

## ADVOCACY REPORT

### OFFICE OF CLIENTS' RIGHTS ADVOCACY

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**Spring 2005**

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#### **BENEFITS**

##### **R.M.'s SSI Rate Is Increased and Overpayment Reduced.**

In September, 2004, R.M. was assessed with a SSI overpayment in the amount of \$1,389.00 as a result of her father's monthly income varying from month to month. R.M.'s mother contacted OCRA to determine if anything could be done about the overpayment.

OCRA explained the waiver and reconsideration process and filed both on behalf of R.M. During the investigation of the case, OCRA determined that R.M. qualified for a higher rate of SSI because she is blind in addition to her other disabilities. SSI had only been paying her the standard rate. OCRA met with representatives from the local Social Security (SSA) office and determined the blind and disabled rate of payment retroactive from May, 2000. This resulted in a reduction of the overpayment by \$1,281.00. This also resulted in the family receiving a monthly amount of \$849.00 rather than the \$247.00 that had been most recently determined.

OCRA also helped the family develop a system by which it will submit payroll stubs in a timely manner to the local office to avoid future problems. Katie Casada Hornberger, CRA, Harbor Regional Center.

##### **County Apologizes for Threat to Terminate IHSS Services.**

C.G. is a teenage boy who receives 283 hours in In-Home Support Service (IHSS) services per month. The county IHSS unit learned that C.G. had received a notice from the SSA stating that he was not entitled to any amount of SSI due to his mother's wages. The supervising IHSS case worker called C.G.'s mother and informed her that because the computer indicated that C.G. was no longer entitled to SSI, he would no longer be eligible for IHSS either. C.G.'s mother explained that SSA's determination was incorrect and that she was appealing the decision. The supervising

IHSS case worker warned C.G.'s mother that if she lost her SSI appeal, but still continued to receive IHSS, she would owe the county a large overpayment. C.G.'s mother contacted OCRA for assistance.

OCRA contacted the office of the Executive Director of the Los Angeles County IHSS program, who agreed with OCRA that what the local IHSS unit supervisor told C.G.'s mother was wrong. A law was passed about two years ago, which is designed to protect people from losing benefits linked to SSI, such as Medi-Cal and IHSS, when SSI is terminated due to too much income. The county must gather additional information to see if there is another program for which the recipient is independently eligible, before notifying the client of ineligibility. The official also agreed that the supervisor's call to C.G.'s mother was inappropriate due to the pending appeal over SSA's decision.

The chief supervisor for the local IHSS unit called OCRA and C.G.'s mother and apologized for the incident. C.G.'s IHSS benefits will remain the same while his SSI is straightened out. Brian Capra, CRA, Westside Regional Center.

**Social Security Re-Instates Eligibility; Waives Overpayment.**

N.R., a 9-year-old diagnosed with mental retardation, had received SSI since age one. Based upon a fraud investigator's mistaken conclusion that N.R. did not live in this country, the SSA stopped N.R.'s monthly benefits and charged her \$17,708.00 for an overpayment. The CRA gathered and reviewed all available records, including property and utility records from Mexico, where SSA alleged N.R. actually lived. OCRA then provided direct representation at the hearing, where the judge ruled that the evidence overwhelmingly supported the finding that N.R. and her mother did live in the U.S. As a result, SSI retroactively reinstated N.R.'s benefits and waived the overpayment. Bernadette Bautista, CRA, San Diego Regional Center.

**Insurance Premium Reduced.**

P.J., a young, independent woman with significant health issues, called her regional center service coordinator when P.J.'s already unaffordable health care premium was again increased. The service coordinator referred P.J. to OCRA. After interviewing P.J., OCRA advised P.J. to notify her insurance agent that she is a Medicare recipient. Armed with that information, the

agent secured for P.J. a monthly premium that is \$800.00 less than previously charged. Lynne Page, CRA, Redwood Coast Regional Center.

**Mother Learns Self-Advocacy.**

C.P.'s mother called OCRA and reported that, thanks to the CRA's earlier representation of her child in an IHSS hearing, C.P.'s mother had successfully challenged California Children's Services' (CCS) actions in terminating C.P.'s baby formula. CCS claimed that because, according to its records, C.P. is overweight, CCS could terminate the formula. The mother, drawing on strategies the CRA used in the IHSS hearing, advised the CCS worker that CCS could not terminate services without first sending her a letter which included her right to appeal. The mother also advised the worker that the formula would, "have to be given while the case was being appealed." In response to the mother's advocacy, the worker agreed that CCS would provide a written notice of action and aid-paid-pending to protect C.P.'s due process rights. Matt Pope, CRA, Eastern Los Angeles Regional Center.

**OCRA Memo on Federal Protections for Recipients of Disabled Adult Child Benefits Eases Concerns about Impending Loss of Medi-Cal.**

D.L. has for several years received both SSI disability benefits and Disabled Adult Child (DAC) benefits on the wage record of his retired father. The Medi-Cal that comes automatically with SSI assures D.L. of complete insurance coverage for his health care needs. D.L.'s father grew anxious, however, because as the DAC benefits increased after annual cost-of-living adjustments, the SSI payment amount decreased – going from \$16 per month in 2004 to only \$9 in 2005. His father feared that in another year, there would be no more SSI, and that D.L. would no longer be eligible for Medi-Cal without a large share of cost.

