing the hearing decision, the County exercised its right to request rehearing from the state Department of Social Services, objecting most strongly to the award of protective supervision. OCRA sent a letter brief that opposed the rehearing request and responded to the county's claims with regard to this woman's need for protective supervision. The rehearing request was denied. P.Y. now receives the 283 hours of IHSS services she needs. Marsha Siegel, CRA, Regional Center of the East Bay.

CCS Eligibility with No Share of Cost Due to OCRA Advocacy.

A.G. is a 13-year-old girl with cerebral palsy who is fed through a G-tube, uses suctioning equipment, and a wheelchair. Her father no longer lives with the family, works in seasonal employment, and only sends the family a small amount of money each month. A.G.'s medical expenses, including the special food she requires for her G-tube feedings, have always been paid for by CCS with no share of cost (SOC). At this year's CCS redetermination meeting, the child's mother was told that she was no longer eligible for CCS with no SOC, because the father's annual salary during the previous year had exceeded the CCS limit by \$2,000. The mother was also told that, effective immediately, she would have to pay the first \$8,000 in medical costs before CCS would be able to assist with any of the little girl's medical costs.

A.G.'s case manager asked OCRA for help. OCRA wrote an appeal letter to CCS and requested the continuation of CCS with no SOC while the appeal was being considered. The CCS eligibility worker told the mother that CCS was unable to obtain certain important information in support of the child's status. Further, the eligibility worker told the mother that the only way to maintain the no-SOC status would be for the mother to provide CCS with a written estimate - supported by medical documentation - that A.G.'s medical costs for the coming year would total 20% or more of the family's total income.

OCRA advocated with the CCS Program Administrator, resulting in agreement that CCS could and would gather the information it needed from its own records. Shortly thereafter, CCS determined that A.G. remains

eligible for services and does not have to pay any share of cost. Celeste Palmer, Assistant CRA, Regional Center of the East Bay.

HOUSING

OCRA Advocates for Retention of Service Animal.

R.H. is a 47-year-old woman with a diagnosis of mental retardation and hearing impairment. She lives independently in an apartment. When new management took over her apartment complex, R.H. was told that she could no longer have her service animal, despite the fact that she provided them with a note from her doctor.

The management policy stated that only people who were blind or completely deaf were entitled to a service animal. OCRA spoke with the management company and provided them with a list of the conditions and disorders that would constitute a qualifying diagnosis for a service or companion animal. OCRA also advised the manager that the only requirement for a service animal is that the animal be trained to work for the benefit of the person with a disability.

It was OCRA's position that management was failing to make reasonable accommodations and that R.H. was being denied the opportunity to use and enjoy her dwelling without the assistance of her animal. R.H. was at risk for a more restrictive placement. Following advocacy efforts by OCRA, R.H. was allowed to keep her service animal. Lorie Atamian, Associate CRA, Far Northern Regional Center.

Condominium Owners' Association Must Provide Reasonable Accommodations.

C.M. has cerebral palsy and uses a wheelchair. She requested a reasonable accommodation from her condo owners' association (COA) to re-assign her a parking space that is wheelchair accessible. Her parking space was located an unreasonable distance from her condo unit on a dangerous, slanted corner by a busy driveway. The COA refused to schedule a meeting to address C.M.'s request. OCRA agreed to write a demand letter to the COA and

assist C.M. and her Independent Living Skills (ILS) worker in seeking out legal representation, if necessary.

OCRA sent the COA a demand letter that specified how C.M.'s rights were violated, demanded that the COA provide a reasonable accommodation, and suggested possible accommodations. Tim Poe, CRA, North Los Angeles County Regional Center.

PERSONAL AUTONOMY

OCRA Helps Consumer to Exercise Choice of Living Environments.

C.C. moved from his home in a small town in Sonoma County. He moved into a group home in Vallejo. C.C. is 21-years-old, Chinese and African American, with a diagnosis of mental retardation. C.C. was adopted by an Anglo mother.

The mother informed the home in Vallejo that C.C. was to move to Petaluma, to a group home closer to her. C.C. did not want to move. C.C. stated that he was a man and he could make his own decisions. His mother gave the home a 30-day notice. C.C. was scared to tell his mother he did not want to move because she would be angry.

