

## ADVOCACY REPORT

### OFFICE OF CLIENTS' RIGHTS ADVOCACY

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Spring 2007

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#### BENEFITS

##### *OCRA Prevails against County.*

I.R., a 6-year-old, is cared for by his mother. OCRA advised I.R.'s mother at an outreach that I.R., as a result of receiving Supplemental Security Income (SSI), was also eligible for In Home Supported Services (IHSS). I.R.'s mother applied for IHSS but the county denied the application, claiming that the mother had not left full-time employment to care for I.R. OCRA represented at a hearing, arguing successfully that I.R.'s mother was eligible to be paid because she was unable to work due to her having to care for I.R. The Administrative Law Judge (ALJ) accepted OCRA's argument but delayed a decision until the county got a doctor to sign the necessary forms.

Once the county had the doctor's signature, the county again denied the IHSS application for the same reason. OCRA made the same argument and the ALJ ruled the same way. I.R. was granted 195 hours of IHSS, retroactive to June, 2006, including protective supervision. Matt Pope, CRA, Lucy Garcia, Assistant CRA, Eastern Los Angeles Regional Center.

##### *Improper Assessment of Share of Cost in Medi-Cal.*

For several years, OCRA staff has made certain that recipients of Disabled Adult Child (DAC) benefits get the zero-share of cost Medi-Cal to which they are entitled. Under these rules, consumers who lose financial eligibility for SSI because of an increase in DAC benefits are treated for Medi-Cal purposes as if they still received SSI. This means consumers receive Medi-Cal without the share of cost (SOC) someone with their income would otherwise pay. In the past, OCRA appealed Notices of Action (NOA) assigning SOCs and gave county appeals workers copies of the law. After reviewing these, the appeals worker would settle the appeal by restoring Medi-Cal without any SOC. No hearing was needed.

The situation changed after Alameda County converted to CalWIN, the state's new welfare database. DAC benefit recipients such as D.M. and A.D. started receiving Medi-Cal notices assigning very large SOC's.

OCRA's inquiries with county appeals workers produced an explanation. California counties had converted to CalWIN, a new database system that had a number of problems, among them a tendency to assign SOC's to DAC beneficiaries. This seems to happen when new information enters the system, such as at annual redeterminations or when a cost-of-living-adjustment becomes effective. OCRA helped D.M. and A.D. take their 2007 SOC appeals to hearing, as a first step in addressing a systemic issue that might affect thousands of regional center DAC recipients throughout the state. Marsha Siegel, CRA, Regional Center of the East Bay.

### **IHSS Victory.**

J.B. had been receiving 283 hours per month of IHSS services because he had prevailed in an administrative hearing in July, 2006. In September, 2006, IHSS again reduced J.B.'s IHSS to 194 hours per month, which violated the July order. J.B.'s parent had been informed by the IHSS social worker that the ALJ had made an error in J.B.'s decision and the county was going to rectify the "bad decision" by reducing J.B.'s hours. J.B.'s parent appealed the reduction and requested assistance from OCRA.

OCRA assisted J.B.'s parent in filing a compliance complaint with the Department of Social Services as well as preparing for another hearing. Finally, one week prior to the scheduled hearing, J.B.'s parent was informed by the director of the social services office that J.B.'s hours would be reinstated and would not be reduced again. Jacqueline Miller, CRA, Cynthia Salomon, Assistant CRA, Regional Center of Orange County.

### **OCRA Helps Client Receive 195 hrs. of Retroactive Protective Supervision.**

R.O. is a 6-year-old boy with autism, who resides with his mother and 2 younger brothers, ages two and four. In June, 2006, R.O.'s mother contacted the county and requested R.O. be assessed for IHSS services and protective supervision. In August, 2006, the county issued a NOA that R.O.

had no assessed need for services and could remain safely in his home without services. His mother appealed and contacted OCRA. OCRA staff provided technical assistance to her to prepare for the hearing.

At the November, 2006, hearing the county rescinded its August NOA and the ALJ ordered the county to reassess for IHSS and protective supervision as of June, 2006. A reassessment was conducted in December, 2006. The county issued a NOA granting 41.4 hours per month but denied protective supervision. R.O.'s mother appealed.

OCRA staff represented R.O. at the hearing in March, 2007. The ALJ granted R.O. 195 hours per month of IHSS and protective supervision with retroactive payment back to June, 2006. Anastasia Bacigalupo, CRA, Christine Armand, Associate CRA, South Central Los Angeles Regional Center.

### **OCRA Gets New Wheelchair for S.C.**

S.C. is an adult who resides with her mother. S.C. and her mother contacted OCRA for assistance to obtain a new wheelchair for S.C. Her current wheelchair was quite old, in disrepair and unsafe. S.C. and her mother had experienced a 10-month delay in obtaining the chair before contacting OCRA.

OCRA staff determined that the Treatment Authorization Requests (TAR) for the wheelchair had not been processed by Medi-Cal and the local vendor failed to follow-up to provide the additional information needed to approve the TAR. OCRA staff contacted the Medi-Cal field office and had seven TARs approved and sent to the local vendor to construct and fit the new wheelchair for S.C. OCRA set a reasonable timeline with the vendor and kept regular communication with him to ensure timely construction, fitting and delivery of the wheelchair. S.C. received her new wheelchair within 2 months of contacting OCRA. Anastasia Bacigalupo, CRA, Christine Armand, Associate CRA, South Central Los Angeles Regional Center.