On hearing of these concerns, OCRA explained that federal law specifically protects people who lose SSI benefits because they begin to receive DAC, or because they receive an increase in their DAC benefits. The recipients continue to receive Medi-Cal without any share of cost. Furthermore, new law requires county Medi-Cal offices to look for any alternate basis of Medi-Cal eligibility whenever someone loses the Medi-Cal eligibility he or she had previously had, and the Medi-Cal offices must do that before terminating the Medi-Cal.

OCRA provided the father with a memo explaining D.L.'s rights to free Medi-Cal, together with an appeal form that included a copy of the applicable law. With this information, the concerns about access to health care were eased. Marsha Siegel, CRA, Regional Center of the East Bay.

**OCRA Confirms Eligibility for the 250% Working Disabled Medi-Cal Program.**

A.D. is a young adult who earns between \$500 and \$800 each month and does not yet receive any disability benefits from SSA nor does he have health insurance through his job. A.D.'s application for SSI and Medi-Cal was denied, because he still had \$10,000 from a Uniform Gift to Minors Act trust. This put A.D. over the \$2,000 resource limit for SSI and Medi-Cal. The question was whether A.D. could become eligible for Medi-Cal and still retain most or all of the \$10,000.

On learning that A.D. had formerly received \$1,000 per month Social Security Survivor's benefits on the wage record of his deceased father, but that the benefits stopped when he reached 18 years old, OCRA advised that A.D. was eligible for continued benefits on his father's wage record under DAC. This would eventually bring Medicare health insurance, but A.D. still wanted the more comprehensive health care Medi-Cal brings. A.D.'s eligibility for DAC benefits of \$1000 per month, however, meant that he would not be eligible for SSI, and therefore, he could not benefit from the federal law that gives continuing Medi-Cal without a share of cost to DAC recipients who had formerly received SSI. Furthermore, once the large DAC benefits were added to his monthly earnings, the resulting Medi-Cal share of cost would erase the help Medi-Cal can provide to someone who also has Medicare health insurance.

OCRA recommended that A.D. consider Medi-Cal's "250% Working Disabled" program. This provides full scope Medi-Cal to people with disabilities whose earnings and countable income fall under 250 percent of the federal poverty level. This program does not count SS as "income," and S.D.'s monthly premium would be only \$20 or \$25 per month.

OCRA advised A.D. that the 250% Working Disabled Medi-Cal

program excluded from its resource limit any money in an IRA or similar retirement account. Therefore, he might consider establishing an IRA with some of his money, spending some of it, and retaining \$2,000 as a Medi-Cal resource. When the Medi-Cal office told him that IRA accounts were excluded only if the Medi-Cal beneficiary were already drawing on them for living expenses, OCRA confirmed the Medi-Cal worker was thinking of the wrong Medi-Cal program, and sent A.D. a copy of policy rules from the State Medi-Cal Eligibility Procedures Manual. These confirmed that IRA money was an exempt resource in the 250% Working Disabled program and could be provided to the county Medi-Cal worker. Marsha Siegel, CRA, Regional Center of the East Bay.

### **CCS Provides Physical Therapy.**

E.D.R., a 10-year-old boy diagnosed with cerebral palsy, had been receiving physical therapy, funded by CCS, at a clinic. E.D.R.'s mother was soon told that, because E.D.R. was no longer benefiting from the therapy, it would be terminated. OCRA advised and explained E.D.R.'s rights regarding assessments and appeal procedures, information with which E.D.R.'s mother convinced CCS to reassess the client. As a result of the reassessment, physical therapy was reinstated. Bernadette Bautista, CRA, Alba Gomez, Interim Assistant CRA, San Diego Regional Center.

### **SSI Reinstated After Correction of SSA's Overpayment Calculation.**

C.G. is a teenage boy who receives SSI. C.G.'s mother went to work full time and later reported her earnings to SSA. Soon thereafter, C.G.'s mother received a notice from SSA stating that C.G. had been overpaid almost \$2,500 in SSI payments. C.G.'s mother received a second notice from SSA a few weeks later stating that C.G. would not be entitled to any future SSI due to C.G.'s mother's earned income. C.G.'s mother contacted OCRA for assistance.

OCRA compared C.G.'s mother's paycheck stubs and bank statements with what SSA claimed C.G.'s mother was paid by her employer and calculated the SSI payments C.G. should have received based on his mother's income. The figures were compared with what SSA claimed was due C.G. OCRA determined that while C.G. was overpaid, the overpayment was about \$900 less than what SSA claimed.

OCRA also discovered that SSA's determination that C.G. was no longer eligible for any future SSI payments was based on a continual overestimation of income earned by C.G.'s mother. There are a few months during the year in which C.G.'s mother receives three paychecks instead of two under the bimonthly payroll system. SSA mistook the monthly earnings based on the occasional three paychecks per month as typical earnings for C.G.'s mother.

OCRA assisted C.G.'s mother in filing a reconsideration on the overpayment amount and the decision to suspend ongoing payments to C.G. OCRA attended an informal conference at the local field office and explained SSA's miscalculations to the supervising claims representative, providing attachments of OCRA's independent calculations along with paycheck stubs and bank statements. The Supervising Claims Representative agreed to reinstate C.G.'s SSI payments and is currently evaluating the independent calculations supplied by OCRA to determine C.G.'s accurate overpayment amount. Brian Capra, CRA, Westside Regional Center.