OCRA met with C.C. in his new group home and observed that most of the staff and other consumers were people of color and around C.C.'s age. C.C. made a list of all the reasons he wanted to stay. OCRA spoke to the service coordinator who stated that C.C.'s mother felt strongly about C.C. living closer to her. The basis for C.C.'s decision was carefully explained to his mother. C.C.'s mother revoked the 30-day notice and stated that she had not thought of C.C.'s right to make his own decisions. C.C. was able to stay in his group home of choice. Yulahlia Hernandez, CRA, Cristina Bravo Olmo, Assistant CRA, North Bay Regional Center.

OCRA Technical Assistance Eliminates DMV Problem Based on Identity Theft.

J.V. learned he had a problem when he and his Independent Living Skills worker went to the Oakland Department of Motor Vehicles (DMV) office to get a replacement California ID card. He had lost track of the card at some point in the past year. DMV refused to assist him, explaining that he was not entitled to its services because of his recent conviction for drunk driving in San Diego County. DMV provided him with records alleging to prove this. J.V. doesn't drive and he had never been in San Diego County, but he was unable to convince DMV that its records were inaccurate. He sought help from his *La Familia* case manager, who contacted OCRA.

OCRA helped J.V. and his case manager develop evidence to prove that, even though the San Diego defendant had supplied the consumer's personal information, the San Diego defendant was not the same person who lives and works in Oakland. OCRA drafted declarations for J.V. and his employer, and worked with the case manager to draft a letter of explanation to the judge. The case manager got the declarations signed, secured copies of needed documents, and sent the materials and letter to the San Diego County court. Within a few weeks, J.V. got a court order confirming that he was not the same individual as the San Diego drunk driver, and J.V. was again able to conduct his business at DMV. Marsha Siegel, CRA, Regional Center of the East Bay.

REGIONAL CENTER

OCRA Provides Technical Assistance to Consumer Seeking Regional Center Eligibility.

A.C. is a 22-year-old adult with a diagnostic history of Williams Syndrome and pervasive developmental delays. Mrs. C., A.C.'s mother, called OCRA in March, 2002, asking for assistance regarding the denial of regional center eligibility. Mrs. C. stated that the only services A.C. was currently receiving were from the Department of Rehabilitation and that he was enrolled in a program at Foothill College. Mrs. C. also stated that A.C. could not work by

himself and that he needed a lot of help with his daily living skills. A.C. had always been in special education classes.

A.C.'s parents agreed to fund a private assessment by experts at the University of California Medical Center in San Francisco. The findings from the evaluation indicated that A.C. did have a qualifying condition and that he should be eligible for regional center services. OCRA provided technical assistance and advice.

The UCSF report was submitted to the regional center and a request for reconsideration was made. A.C. was found eligible for regional center services with a diagnosis of autism. OCRA was available to attend the first IPP. Gloria Torres, Associate CRA, Marvin Velastegui, CRA, San Andreas Regional Center.

Regional Center Makes Systemic Changes in Supported Living Services.

In the course of investigating the death of a client in supported living early this year, OCRA worked with Kern Regional Center (KRC) Quality Assurance staff to implement new policies for the provision of Supported Living Services. Examples of the new policies include requirements such that medications must be administered as instructed in clients' IPPs, vendors must submit to KRC procedures for keeping and updating medication logs and must submit plans for distribution of the procedures to their staff and to KRC. Vendors must comply with procedures for when to enter the home of a client for medication administration when staff has not received permission from the client to enter. KRC service coordinators must have an objective written into each IPP to address the above situation. SLS vendors must contact a client's doctor when it is reported that a client slept all day or was sick. New SLS vendor staff will receive a comprehensive orientation within the first two weeks of employment. Additional training will be done on a regular basis. Eulalio Castellanos, CRA, Valerie Geary, Assistant CRA, Kern Regional Center.

Regional Center to Fund Summer Camp.

C.G. is a 37-year-old adult consumer with multiple developmental and physical disabilities. C.G.'s mother and conservator contacted OCRA for help when the regional center denied funding for the client to attend a week

at summer camp. The regional center based its denial on its approved Expenditure Plan.

