

ADVOCACY REPORT

OFFICE OF CLIENTS' RIGHTS ADVOCACY

Summer 2006

BENEFITS

IHSS Protective Supervision Hours Granted.

Following an annual reassessment, A.P.'s protective supervision hours were terminated, reducing his In Home Support Services (IHSS) hours from 249 to 58 hours per month. A.P. is conserved by his mother and lives in a supportive living situation. He has a bad memory and exercises poor judgment about health and safety. His house is heated with a woodstove and A.P. cannot safely start a fire. The Assistant CRA advocated for A.P. at an informal meeting, which resulted not only in his protective supervision hours being reinstated, but an award of an additional 5 hours per month. IHSS also paid retroactive benefits from the time his hours were reduced, as A.P.'s IHSS workers had continued to provide 249 hours of service after IHSS stopped paying. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

SSI Overpayment Reduced From \$33,000 to \$13,000; Waiver Pending.

R.S. is a minor who has received both Supplemental Security Income (SSI) benefits and Adoption Assistance Payments (AAP) for several years. R.S.'s mother contacted OCRA due to receipt of an SSI overpayment notice covering approximately 5 years and totaling over \$33,000. The overpayment appeared due to the Social Security Administration's (SSA) error of disregarding AAP benefits as income when determining SSI eligibility. Because no fault on the part of the consumer or payee existed, collection of overpayment is limited to two years prior to notice of the overpayment.

OCRA assisted in filing a reconsideration request which resulted in reduction of the overpayment to about \$13,000. Technical assistance in preparation of a waiver request to eliminate any overpayment recovery is proceeding. Doug Harris, CRA, Redwood Coast Regional Center.

IHSS Ensures L.R. Remains in the Community.

L.R.'s mother asked for help in appealing the county's grant of 40 hours of IHSS. Although L.R., a 36-year-old, had lived with her mother and father in the community all of her life, her father had recently become ill, which meant that her mother now had to care for both L.R. and her father. Because of the difficulty of her mother doing so, L.R. was in danger of being placed in a residential facility.

OCRA agreed to investigate and assess L.R.'s case, providing L.R. and her mother with IHSS information and explaining the appeal process. OCRA also gathered and reviewed L.R.'s records and spoke to the day program staff and counselors. L.R. appealed and OCRA provided the county appeals specialist with additional documentation. As a result, the county offered 180 hours of IHSS which L.R. accepted. Bernadette Bautista, CRA, Alba Gomez, Assistant CRA, San Diego Regional Center.

D.Q. Found Eligible for SSI and DAC Benefits.

D.Q. is a 26-year-old consumer diagnosed with autism who was denied SSI and DAC benefits. D.Q. filed a request for an administrative hearing. OCRA agreed to represent D.Q. at the hearing. After taking testimony from D.Q. and D.Q.'s expert psychologist, the administrative law judge (ALJ) determined during the hearing that D.Q. was eligible for both SSI and DAC benefits. D.Q. will receive retroactive SSI from April, 2004, and DAC benefits from April, 2003. He will also be eligible for Medi-Cal and Medicare benefits. Katherine Mottarella, CRA, Jacqueline Phan, Assistant CRA, Tri-Counties Regional Center.

IHSS Reinstates 283 Hours Per Month.

J.B. is a regional center consumer that had been receiving 283 hours per month of IHSS services. J.B.'s IHSS hours had been reduced to 195 per month because he was not severely impaired. J.B.'s parent had appealed the reduction, and requested assistance from OCRA.

J.B.'s parent was verbally informed by the county that staff had attended a meeting in which it was instructed to adhere more strictly to the IHSS regulations, which meant that J.B.'s hours would be reduced because they were given in error. J.B.'s parent was instructed by the county worker to get

rid of all staff providing IHSS services because the parent would probably lose an appeal and would be required to reimburse the county for any aid paid pending the hearing. The county representative had informed the parent that the ALJ would be angry if J.B. provided witnesses at the hearing.

The CRA drafted a position statement based upon information provided by the parent. J.B.'s parent added exhibits and brought witnesses to the hearing. The ALJ reviewed the position statements, and upon entering the hearing had one question to ask the county. "Can you explain to me how you could possibly reduce the amount of service hours for a child with such severe impairments?" The county representative had nothing to say. J.B.'s IHSS hours were reinstated to 283 hours per month and J.B. was found entitled to aid pending the hearing. Jacqueline Miller, CRA, Eva Casa-Sarmiento, CRA, Regional Center of Orange County.

OCRA Assists Parent to Reinstate Health-Care Benefits.

D.G.'s medical coverage with Blue Cross of California was terminated because insufficient evidence was provided to substantiate that D.G. would qualify as a dependent disabled adult under his mother's employer's umbrella insurance policy. By the time the parent contacted OCRA, her son required approximately \$700 per month worth of medications per month related to his various developmental disabilities. The mother was concerned that if her son's coverage with Blue Cross was not reinstated immediately she would be unable to afford his medications for the upcoming month. This potentially posed a serious threat to D.G.'s safety.

After speaking with representatives from Blue Cross, it became clear that D.G.'s physician had completed the necessary forms verifying D.G.'s disability. The insurance carrier demanded additional documentation, claiming that its own form was not sufficient proof to reinstate the client's coverage. OCRA worked with the parent and the client's primary care physician to gather extensive medical documentation to supplement the required form previously filed by D.G.'s parent. Approximately a week after providing these documents, D.G. received his new insurance card verifying that his benefits had been reinstated. Ibrahim Saab, CRA, Ada Quintero, Assistant CRA, North Los Angeles County Regional Center.

OCRA Challenges the CCS Appeals Process.