**OCRA's Assistance Doubles Consumer's IHSS Hours.**

L.M.'s parents contacted OCRA because the parents were concerned that L.M. was not receiving all of the IHSS hours to which she was entitled. L.M. was receiving 74.4 hours.

OCRA provided the family with the PAI IHSS self-assessment packet and reviewed with the family how to track its time in providing care to L.M. OCRA also explained the protective supervision benefit and suggested the family keep a log of general and protective supervision care it provides L.M. to prevent her from injuring herself.

L.M.'s family completed all the necessary paperwork and OCRA contacted the IHSS worker and obtained a reevaluation. A few weeks later, L.M. received a notice from IHSS indicating that she would receive 135 additional hours and 45 hours of protective supervision. Anastasia Bacigalupo, CRA, South Central Los Angeles Regional Center.

**OCRA Files Request For IHSS Hearing.**

X.O. is a baby with multiple disabilities. He requires 24 hour 1:1 care. His mother contacted the Department of Social Services (DSS) in October, 2004, to request IHSS services. X.O.'s mother informed the intake worker that X.O.'s grandmother would be the IHSS provider, as the mother was employed full-time. In February, 2005, X.O.'s mother was finally notified that IHSS had been approved with a start date of January, 2005. X.O.'s mother was made the authorized provider, not the grandmother, as requested. X.O. was authorized 174.3 IHSS hours per month. X.O.'s mother disagreed with the start date and number of hours authorized. OCRA agreed to represent X.O., and filed a request for an administrative hearing. After filing for hearing, DSS contacted X.O.'s mother and agreed to change the start date to October, 2004. DSS also agreed to correct the provider information. The number of hours has not been resolved and will be addressed at the administrative hearing. Katherine Mottarella, CRA, Jacqueline Phan, Assistant CRA, Tri-Counties Regional Center.

**IHSS Awarded.**

R.R.'s mother had been trying since 2002 to receive IHSS services for her 13-year-old son who has fetal alcohol syndrome. There had been two prior state hearings regarding IHSS benefits for R.R. The first hearing was held in February, 2003. R.R.'s appeal was denied because the ALJ found that R.R.'s mother had not been precluded from employment by the need to care for R.R. A rehearing was granted and R.R. did not prevail at his rehearing.

OCRA represented at a new hearing in January and March, 2005. Based on testimony as well as the documentary evidence at the hearing, the ALJ found that R.R.'s father works full-time and that R.R.'s mother left employment in order to care for R.R. The county was ordered to rescind its September, 2004, denial of IHSS services. Enid Perez, CRA, Central Valley Regional Center.

## **DEBT COLLECTION**

### **Legal Fee Waiver Granted Pursuant to OCRA Request.**

D.T. is diagnosed with mental retardation and lives in a community care facility. During the holiday season, a retail store accused D.T. of shoplifting a CD player. Although D.T. was attempting to borrow money from his family to pay legal fees to avoid further legal action against him, D.T. had no viable way to repay any loan he might acquire, due to his limited income each month.

With advocacy from D.T.'s family and the regional center, the retail store decided not to pursue criminal charges against D.T. However, legal counsel for the retail store still charged D.T. \$300 in legal fees and threatened further legal action if D.T. did not pay the attorney fees in a timely manner. D.T.'s regional center case worker contacted OCRA for assistance.

OCRA sent a letter to the department store's attorney requesting that the legal department waive all legal fees billed to the consumer. D.T. was very happy when all legal fees were waived and all matters related to the incident were dropped as a result of OCRA's letter. Leinani Neves, CRA, Valley Mountain Regional Center.

## **EMPLOYMENT DISCRIMINATION**

### **EEOC Schedules Mediation for Discrimination in Supported Employment Setting.**

E.W. had recently begun working in a supported employment program. He was part of a ground-keeping work group at a local military base. E.W. was with a work crew in a remote area of the base and went off to what he believed was a private space and went to the bathroom. Apparently someone saw E.W. do this and the supported employment program was notified that E.W. was no longer welcome on the base. As a result of this, E.W. was terminated from his employment on the base.

E.W. contacted OCRA because E.W. believed that he had been discriminated against on the basis of both race and disability. OCRA



contacted the employer which would not alter its actions. The factual investigation revealed that E.W. had a 1:1 job coach identified in his IEP. E.W. felt that the supported employment agency had not supported him. It was determined that E.W. had not been properly supervised while working at the base.

OCRA then assisted E.W. in filing a complaint with EEOC against the supported employment agency. EEOC responded with a letter stating that it had reviewed the case and found that it had merit. EEOC has scheduled a mediation between E.W. and the supported living program. OCRA will attend the mediation with E.W. Katy Lusson, CRA, Golden Gate Regional Center.

## **PERSONAL AUTONOMY**

### **R.P.'s Driver's License Reinstated.**

R.P. was in a minor traffic accident. At the scene of the accident, R.P. informed the investigating police officer that she did not know what had happened because she was hit by the airbag. The investigating officer reported to both DMV and the emergency room doctor that R.P. had a lapse of consciousness disorder that caused her to pass out prior to the traffic accident. The emergency room doctor also reported to DMV that R.P. had a lapse of consciousness disorder. Subsequently, DMV suspended R.P.'s driver's license.