### **OCRA Successfully Appeals Social Security Overpayment.**

S.H. and T.H. are a married couple, both employed and receiving SSI benefits. An independent living skills worker assists them with their budgeting and bill paying. In February, 2007, S.H. and T.H. received a

notice of overpayment from SSI in the sum of \$1,859. Although their service coordinator assisted them in filing a waiver, he had failed to inform the couple of their right to reconsideration. The Assistant CRA filed the reconsideration papers with supporting documentation on S.H. and T.H.'s behalf. The couple received a written decision that the overpayment was in error and received a back payment of \$686. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

**D.C. Keeps His SSI.**

D.C., who lived in Washington at the time, was stopped by the police for a traffic violation while driving a car that he did not know was stolen. Following the court proceedings in Washington, which he thought resolved the matter, D.C. moved to Eureka, where seven months later he received a termination notice from the Social Security Administration (SSA) telling him that because he was a fleeing felon, his SSI was terminated. After his mother filed a Request for Reconsideration with SSA, she called OCRA for help. The CRA gave the mother information on the process and the law, which she used to convince SSA to continue D.C.'s SSI while he cleared up the stolen car case in Washington. Jim Stoepler, CRA, Redwood Coast Regional Center.

**Client Gets Maximum IHSS Hours.**

J.M.'s mother called OCRA and complained that two years earlier the county had assessed J.M. for IHSS and denied service hours to J.M. on two occasions. The first time the county assessed J.M. for IHSS, the worker reasoned that J.M., a 12-year-old boy, was "too young" for IHSS. After finding out that she was misinformed by the county, J.M.'s mother again called the county and was told by the same social worker that J.M. did not qualify for IHSS, no matter what his age. Two years later when J.M.'s mother reapplied, she called OCRA. The CRA attended the assessment and advocated for related service hours as well as protective supervision. As a result, the county granted J.M. the maximum 283 hours per month of IHSS, including protective supervision. Bernadette Bautista, CRA, Alba Gomez, ACRA, San Diego Regional center.

**J.S. Receives Appropriate In-Home Nursing Hours.**

For five years, J.S.'s private insurance paid for 24-hour in-home care by a licensed vocational nurse (LVN). In August, 2006, his private insurance reduced J.S.'s nursing hours to four hours per day. Since J.S. also has Medi-Cal, the nursing agency submitted a TAR to Medi-Cal and requested funding for 16 hours of LVN nursing (the regulatory pediatric subacute level of care). The TAR was denied, and Medi-Cal only authorized six hours of LVN nursing, saying that J.S. could be served by an intermediate care facility for people with developmental disabilities and nursing needs (ICF-DDN), so that was the level of care he would get at home, too. J.S. was then hospitalized for 31 days and was in a coma for part of the time.

OCRA spoke with the regional center nurse, who felt J.S. met the criteria for pediatric subacute level of care, both before the hospitalization and since returning home. The regional center agreed to fund an independent nursing assessment. OCRA filed for hearing against Medi-Cal. The independent nurse consultant found that J.S. needed constant monitoring because of his seizures, suctioning, and oxygen. OCRA also spoke with the nursing agency, which had been providing 16 hours of care to J.S. despite not getting reimbursed by Medi-Cal, and assisted it in understanding the regulations and the wording of the TARs in relation to the regulations.

Medi-Cal In-Home Operations (IHO) called the nursing agency and asked for more information about J.S.'s care. OCRA called the IHO nurse supervisor and explained there was a comprehensive nursing assessment that showed J.S.'s need for services at the pediatric subacute level of care. Two days later, OCRA received a fax stating that J.S. met the pediatric subacute level of care for the time period in question, and asked for withdrawal of the hearing request. The parents agreed to withdraw the hearing request. Katie Meyer, CRA, Meriah Harwood, Assistant CRA, Westside Regional Center.

**Social Security Waives \$11,134 Overpayment.**

C.F., who lives on her own and receives SSI and Social Security Disability Insurance benefits (SSDI), allowed her mother to act as C.F.'s representative payee. Although she was C.F.'s payee and reported C.F.'s work earnings to SSI as required, the mother did not report C.F.'s earnings to SSDI, which was also required. The SSA eventually determined that, because of the failure to report earnings to SSDI, C.F. had been overpaid more than

\$11,000 and demanded repayment. SSA, because of her work history, also terminated C.F.'s SSDI and said she was no longer disabled.

OCRA assisted C.F. and her mother in completing the forms to appeal both the termination of SSDI and the overpayment and to also request a waiver of the overpayment. OCRA then helped C.F. collect documents and prepared her and her mother for their meeting with SSA, where it was decided that 1) the \$11,000 overpayment was not C.F.'s fault, 2) repaying the \$11,000 would be a hardship for C.F. and 3) that she was still disabled. The \$11,000 overpayment was waived and C.F.'s SSDI was reinstated. Jackie Coleman, CRA, Jacqueline Gallegos, Assistant CRA, Alta Regional Center.

### **Ruling Awards M.M. IHSS.**

M.M. has multiple disabilities. In 2005, M.M.'s mother requested that M.M. be assessed for IHSS services. After a 30 minute assessment, during most of which M.M. was not present, a NOA was issued denying IHSS on the grounds that M.M. had no need for services and that she could remain safely in her own home without services.

OCRA filed a state hearing disputing the county's denial of IHSS and obtained current psychological and behavioral assessments to document M.M.'s needs. Based on the new evaluations, M.M. agreed to a conditional withdrawal pending the completion of a reassessment of her needs by the county. Despite the supplemental data provided, the county did not change its determination.

At hearing, OCRA argued that M.M. needed protective supervision for her safety, such as to prevent falls, and the deficits related to her developmental disabilities. The ALJ denied M.M. parent's request for protective supervision but awarded M.M. 72.20 personal care hours retroactive to the application date of November, 2005, for a total of \$9,469 in back pay. Ibrahim Saab, CRA, Ada Hamer, Assistant CRA, North Los Angeles County Regional Center.