J.F. is a 9-year-old who receives physical therapy (PT) through California Children's Services' (CCS) Medical Therapy Unit (MTU) due to J.F.'s neurological condition. J.F. is also a recipient of full scope Medi-Cal as a result of her participation in the DDS Waiver. J.F. has been receiving PT two times per week since October, 1998. In January, 2004, the MTU physician decided to reduce J.F.'s PT for 3 months, followed by termination of services. No notice of action was provided to J.F.'s mother. J.F.'s mother appealed. CCS sent a letter to the mother containing a list of experts from which to choose for a second opinion.

OCRA assisted J.F.'s mother in filing a motion for remand which raised three arguments: 1) that a notice of action was required; 2) that a reassessment was required using the EPSDT standard; and 3) a properly impaneled set of experts would contain pediatric neurologists, which CCS' had not done..

The CCS attorney asserted that the hearing office had no jurisdiction to hear the matter because, according to CCS, J.F.'s MTU physician was the physician responsible for the medical supervision of J.F. Therefore, the attorney concluded that no notice of action was necessary and the appeal process was limited to a second opinion by a CCS expert, which had to be an orthopedist or physiatrist as qualified pediatric neurologists were unavailable.

DHS maintains that when a MTU physician is the supervising, primary physician a notice of action is not required. In this situation, the MTU physician's decision was that of a CCS medical consultant, not that of a primary physician. The ALJ ruled CCS's reduction premature because no proper notice of action was sent. However, the Chief ALJ reversed the decision and set the matter for hearing, at which point, OCRA undertook direct representation for J.F.

When it appeared that the jurisdictional and substantive issues would be consolidated for hearing, OCRA filed motions asserting that consolidation would deprive J.F. of due process. The ALJ ordered the parties to brief whether his office had jurisdiction to hear the substantive issue and to declare what is the appropriate medical necessity standard to be applied in J.F.'s case.

OCRA's opening brief argued that federal Medicaid rights providing for advance notice and an opportunity to be heard applied. Through a Public Records Act Request, OCRA obtained a recent performance review conducted by DHS over Los Angeles County's CCS program detailing therapy provider shortages, overcrowded MTUs, and waiting lists of unserved children. OCRA submitted the performance review as evidence supporting the need for fair hearing rights to counterbalance any rationing of services that may be occurring within the system. OCRA argued that DHS is the single state agency for administration of the Medi-Cal program and that the ALJ's office has been solely designated by DHS for hearing CCS disputes, including those involving Medi-Cal children. OCRA argued that CCS cannot apply a more restrictive medical necessity standard than the EPSDT medical necessity standard applicable to children.

Hearing was heard on the matter in mid May. In the meantime, J.F. continues to receive physical therapy services through the MTU two times per week under aid paid pending. Brian Capra, CRA, Meriah Harwood, Assistant CRA, Westside Regional Center, Marilyn Holle, Protection and Advocacy, Inc.

OCRA Successfully Challenges SSI Overpayment.

C.G. is a 17-year-old SSI recipient who lives with his mother and younger sister. Before April, 2004, C.G.'s mother worked for a non-profit agency where she was required to file her taxes under self-employment status. C.G.'s mother earned \$5,600. during the first four months in 2004. In May, 2004, the mother left that agency and became an employee for another agency, where she was required to file taxes as a wage earner. C.G.'s mother has always reported changes in her income to the SSA, including this change in employment. Yet, in early 2005, C.G.'s mother was notified by SSA that C.G. had allegedly been overpaid \$2,442. C.G.'s mother contacted OCRA for assistance.

After speaking with a SSA field office supervisor, OCRA learned that the primary basis for the overpayment was due to the treatment of the self-employment income C.G.'s mother had earned during the first four months of 2004. According to the supervisor, the SSA's income calculation methodology for self-employment takes the net earnings earned over the course of a year, as reflected in tax records, and divides it by twelve months.

This averaging methodology is different than that for wage earners, which looks at the actual amount earned and received on a month-to-month basis. SSA averaged the mother's 2004 self-employment earnings of \$5,600 to be approximately \$467 for each month in 2004. This additional \$467 in earned income, when combined with the mother's wages starting in May 2004, caused C.G. to receive a higher SSI benefit amount than he allegedly should have received over the remaining course of the year, resulting in the overpayment.

OCRA filed a Request for Reconsideration attaching documentation that the mother was no longer engaged in self-employment once she started working for wages. OCRA argued that the averaging of self-employment earnings should be divided by the actual number of months the mother engaged in self-employment, as opposed to the entire year. SSA denied the reconsideration request and OCRA filed for hearing. Before the hearing date, the ALJ concluded, on a pre-hearing review of the record, that the SSA had not followed proper accounting procedures and vacated SSA's decision, dismissing the appeal.

OCRA contacted the SSA and asserted that the decision would require SSA to start over if it wished to impose an overpayment on C.G.'s SSI benefits. Subsequently, the SSA agreed to average mother's self-employment earnings by the four months of self-employment and indicated that would reduce C.G.'s overpayment liability considerably. OCRA pointed out that the SSA had failed to deduct from the mother's gross wages the flexible spending account for medical care that C.G.'s mother paid for through her employer for the entire period under review. SSA then agreed to drop the entire overpayment matter and issued a retroactive underpayment in the amount of \$450. Brian Capra, CRA, Meriah Harwood, Assistant CRA, Westside Regional Center.

OCRA Helps Maintain Zero Share-of-Cost Medi-Cal.

J.R. is a youngster with Down Syndrome. Because his mother's monthly earned income has always been too large for J.R. to qualify for SSI, J.R. has accessed zero share of cost (SOC) Medi-Cal through his participation in the DDS Waiver. When J.R.'s father died, J.R. began receiving a Social Security Survivor's benefit that resulted in monthly income of \$1,098. When the county conducted its annual redetermination of J.R.'s Medi-Cal

eligibility, it determined that he had a \$478 monthly SOC based on this income.