R.P. contacted OCRA for assistance. R.P. informed OCRA that her statements were taken out of context and misinterpreted by the investigating police officer. OCRA agreed to represent R.P. at her DMV hearing. The CRA successfully proved that the information provided by the police officer and the doctor was incorrect and that R.P. had no previous medical history

indicating a loss of consciousness. DMV reinstated R.P.'s driver's license. C. Noelle Ferdon, CRA, Far Northern Regional Center.

**Disabled Adult Child Benefits Will Not Stop if Recipients Marry.**

For many years, N.F. and V.C. have lived together in a supported living arrangement. They want to get married, but were told that if they did marry, V.C. would lose her entitlement to the DAC benefits she was about to receive. They asked OCRA whether this was true.

OCRA confirmed that there is a general rule that people lose DAC benefits if they marry, but that V.C. and N.F. would come within the exception that says a person remains eligible for DAC if she marries someone who also receives one of the "Title II" Social Security benefits, such as DAC or Social Security Disability Insurance (SSDI) benefits. Because N.F. receives SSDI, the two could marry without it having an adverse effect on V.C.'s DAC benefits. Marsha Siegel, CRA, Regional Center of the East Bay.

**J.M. Gets His Driving Privileges Restored.**

J.M. is a regional center consumer who has been driving for over 12 years. He had his driver's license revoked in October, 2004. OCRA filed an appeal of the revocation requesting that J.M. be given an opportunity to take a written and driving test to prove his ability to drive safely.

J.M. was granted some reasonable accommodations that allowed him to obtain a temporary driving permit so he could take professional driving lessons in preparation for his road performance test to reinstate his driving privileges. The accommodations consisted of increasing the number of questions that J.M. was allowed to get wrong in his written test. Then, after failing to pass the written test for a second time, J.M. was granted another accommodation and given a third opportunity to take and pass the written test. He passed the written test.

J.M. successfully completed a series of professional driving classes. His instructor submitted a letter to DMV attesting to J.M.'s skill and competence in safely operating his motor vehicle. J.M. was ready to take his road

performance test but needed one more accommodation. J.M. needed to have his driving instructor and his father in the car with him when he took his driving test, in order to reduce his anxiety level and be able to concentrate on his driving. The accommodation was granted.

On March 15, 2005, J.M. received his Order of Set Aside or Reinstatement of his driving privileges. J.M.'s driving privileges were reinstated. Eva Casas-Sarmiento, CRA, Guadalupe Moriel, Assistant CRA, Regional Center of Orange County.

### **Children Returned to Mother.**

J.R. had asked the regional center to place her sons, T.R. and D.R., due to J.R.'s emotional stress and need to recover from surgery. Once J.R. was emotionally and physically stable, the mother asked her service coordinator for her sons to be returned home. Months went by and J.R.'s request was ignored. J.R. contacted the CRA for assistance in advocating to have her sons returned home. The CRA represented J.R. and her sons at Individual Program Plan meetings. OCRA provided guidance and encouragement for J.R. to advocate for the interests of her two sons. Thirteen months after being placed outside the home, J.R.'s sons were finally returned home. J.R.'s advocacy skills have developed and she is now much more confident and outspoken regarding the needs of her sons. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel Pomona Regional Center.

## **REGIONAL CENTER**

### **A.N. Becomes Eligible for Regional Center Services.**

A.N. is a 29-year-old who sought services from OCRA when her aunt and uncle were attempting to terminate her conservatorship by the Office of the Public Guardian in the State of Oklahoma. The family sought to do this so that A.N. could move to California to live with family instead of living in a facility in Oklahoma.

When A.N. arrived in California, she applied for regional center eligibility with the help of her aunt and uncle. She was denied eligibility despite having been identified as a person with developmental disabilities by the state of Oklahoma. Again, A.N. and her family contacted OCRA for help.

The CRA collected documents from all of the schools A.N. attended in Oklahoma, in addition to her childhood medical records. OCRA also sent A.N. for an extensive evaluation. OCRA then drafted a letter which explained how the new documentation demonstrated that A.N. clearly was a person with a developmental disability. This letter was submitted to the regional center along with the additional records and new assessment. The regional center concurred and granted A.N. eligibility. Katie Casada Hornberger, CRA, Harbor Regional Center.

**D.Q. Is found Eligible for Regional Center Services.**

D.Q. is a young adult male recently diagnosed with autism who was denied eligibility for regional center services. OCRA agreed to represent D.Q. at an administrative hearing. The regional center argued that D.Q. did not qualify for services because D.Q. had the characteristics of Aspergers and a psychiatric disorder.

In his decision, the ALJ emphasized that claimant's expert used properly administered, recognized and reliable measures to reach her conclusion. She also obtained more historical information than the regional center did. According to the ALJ, the report of claimant's expert was, "...the most complete, comprehensive review of the symptoms presented historically as well as presently."

The ALJ concluded that D.Q. is eligible for regional center services based on his diagnosis of autism. Katherine Mottarella, CRA, Jacqueline Phan, Assistant CRA, Tri-Counties Regional Center.

**R.H Remains Eligible for Regional Center Services.**

R.H. had been a client of the regional center since he was 16-years-old. Ten years later, the regional center determined that R.H. was no longer eligible for services. The Area Board contacted OCRA and requested that it provide legal representation on behalf of R.H. OCRA met with R.H. and agreed to represent him in a fair hearing against the regional center. OCRA reviewed R.H.'s records and obtained an independent evaluation.