### **OCRA Gets J.C.'s Overpayment Waived.**

J.C., is a 38-year-old man who receives SSI and SSDI benefits. J.C. contacted OCRA after SSA determined that beginning in 2001, J.C. was no longer disabled because of engaging in Substantial Gainful Activity (SGA).

J.C. advised OCRA that his monthly wages earned as a movie extra did not exceed the SGA limit during the years of the alleged overpayment. Upon investigation, OCRA discovered that J.C. never completed SSA's continuing disability review questionnaire because he did not understand it. J.C. also indicated that he signed a statement claiming to not have any prior work history despite not understanding that statement. SSA alleged that J.C. was overpaid \$43,797 in SSI and SSDI benefits due to the SGA.

By the time OCRA became involved in the case, the 60 day time limit to file a request for reconsideration had expired. OCRA argued that good cause existed because of inaccurate information provided regarding whether or not J.C. filed reconsideration requests. SSA granted OCRA's request to extend the filing deadline. After engaging in lengthy informal negotiations with SSA and a careful review of J.C.'s extensive work history, SSA concluded that J.C. had not engaged in SGA and agreed to waive the entire \$43,797 overpayment. Ibrahim Saab, CRA, Ada Hamer, Assistant CRA, North Los Angeles County Regional Center.

## **CONSUMER FINANCES**

### **OCRA Helps A.M. Settle Lawsuit.**

When A.M. moved to a different home, she forgot to notify a lender of her new address. Because of that, she was not receiving statements and just stopped making her monthly payments. The lender then sued A.M., who asked OCRA for help. OCRA prepared an answer to the lawsuit and wrote a letter to the lender's attorney asking that the lawsuit be dismissed and that the debt be written off. The lender dismissed the lawsuit and waived the \$1,700 owed. Katy Lusson, CRA, Jackie Coleman, Assistant CRA, Golden Gate Regional Center.

## **HOUSING**

### **U.R. Keeps His Section 8 Benefits.**

U.R. had been a Section 8 housing assistance recipient for some time. The housing authority reviewed U.R.'s file and found that he had unreported

employment wages and moved to terminate his housing assistance. After U.R. contacted OCRA for assistance, the CRA met with the housing authority and negotiated a re-payment plan that would allow U.R. to stay in his apartment and keep his Section 8 benefits. Veronica Cervantes, CRA, Beatriz A. Reyes, Assistant CRA, Inland Regional Center.

**Property Owner Changes Decision to Deny Housing to Couple with Developmental Disabilities.**

S.H. and M.W. applied to rent a two-bedroom apartment. Both are regional center consumers and have a good rental history. With the assistance of their independent living skills (ILS) worker, the couple submitted their rental application, references and credit history. Without running the credit report or checking the references, the property management denied their application and told the ILS worker and the service coordinator that, “They [the agency] do not rent to people like them.” After gathering the relevant facts, the CRA wrote a demand letter. The apartment owners agreed to give the clients the first two months of rent free as damages for the agency’s actions. C. Noelle Ferdon, CRA, Far Northern Regional Center, Mike Kluk, Senior Attorney, PAI.

**Client Stays in California.**

J.K., who is 22, was born and raised in Mendocino County, where he has many friends and much support. When J.K.’s parents decided to move to the east coast, they put pressure on him to move with them. In spite of J.K.’s wish to stay in Mendocino County, his parents loaded his personal belongings on their truck and prepared to move in a few days. After the regional center asked OCRA to intervene, the CRA arranged a conference call with J.K., his ILS worker, the regional center, the mother and the CRA. Although his mother applied considerable pressure during the call, J.K. insisted that he would not move. Worried that the family might force J.K. to move during the night, the CRA gave J.K. his personal phone number so he would be able to call the CRA if anything happened during the night. The regional center then rented a truck and, with the help of J.K.’s friends, moved his belongings from his parents’ truck and into temporary housing, where he will stay until the regional center finds permanent housing for him. Jim Stoepler, CRA, Redwood Coast Regional Center.



### **Eviction Stopped.**

D.F. heard about OCRA at a self advocacy fair last September. Little did D.F. know then that he would need the advocacy services that he learned about. D.F.'s board and care sought to evict D.F. because his seizure disorder had become less controlled with medication and the provider did not feel equipped to provide that level of support. D.F. had nowhere else to go.

The CRA wrote a letter to the board and care requesting that it keep D.F. pending him finding a new place to live and that the board and care follow eviction law in addition to the regulations surrounding facilities before evicting D.F. The facility agreed to let him stay until a new placement was located.

The CRA then attended an IPP meeting and the regional center agreed to contact a level 2 group home, fund a SLS assessment, day program, nutritionist, and drop in center and request an IHSS assessment. These services will help D.F. to find a new place to live and also live independently in the future. Katie Casada Hornberger, CRA, Harbor Regional Center.

### **Privacy Protected in Group Home.**

A.B. contacted OCRA because he was not allowed to use the telephone in private. A.B. was not allowed to have a lock on his door at the group home where he lived. He felt he had no privacy in his own home.

OCRA paid a visit to the group home and met with the owners. A copy of the Lanterman Act was provided and the owners were informed of A.B.'s right to privacy under state and federal law. A lock was immediately put on A.B.'s door. A.B. is now able to have private phone conversations in his own locked room. Yulahlia Hernandez, CRA, Maricris Dela-Cruz Britton, Assistant CRA, North Bay Regional Center.