OCRA wrote an opinion letter describing J.R.'s eligibility for zero SOC under the Aged and Disabled Federal Poverty Level (A & D FPL) program. One must have countable monthly income *after* allowable deductions of \$1,047 or less. OCRA asserted that allowable deductions for J.R. would include the \$20 any-income deduction and the cost of any health insurance payments incurred on his behalf. When the combined deductions are applied to J.R., his countable monthly income is \$964.84.

The other issue that required eligibility establishment under was whether J.R. qualified as being disabled. A disability determination had never been performed for J.R. by the SSA. OCRA argued that J.R.'s status as a DDS Waiver beneficiary put the county on notice that J.R. required a referral for a disability determination. Additionally, because J.R. has a diagnosis of Down Syndrome, he should have been determined presumptively disabled and made eligible pending a full disability determination.

The county refused to reopen J.R.'s case and maintained that health care premium deductions must be a result of the beneficiary's own out-of-pocket expenses, as opposed to having the premiums paid by a third party. The mother filed for hearing. OCRA contacted a representative of the State Medi-Cal Eligibility Unit, who offered to intervene in the dispute between J.R. and the county. The county finally agreed that J.R.'s health care premiums qualified as a deduction. The county further agreed to keep J.R.'s zero SOC Medi-Cal status pending his disability determination. Brian Capra, CRA, Katie Meyer, CRA, Meriah Harwood, Assistant CRA, Westside Regional Center.

CONSUMER FINANCE

OCRA Assists Client to File for Tax Liability Relief.

D.R. is an adult consumer who lives independently with independent living skills (ILS) support. In February, D.R. received a notice from the Internal Revenue Service (IRS) indicating that \$850 of his tax return money had been intercepted to help pay back over \$3,000 in tax liability D.R. allegedly

owed. The notice also stated that D.R. had twice been contacted regarding this tax underpayment, with no record of the IRS ever receiving D.R.'s response. D.R. did not respond because he could not understand to what the notices pertained. D.R. provided the notice to his ILS worker who contacted OCRA for assistance.

The tax liability appeared to have arisen when D.R. was briefly married. D.R. and his ILS worker suspected that the tax underpayment was due to income his deceased wife earned during the marriage and that she did not file her tax paperwork with the IRS. D.R.'s wife was not a regional center consumer and did not receive any assistance from the ILS agency. D.R. was not aware of the money his wife earned, and had filed his taxes separately during his marriage.

OCRA advised D.R. to file for Innocent Spouse and Equitable Tax Relief through IRS on the basis that D.R. was without fault with respect to the cause of the tax underpayment and that IRS's collection of the tax underpayment would result in economic hardship for D.R.

OCRA obtained the necessary forms for D.R. and his ILS worker to fill out and submit to the IRS. OCRA assisted the ILS worker and D.R.'s service coordinator in drafting affidavits describing D.R.'s developmental disability, the limitations it imposes on his activities of daily living, and that D.R.'s living expenses are equal to his income.

D.R., his ILS worker, and service coordinator are confident that D.R. will be relieved of the tax underpayment as a result of the submission of the affidavits. Brian Capra, CRA, Meriah Harwood, Assistant CRA, Westside Regional Center.

G.G. is Absolved of Debt.

G.G. recently began receiving notices from a debt collection agency requesting more than \$400. G.G.'s group home administrator, in an effort to help, tried to negotiate a payment plan that G.G. could afford. The debt collection agency refused to cooperate and requested a higher monthly payment than G.G. could afford. G.G. is an SSI recipient and does not work.

G.G.'s group home administrator contacted OCRA for assistance with getting a lower monthly payment. OCRA explained that G.G.'s income from SSI was not subject to garnishment and therefore the debt collection agency would never be able to collect unless G.G.'s income changed. OCRA wrote a letter to the debt collection agency explaining G.G.'s situation and asked it to waive the debt. The collection agency contacted OCRA and after discussion agreed to waive the debt. Katie Casada Hornberger, CRA, Harbor Regional Center.

OCRA Convinces Merchant to Waive Fine and Drop All Criminal Charges.

OCRA was initially contacted to assist M.B. in requesting that a supermarket waive the \$250 fee demanded to settle claims due to an alleged shoplifting incident that occurred at the market. OCRA told counsel for the supermarket that M.B. is a person with a developmental disability who receives supported living services and personal care support due to the cumulative effect of his developmental disability. M.B. currently lives in a group home where he receives full support and is dependent upon SSI for all of his monthly expenses. OCRA provided supporting documentation that described in detail the supports and services currently provided to M.B. to address the impact of his developmental disability. A letter from the regional center also explained how the client's cognitive disabilities impair his ability to understand the consequences of his actions. Upon receipt of OCRA's correspondence and supporting documentation, counsel for the supermarket agreed to withdraw its demand for \$250 and to cease pursuing any action against M.B. Ibrahim Saab, CRA, Ada Quintero, Assistant CRA, North Los Angeles County Regional Center.

CRIMINAL LAW

Consumer Receives Probation under Juvenile Code.

J.H. is a 19-year-old male who was recently contacted by the police department about an alleged sexual assault committed on a 5-year-old when J.H. was fifteen. J.H. confessed to the crime when he was being questioned by the police. He subsequently received a letter stating that the case was being forwarded to the district attorney's office.

OCRA contacted the police department and the district attorney's office. Shortly after this, J.H. received a letter from the juvenile probation department stating that it wanted to speak with J.H. OCRA contacted the probation officer. He explained that the district attorney had decided to send the case back to probation because J.H. had a significant cognitive impairment. Probation was to work out an "informal" diversion.

The probation officer had not had much contact with regional center clients. His expectations of what J.H. would be capable of understanding and completing were unrealistic. OCRA provided technical assistance and arranged a meeting with J.H., his mother, the regional center, and probation. The goal was to discuss a diversion plan consisting of counseling and attendance at a regional center group for social and sexual education.

When J.H. completes this probation, the charges will be dropped. In addition, since it is part of the juvenile justice system, all records will be sealed. Katy Lusson, CRA, Golden Gate Regional Center.