After reviewing C.G.'s Individual Program Plan (IPP), OCRA concluded the regional center had no legal basis for denying the service. The OCRA office helped C.G.'s mother with the necessary legal arguments and technical support to successfully represent the consumer at a fair hearing. The regional center was ordered to fund the camp for the consumer. Rita Snykers, Interim Associate Clients' Rights Advocate, Maria Bryant, Clients Rights Advocate, San Gabriel/Pomona Regional Center.

Funding for Independent Living Skills Program.

J.N. is a young man with cerebral palsy, mild mental retardation, and epilepsy. He participated in a local Orange County ILS program that was not successful in preparing him for transition to independent living. J.N. was informed of an intensive ILS program that is sponsored by Taft University in Fresno. It is a two- year program that includes living in the dormitories at the university and attending classes at the college and activities in the community. Graduates of the program are tracked for 10 years after completion to monitor their successful transition into independent living.

J.N. requested the Regional Center of Orange County fund the Taft University ILS program. Over a period of approximately two years, the regional center service coordinator was given all the information from the program and asked to include the program as part of the IPP plan of services. The service was included in the IPP. The consumer was placed on a waiting list. After more than a year and a half on the waiting list, J.N. proceeded to go through the admission interview and testing procedure and received his acceptance letter. He paid his initial deposit and went to the orientation program. Thereafter, the regional center decided that it could not fund the program because staff felt J.N. did not need that intensive level of services and because they felt there were other more cost-effective means of meeting J.N.'s needs. J.N. was issued a denial letter less than one month before he was scheduled to begin the program.

OCRA proceeded to file an administrative appeal of the regional center's decision and requested an expedited appeal hearing. OCRA represented the consumer at an informal hearing and presented arguments as to why the Taft program should be provided. The regional center retracted its denial. J.N. will now be moving to the dormitories at Taft University and attending the two-year independent living skills program. Eva Casas-Sarmiento, CRA, Orange County Regional Center.

Child Maintains DD Waiver Eligibility and 24-Hour In-Home Nursing.

C.M. is a medically fragile 12-year-old with cerebral palsy, epilepsy, and severe mental retardation. In 1997, Inland Regional Center certified C.M.'s eligibility for the Home and Community Based Medi-Cal Waiver for the Developmentally Disabled (DD Waiver). As a DD Waiver recipient, C.M. began receiving 24-hour per day LVN nursing level care at home. In July, 2002, the regional center sent C.M.'s parents a notice terminating C.M. from participation under the DD Waiver reasoning that C.M.'s level of care exceeded that allowable under the DD Waiver. The notice stated that C.M. was on a waiting list for the Pediatric Sub-Acute Waiver administered directly through Medi-Cal's In Home Operations, and that her nursing hours would be reduced to 16 hours per day once the waiver transfer was made. C.M.'s parents appealed and contacted OCRA for assistance.

At an informal meeting held in early June, the parties discussed possible alternatives for C.M.'s nursing care needs. The parties agreed that the regional center would attempt to maintain C.M.'s DD Waiver status through its administrative advocacy efforts with Medi-Cal's In Home Operations. OCRA informed the regional center that C.M.'s family would be expecting IRC to supplement any shortage of C.M.'s nursing hours should the waiver transfer occur. To date, OCRA is awaiting IRC's response as to the latter's success with Medi-Cal's In Home Operations and the supplementation issue, if the latter becomes necessary. Ruby Vasquez, Assistant CRA, Brian Capra, CRA, Westside Regional Center, Irma Wagster, Supervising CRA.

Regional Center Ordered to Continue to Fund Previous Behavioral Services Provider.

K.K. is a twin and both he and his brother have autism and receive a multitude of services from regional center and school. Their parents also

pay for some private services. K.K. was transitioning from school-provided in-home behavioral services to regional center-funded behavioral services. At his IEP in April, 2002, the school district announced that it would only fund K.K.'s behavioral aide during the school day as K.K. transitioned into first grade. At that time, the regional center agreed to fund the 12 hours of in-home service that K.K. had been receiving.

The family then sought to continue services with the same provider for continuity and ease for K.K. The regional center refused to utilize that provider as it was not a vendor of the regional center. The regional center claimed the provider was not properly licensed. The parents went through a lengthy series of negotiations with the regional center. They were unsuccessful and filed for hearing. During this time, the family tried one of the regional center vendors and found the service unsatisfactory.