## **PERSONAL AUTONOMY**

### **OCRA Assists T.W. in Identity Theft Case.**

G.W. contacted OCRA for assistance after she was served with a default judgment on a debt collection case. G.W. was a victim of identity theft in which an unknown person opened a credit card in her name and amassed a debt of \$26,400. G.W. first became aware of the debt when she received a copy of the default judgment in the mail. OCRA agreed to assist her in setting aside the default judgment and drafting the necessary paperwork for her to file in pro per. With OCRA's assistance, G.W. was able to successfully set aside the default judgment and obtain a court date to resolve the underlying debt. According to counsel for the collection agency, it is completing the final paperwork to dismiss the debt in its entirety on a finding of identity theft. Emma Hambright, CRA, Lanterman Regional Center.

### **OCRA Prepares Consumer for Interview with Department of Fair Employment and Housing.**

F.S. is a young woman who has worked for the Salvation Army Stores for several years. Approximately 2 years ago, F.S. switched to a store at a new location. Since that time, F.S. feels that she has been discriminated against on many occasions. F.S.'s ILS worker contacted the Department of Fair Employment and Housing (DFEH) and sent a letter describing the incidents in which F.S. felt she had been treated badly because of her disability.

F.S. then contacted OCRA. OCRA contacted DFEH and spoke to the worker assigned to the case. OCRA explained that F.S. has a developmental disability and that F.S. was asking for an accommodation in DFEH's hearing procedure. DFEH conducts its interviews via telephone. OCRA arranged for the interview to be conducted at the regional center with the social worker and ILS worker present.

OCRA also spent time before the interview assisting F.S. to outline her complaints in chronological order, so that this information would be more accessible to F.S. during the interview. OCRA went over the procedures with F.S., the social worker, and ILS worker, and helped F.S. frame her complaints and questions in preparation for the interview. The findings and

conclusions of DFEH are pending. Katy Lusson, CRA, Golden Gate Regional Center.

**OCRA Helps E.B. Terminate Conservatorship.**

E.B. is a 28-year-old who was conserved. E.B. wanted to live more independently with his wife and move out of his mother's home. The initial call to OCRA was made by E.B.'s mother who also agreed to relinquish her rights as the conservator of her son. E.B.'s mother stated that her son wanted to move out with his wife however E.B. believed that while his mother was conservator that would not be possible.

OCRA informed E.B. that since dissolving the conservatorship was a mutual decision, OCRA would assist him with this matter. OCRA worked with the Public Defender's Office which agreed to take the case. Jacqueline Miller, CRA, Cynthia P. Salomón, Assistant CRA, Regional Center of Orange County.

**Family Withdraws Petition for Limited Conservatorship.**

A.A. is a 45-year-old man who is diagnosed with mild mental retardation, a seizure disorder and diabetes. A.A. has worked for a government supply agency for 17 years with an exemplary record. A.A. earns a full salary which disqualifies him for any SSI or Medi-cal benefits. A.A. is a member of the worker's union and uses regular public transportation on a daily basis. A.A. expressed his desire to live independently with supported living services.

After A.A.'s elderly parents died, his older siblings decided to file a petition for limited conservatorship, stating that A.A. could not make his own decisions regarding his finances, independent living options, medical needs, and employment decisions. These opinions were contrary to the written and verbal statements of A.A.'s employer, service coordinator, supported living workers, co-workers, and friends.

OCRA reviewed the proposed conservatorship petition, worked with A.A.'s employer, advocates, service coordinator, and program manager to ensure that A.A. remain as independent as possible and able to legally make his own personal choices. OCRA advocated with the public defender and sent a letter to the court stating that A.A. is capable of making his own choices.

After months of advocating via team meetings, court appearances, and providing technical assistance to the public defender representing A.A., the petitioners' withdrew the petition for limited conservatorship, and the judge dismissed the case. Leinani A. Neves, CRA, Filomena Alomar, Assistant CRA, Valley Mountain Regional Center.

## **RIGHTS IN THE COMMUNITY**

### **L.B. Gets Reasonable Accommodation at Local Bank.**

L.B. contacted OCRA after her local bank refused L.B.'s request for a reasonable accommodation. L.B. had been banking at Washington Mutual for many years. They had a "handicapped line" that required no waiting and the counter was low enough that the patrons could sit instead of stand during a transaction. L.B. entered the bank and attempted to enter the "handicapped line" when a security guard approached her and told her that because she did not use a wheelchair, she was not permitted to use that line. L.B. then requested that line as a reasonable accommodation for her multiple disabilities including epilepsy, a spinal problem and muscular problems. The bank refused.

The CRA sent a demand letter to the bank and spoke with the branch manager. The manager agreed to give L.B. a card when she entered the bank and then she could have a seat. When her card was called, she could either advance to the window or the teller could come to her depending on how she is feeling that day. Thereby the bank accommodated her inability to stand in a lengthy line and at the counter for the transaction. Katie Casada Hornberger, CRA, Harbor Regional Center.

## **REGIONAL CENTER**

### **Older Man Found Eligible for Regional Center Services.**

B.B., a 51-year-old man, was brought to OCRA by his mother, who believed B.B. had been incorrectly diagnosed all of his life. Given the client's age, there were few school or medical records to rely on to establish the client's disability or that it occurred before age 18. OCRA had the client assessed by an expert, who said B.B. was developmentally disabled under the 5<sup>th</sup>

category. The CRA successfully represented B.B. at the hearing, where his mother's testimony established the disability occurred prior to the age of 18, while two experts testified to B.B.'s current level of disability. Bernadette Bautista, CRA, Alba Gomez, Assistant CRA, San Diego Regional Center.

**Regional Center Helps J.C. Move to a New Residence.**

J.C., an adult living with his father, requires a ceiling-mounted tracking system to provide transfers and mobility from room to room, including the bathroom. When J.C.'s father had to move from the home he owned to a rental, the regional center removed the tracking system and stored it at the new residence. OCRA and J.C.'s father met with the regional center and worked out a plan by which the regional center would pay to reinstall the system, including modifications to accommodate the configuration of the new residence. Doug Harris, CRA, Redwood Coast Regional Center.