HOUSING

OCRA Helps Prevent Homelessness.

S.B. was going to be homeless because she was evicted from her apartment. She was a smoker and needed to smoke indoors due to her inability to handle extreme weather. S.B. was honest about her smoking habit. As a result, board and care homes were unable to accommodate her.

S.B. called OCRA and requested an emergency meeting with the regional center. She wanted to develop a plan to prevent homelessness. OCRA and the regional center collaborated in order to find a suitable living situation which would allow smoking indoors.

The regional center found a vacancy in a studio apartment in Sonoma County which S.B. was able to move into on the same day as the emergency meeting. OCRA advocated for a one-way taxi script for S.B. so she could be transported to her new home. Yulahlia Hernandez, CRA, and Maricris Dela Cruz-Britton, Assistant CRA, North Bay Regional Center.

Residential Facility Withdraws 30-Day Notice.

J.E. was being evicted from his residential facility due to his behaviors and the facility's inability to address his health concerns. J.E. contacted OCRA requesting assistance with the eviction. J.E. had a habit of separating himself from other residents and staff on group outings, disrupting the outings for everyone. The Assistant CRA contacted the care provider and was informed that J.E. had two previous evictions that had been withdrawn in order to give J.E. the opportunity to improve his behavior. The care provider was also concerned with J.E.'s sugar intake and his diabetes and no longer wanted to be liable for J.E.'s health. The care provider suggested a more restrictive placement in which J.E. could be more closely monitored. J.E. rejected this suggestion.

The Assistant CRA convinced the care provider to give J.E. one last opportunity and facilitated a meeting and a new IPP, the results of which were that appropriate supports and services were provided to keep J.E. in his current placement. Veronica Cervantes, CRA, Beatriz Reyes, Assistant CRA, Inland Regional Center.

Exception to No Pet Policy.

D.A. is a 6-year-old boy who lives in an apartment with his parents and older sister. On the recommendation of a friend who works with children with autism, D.A.'s parents purchased a dog for D.A. to provide social interaction and sensory stimulation. After a few months of marked progress in D.A.'s demeanor, D.A.'s parents were served with a three-day notice to remove the dog or quit the apartment. They contacted OCRA for assistance.

OCRA negotiated with the landlord's attorney providing documentation of D.A.'s disability as well as the legal basis for emotional support animals as exceptions to "no pet" policies. As a result, D.A. and his family were able to remain in their apartment with the support animal. Emma Hambright, CRA, Lanterman Regional Center.

PERSONAL AUTONOMY

I.G. Blocks Her Conservatorship.

OCRA was contacted by I.G. who lived with her mother and father for 44 years. I.G. attends an art day program and earns money selling her art work.. OCRA, with the assistance of the regional center service coordinator and I.G.'s ILS worker, worked to educate and convince I.G.'s family that I.G. has the right to socialization, personal autonomy and to make personal choices. I.G.'s family prevented I.G. from attending social events in the evenings and the weekends. I.G.'s family did not allow I.G. to socialize without a family member present. I.G.'s family interfered with ILS and day program services. I.G. was not allowed to receive phone calls from her boyfriend.

I.G.'s family filed a Petition for Conservatorship over I.G. OCRA wrote a position letter to the court requesting legal representation for I.G. In addition, OCRA requested an extension of time for the initial hearing until the appointment of legal counsel was made. The extension was granted. The extension of time allowed I.G. and her support team (Court Appointed Attorney, OCRA, Service Coordinator, ILS, and Area Board 3) to prepare for the conservatorship hearing. I.G. received an independent psychological evaluation from the regional center which supported I.G.'s competency and capacity to make decisions for herself. OCRA requested the regional center to increase I.G.'s ILS hours to better support and empower I.G. in her efforts to block the conservatorship. The regional center agreed to increase ILS by 14 hours.

OCRA provided technical assistance to I.G.'s court appointed attorney. OCRA attended the conservatorship hearing. After I.G. learned that her boyfriend's mother was in attendance at the hearing to support the conservatorship, I.G. requested the matter be set for trial instead of mediation, and I.G. made the decision not to return home to live with her parents. OCRA advocated for emergency board and care placement. The regional center agreed and provided I.G. with emergency placement within hours of the hearing. I.G. settled into her new home and enrolled in the local People First chapter to help prepare for trial. I.G.'s family withdrew the conservatorship in hopes I.G. would return home. I.G. decided not to return to live at her parents home. I.G. hopes to teach others how to speak up and advocate for their rights. Her dream is to tell her story and help others at the next Supported Life Conference. Jackie Coleman, Interim CRA, Jacqueline Gallegos, Assistant CRA, Alta California Regional Center.

OCRA Assists Consumer to Terminate Conservatorship.

E.Q.'s service coordinator contacted OCRA to help E.Q. challenge E.Q.'s conservatorship of the person and estate. E.Q.'s regional center IPP team and psychiatrist all agreed that a conservatorship was no longer needed. E.Q. felt the attorney appointed to represent her by the court was not acting in her best interest and was supporting the conservator's position. OCRA encouraged E.Q.'s day program and supported living agency to draft written statements indicating they did not believe that the client needed to be conserved any longer. These were submitted to the court. At the hearing, the attorney for the petitioner decided to withdraw the application for conservatorship in light of the strong opposition to the conservatorship petition. Ibrahim Saab, CRA, Ada Quintero, Assistant CRA, North Los Angeles County Regional Center.

Client To Be Served by County Mental Health.

A former resident of Porterville's Developmental Center, E.P., lived on the streets. In addition to his regional center diagnosis, E.P. was also diagnosed with a psychiatric disability, had been in jail several nights, and wanted to be admitted to a psychiatric facility. County mental health took the position that E.P. was the responsibility of the regional center and claimed that, although E.P. had been treated by its psychiatrists in the past, E.P. had no psychiatric disability.