Prior to the fair hearing date, the regional center withdrew its notice of action terminating services. R.H. remained eligible for regional center

services. Maria Bryant, CRA, Jacqueline Gallegos, Assistant CRA, Alta California Regional Center.

**Putting Requests in Writing!**

The mother of J.V. had been asking her son's service coordinator for a center-based program. The mother was repeatedly verbally denied the program with the regional center stating J.V. was already receiving an in-home program and could not receive both. His mother called OCRA for assistance. The CRA assisted the mother with writing a letter to the service coordinator asking for the center-based program in addition to the in-home program, in order to assist J.V. in his transition to school services. J.V.'s mother faxed the letter to the regional center. The next day she received a call from the service coordinator who immediately provided J.V. with a center-based program three times a week, in addition to the home program. Aimee Delgado, CRA, Nadia Villafana, Assistant CRA, San Gabriel Pomona Regional Center.

**Client Moves out of a Locked Mental Health Facility.**

R.C. is a young adult who used to live independently until he was diagnosed with paranoid schizophrenia after the police found him walking in the middle of the road at night, speaking incoherently. R.C. went to a locked psychiatric unit for several months. A social worker at the facility contacted OCRA for assistance in getting the regional center to fund a living arrangement for R.C. R.C. was afraid to continue living alone and wanted to live with other people in a group home.

In addition to R.C.'s mental health diagnosis, R.C. was diagnosed with two life-threatening physical health conditions that required a level of care R.C. could not provide for himself. R.C.'s facility wanted a supervised living arrangement for R.C., to ensure he received medications and treatment for his newly diagnosed illnesses. R.C.'s Medicare funding for the locked facility was about to be exhausted and a new funding source needed to be found.

The regional center refused to fund a placement, claiming that the Department of Mental Health was financially responsible. The regional center argued that prior to R.C.'s mental health worsening, he was able to live independently, and that R.C.'s need for intense supervision and medication administration was due to his mental health deterioration.

OCRA met with R.C. to determine what he wanted. OCRA discussed this issue on numerous occasions with R.C., the locked-facility staff, and the regional center. Eventually the regional center began looking for a place for R.C. to live, but the placements suggested were either too far away or not designed to meet R.C.'s needs. A few were former residences where R.C. had bad experiences. OCRA provided the regional center with information and resources to address R.C.'s new treatment needs. R.C. is now living in a group home receiving specialized care. Brian Capra, CRA, Meriah Harwood, Assistant CRA, Westside Regional Center.

### **Aid-Paid-Pending Maintained for Consumers.**

In implementing changes in the parent-vendored respite rules, the regional center provided consumers and their families with inadequate information, sending notices of termination that did not contain any specific information. Three termination notices were also sent termination to families that had complied with the requirements.

Six families contacted OCRA for advice. OCRA drafted a letter to families in English and Spanish informing them of their rights to request fair hearings and, importantly to the families, how to preserve their rights to aid-paid-pending the outcome of the fair hearing. The families were all able to get the regional center to withdraw its notices of termination and maintain the families' respite services. Anastasia Bacigalupo, CRA, Christine Armand, Associate CRA, South Central Los Angeles Regional Center.

### **Family Wins AAP Rate Case.**

S.B. was recently adopted. His family requested that the regional center issue a rate letter, to determine the amount of money that the Department of Social Services (DSS) would pay to assist the family in providing for S.B.'s numerous needs. The regional center stated that it was its policy to only set the rates as high as level 3, no matter what the needs of the individual

consumer might be. S.B.'s service coordinator had recommended a level 4 home due to S.B.'s severe disabilities.

OCRA provided technical assistance to the family during the preparation for fair hearing. OCRA went to S.B.'s home and met the entire family. In addition, OCRA provided legal research and reviewed hearing materials with the family.

The family received a favorable OAH decision. The ALJ found that the regional center had to assess the individual needs of a consumer in determining level of care. The family was awarded a level 4I rate of care based on the overwhelming medical evidence provided by S.B.'s adoptive parents. Yulahlia Hernandez, CRA, Cristina Bravo Olmo, Assistant CRA, North Bay Regional Center.

**Client Granted 5<sup>th</sup> Category Eligibility.**

G.O., previously an Inland Regional Center (IRC) client whose eligibility was terminated due to his seizure disorder not being substantially handicapping, reapplied at age 22 based upon a 5<sup>th</sup> category claim. IRC denied eligibility and G.O. filed for hearing. OCRA represented G.O. at hearing and, with expert testimony from a neuropsychologist and a Department of Rehabilitation counselor, secured a favorable decision. G.O. was eligible for regional center services once again. Veronica Cervantes, CRA, Inland Regional Center.

**Mother Prevails At Hearing.**

M.H., an 8-year old boy with autism, has been receiving Discrete Trial Training (DTT) at school and home for several years. For the past two years, the regional center had also funded DTT while M.H. was off-track and at day camp. The regional center recently sent M.H. a notice of action stating that it would no longer fund DTT during day camp. M.H.'s mother appealed the regional center decision.