**Twins Remain Eligible for Early Start.**

M.D. and F.D. are 2-year-old twins who transferred regional centers. Although the transfer was initially accepted, the new regional center then assessed the twins and terminated their Early Start eligibility. The twins' parents, who speak only Spanish, appealed the decision and contacted OCRA for assistance, expressing concern over communication with the regional center staff. OCRA agreed to provide direct representation at the mediation, where OCRA indicated that the twins met all eligibility criteria, a fact supported by the evaluations, assessments and medical records. The matter was settled at mediation and the twins will continue to receive Early Start services. Veronica Cervantes, CRA, Beatriz A. Reyes, Assistant CRA, Inland Regional Center.

**Regional Center Helps Client Move to New Residence.**

M.L.P., an adult consumer, realized over time that her disability was worse when the weather was hot. Last year, on a day where the temperature was over 110°, M.L.P. was taken to the emergency room and decided that she had to move to a climate where the temperature was not so extreme. M.L.P. asked the regional center to pay for her moving expenses and for her first and last month's rent for an apartment in San Diego. The regional center declined but offered to pay M.L.P.'s higher electric bill during the summer so she could run her air conditioning in Fresno.

OCRA met and negotiated with the regional center, arguing that M.L.P. needed to move because of her disability. The regional center agreed to pay a moving company to move M.L.P. to San Diego. Jackie Coleman, CRA, Ernee Moreno, Assistant CRA, Central Valley Regional Center.

**OCRA Gains Lifelong Services for Teenager.**

J.H. is a 14-year-old with autism who had been denied regional center eligibility twice, first as a 4-year-old and then when he was 11. J.H.'s family contacted OCRA for assistance.

Although J.H.'s appeal rights had terminated with the passage of time, OCRA began the evaluation and assessment of his eligibility for regional center services. After an extensive review of J.H.'s records by both OCRA and the UCLA Autism Clinic staff, J.H. was evaluated again. The evaluation indicated a diagnosis of autism.

OCRA submitted a request for re-determination to the regional center, including the evaluation indicating the diagnosis of autism. The regional center initially denied J.H. but when OCRA filed the appeal, the regional center reversed its denial and granted J.H. eligibility. Anastasia Bacigalupo, CRA, Christine Armand, Associate CRA, South Central Los Angeles Regional Center.

**Young Adult's Choice to Receive Care at Home.**

M.M. had received day care hours funded by the regional center for care at home. When M.M. turned 18, M.M. received a NOA to terminate the day care hours. M.M.'s mother appealed and asked OCRA for technical assistance. OCRA researched the decisions and assisted M.M.'s mother in preparing the exhibit packet. M.M.'s mother delivered the exhibit packet to the regional center and received a call later that afternoon informing her the hours of care for M.M. would continue to be funded. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel Pomona Regional Center.

**A.V. Receives More Appropriate Early Start Services.**

For five months, A.V.'s mother had to accept in-home visits from her daughter's Early Start provider, because no bus company could provide

transportation to the center-based program – even though both services were agreed to in the child’s IFSP. OCRA learned of the situation from the service provider and immediately explained Early Start rights to services and a parent’s right to request a hearing. A.V.’s mother decided on an immediate appeal.

OCRA became directly involved as A.V.’s representative and then learned of additional issues. In addition to the center-based program in the IFSP, it also provided for in-home visits from a home-based program that served hearing impaired toddlers such as A.V., but the visits had never begun. Additionally, A.V.’s mother had expressed interest in the center-based Early Start program for hearing impaired toddlers, but nothing about that had been written onto the IFSP, even though another center-based program was included that was not as appropriate. There were complicated issues about compensatory services.

These new factors led OCRA to recommend against accepting the regional center’s pre-mediation offer of a taxi service to the original Early Start program, and A.V.’s mother agreed to seek a more comprehensive set of services at the mediation conference. Once at mediation, the regional center agreed that a more comprehensive revision of the IFSP services would serve the child best. As a result, the agreement that resolved the appeal provided an accelerated transition to the center-based program that serves hearing-impaired toddlers, preparatory home visits by one of the program’s staff, together with some overlap of services from both the new and the old Early Start provider. Taxi transportation was also guaranteed. A.V. now attends a center-based program that best serves her needs. Marsha Siegel, CRA, Celeste Palmer, Associate CRA, Regional Center of the East Bay.

### **Father Has Surgery.**

J.C., an adult living with his father, requires full-time care and supervision, including nursing respite. Although the father’s medical condition had worsened to the point where he needed surgery, it was not possible without respite, which had not been provided consistently for some time due to a lack of providers in the area. Father contacted OCRA after his surgery was

postponed twice due to lack of respite. OCRA intervened, a nursing care plan was approved, a new nursing agency was hired by the regional center and care was provided that covered the surgery and recuperation time, so that care outside the home was not necessary. Doug Harris, CRA, Redwood Coast Regional Center.

**Regional Center Helps with Dental Care.**

Although M.C. lost several teeth, Medi-Cal would not pay for a permanent bridge costing \$6,500. In response to M.C.'s sister's request, the regional center service coordinator agreed that the regional center would pay \$2,000 of the total bill. When the sister submitted the dental bill, however, the regional center refused to pay, arguing that the service coordinator had no authorization to promise to pay the dental bill. M.C.'s sister called OCRA and OCRA negotiated a \$2,600 payment from the regional center. Arthur Lipscomb, CRA, Eleanor LoBue, Assistant CRA, San Andreas Regional Center.