OCRA advocated with mental health that E.P. wanted and needed mental health treatment. As a result, E.P.'s choice was respected and he is now receiving treatment in a mental health facility in Sutter County. Jim Stoepler, CRA, Redwood Coast Regional Center.

REGIONAL CENTER

Eligibility Case Settles According to Former Standards.

E.I. is a 9-year-old consumer whose regional center eligibility was terminated. She had been diagnosed with mental retardation and adaptive deficits since she was an infant. E.I.'s mother is also a consumer at the regional center.

The regional center hired an independent psychologist to evaluate E.I. for continued eligibility. The psychologist determined that E.I. did not have a qualifying condition and that her “new” diagnosis was “low average perception/reasoning with mixed receptive-expressive language and phonological disorder.” Eligibility was terminated.

OCRA was contacted for assistance. E.I.’s pediatrician and special education teachers were interviewed. Extensive documentary evidence was gathered including a psychologist’s report from Texas that noted mental retardation. OCRA retained a neuropsychologist who also diagnosed mental retardation. Following preparation and submission of stipulations, the regional center settled the case. E.I. remains eligible today. Enid Perez, CRA, Kay Spencer, Assistant CRA, Central Valley Regional Center.

SSI Not a Generic Resource.

A.T., who lives with his disabled father and receives SSI, goes to out-of-home respite 21 days every month. OCRA was contacted when the regional center decided that A.T. should pay for some of the respite with his SSI money. The CRA established that the SSI is needed to keep up the family home even though A.T. spends time away from it, and that the regional center could not require that A.T. use his SSI to pay for the respite. Jim Stoepler, CRA, Redwood Coast Regional Center.

Regional Center to Continue Funding Services.

K.M.’s IPP, in keeping with her doctor’s orders, specifies 24 hours per day of LVN level nursing care to monitor K.M.’s uncontrolled, possibly fatal, 40-50 drop seizures per day. The regional center sought to reduce K.M.’s LVN hours by the 283 hours of IHSS that K.M. receives from the county. The regional center had identified IHSS as a generic resource and a duplication of the regional center’s LVN services. OCRA represented K.M. at an administrative hearing and argued that IHSS is not interchangeable with LVN care and that allowing the regional center to substitute IHSS for K.M.’s nursing hours contradicts K.M.’s treating physician’s order of 24/7 LVN care. The regional center was ordered to continue funding in-home LVN care 24 hours per day. Veronica Cervantes, CRA, Beatriz A. Reyes, Assistant CRA, Inland Regional Center.

Regional Center Re-Evaluates Its Use Of “Fade Out” Plans.

Through meetings with executive and clinical staff, OCRA was able to convince the regional center to change its practice of developing fade out plans for services such as Discreet Trial Training (DTT). The regional center would draft a plan in which reductions in service took place automatically over a few months period, resulting in a termination of the service without periodic review. The regional center has agreed to review services and make individual determinations of need, extending the reduction period so that clinical staff can review progress and adjust services as needed. Emma Hambright, CRA, Lanterman Regional Center.

OCRA Negotiates Eligibility Extension for 3-Year-Old.

G.G.’s father called OCRA when the regional center terminated G.G.’s eligibility when he turned three. OCRA had an independent expert review G.G.’s file, the expert concluded that, while G.G. continued to qualify for eligibility, he might not in two or three years. The CRA, with the father’s consent, negotiated with the regional center, which agreed to give G.G. two more years of eligibility and then reassess him. Arthur Lipscomb, CRA, Gloria Torres, Assistant CRA, San Andreas Regional Center.

Regional Center Grants Eligibility Despite Dual Diagnoses.

M.T.’s aunt, his legal guardian, called OCRA when the regional center denied M.T. eligibility. M.T., who is 6-years-old, had an informal meeting scheduled within weeks but was represented by an advocate who was unfamiliar with regional center eligibility issues. The CRA, after reviewing M.T.’s records and speaking to teachers, counselors, and experts, provided M.T.’s aunt and advocate with technical assistance regarding regional center eligibility and appeal procedures. M.T.’s advocate prevailed at the informal hearing and M.T. was granted eligibility. Bernadette Bautista, CRA, Alba Gomez, Assistant CRA, San Diego Regional Center.

Regional Center Provides Funding for Adaptive Equipment.

K.G. is a regional center consumer and uses a wheelchair. K.G. is one of four siblings. K.G.’s mother needed a bigger van so she could transport all four children at one time. The regional center declined to fund a van lift and tie downs for the lift because they were already installed in the new van she

wished to buy. The regional center's position was that the cost of the adaptive equipment could not be accurately separated from the cost of the van, despite the dealer providing a breakdown of the individual costs. K.G.'s mother could not afford to buy the van if the regional center did not pay the cost of the adaptive equipment, which was approximately \$17,000. The Assistant CRA negotiated with the regional center prior to going to hearing. The regional center agreed to fund the entire amount of the adaptive equipment. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

OCRA Settles Regional Center Eligibility Case Prior to Formal Hearing.

M.S.'s parents had applied for regional center eligibility for M.S. on two prior occasions. When the parents tried to apply a third time with new information, the regional center refused to reconsider M.S. for eligibility. After reviewing the records, the CRA determined that an expert should be retained to assess the case. With the expert's final report favorable for eligibility, OCRA drafted a letter to the regional center requesting that it reconsider its prior opinion. At the informal meeting, the CRA further advocated that M.S. should be eligible. Just days before the formal hearing, the regional center made a determination that M.S. was eligible for regional center services under the 5th category. C. Noelle Ferdon, CRA, Far Northern Regional Center.

Consumer's Nursing Respite Hours Reinstated.

G.L., a 4-year-old, is a medically fragile boy with multiple disabilities, including mental retardation, epilepsy, and chronic lung disease. G.L. had been in a sub-acute facility since birth and unable to reside with his parents and siblings. Last December, his parents were finally able to bring G.L. for his first Christmas as a result of obtaining Medi-Cal funded nursing services and 135 hours of nursing respite from the regional center.