OCRA represented K.K. at hearing and argued that the vendor in question was qualified to provide the service based on the training and experience of its staff, in spite of not having the licensure required in Title 17 of the California Code of Regulations. OCRA also argued that other sections of the Lanterman Act required the retention of the same provider.

After hearing, the judge ordered the regional center to fund 12 hours per week of in-home behavioral services with the provider that the family had chosen. K.K. is now receiving services with his prior provider. Katie Casada Hornberger, CRA, Harbor Regional Center, Ada Quintero, Assistant CRA, North Los Angeles County Regional Center.

Client Maintains Regional Center Eligibility after Move to New Catchment Area.

R.S. is a 37-year-old woman who became eligible at Eastern Los Angeles Regional Center (ELARC) in 1987 under the 5th category. At the time she was 19-years-old. Her IQ scores did not qualify her as mentally retarded but the regional center found that she had a condition similar to mental retardation and required similar treatment to someone with mental retardation. R.S. began attending a day program, received transportation training, and even joined a bowling league and was in the state championships.

In 1996, ELARC had R.S. reassessed and found that she was still eligible under the 5th category. Her services continued. In 2002, after her parents retired, R.S. moved into Inland Regional Center's (IRC) catchment area. She expected that she would move and find a new day program and maybe join a bowling league again or try something new. IRC questioned her eligibility and had her reassessed again.

The IRC assessment indicated that R.S. was not eligible for regional center services and that her original eligibility determination was "clearly erroneous." R.S.'s family then contacted OCRA. OCRA had her reassessed and took the case to hearing as a person's eligibility can only be overturned following a comprehensive assessment and a finding that the original determination was "clearly erroneous." This is a difficult burden and not easily met by the regional center.

Expert testimony on behalf of R.S. was compelling to the judge who found that IRC had not conducted a comprehensive assessment nor had it proven that either R.S.'s initial 1987 or her 1996 reassessments were "clearly erroneous." The judge ordered that the regional center reinstate R.S.'s eligibility and begin providing services to her immediately. Katie Casada Hornberger, CRA, Harbor Regional Center.

OCRA Advises Client About IHSS and IPP Meeting Preparation.

F.V. is a person with severe cerebral palsy and mental retardation. She is very social and loves the day program that she attends. She is 64-years-old and lives with her 85-year-old mother without any additional supports. F.V. and her mother were pleased with the transportation services F.V. received in the afternoons, but the regional center told F.V.'s mother that the only time the vendor could pick up the client was at 7:15 a.m. That would mean that F.V.'s mother would have to wake F.V. up at 5:15 every morning so that she could be ready on time and she would have to be strapped into the van for 2.5 hours for a 20-mile trip. F.V.'s mother called OCRA to learn about options for helping her daughter.

OCRA informed F.V. and her mother about IHSS services and information about how to obtain those services. OCRA advised F.V. and her mother to request an IPP meeting with the regional center in order to formally request appropriate transportation services. OCRA advised F.V. and her mother to obtain records from F.V.'s doctors about her fragile physical state which

prohibits a long van ride. F.V. and her mother have applied for IHSS and are preparing for F.V.'s IPP. Nasha Spall-Martinez, Interim CRA, San Diego Regional Center.

Administrative Law Judge Determines That Severe Form of Asperger's Qualifies Youngster for Regional Center Eligibility.

J.B. is 8-years old. J.B.'s parents describe him as being "out of control," with destruction of property a daily occurrence. J.B. has frequent episodes of screaming, kicking, cursing, hitting, and throwing things. J.B. attended preschool for seven months. The program was discontinued because J.B. would bite other children and his teacher. His grandmother could not baby sit J.B. because he hit her.

J.B. was seen by two child and adolescent psychiatrists in Santa Cruz. He was tried unsuccessfully on multiple psychiatric medications. J.B.'s psychiatrist ultimately determined that J.B. had an "autistic disorder." Mental health services were discontinued because "autistic disorder" is considered to be a developmental disability. J.B.'s parents applied for regional center eligibility and were denied. The regional center said that J.B. had Asperger's, a condition frequently considered to be psychiatric in nature. Despite the extreme nature of J.B.'s disability, neither mental health nor the regional center would provide needed and necessary services.

OCRA took the case to hearing. The administrative law judge determined that J.B. clearly met the diagnostic criteria for Asperger's disorder and that he could simultaneously meet the criteria for autistic disorder.