**SPECIAL EDUCATION**

**Compliance Complaint Filed against School for Suspending Speech Therapy.**

M.A. is a 3-year-old receiving special education services. As part of M.A.'s IEP, the district agreed that M.A. would receive both Non-Public Agency (NPA) and classroom speech therapy. Soon after the IEP meeting, M.A.'s mother received a letter from the school indicating that all speech services were suspended due to an inability to hire an on-site speech therapist.

In December, 2006, OCRA filed a compliance complaint with CDE outlining the district's obligation to fund compensatory and on-going speech therapy as written in the IEP. OCRA proposed that all speech therapy services be provided at a NPA until an on-site therapist could be hired.

The district was found out of compliance with the IEPs and ordered to write a plan of correction. CDE ordered the school to identify each student at the elementary school (including M.A.) not receiving speech therapy and make arrangements to provide the speech therapy.



To resolve the complaint, the district authorized M.A. to receive all speech therapy at an NPA until an on-site speech therapist could be hired. At that time, the on-site hours would be switched back to the elementary school. 31 hours of compensatory speech therapy were also authorized by the district. Emma Hambright, CRA, Lisa Navarro, Bilingual Assistant CRA, Lanterman Regional Center.

**Child Fully-Included into a Regular Classroom.**

A.L. is in the first grade and was placed in a Special Day Class (SDC). The children in that placement have varying levels and types of need. As a result, A.L.'s mother felt that A.L. would be best served in a regular education classroom. The mother requested A.L. be placed into a combination kindergarten and first grade class. The school denied this request. The CRA advocated for a full inclusion assessment to be done and the district agreed. The inclusion specialist determined that despite A.L.'s unique combination of needs, he could be served in the regular education K-1 combo classroom. Through continued advocacy in the IEP process, the district eventually offered the requested placement with a full time 1:1 aide and all related services to be provided in the regular education classroom. C. Noelle Ferdon, CRA, Far Northern Regional Center.

**N.A. Speaks First Word.**

N.A. was about to turn 22 when her mother first contacted OCRA. Due to behavior concerns, the school district's bus company was refusing to transport N.A., and she had already missed 30 days of school. OCRA filed a compliance complaint with CDE requesting the district to provide 30 days of compensatory education services to N.A. after her 22<sup>nd</sup> birthday, when she would otherwise have no longer been eligible for school district services. CDE agreed to the proposed resolution.

The district refused to comply with the CDE order on a timely basis, and was uncooperative. As a result, there was an opportunity to examine N.A.'s school records, and it was found that N.A.'s history of removing her clothing in public while running away from teachers had led the district to decide against providing N.A. with any transition services. OCRA's observation of N.A. in her class program found it was held on an otherwise closed campus in a huge, almost empty room, in which all the shades were drawn, and the door was locked. There

were few activity options. OCRA filed another CDE compliance complaint, and this time proposed one full year of transition services as resolution.

CDE ordered the district to provide a compensatory year of transition services. The district took 18 months to start providing the compensatory education. During this time, N.A. attended an adult day program similar to her last school district placement. N.A. spoke not a word at school through she did speak a few words at home.

The non-public agency (NPA) of choice was finally contracted to hire and train N.A.'s 1:1 support person, to create a program tailored to N.A.'s specific needs and preferences, to support her participation in employment related activities with other school district transition students, and to oversee the entire program.

At N.A.'s last IEP meeting, the changes were significant. In only a month, N.A. was making eye contact, had begun to smile, and even laugh. She was good at sorting and organizing things, which the transition teacher believed could be developed into successful supported employment opportunities.

The most impressive transformation was in N.A.'s ability and willingness to communicate. On the morning of the IEP meeting, while N.A. was paging through a magazine, her transition teacher reported that when asked what she would like to buy, N.A. said, "New pants, new shirts, new shoes, and a lipstick . . . red." Celeste Palmer, Associate CRA, Regional Center of the East Bay.

***Student Receives Assistive Technology, Staff Training on Muscular Dystrophy and Weekly Counseling Sessions.***

M.S. is a high school student with a diagnosis of muscular dystrophy and a cognitive disability. The school refused past requests by the parent to have the teaching staff receive training on muscular dystrophy to better understand and provide for the student's unique needs. The school also declined the parent's requests that her child receive an assistive technology assessment in order to address the student's increasing needs for speech-driven communication. The CRA met with the student, parent and a behaviorist to address the child's needs for educational and related services.

The CRA wrote a demand letter to the high school district and represented the parent at an IEP meeting. At the IEP meeting, the school district agreed to fund a training for staff on muscular dystrophy, fund an assessment for assistive technology, re-train staff on operating the Hoyer lift and provide a school psychologist to meet weekly with the student. Tim Poe, CRA, Valerie Geary, Associate CRA, for Kern Regional Center.

**District Funds Child's Placement at NPA.**

I.D. is a young child with a diagnosis of autism and has delays associated with a cognitive disability. The school district told the parents that it lacked the resources to educate a child with I.D.'s special needs and that all children with special needs are placed at a non-public school (NPS). The parents visited the NPS and raised concerns that the placement was not appropriate to help their child obtain pre-learning behaviors and attentive skills. OCRA agreed to represent the parents at the IEP. OCRA assisted the parents in obtaining psychological and medical reports showing that I.D. required intensive 1:1 instruction prior to benefiting from the group or language instruction offered by the NPS. At the IEP, the CRA identified a non-public agency (NPA) that met the unique educational needs of the child. The CRA argued that, in contrast to the district's proposed placement, the NPA had a research-based approach to teaching and an educational setting free from distractions. The school district agreed to fund the NPA placement with 30 hours per week of instruction in applied behavioral analysis. Tim Poe, CRA, Kern Regional Center.

**School District Fails to Implement IEP.**

O.G. is a 5-year-old child diagnosed with autism. According to the most recent IEP, O.G. required the support of a 1:1 aide in the classroom and a behavioral assessment that would be used to develop a behavior plan. After four months, no behavioral services or assessments were completed.