In February of this year, the regional center service coordinator told the parents that the respite hours would be reviewed but that there would be no adjustment due to G.L.'s level of need. In May, the nursing agency providing the nursing respite from the regional center called and said that the regional center had not authorized additional hours. In June, the parents received a notice of action stating that the hours would be reduced from 135 to 32 due to the amount of Medi-Cal nursing services G. L. was receiving.

The parent appealed the reduction of services and contacted OCRA for technical assistance. OCRA prepared G.L.'s parent for her informal meeting by providing her an overview of the fair hearing process, access to the purchase of service guidelines for SCLARC nursing respite, pertinent sections of the Lanterman Act and copies of similar OAH cases. The regional center offered a settlement that included a reinstatement of the original 135 hours and a reassessment in six months. Anastasia Bacigalupo, CRA, Christine Armand, Assoc. CRA, South Central Los Angeles Regional Center.

Evicted ICF-DDN Consumer is Provided Supported Living Services.

T.J. is a regional center consumer who had been given a 30-day eviction notice from the ICF-DDN in which he had been living. As T.J.'s conservator, his parent contacted OCRA for assistance.

The ICF-DDN served T.J. a notice because facility administrators believed he required additional psychotropic medication to control his behaviors. His mother believed her son required participation in community activities, and a behavior intervention plan to address his behaviors. The regional center staff informed her that medication was the only way to control her son's behaviors.

The regional center had informed T.J.'s mother that no other group homes were available to meet her son's needs, and that she would be required to take her son home to live with her and provide care for him. T.J.'s mother had informed the regional center that she was unable to meet his needs in her home because he required one-on-one care 24 hours per day, 7 days a week. The regional center refused to provide T.J.'s mother with any other option. Shortly after his mother contacted OCRA, T.J. was hospitalized for flu like symptoms. Upon release a few days later, the ICF-DDN refused to accept him, and the regional center insisted that T.J.'s mother take him home. The regional center emergency crisis provider was unable to provide adequate nursing staff, and the regional center placed T.J. in a skilled nursing facility on Christmas Eve.

The CRA attended several meetings with the parent and the regional center to advocate appropriate placement in the community in the least restrictive environment. T.J. is now successfully living in his own apartment with appropriate supported living services, including participation in the

community. T.J.'s behaviors have considerably decreased, as well as his medications. Eva Casa-Sarmiento, CRA, Jacqueline Miller, CRA, Regional Center of Orange County.

Eligibility Services Continued.

D.W. and twin brother, T.W., live in an 89-bed facility. They both received a notice of action that their regional center eligibility was being terminated because they no longer had developmental disabilities. Both brothers work with the support of a job coach and supported employment funded by the regional center. With the assistance of the facility administrator, an appeal was filed and OCRA was called. OCRA assisted with gathering records for each brother. Records were reviewed and the CRA agreed to attend the informal meetings. At the informal meetings, the regional center representative agreed to withdraw its notices of action, Both brothers are excited to use independent and supported living services to help find an apartment and move out of the facility. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel/Pomona Regional Center.

L.W. Stays out of Developmental Center.

In June, 2005, L.W. received a new regional center service coordinator. In August, 2005, the new service coordinator allowed ILS to be terminated with no notice to L.W. When the new service coordinator refused to meet with L.W. or provide her with needed services, L.W. complained and requested a new service coordinator. This request was denied. L.W. was arrested on September 19, 2005, and charged with misdemeanor vandalism and a violation of probation, incurred as a result of an earlier conviction. L.W.'s service coordinator then filed a request to have L.W. admitted to a developmental center and that an LPS Conservator be appointed.

L.W. contacted OCRA for assistance. OCRA requested and obtained a new regional center service coordinator for L.W. OCRA requested that L.W. be assessed by the Delta Project for appropriate services in Marysville, where L.W. lived. OCRA attended an IPP with L.W. where the regional center agreed to provide supported living services so that L.W. could continue to reside in Marysville. OCRA attended the criminal court hearing with L.W. where she was given probation and was congratulated by the judge on her progress. Jackie Coleman, Interim CRA, Jacqueline Gallegos, Assistant CRA, Alta California Regional Center.

R.M. Fights Regional Center Attempt to Lower His Adoption Assistance Rate.

R.M. and his family receive Adoption Assistance Program (AAP) funding from the County of Los Angeles. The county relies on the regional center to assess R.M. and determine the facility level of care that R.M. would require if he were to be placed in a facility. This amount serves as the maximum that the county can pay the family.

R.M. had been assessed at the 4i level twice in the past. As R.M. is now a teenager, his needs have grown. His adoptive parents are providing a number of expensive services for him and his mother quit her job to stay home with him. When the county contacted the regional center regarding his current rate, the regional center responded by lowering his rate. The financial impact on his family would have been severe. The rate suggested by the regional center was a level 2 which is a difference of \$3,105.00 per month.

R.M.'s mother contacted OCRA. OCRA assisted the family in filing for hearing and preparing for the hearing. OCRA helped to prepare the evidence packets, witness lists, and questions for witnesses.

The family attended the hearing and did an excellent job of presenting the materials. The ALJ found that the regional center unfairly lowered the rate and that it had acted in bad faith in doing so. The ALJ ordered the regional center to pay the retroactive money if the county refused to do so. Katie Casada Hornberger, CRA, Harbor Regional Center.

SPECIAL EDUCATION

T.T. Receives Home Health Care IEP Services.

T.T. is a 9-year-old boy diagnosed with autism, mental retardation, bipolar disorder and multiple health conditions which prevent T.T. from attending school. T.T.'s pediatrician placed T.T. on home health instruction due to his multiple medical and clinical needs.

