

ADVOCACY REPORT

OFFICE OF CLIENTS' RIGHTS ADVOCACY

Spring 2002

BENEFITS

Successful California Children's Services Appeal.

E. W. has severe disabilities and stays in bed. According to his mother, a special air mattress would keep Eric more comfortable. She learned of this mattress during a discussion with CCS service providers and it was the mother's recollection that a CCS physical therapist first suggested its use. This added to Mrs. W's shock when CCS denied coverage of the purchase of the mattress.

Mrs. W. called the CRA who filed a written appeal with CCS. A few weeks and a few telephone calls later, CCS reversed its denial and provided the mattress for E.W. Lynne Page, CRA, Redwood Coast Regional Center.

Funds Obtained From An Individual Indian Money Account with the Office of Trust Funds Management.

OCRA was notified two years ago by a group home manager that D.A. had been notified by the Office of Trust Funds Management in the Department of the Interior that he had some money in an individual Indian money account to which he was entitled. His notarized signature was needed to obtain the money but a local notary would not perform the services because she did not believe D.A. was competent to sign the necessary form. The CRA took care of that problem but was called in again when no money was forthcoming from the Office of Trust Funds Management. A variety of reasons and excuses were given for the delay, but after two years of multiple phone calls, letters, and arguments, the Office of Trust Funds Management finally sent D.A. his \$3900. Frank Broadhead, Clients' Rights Advocate, Redwood Coast Regional Center.

Are They Married or Did Social Security Jump to a Conclusion?

That is the question that a regional center consumer is waiting for a hearing officer to decide. J.P. was born to a single mother and has never known his father. J. P., his mother, and his mother's boyfriend live together. J.P.'s mother is adamant that she does not want to be married despite the fact that she lives with her boyfriend.

J.P. receives Social Security (SSI) benefits due to his disability. In February, 2000, J.P.'s mother and her boyfriend attended a meeting at the request of Social Security. They both provided financial information, as was requested. At the end of the meeting, J.P.'s mother, who is a monolingual Spanish speaker with limited education, was asked to sign a four-page document written in English prepared by the Social Security field worker. In order to be compliant, she did so.

Social Security then used this document to deny any future Social Security benefits to J.P. and to levy a \$14,000 overpayment against him. From the interview, Social Security concluded that J.P.'s mother's boyfriend was J.P.'s father, that J.P.'s mother was holding herself out as married, and that J.P.'s mother's boyfriend's income should have been deemed to J.P. and disqualify him from receiving SSI benefits.

J.P.'s mother immediately filed for a hearing on the ground that her boyfriend was not J.P.'s father and that she did not hold herself out as married. A hearing was finally set for March 20, 2002. OCRA represented J.P. at the hearing arguing that neither of Social Security's contentions was correct. A written decision should be received in the near future. Katie Casada, CRA, North Los Angeles County Regional Center.

Dental Treatment Authorized by Denti-Cal.

J.A. requires orthodontic treatment due to the effect that his cerebral palsy has on his dental development. Most of J.A.'s baby teeth remained while his adult teeth began to grow in, causing severe crowding and pain. Two of the baby teeth remain to date, and continue to cause irritation and pain, while all of his adult teeth have grown in. J.A. needs teeth extracted, study molds, x-rays, monitoring, and possibly braces. Additionally, J.A. requires that a

section of skin connecting his lower lip to his lower gums be removed. Typically this piece of skin disconnects as a child ages, but because J.A.'s development is delayed, the skin has not yet disconnected and causes irritation when J.A. brushes his teeth and periodically becomes infected.

J.A.'s mother, J.A.A, submitted a request to Denti-Cal for orthodontic work when J.A. was 12-years old. Denti-Cal responded that J.A.A. would need to wait until J.A. was 13-years old to request orthodontic work. J.A.A. re-submitted her request when J.A. reached age 13. Her request was denied based on lack of medical necessity.

J.A.A. contacted OCRA requesting assistance in appealing this denial. OCRA agreed to investigate and assess the matter. While OCRA was researching this issue, OCRA recommended that J.A.A. attend an upcoming meeting at the regional center that would be presented by Denti-Cal's Chief Dental Program Consultant, Dr. David Noel. J.A.A. attended the meeting, spoke with Dr. Noel very briefly, and showed him documentation of J.A.'s need for orthodontic treatment. After speaking with J.A.A for about three minutes and reviewing the documentation, Dr. Noel called Denti-Cal's Sacramento office and authorized treatment for J.A over the telephone. After eight months of waiting to reach the minimum age, a written denial thereafter, and the expectation of having to go to hearing, J.A.'s treatment needs were authorized by Dr. Noel. Brian Capra, CRA, Westside Regional Center.