OCRA provided technical assistance by drafting a compliance complaint that O.G.'s mother filed with the CDE. Before the CDE could begin its investigation, an IEP was held and all of the services originally requested were provided. O.G.'s mother reported that the IEP went well. She sent a letter to CDE to rescind her compliance complaint since all of the issues were resolved. Leinani A. Neves, CRA, Valley Mountain Regional Center.

### ***Student Runs Away from Residential Placement.***

For eight years, C.A. had been in a residential school two hours from his home. C.A. expressed frustration because he wanted to live with his family but the school district insisted the residential school was the only appropriate program. C.A. ran away from school and, after ten hours, finally made his way home. He refused to return to the residential placement and told his family that they needed to advocate for him to remain at home.

OCRA was contacted three days before the IEP. OCRA was able to provide technical assistance. The parents wanted to advocate for C.A. on their own, despite language barriers. OCRA provided research and met with the family for several hours, simulated an IEP, and drafted a script to prepare the family for the IEP. C.A. is now in a school 5 minutes from his home and has an aid in the classroom. Yulahlia Hernandez, CRA, Maricris Dela-Cruz Britton, Assistant CRA, North Bay Regional Center.

### ***A.L. Continues in Special Education.***

A.L.'s parents were told that he no longer qualified for special education due to his high score on an intelligence assessment (IQ) test. After A.L.'s parents called OCRA, the CRA spoke with the director of special education, informing her that special education eligibility could not be based solely on an IQ score. The Director acknowledged her error and A.L.'s eligibility continues. Arthur Lipscomb, CRA, Eleanor LoBue, Assistant CRA, San Andreas Regional Center.

### ***OCRA Helps Student Get Positive Behavior Plan at School.***

R.R.'s mother called OCRA for assistance because R.R. was frequently being sent home from high school and suspended because of his behaviors. When R.R.'s mother asked the teachers why R.R. did not have a behavior intervention plan at school, she was told that they thought R.R. had schizophrenia and would not respond well to a behavior plan. R.R. was responding well to the behavior intervention services he was receiving at home. The CRA agreed to attend an IEP meeting. R.R.'s home behavior interventionist also attended. Two IEP meetings were held. Reinforcements were developed along with a positive behavior intervention plan. R.R. has not been sent home early or suspended since. Kathy Mottarella, CRA, Jacqueline Phan, Assistant CRA, Tri-Counties Regional Center.

**Client Awarded Appropriate Behavioral Services and Compensatory Time.**

J.R. is a 15-year-old with autism who began to resist going to school after an incident on the school bus. After the incident, J.R. refused to board the bus and as a result, stopped attending school altogether. J.R.'s parents were not able to get J.R. back to school. J.R.'s parents contacted the school district and the regional center for assistance but neither agency would take action to assist the client.

After numerous meetings, J.R.'s parents contacted OCRA. At this point, J.R. had been out of school for a year and a half. After 5 months of negotiations with the district, the CRA was able to have the J.R. re-enrolled in school, develop a positive behavior support plan to address J.R.'s fear of the bus and school, 1:1 transportation and classroom aide for J.R., and compensatory services in the amount of 120 hours in the form of NPA instructional and therapeutic services for the time lost while J.R. was not receiving any educational services. Anastasia Bacigalupo, CRA, Christine Armand, Associate CRA, South Central Los Angeles Regional Center.

**OCRA Assists Student to Receive 25 Hours of Compensatory Speech Services.**

B.W. is a young boy with autism. B.W.'s mother contacted OCRA for assistance. B.W. had not received language and speech services (LAS) from the school district for over one year because there was not a speech therapist assigned to the boy's school.

OCRA assisted the parents in filing a compliance complaint. The CDE investigated and its findings supported the allegations of non-compliance. The corrective action requires the local school district to provide 25 hours of compensatory LAS for B.W. by a NPA. The district is to provide the CDE with policies and procedures for replacing LAS that is lost due to all reasons except a student's absence, and because of the year long absence of a speech therapist, provide a status report that includes a list of all students at the local school with IEPs requiring LAS services for the 2006-07 school year, send letters to parents of all affected students that includes dates and minutes of missed sessions, and a district plan for provision of compensatory services for each of these students. Anastasia Bacigalupo, CRA, Christine Armand, Associate CRA, South Central Los Angeles Regional Center.

**Full Inclusion for 1<sup>st</sup> Grader Proves to be Successful.**

S.P. was initially placed in a full inclusion kindergarten class for which S.P.'s parents had zealously advocated. As the school year progressed, S.P. was passing academically but was having difficulties in the classroom and was spending more than an hour daily out of class for sensory breaks. An inclusion assessment was performed at the request of S.P.'s parents, and the recommendation was that S.P. be placed in another classroom. The school district then recommended placement in a SDC for children with autism. S.P.'s parents refused and requested the assistance of OCRA. Before filing for hearing, the CRA agreed to attend an IEP meeting. At an additional IEP meeting and informal meeting, the district allowed S.P. to enter fully included into the 1<sup>st</sup> grade with a 1:1 aide. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel Pomona Regional Center.

**Consumer Reimbursed \$1,700 by Private College.**

J.J., interested in pursuing a higher education in the field of graphic design, researched local colleges, with the support of his family. He chose a private college. J.J. visited the campus, talked with staff, and disclosed his disability of autism. He was reassured on several occasions that his disability would be accommodated. J.J. started and passed his classes. He started the next quarter but had difficulties in one class. From the beginning, the instructor complained to J.J.'s mother that J.J. needed to communicate better. J.J. and his mother had attempted throughout the session to assist J.J., but he still received a failing grade in this class.