T.T. takes various medications due to his severe behaviors. Mother has concerns about the school district failing to administer T.T.'s medications efficiently while he is in school and thought the lack of medications caused several of his behavioral concerns. OCRA represented T.T. at his Individual Educational Planning (IEP) meeting.

The IEP team developed a positive and supportive home hospital IEP plan that included all of the services the parent requested including home teacher 5 days per week, an intensive speech therapy program, occupational therapy for sensory motor skills, adaptive physical education consults as needed, extended school year, and continued offer of school placement once T.T.'s pediatrician releases T.T. to return to school. Leinani A. Neves, CRA, Valley Mountain Regional Center.

OCRA Assists Client in Getting 1:1 Aide/Sign Language Interpreter.

C.T. is hearing impaired and needs complete assistance with personal care. C.T.'s IEP specified that she would have a 1:1 aide who was also a trained sign language interpreter, five days per week for six hours per day. When C.T. was assigned a new aide, her mother was told that the aide was a sign language interpreter. However, several months after the new aide began providing services, C.T.'s mother became aware that C.T. was unable to communicate with her aide, classmates and her teacher. C.T. came home one day in tears, wanting her mother to communicate something she had been unsuccessful in telling staff. C.T.'s mother tested the aide's sign language skills and found she had none. The school's position was that C.T. was getting along using picture icons and thus did not need a sign language interpreter. OCRA filed a compliance complaint on C.T.'s behalf, which resulted in the school providing a 1:1 aide who was also a qualified sign language interpreter. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

Client's IEP Implemented with Compensatory Services.

I.R.'s mother asked OCRA to attend I.R.'s IEP where I.R.'s occupational therapy (OT) assessment would be discussed. The assessment was overdue. At the time, I.R., a 6-year-old, was receiving only adaptive physical education. The Assistant CRA attended 3 IEP meetings resulting in the OT plan being put into place immediately, including 13 hours of compensatory therapy. A language and speech and functional behavioral assessments were

also requested to allow the youngster to benefit from his educational program. Matt Pope, CRA, Lucy Garcia, Assistant CRA, Eastern Los Angeles Regional Center.

School District Reimburses Parents \$1,391.

A regional center service coordinator called OCRA about A.F., a 5-year-old whose parents were made to pay \$1,391. for the materials for A.F.'s Applied Behavior Analysis (ABA) program. The CRA sent the school district a letter pointing out that the district's policy was a violation of state and federal law, demanded that the district reimburse the parents and threatened to file a compliance complaint if the district did not. The district's attorney responded stating that the school district would reimburse the parents. Arthur Lipscomb, CRA, Gloria Torres, Assistant CRA, San Andreas Regional Center.

Client Gets 3 Hours Per Day of Home Schooling and 1:1 Aide.

M.P., a 17-year-old consumer who lives in a group home and attends high school, announced one day that he would no longer go to school. The CRA contacted the school district and requested an assessment under state law that requires different state agencies to cooperate in serving children with disabilities. With M.P.'s consent, OCRA made numerous telephone calls and sent letters to the county mental health department and to the school district. As a result of the informal advocacy, the school district agreed to provide home schooling for M.P. as well as a bilingual behavior aide to provide transitional services during home schooling hours. Arthur Lipscomb, CRA, Gloria Torres, Assistant CRA, San Andreas Regional Center.

School District and Regional Center Combine to Serve Client.

L.C.'s mother called OCRA when it appeared that L.C. would have a 4.5 week gap in services as a result of a change in placement that would place L.C. on a different schedule. There was also a problem with L.C. being transported to and from home for his ABA services. The CRA negotiated with the school district and the regional center to provide a continuous program for the summer. Each agreed to the following: 1) the district will transport L.C. for his ABA services; will provide 25 hours of general related services; will pay for 5 hours of ABA coaching per week for 2 weeks; 2) the

regional center will pay for an additional 30 hours of ABA services as well as 60 additional hours of respite. Arthur Lipscomb, CRA, Gloria Torres, Assistant CRA, San Andreas Regional Center.

OCRA Compliance Complaint Regarding Medi-Cal Billing Process for IEP Services Substantiated.

N.S. receives special education. N.S. was made eligible for Medi-Cal through his participation in the DDS Waiver in October, 2004. N.S. is also insured under his father's group health plan through the father's employment. In January, 2006, N.S.' parents received copies of their private insurance's Explanation of Benefits indicating that some of the related services N.S. has received through his IEPs were billed to the private insurance by the California Department of Health Services (DHS). The district had billed DHS, which, in turn, billed N.S.' private insurance. N.S.'s father confirmed with the private insurance representative that the insurance company's payment of school-based services claims resulted in the reduction of N.S.' lifetime maximum benefits.

OCRA filed a compliance complaint with the Department of Education (DOE) alleging that N.S. had been denied a free, appropriate public education (FAPE) as a result of the billings and that the district had failed to obtain the requisite informed consent by N.S.' parents prior to accessing private insurance for reimbursement of school-based services..

When DOE contacted OCRA to obtain further explanation of the complaint, DOE determined it needed an extension of time to obtain legal counsel and join DHS and DDS. After extensive investigation, DOE concluded that LAUSD was out of compliance with federal law and that N.S. had been denied FAPE.

DOE ordered the district to cease submitting any further claims on behalf of N.S. for Medi-Cal reimbursement; to provide documentation that it had not directly submitted claims to N.S.'s private insurance; to request retraction of any and all payments it received from DHS; to request DHS reimburse N.S.'s private insurance; to request to the private insurance that the latter reinstate N.S.'s lifetime maximum benefits; and to notify the governing board of the school district of the issues related to the complaint at a regularly scheduled public hearing. Brian Capra, CRA, Katie Meyer, CRA, Meriah Harwood, Assistant CRA, Westside Regional Center.

A.M. Finally Gets His School Program.