Although OCRA did not directly represent M.H., the CRA met with the mother to assist in developing a case theory, opening and closing arguments, questions for witnesses and also prepared M.H.'s expert witness. While the regional center asserted that DTT could not be applied to social interaction, M.H. had both research and expert testimony that showed that DTT has

developed from a methodology restricted to isolated tasks to become an effective intervention in improving social interaction skills for children. The ALJ agreed with M.H. and ordered the regional center to fund the DTT at M.H.'s day camp. Matt Pope, CRA, Eastern Los Angeles Regional Center.

## **SPECIAL EDUCATION**

### ***School Agrees to Provide Needed Transportation.***

M.G. is diagnosed with autism. M.G. requires occupational therapy and physical therapy (OT/PT) services to meet his most recent IEP goals and objectives. Since M.G.'s OT/PT services are scheduled directly after school, the school district was required to provide transportation services. The principal of the school erroneously advised M.G.'s mother that due to changes in regulations, transportation to OT/PT services was no longer an entitlement service. The principal thought the services were now categorized as doctor's appointments, which would require the family to transport M.G.

OCRA researched the alleged regulation changes and found no change which required a parent to transport a child to OT/PT after school. OCRA advised M.G.'s mother to request a copy of the alleged new regulation and to request an IEP meeting. OCRA provided technical assistance for M.G.'s mother.

During the next IEP meeting, the school principal acknowledged that the school misinterpreted the transportation regulation laws and agreed to provide transportation services for M.G. to his OT/PT. Filomena Alomar, Assistant CRA, Valley Mountain Regional Center.

### ***M.L. Receives Appropriate Educational Services.***

M.L., a young Hmong woman, lives with her parents, who are very supportive of her. M.L.'s parents assist M.L. in making decisions regarding her education. M.L. attends an adult vocational school for special education students. Pursuant to her IEP, the school was responsible for enrolling M.L. in college classes. However, the school failed to register M.L. in a timely



manner, resulting in M.L. being unable to register for the classes she wanted to take. The school also failed to communicate with M.L.'s parents regarding the changes in M.L.'s education program.

When the school conducted an academic assessment, a portion of it was supposed to be filled out by M.L.'s parents. M.L.'s parents do not speak English.

The Assistant CRA advocated for the school to assign an aide to assist M.L. in registering for her college classes. Additionally, the school psychologist met with M.L.'s parents through an interpreter, to complete an appropriate academic assessment. OCRA also advocated for the school to provide M.L. and her parents with three progress reports each school year, written in the Hmong language, and also to provide M.L.'s IEP's in Hmong. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

### **CDE Finds Kern Union High School District Out of Compliance.**

OCRA filed a compliance complaint against Kern Union High School District on behalf of A.G., asserting that the school district failed to implement the goals and objectives of A.G.'s IEP and failed to convene an IEP meeting within 30 days of the parent's request. The California Department of Education (CDE) investigated and found the district out of compliance. CDE ordered the school district to convene an IEP meeting by May 10, 2005, and to send a memorandum to staff about complying with the law which requires an IEP to be convened within 30 days of a parent's request. CDE further ordered the school district to provide written assurance that it will provide information to parents as to how goals and objectives are designated in the IEP. Eulalio Castellanos, CRA, Kern Regional Center.

### **D.L. Can Go to School with Her Peers.**

D.L.'s mother contacted OCRA for assistance in locating an appropriate school placement for her daughter. The school district informed D.L.'s mother at an IEP meeting that, due to her medical needs, D.L. could only be placed at the school in the district where a nurse is on campus. D.L.'s mother disagreed with the placement as not being the least restrictive, requesting that D.L. be placed in an inclusion class rather than a SDC. D.L. has multiple seizures per day and an unsteady gait requiring the assistance of

a walker. The district felt that D.L. could fall and injure herself at school and needed a nurse present on campus.

OCRA scheduled an IEP meeting and advocated for a placement in one of the district's blended inclusion classes where a nurse is present on campus three days a week and a nursing aide is present two days a week. The district agreed with the placement, providing that D.L.'s doctors agreed the placement was appropriate. Initially, D.L.'s doctor refused to sign a medical release form after the district informed her that there was no nurse on campus. OCRA intervened, providing the doctor with accurate information on the presence of nursing and school staffing ratios. The doctor met with district representatives and agreed to the placement, and D.L. was able to attend school with her peers. Additionally, OCRA successfully advocated for increased speech, OT/ PT services, as well as transportation. Emma Hambright, CRA, Lanterman Regional Center.

**District Agrees to Correct Disability Status and Provide Appropriate Services.**

E.C., a 4-year-old child with autism, had been receiving Early Start services through the regional center. Upon entering pre-school, the school district changed E.C.'s eligibility status to mental retardation. E.C.'s mother, concerned that the district's diagnosis would lead to E.C. receiving inappropriate services, called OCRA seeking assistance in convincing the school district to correct E.C.'s eligibility status.

Armed with previous assessments that diagnosed E.C. with autism, the CRA accompanied E.C.'s mother to an IEP meeting and convinced the school district to change E.C.'s eligibility status from mental retardation to autism. Additionally, the district agreed to provide E.C. with 15 hours a week of behavioral services and 45 minutes a week of occupational therapy services, in addition to the speech and language services already in place. Arthur Lipscomb, CRA, Gloria Torres, Assistant CRA, San Andreas Regional Center.