J.J. took a leave of absence following this session and during this time meetings were requested with the instructor. J.J.'s mother requested assistance from the CRA. The instructor did not appear at any of the meetings. The CRA attended a meeting and gave J.J. and his family information on making an Office of Civil Rights (OCR) Complaint. J.J. decided he did not want to return to the college and withdrew. An OCR complaint was filed. OCR concluded that the college was not in compliance with Section 504 and its implementing regulation with regard to nondiscrimination based upon disability and the provision of academic adjustments, auxiliary aids, and services. The college agreed to enter into a resolution agreement without admitting any violation of law. The instructor and dean were no longer employed by the college during the time of the investigation by OCR.

The college was required to pay J.J. \$1,500 for the private loans he secured to pay for the class. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel Pomona Regional Center.

**Parent Reimbursed for Reading Classes.**

S.B.'s mother asked the school district to provide S.B. with Lindamood Bell training as a way to help her learn to read following brain surgery. The mother rejected the district's offer of a different program, paid for the Lindamood Bell herself and appealed the district's denial. OCRA provided representation and after three mediations and a change in special education directors, the district agreed to partially reimburse S.B.'s mother \$9,000 for the Lindamood Bell program. Matt Pope, CRA, Lucy Garcia, Assistant CRA, Eastern Los Angeles Regional Center.

**OCRA Keeps J.B. from Being Expelled.**

The school district wanted to expel J.B. based on allegations of inappropriate behavior. Although the district failed to inform the parents, as the law requires, the district held a manifestation determination where it was decided that J.B.'s behavior was not directly linked to his disability and that J.B. would be expelled. After the parents called OCRA for help, the CRA filed both a hearing request and a compliance complaint against the district. As a result of OCRA's action, the district agreed to change placement rather than expel J.B. Arthur Lipscomb, CRA, Eleanor LoBue, Assistant CRA, San Andreas Regional Center.

**SELPA and Regional Center Jointly Fund Services.**

M.C.'s mother did not agree with the district's suggested placement in a non-public school (NPS) noted for its behavioral programs. After M.C.'s mother contacted OCRA for assistance, the CRA reviewed school records and agreed to attend an IEP. The IEP team, at the CRA's urging, agreed to assess M.C. for an at-home applied behavior analysis (ABA) program, which was supported by more than one assessment.

OCRA attended a second IEP, where the assessment was discussed. The IEP team recommended a structured home-school program for 30 hours per week that would include an additional 5 hours per week of community and

recreational activities, so M.C. could practice newly learned skills. This program also included parent education on ABA techniques and PECS training. The Special Education Local Planning Agency (SELPA) and regional center agreed to share funding for the program for M.K. Veronica Cervantes, CRA, Beatriz A. Reyes, Assistant CRA, Inland Regional Center.

**District Continues to Pay for Educational Placement.**

Two years earlier, OCRA had negotiated residential placement for N.P., which allowed him to be released from juvenile custody. The agreement required the regional center to pay for the residential placement and the school district to pay for the educational placement. As the time approached for the district to hold an IEP and renew its commitment to N.P., the district decided that it was no longer responsible for his educational placement. OCRA was contacted for help. The CRA filed a compliance complaint and the CDE ruled that the district had to continue to pay for N.P.'s educational placement. Arthur Lipscomb, CRA, Eleanor LoBue, Assistant CRA, San Andreas Regional Center.

**School District Required to Continue Therapies.**

B.V., an 8-year-old boy, was to receive at-home schooling. From February, 2006, to September, 2006, B.V. did not receive the agreed upon speech, language and occupational therapies. B.V.'s mother contacted OCRA for assistance in making the district comply with the IEP. OCRA, after reviewing the school records, agreed to file a compliance complaint on behalf of B.V. In the complaint, the Assistant CRA showed that the school district failed to provide the therapies agreed to in the IEP and asked the CDE to direct the district to provide the services. Upon CDE's intervention and the school district's receiving the compliance complaint, the school district agreed to continue the therapies as agreed to in the IEP and to provide 44 make-up sessions of language and speech therapy at 30 minutes per session, and 22 make-up sessions of occupational therapy at 45 minutes each session. Veronica Cervantes, CRA, Beatriz A. Reyes, Assistant CRA, Inland Regional Center.

**OUTREACH/TRAINING**

**Bingo a Big Hit at Day Program.**



On March 23, 2007, OCRA conducted a clients' rights training for primarily deaf consumers at Toolworks in San Francisco. There were 33 consumers present and approximately 25 consumers were deaf. OCRA had an interpreter and several deaf instructors who also attended the training.

OCRA provided an introduction to clients' rights and responsibilities and then played self-advocacy "BINGO." The Bingo game was very successful and the winners all received prizes. The CRA uses sign language and was able to participate in the training and communicate with consumers.

This was a very exciting training and OCRA has been invited back to do one training on clients' finances and one on criminal justice issues. Katy Lusson, CRA, Golden Gate Regional Center.

### **Who Can? Parents Can!**

"Parents Can" is a parent-child advocacy network for families with children with disabilities in Napa County. Parents Can provides a crucial resource for families in Napa County and can provide assistance in Spanish. OCRA has had the pleasure of working with Parents Can advocates and families for many years.

Yulahlia Hernandez, CRA, and Maricris Dela-Cruz Britton, Assistant CRA, provided a day-long training to Spanish-speaking families regarding the changes in respite services. Families were extremely interested in learning how respite hours are determined by the regional center. Following the respite training, OCRA was invited to provide a follow-up training regarding the IPP process. A mock IPP was conducted by members of the audience. Yulahlia Hernandez, CRA, Maricris Dela-Cruz Britton, Assistant CRA, North Bay Regional Center.