J.B. was found eligible for regional center services because he has demonstrated major impairment in seven areas of adaptive functioning including communication, learning, self-care, mobility, self-direction, capacity for independent living, and capacity for economic self-sufficiency. J.B. is now scheduled for his first regional center IPP. Gail Gresham, Supervising CRA, Sacramento, Gloria Torres, Associate CRA, and Marvin Velastegui, CRA, San Andreas Regional Center.

Twins Found Eligible for Regional Center Services.

Identical twins, I. and I., were denied regional center services on the basis that they had language disorders. Both twins qualified for SSI. Mother was

out of work and on disability. The twins' mother came to the United States when she was nine years old and did not attend school past the third grade. Following denial of regional center services, mother contacted OCRA. OCRA requested a due process hearing and undertook extensive review.

Mother reported a complicated pregnancy. She suffered from severe anemia and high blood pressure. The twins' development showed a pattern of delays including significant delays in language, learning, and behavior since the first year of life. A comprehensive review of the medical history, developmental history, psychosocial history and educational history revealed extensive delays across multiple domains. The twins were expelled from school. The family was forced to live in a home with multiple windows shattered and broken out following uncontrollable behavior by the twins.

OCRA retained a neuropsychologist from the University of California to conduct objective testing. The expert was able to determine that the twins were both qualified for regional center services on the basis of mental retardation. The regional center had denied services in the absence of any IQ scores. OCRA prepared witnesses for hearing and submitted its documentary and supporting evidence to the regional center prior to the hearing. Following review of the evidence provided on behalf of the twins, the regional center determined that they were both now eligible. OCRA will attend the twin's first IPP. Gail Gresham, Supervising CRA, Sacramento, Lorie Atamian, Associate CRA, Tammy Solano and Maria Bryant, CRAs, Far Northern Regional Center.

SPECIAL EDUCATION

OCRA Advocates for School to Offer Private School Services.

A.N. has been diagnosed with Autism. A.N.'s mother contacted OCRA seeking advocacy on behalf of her son. The mother was not happy with the extended school year program that was being offered by the school district. During the school year, A.N. was in a special day class and was mainstreamed for three hours a week. He also received 14 hours of behavioral services, along with speech and language and occupational therapy.

Mother was concerned that the school district was not going to allow A.N. to be mainstreamed at all during the summer program and that his current behavioral services would not be provided. Mother requested the assistance of OCRA at A.N.'s IEP. OCRA attended the IEP and strongly advocated for A.N.

OCRA and the mother worked with the school district to reach an agreement that the district would change its offer for the extended school year program and allow A.N. to be mainstreamed for five hours a week and maintain his current behavioral support hours. The mother was pleased to receive a revised summer school program but she then opted to send A.N. to a private summer school. OCRA and mother then worked with the school district to assure provision of the behavioral services in the private summer school program. All of A.N.'s specialized services remained intact. Marvin Velastegui, CRA, Gloria Torres, Associate CRA, San Andreas Regional Center.

OCRA Demands Emergency IEP to Prevent Discontinuation of School Transportation.

J.B. is a youngster in a primary school specifically designed for children with autism. J.B. lives at home with his parents and younger brother. The school district had been providing J.B. with bus transportation to his non-public school along with an aide that came on the bus. The school district terminated the bus transportation because J.B. had behavioral outbursts that were too difficult to manage. As a result, the school district asked the mother to transport J.B. on her own and agreed to reimburse the mother for her mileage for this transportation.

This transportation arrangement became increasingly difficult for J.B.'s mother as J.B. continued to have behavioral episodes while his mother was driving. To further complicate matters, the family car broke down and the family could not afford repairs. J.B. had no way to get to school. OCRA was contacted to provide advocacy on J.B.'s behalf.

OCRA immediately sent a demand letter for an emergency IEP meeting and action requiring the district to provide bus transportation along with an appropriately trained aide. OCRA met with J.B.'s mother and the school district to resolve these issues. At the IEP meeting, the school district agreed that they would re-instate J.B.'s bus transportation. The school district also

agreed to employ a staff member from J.B.'s non-public school as his aide during the bus transportation. Marvin Velastegui, CRA, Gloria Torres, Associate CRA, San Andreas Regional Center.