Request for In-Home Nursing Is Granted.

B.L. is an 11-year old boy who has many medical complications from his encephalitis and seizure disorder. In order to continue living at home, B.L. needed a minimum of 171 hours per month of in-home care from a Licensed Vocational Nurse along with at least 5 hours per month of supervision from a Registered Nurse. B.L. was eligible for services from his private insurance, Medi-Cal thru institutional deeming, California Children's Services (CCS), In-Home Support Services, and regional center. Having so many different agencies involved in his care resulted in lack of coordination. B.L. and his parents were unable to determine which of the different agencies was ultimately responsible for the in-home nursing hours he needed.

For over one year, B.L.'s mother had been trying to get Medi-Cal or CCS to cover his home nursing care. She had obtained denials from both Medi-Cal and CCS but the regional center refused to be the payor of last resort. Upon review of records, the CRA determined that CCS should be covering this service. The CRA prepared and submitted a request for hearing against CCS and assisted B.L.'s mother in re-submitting a more comprehensive Treatment Authorization Request for reconsideration by CCS. Meanwhile, the CRA also attempted to get the regional center to pay for the in-home nursing services pending the CCS appeal as gap funding. The regional center refused to provide gap funding and the CRA prepared and filed a request for hearing against the regional center, also.

After filing for hearings against the regional center and CCS simultaneously, representatives from these agencies agreed to meet and discuss the request for in-home nursing services. The result was a final approval from CCS to approve B.L.'s initial request. B.L. will now get 171 hours of LVN in-home care with 5 hours of RN supervision per month. Eva Casas-Sarmiento, CRA and Lupe Moriel, Assistant CRA, Regional Center of Orange County.

Five Additional Months of IHSS Services Reimbursed for Regional Center Consumer.

P.C. is a consumer who had all but given up on several months of IHSS services for which she had applied. Lake County Department of Social Services had ignored an application she filed in December, 2000. P.C. contacted OCRA for help when a subsequent IHSS application resulted in approval of an inadequate number of hours of service to help her remain at home. OCRA reviewed a substantial amount of paperwork involved in these applications. First, OCRA analyzed the current need for IHSS and assisted the consumer with a request for a reassessment that resulted in a 50% increase in IHSS authorization.

In addition, OCRA determined that there had been a hearing request on the failure to authorize IHSS from the December, 2000, application which the county had not processed. The county had obtained the consumer's agreement to a conditional withdrawal of that appeal, but never followed through with a revised decision on the application. With OCRA as her representative, the consumer successfully reinstated the original hearing request. OCRA successfully negotiated with the county appeal

representative an agreement to authorize payment for IHSS services back to the date of the first application without the need for a hearing. Doug Harris, Associate Advocate, Redwood Coast Regional Center.

SSI Appeal Successful.

F.M. is a client of the East Los Angeles Regional Center. She applied for SSI under the diagnosis of mental retardation. She was denied benefits. She filed an appeal. With the help of the regional center service coordinator, the consumer contacted the CRA for assistance. After further investigation and review of the medical records, the CRA discovered that the client had an additional mental health diagnosis. The CRA agreed to represent F.M. at the hearing. A brief with supporting documentation of the second diagnosis was submitted. The Administrative Law Judge ruled from the bench in favor of the consumer. Matt Pope, CRA, East Los Angeles Regional Center.

IHSS Hours Increased.

A consumer's mother contacted the CRA five days before her IHSS hearing. Shortly after the consumer turned 18-years old, the County IHSS office scheduled a re-evaluation. The County authorized increased hours from 121.0 to 140.9. The parent believed that her son was entitled to more hours and appealed the IHSS decision. OCRA agreed to provide technical assistance and help the mother write a brief. The consumer's parent agreed to postpone the hearing. The CRA helped the parent understand how to calculate the time per each task. Armed with the brief and a better understanding on how to explain the calculations for each task performed, the consumer's parent was ready to go to the hearing. The Judge agreed to increase the hours from 140.0 to 199 per month. Aleyda Toruno, CRA, Inland Regional Center.

IHSS Share of Cost Amount Corrected.

N.G. is a 12-year old young man with mental retardation, cerebral palsy, and autism. OCRA represented N.G. at hearing last year, when B.G., N.G.'s mother, appealed Los Angeles County's decision to reduce N.G.'s In Home

Supportive Services (IHSS) hours, and succeeded in obtaining protective supervision for him.