OCRA was contacted by A.M.'s mother who requested OCRA's assistance in getting an appropriate school program for her 17-year-old son with autism. A.M. was not attending school and had been without a school program for over 6 months. A.M.'s parents requested help from the school district and the regional center service coordinator. Both had promised the parents to assist them in getting A.M. back in school and into an appropriate special education program. The parents waited for assistance for over 6 months. The parents were notified by the school district to attend a Student Attendance Review Board (SARB) Hearing.

OCRA prepared to attend the SARB hearing. OCRA gathered and reviewed school and regional center records. It was determined that both the school district and the regional center service coordinator had failed to provide services and culturally appropriate services to A.M. OCRA was contacted by the school district legal counsel hours prior to the hearing. The school district offered to resolve the school placement matter at an IEP meeting rather than at the SARB hearing.

OCRA provided advocacy to assist A.M. and his family to obtain a new bilingual service coordinator and to develop an IPP. OCRA attended the IPP and advocated for culturally appropriate services, medical services, and recreational services.

OCRA requested the school district to provide a list of prospective school programs that it was prepared to offer A.M. at the IEP. Prior to the IEP, OCRA assisted A.M. and his parents to tour school sites and special education programs. A.M. and his family selected a county operated program designed specifically for teens with autism. The design of the school program addresses the specific needs of A.M. and his disability, including light sensitivity, behavior, and outdoor recreational activities.

OCRA and A.M.'s parents attended the IEP. The district agreed to provide the county program, door-to-door transportation, functional assessment and culturally appropriate services. Jackie Coleman, Interim CRA, Jacqueline Gallegos, Assistant CRA, Alta California Regional Center.

Consumer Prevails in Compliance Complaint.

L.V., a 16-year-old consumer with cerebral palsy, underwent a major operation and had to receive home-hospital instructional services for a period of six months. When the year was finished, L.V.'s parent contacted the district to matriculate her. Over a period of 6 months, L.V.'s parent made repeated attempts to enroll L.V. Each attempt was met with excuses from the district that it did not have a transportation aide for L.V., and there was no helmet or harness for L.V. to wear while on the bus.

The parent contacted OCRA for assistance. OCRA contacted the district and within two weeks, L.V. enrolled in school after having been out for more than a year. A review of L.V.'s IEPs found that the district had failed to follow through with services promised under the IEP. OCRA filed a compliance complaint against the school district. The CDE agreed with OCRA's analysis.

An IEP meeting was called to address the corrective measures suggested by the complaint investigator. The IEP meeting also coincided with L.V.'s annual IEP. OCRA provided representation at the meeting. OCRA advocated successfully for the modification of the current IEP goals and drafted new goals and modified the transition plan. In addition, OCRA obtained a behavior assessment, an alternative communication assessment and services from the school physical therapist for the fall semester. Anastasia Bacigalupo, CRA, Christine Armand, Associate CRA, South Central Los Angeles Regional Center.

2nd Grader Finally Allowed to Remain at School Entire Day.

When the school district allegedly found J.N. having problems while eating one day at school, the district decided that J.N. should be placed in a county program because he needed more supervision. The school district would not allow J.N. to remain in school until the end of the regular school day because of fear he would choke if he ate or drank anything at school. The parents disagreed and argued that J.N. should remain in his current placement.

The parents contacted OCRA and requested assistance. OCRA requested a feeding report, which supported J.N.'s parents' position that J.N. did not pose a choking risk and could be fed at school and remain the entire day at a

regular SDC placement. After training was provided to his one-to-one aide and staff at school, the district agreed that J.N. could remain at school for the full day. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel/ Pomona Regional Center.

Student Placed into a Model Full Inclusion Program.

K.H. is a 6-year-old boy from a monolingual Spanish-speaking family. The school district had identified K.H. as being language delayed, and had given K.H. group speech therapy twice each week as his only special education intervention. K.H.'s mother noticed that K.H. sat apart from the rest of the group in his bilingual general education kindergarten classroom, and that he did not participate. When she asked the district for additional help, the mother was told that the primary obstacle to K.H.'s progress was his limited English skills. Thereafter, K.H. began splitting his school day between a bilingual kindergarten and an English-only kindergarten, and later was promised some support from a resource specialist. The specialist eventually said she was "too busy" to work with K.H. K.H.'s mother contacted OCRA for assistance.

Although OCRA got the district to agree to a full assessment for K.H., at the IEP meeting the district admitted that only the psychologist had completed one. The district was now out of compliance with the assessment timelines. The mother would be willing to overlook the non-compliance if the district would agree to new assessments in all areas, conducted by either a non-public agency, or the Northern California Diagnostic Center. The district agreed.

The district psychologist's recommendation was to place K.H. in an English-only classroom, and to have the family consider enrolling him in some "fun" community activities. A picture of K.H.'s school day began to emerge during the IEP and it was obvious K.H.'s needs were not being met. The district responded by offering placement in a Special Day Class, which K.H.'s mother refused, as too restrictive. When the mother asked for full inclusion for K.H., the district administrators were opposed, sighting as one of their reasons the fact that full inclusion in their district did not include curriculum modification. The district granted the request to observe a few programs. The mother found a model full inclusion program among them, into which K.H. was enrolled. Celeste Palmer, Associate CRA, Regional Center of the East Bay.

Student Returns to School after Seven Months.

When E.H. came to OCRA, he had been out of school for seven months. E.H.'s monolingual Spanish speaking mother felt that the school district was not providing the appropriate services for E.H. and did not think the placement was appropriate. E.H.'s mother was concerned for his safety. Because E.H. lacked balance, his mother requested a one-to-one aide. The school district denied the request. E.H. did not return to school.

E.H.'s mother called the CRA who agreed to represent at an IEP meeting. At the meeting, the CRA argued that E.H.'s current placement was not appropriate. The CRA requested a list of other appropriate special education programs. The school district finally agreed to offer alternative placements. After visiting several schools in his area, an appropriate placement was identified at a high school and the school district agreed to provide a one-to-one aide for E.H. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel/Pomona Regional Center.