Health Care Attendant to Be Placed in Classroom.

B.S. attends a special education school within the Los Angeles Unified School District (LAUSD). At an IEP in February, 2003, B.S.'s mother presented letters from B.S.'s doctors stating that he needs constant supervision because of suctioning needs. Waiting for a nurse to be called could place B.S.'s life in jeopardy. LAUSD denied B.S.'s mother's request for a 1:1 health care provider for B.S. in the classroom. The district acknowledged the need for a health care aide on the bus but did not acknowledge that the same level of care is needed in the classroom. At that time, there was no one in the classroom that could provide suctioning if it was needed. B.S.'s mother requested an informal meeting with the LAUSD.

B.S.'s mother then contacted OCRA for representation. OCRA agreed to represent B.S. At the informal meeting with the district, OCRA argued that the district is required to provide health care services when they are necessary during the school day to enable the child to attend school. OCRA also argued that B.S.'s life could be at risk if a health care attendant was not present. The district agreed that B.S. needs a health care attendant to be in the classroom. Patricia N. Carlos, CRA, South Central Los Angeles Regional Center.

School District Agrees to Fund After School Program with Aides.

M.D. and C.D. are six-year-old twins with Down Syndrome. They attend preschool and receive a number of different therapies from their local school district. They receive the therapies after school because if the twins were pulled out during class time, they would have little, if any, class time left. They had been receiving the therapies at an after-school program funded by the district with individual aides. This program not only gave the twins time for therapy but also a chance to socialize with other children.

At the May, 2002, IEP their parents thought that everything would remain the same for the boys' last year of pre-school. They didn't read the start and end dates of each of the many services each boy receives. The parents were very surprised in October when they received a bill for the after-school

program and the cost of the individual aides. They requested an IEP to discuss the situation. At that IEP, the parents were informed that the boys would not have the program or the aides. The parents then revoked their consent to that IEP and invoked their right to stay put from the last agreed upon IEP, which detailed the services the parents had intended.

In March, 2003, OCRA filed for hearing against the district requesting a continuation of the services and that no charges be assessed against the parents for the prior months. This request was based on the fact that the boys need the after-school program in order to have enough time to receive services. The CRA further argued that, contrary to the district's position, the after-school program was not day care as the boys' mother does not work outside the home.

At mediation, the district agreed to continue the service through the end of the current school year and not assess any charges against the parents. Katie Casada Hornberger, CRA, Harbor Regional Center.

OCRA Teams with Mother to Obtain 1:1 Aide.

T.M. is a child with autism who has been attending a pre-school program with a 1-to-1 aide for almost all of the school day. Next year, she will be entering kindergarten and her parents want her to receive the help she needs to succeed. Though T.M. is bright, she needs to have tasks explained or modified specifically for her and needs considerable help in transitioning from one activity to another. The school district proposed that T.M. have an aide for approximately half of the school day. T.M.'s mother strongly believed this lack of support was inadequate. At the IEP, the mother, supported by the CRA, firmly stated the reasons why her child needs a 1-to-1 aide. As a result, T.M. will begin her school experience with a 1-to-1 aide for substantially the full school day and receive other assistance as needed. Lynne Page, CRA, Redwood Coast Regional Center, Eureka.

OCRA Prevents School Expulsion.

The CRA accompanied a consumer, a fifteen-year-old teenager with mild mental retardation, to a manifestation determination meeting at his high school. The student allegedly had admitted to improper touching of another student. The consumer had previously exhibited some behaviors which should have alerted the school personnel to a potential problem, but the

school offered neither intervention nor counseling. After another student complained that she had been touched inappropriately, the boy was suspended for five days and cited for sexual battery. The school psychologist reviewed his records at school and stated that the boy had never been referred for discipline before. He also interviewed the boy's parents, who only spoke Spanish. Father stated that, when pressured, his son would confess to anything. The CRA questioned school officials about their procedures and the interrogation. The CRA also learned that the school was aware of the situation and had done nothing to intervene, either before or after the alleged incident. There were also no witnesses to the alleged event. The school stopped the expulsion. Enid Perez, CRA, Central Valley Regional Center.

Consumer Graduated with His High School Class of 2003.

S.L. was to receive a certificate of completion. Then the school decided to award S.L. a high school diploma instead. This would mean that his special education opportunities would terminate and funding for the Young Adult Transition Program would not be required.