B.G. called OCRA again when the county recalculated N.G.'s share of cost (SOC) for his IHSS and determined that it would increase from \$107.00 to \$1800.00. B.G. received a pay raise at work and expected a small increase in SOC, but believed that \$1800.00 was too much. B.G. spoke with the IHSS worker several times, requesting an explanation for the large change in SOC and requested that the SOC be recalculated. The IHSS worker recalculated the SOC but it remained very high, at \$1166.00. According to the IHSS worker, the \$107.00 SOC had been incorrectly determined and the reason it was so high now was because B.G.'s income should have been deemed to N.G.

OCRA calculated N.G.'s IHSS SOC according to the Social Security Administration's deeming rules, using the 2002 allocations. OCRA determined that N.G.'s new SOC should be \$700.00. OCRA represented N.G. at a meeting with the County's Appeal Representative, wherein OCRA discovered that the County computed N.G.'s SOC with an old deeming formula worksheet using SSA's figures from 1980! The parties agreed that N.G. would conditionally withdraw his appeal to allow the county to re-compute N.G.'s SOC using current numbers and that the SOC would continue at \$107.00 until the re-evaluation was completed. Brian Capra, CRA, and Meriah Harwood, Assistant CRA, Westside Regional Center.

Consumer at Far Northern Regional Center Found Eligible For SSI Benefits Following Request For Reconsideration.

D.C. is a 19 year old regional center consumer who has an expressive language deficit. He attended special education classes all his life and has a borderline IQ score. Since graduating from high school, D.C. attempted a number of employment situations. He was unable to keep any of his jobs due to his developmental disability. D.C. applied for SSI benefits and was denied.

A Request for Reconsideration was submitted by OCRA on behalf of D.C. Additional evidence established that D.C. was unable to keep a job due to his disability and should be qualified for SSI benefits. After numerous phone calls by OCRA to the Social Security Office and continuing

negotiations, the Social Security Administration found D.C. eligible for SSI benefits in February, 2002. Lorie Atamian, Assistant CRA, Far Northern Regional Center.

CRIMINAL LAW

Criminal Charges Dismissed.

C.W. is a 17-year old who has multiple diagnoses including mental retardation, ADHD, fetal alcohol syndrome, impulse control disorder, and possible defiant/oppositional disorder. Los Angeles County (DCFS) has had custody of C.W. since the age of 6 months, when he was removed from his parents' home due to severe neglect. C.W. grew up in foster care and was later placed in a group home. C.W.'s volunteer guardian (CASA) contacted OCRA for assistance with his IPP development with the regional center, with particular emphasis on his need for a 1:1 aide.

C.W. had a history of arrests for inappropriate sexual contact with minors, although he had never been charged. The CASA guardian and DCFS asked HRC to provide C.W. with a 1:1 aide in his group home to avoid any future violations. HRC denied this request, citing licensing issues at the group home.

In October, C.W. eloped during an outing from his home. Unable to find him, the staff took the other residents home and called the police. The police found C.W. in the bathroom with a minor. C.W. was arrested and charged. The District Attorney indicated to the Public Defender that given C.W.'s developmental disability, the D.A. would consider dropping charges against C.W., if he was committed under WIC §6500 and placed into a secure setting.

OCRA provided advice and technical assistance to the public defender, DCFS, and the CASA throughout the §6500 proceedings, attending all court hearings. DCFS's motion to have C.W. committed under §6500 was granted and the criminal charges against C.W. were dismissed. C.W. was placed at Porterville Developmental Center for treatment. Carrie L. Sirles, CRA, and Patricia Pratts, Assistant CRA, Harbor Regional Center.

HOUSING

Section 8 Voucher Reinstated.

L.Y. had applied for Section 8 Housing through the Los Angeles County Housing Authority and received a voucher for a one-bedroom home. However, L.Y. had requested a two-bedroom voucher. L.Y. had gotten two extensions while attempting to have the voucher converted to a two-bedroom voucher. Ultimately, L.Y. was dropped from the roles of the Housing Authority. The supported living services vendor who was assisting her contacted the CRA and requested assistance in having the voucher reissued for two bedrooms. The CRA contacted the Housing Authority and negotiated the issuance of a two-bedroom voucher. Matt Pope, CRA, East Los Angeles Regional Center.

PERSONAL AUTONOMY

OCRA Demand Letter Persuades Orthopedic Shoe Store to Return Consumer's \$450.