**OCRA Advocates for 1:1 Aide, ABA Services, and Increased School Hours.**

B.N. is a pre-school child diagnosed with autism. B.N.'s father called OCRA seeking assistance in convincing the school district to assess B.N. for

the appropriateness of DTT, a 1:1 aide to deliver the services, and an increase in B.N.'s school hours from three to five per day. The CRA attended B.N.'s IEP meeting, at which the district agreed to increase the number of school hours to 5 a day, 5 days a week. The school district also agreed to a 1:1 aide who is trained in DTT. Arthur Lipscomb, CRA, Gloria Torres, Assistant CRA, San Andreas Regional Center.

**School Trains Staff to Provide Medically Required Services.**

L.A. is a high school student whose medical condition requires her to be catheterized during school hours. The school district initially convinced L.A.'s mother to come to class and perform the catheterization for a short time until staff could be trained to perform the procedure. After two months, during which the school took no action to train staff to perform the procedure, L.A.'s mother contacted OCRA. L.A.'s mother speaks only Spanish.

OCRA wrote a demand letter to the special education program and followed up with phone calls to the director of special education. After several contacts, the district finally arranged for its nurse to train staff, thereby relieving L.A.'s mother of the duty of performing the procedure at school. Doug Harris, CRA, Redwood Coast Regional Center.

**B.W. Will Remain at His Current School Placement and Receive Off-Campus Transition Services.**

B.W. is a 21-year-old conserved student attending an independent charter school. Last year, B.W.'s school informed his parents that B.W. could no longer remain at school and must be transferred to a county community-based instruction (CBI) program. After visiting the offered CBI programs, B.W.'s parents refused to move B.W. due to the inadequacies of the programs and the limitations on B.W.'s access to the community.

OCRA attended seven IEP meetings and three meetings with school administration advocating for B.W. to remain at his current school, with an appropriate transition plan. Over the course of the meetings, OCRA assisted the IEP team in developing the IEP with appropriate services and supports including accommodations and modifications, and to develop an appropriate transition plan to provide B.W. with community experiences. A major barrier to the IEP process was the school's failure to accurately record IEP

goals and discussions in the IEP document despite recordings and note-taking by school staff. The IEP had to be edited numerous times due to the unilateral changes made by the school team members outside of the IEP team meetings.

Ten meetings later, the IEP and transition plan have been agreed to, providing B.W. with afternoon access to the community including travel-training with extensive accommodations, modifications, and supports. Emma Hambright, CRA, Lanterman Regional Center.

### **Consumer Gets an Appropriate Program Plus One Year of Compensatory Education.**

T.B. is an 18-year-old who has cerebral palsy. He had been in a special education program in Los Angeles until he and his mother moved to the East Bay in August, 2000. T.B.'s mother spoke to the assistant director of student services in the new school district, told her that they had just moved from Los Angeles, and that T.B. needed a special education placement. The mother also asked for a 1:1 aide, because T.B. was non-ambulatory, non-verbal, and dependent on a g-tube for nourishment. The assistant director of student services told T.B.'s mother that the only placements available were in general education classrooms, and that T.B. did not qualify for an aide because he didn't have a tracheotomy. T.B.'s mother was horrified to hear this, and decided not to send him to school.

Two years later, T.B.'s regional center case manager tried to get T.B. some services from the school district. As a result, the school district assigned a general education teacher to work with T.B. at his home, for two hours a week, under the Home and Hospital Program. When this teacher saw that T.B. had an IEP from Los Angeles, she reported it to her supervisors, one of whom was the director of student services. She also reported that T.B. seemed to have regressed, because he could not do many of the things that his Los Angeles IEP claimed he had been doing. After three months, when nothing had happened, the teacher called T.B.'s medical doctor and asked him for a letter ordering that T.B.'s physical and educational needs be met. The teacher felt sure the doctor's letter was responsible for a home visit from the district's assistive technology specialist in March of the following year.

The assistive technology specialist, feeling that focused advocacy was needed, contacted OCRA. With the mother's approval, OCRA made a

Compliance Complaint with the State Department of Education. The complaint allegations were upheld. OCRA subsequently advocated at four IEP meetings, the last of which took place in February, 2005. T.B. is now attending a high school SDC, taught by a teacher from Mentor, and has a well trained 1:1 aide. T.B. is now using some augmentative communication materials, PECs. T.B. will also receive one year of compensatory special education services, by continuing his program until he reaches the age of 23. Celeste Palmer, Associate CRA, Regional Center of the East Bay.

**School District to Dismiss a Restraining Order Which Had Barred Student from School.**

L.H. is a young woman with autism, who attended a SDC on a general education high school campus. From the school district's perspective, L.H. has a long history of inexplicable tantrums, during which she hits her head against the floor. Rather than developing a new behavior plan, each time L.H. had a tantrum, the school staff would respond by attempting to physically overpower her. Staff knew that although L.H.'s behavior was not generally aggressive toward others, she could not tolerate being physically restrained, and that she always responded to this physical intervention by attempting to scratch staff, or to bend their fingers backwards. The school district continued to respond to L.H.'s tantrums with the same intervention.