The CRA met with S.L. and his family to determine the young man's goals and personal wishes, and represented him at his IEP. S.L. was very pleased that, according to his new IEP, he will graduate with the Class of 2003, but in a way that meets S.L.'s needs. He will be awarded his certificate of completion. Then, over the summer, S.L. will receive extended school-year class instruction provided by the school district to acquire two more math credits needed to qualify for his high school diploma. The district also agreed to modify his high school proficiency exam in order to satisfy all of the requirements for a diploma. The entire IEP Team was supportive of his new IEP plan of enrolling in Delta College Disability Program, Department of Rehabilitation Services for a job, and Independent Living. Leinani Neves, CRA, Valley Mountain Regional Center.

Student Receives Compensatory Education Services.

J.M. is a 20-year-old consumer with major cognitive and language deficits. J.M. often runs away from situations he does not like, so his inability to communicate is a serious safety problem. He goes to school in a small, remote, rural school district with few professional services. Since 1998,

when he entered the district, his speech was assessed as being essentially unintelligible to anyone other than his mother, his teacher and an aide, and speech therapy was recommended five days per week. Therapy was never provided more than one day per week because the district only hired a therapist to be present one day per week. During some periods that lasted over a year, the district did not have any therapist at all.

This situation went on for years with occasional assessments noting little or no progress in his ability to communicate. The school also would not provide an appropriate off-campus workability program as a transition from school to the work place. The only bright spot in his education occurred when an exceptional speech therapist moved to the area and the district hired her two days per week. She was able to help J.M. make notable progress in his ability to articulate in a short period of time.

J.M.'s mother requested assistance in getting J.M. the services to which he was entitled. After the school district stalled through a succession of IEP meetings, the CRA represented J.M. in a mediation session. The school district agreed: (a) to extend his school program for a full semester past the time that he would ordinarily be out of special education; (b) to provide a full time 1:1 aide who would assist him in the classroom as well as any job site; (c) to provide speech therapy two times per week from the therapist and three times per week from a trained speech technician; and (d) with the parent, to develop a functional communication goal by the first month of the fall semester to measure whether the proposed language program was successful. The mediation is being kept open until October of 2003, so the progress of the program could be monitored. Frank Broadhead, CRA, Redwood Coast Regional Center, Ukiah.

Functional Behavior Analysis Obtained.

Upon entering kindergarten, J.B. exhibited behaviors that caused his suspension from the classroom on numerous occasions. The regional center service coordinator contacted the CRA for technical assistance. The CRA provided advice on how to request a functional behavioral analysis assessment at the IEP meeting. However, when the service coordinator made the request, the school denied the requested assessment.

The client contacted the OCRA office for additional assistance. The CRA appealed the district's denial of the functional behavioral analysis. Because

of the urgency of the behavioral issues, the CRA decided to contact the school district's attorney before the mediation date in order to expedite the process. The parties were able to reach an agreement for the provision of a behavioral analysis prior to the mediation. Matt Pope, CRA, East Los Angeles Regional Center.

District Fails to Provide Educational Services for Two Years.

S.M. has a severe form of epilepsy. She suffered a head trauma at her last public school placement which precipitated an increased number of seizures. Seizure activity occurred on a regular basis and required an extended recovery period. Additionally, S.M.'s immune system is not strong.

S.M.'s mother wanted the school district to provide home schooling with occupational therapy, physical therapy, and speech therapy. Two years passed following the request. The district did not provide any services. S.M.'s called OCRA for assistance in securing services from the district.

After much advocacy by OCRA, the district set up an IEP. At the IEP, OCRA emphasized that the district had failed to provide a free appropriate education for two years. The district agreed to provide a summer program at S.M.'s home, which was what the family wanted. The district also agreed to provide weekly speech therapy, occupational therapy and physical therapy for the months of July and August. The district also agreed to do an Assistive Technology assessment and to make a referral to the California Diagnostic Center in Fremont for a complete assessment of S.M.'s needs.

For the fall, the district has made an offer for a special day class with a nurse's assistant to accompany S.M. throughout the day. The district also agreed to keep all related services in place for the fall. The IEP will resume again in August to insure that all services are in place. Katy Lusson, CRA, Golden Gate Regional Center.