Although L.H. did not have an appropriate behavior plan, the school district decided to move her to a more restrictive placement, at a non-public school. L.H.'s parents did not agree with the placement change. OCRA advocated at an IEP meeting that there were supports and services which L.H. needed, but which the district had yet to provide. OCRA asked that a functional behavior assessment be conducted by a behaviorist from a non-public agency, and for the support of a 1:1 aide, trained in behavior interventions. The school district denied these requests so the parents filed for hearing and a stay-put order with SEHO. The school district responded by filing a request for a restraining order in superior court, so that L.H. would not be allowed to return to school. The school district was granted a temporary restraining order. Although OCRA filed opposition papers, SEHO deferred to the superior court and did not issue a stay-put order. A formal superior court hearing was set for two weeks later.

At mediation, OCRA was able to get the district to dismiss its superior court case, to fund a functional behavior assessment by a non-public agency, to

agree to an IEP meeting within fifty days to review the findings of behaviorist, and to hold open L.H.'s SDC space. In exchange, L.H.'s parents gave consent to place L.H. in the non-public school placement until the functional behavior report was discussed at an IEP meeting. Marsha Siegel, CRA, Celeste Palmer, Associate CRA, Regional Center of the East Bay.

### **LAUNCH Preschool Is Kept Open.**

C.R.'s mother contacted OCRA because the school board was threatening to close C.R.'s preschool to remedy a budget shortfall. LAUNCH is a special education preschool that has therapists and highly trained staff on campus to work with children with disabilities. Many parents believe that such services make all of the difference in their children's success.

Torrance Unified School District wanted to close the program and integrate the children into other preschool classes around the district. Parents united and attended board meetings and informal hearings. Parents, with information from OCRA, argued that opening new preschool classrooms at existing sites would be more costly because of the need for changing tables, access to warm water, specially sized equipment in classrooms and playgrounds, and itinerant therapists. They also argued that many children who attend LAUNCH are able to be mainstreamed by kindergarten or 1<sup>st</sup> grade and therefore the program is cost effective in the long run. The district responded to the parents by agreeing to keep LAUNCH open for one more year. Katie Casada Hornberger, CRA, Harbor Regional Center.

### **OCRA Resolves Occupational and Speech Therapy Issues at IEP.**

C.C. is an 11-year-old girl who attends a SDC. C.C. spent several months of the year in China receiving treatment for her epilepsy. When her mother advised the district that C.C. would be returning, the district told her that it was no longer willing to provide OT/PT or speech therapy because, "C.C. had shown only minimal gains in the private therapy sessions the school was funding." C.C.'s parents contacted OCRA and requested representation at an IEP.

Upon reviewing the records, it became evident that several of the therapists working with C.C. had recommended that she receive services within the classroom setting. The parents wanted their daughter to continue receiving

private therapy sessions. OCRA explained to the parents that the reports did not support that request, but that OCRA would go to the IEP and attempt to get appropriate services for C.C.

The school was adamant that the assessments recommended only classroom services and that the school would not pay for private sessions. OCRA argued that it was essential for C.C. to continue receiving services, and that there was nothing in the law that exempted the district from providing services to a student who was severely cognitively impaired and making minimal gains.

The district then offered C.C. two sessions per week for a total of 60 minutes of speech therapy in a group of two students with an aide and the speech therapist. She was offered two 45-minute sessions per week of 1:1 occupational therapy as well as consultative time with the O.T. and the classroom teacher.

The parents were pleased with this offer and accepted it. The district extended the services until October of the next school year. Katy Lusson, CRA, Golden Gate Regional Center.

## **OUTREACH AND TRAININGS**

### **Area 6 Self-Advocates and People First Welcome Mega-Bingo–OCRA Style!**

November 5, 2004, kicked off the first Mega-Bingo Clients' Rights Game – OCRA-style! Area 6 Self-Advocacy Council and People First of California invited OCRA to provide a self-advocacy training during their annual meeting for all five counties in the Valley Mountain Regional Center catchment area. Although OCRA planned to have about 100 bingo-rights players, OCRA welcomed over 225 consumers to the meeting in Stockton. People traveled from distances of over 50 miles to connect with their friends and other self-advocates. The OCRA Clients' Rights Bingo game was a smash hit! The OCRA Bingo game boards were expanded by asking folks to share with their neighbors. Colored copies of the laminated bingo cards were made and passed out with pencils instead of bingo tokens to accommodate the massive number of people. What started out as a game of bingo turned into a lively “mega-bingo” game with multiple self-advocates

shouting out their knowledge of rights and ideas with a kind of passion you had to witness to truly appreciate. Prizes of candy, soda, calendars and OCRA outreach items were appreciated by all of the participants. It was refreshing to conduct a self-advocacy training to such a diverse community of people from rural to urban areas with various cultural backgrounds, day programs and supported living programs. The sheer magnitude of the event was awe inspiring and OCRA hopes to emulate some of this energy in its future outreach efforts. Leinani Neves, CRA, Valley Mountain Regional Center.

***San Diego Office Provides Outreach To Spanish Speaking Parents.***

On January 15, 2005, OCRA conducted a presentation in Spanish to 10 parents from El Programa Infantil Hope. The presentation included an introduction to OCRA and information on how to optimize IHHS benefits. Topics ranged from the types of services OCRA provides to protective supervision and personal care. Then on February 5, 2005, OCRA conducted a Spanish presentation to 15 parents from The North Coastal Consortium for Education. The presentation included an introduction to OCRA and information on special education rights and responsibilities. This was followed by a training on February 28, 2005, to 7 parents of regional center consumers at the Fiesta Familiar in Imperial County. Bernadette Bautista, CRA, San Diego Regional Center.

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