D.H. needs custom-made orthopedic shoes in order to walk securely because of the unusual shape of her feet. Last summer, she and her residential service provider took her podiatrist's prescription to an orthopedic shoe store and ordered a pair of custom-made shoes. The store owner agreed to bill Medi-Cal, but explained there were often delays associated with the Medi-Cal approval process. The owner suggested that D.H. make a \$250 deposit to speed things up, and assured her of reimbursement as soon as Medi-Cal paid for the shoes. D.H. paid the requested \$250. D.H. picked up the shoes last fall and paid another \$200, getting the same reassurance about reimbursement once Medi-Cal had paid the store owner. Winter came, but the promised reimbursement did not. When D.H.'s residential service provider called to inquire, the store owner asserted that Medi-Cal would not pay for such shoes, did not say whether she had sought Medi-Cal coverage, and refused to give D.H. her money back. This left D.H. and her provider unhappy and afraid of having lost \$450. To make matters worse, the shoes

did not fit properly. They called D.H.'s case manager, who called OCRA.

OCRA first asked D.H.'s case manager to call the store and request reimbursement, inasmuch as Medi-Cal should pay for the shoes. He did so, getting new excuses from the owner, a refusal to reimburse D.H., and a promise to bill Medi-Cal at some future time when the owner had more time. OCRA next met with D.H. to discuss her options. As a fan of the TV program People's Court, D.H. decided to sue the orthopedic shoe store in small claims court with OCRA office assistance, if a preliminary demand letter failed to secure return of her money. After research established that Medi-Cal does pay for custom-made orthopedic shoes, OCRA sent a demand letter that set out the original understanding about Medi-Cal coverage, the expectation of reimbursement, and the store owner's inconsistent statements. The letter confirmed Medi-Cal coverage for the shoes and promised a lawsuit and perhaps a Medi-Cal fraud report if D.H.'s money were not returned. Eight days later, D.H. picked up the store owner's check for \$450, cashed it, and deposited her money into her own bank account. Marsha Siegel, CRA, Regional Center of the East Bay.

Consumer Off on an Adventure to Vietnam!

B.O., a regional center consumer, loves to travel. He has been all over the United States and Canada. He collects travel books and videos. His care provider was planning a trip to Vietnam to visit her family and invited B.O. along. Unfortunately, B.O.'s Foster Family Agency (FFA) and the regional center did not view this trip as being beneficial. They saw the trip as a possibly dangerous endeavor that should be stopped. The FFA went so far as to state that they would terminate the provider contract if B.O.'s care providers took B.O. on the trip. The regional center was considering a DDS conservatorship to stop B.O. from going.

OCRA got involved and conducted a meeting with B.O. and then with his mother, his care providers, and a representative from the FFA. B.O. knew of the dangers that are possible in a foreign country and had planned for them. He had gotten a special portable nebulizer for his asthma treatments. He was eating Vietnamese food to get used to it. He had found Vietnam on the map and began reading travel brochures about points of interest. He had gathered books to take on the long plane ride. In general, B.O. had prepared just as anyone would for the trip.

The CRA met with the regional center Executive Director and subsequently drafted a memo regarding her findings. The regional center finally agreed with B.O. and he went to Vietnam as planned. Katie Casada, CRA, North Los Angeles County Regional Center.

OCRA Support of Self-Advocacy Secures Community Integration for Resident of ICF-DDN.

W.B. longs to get out into the community, make friends, arrange his own wheelchair repairs, and manage his own banking and other business, just like any other 24-year-old man. For almost two years, he has had to defer these goals. Staff at his ICF-DDN had to attend to other residents' needs for nursing care and could not support him in the community. W.B. came to feel increasingly constrained by life in the licensed facility. The prospect of eventually moving into his own apartment with a supported living agency did not make the waiting easy. His ICF-DDN sympathized but could not support him. As his frustration mounted, the ICF-DDN responded by giving him a 30-day notice to quit: W.B.'s insistence on independence despite his significant physical disabilities resulted in what looked like an impasse.

W.B. made his desire for independence known to OCRA, which assisted him in requesting an IPP meeting with his new case manager. At two program planning meetings, and with the support of OCRA, W.B. made known his desire for community integration and a normal life. OCRA confirmed his right to realize these goals as fully as possible while living in the ICF-DDN. Honoring his choice, W.B.'s RCEB case manager noted all the things he wanted to do in late afternoons and evenings, and on weekends. With this information, the case manager and regional center approved supplemental staffing, and the ICF-DDN sought staff W.B. likes. He now has supplemental staffing that allows him to be in the community and attend to his interests 42 hours per week. Marsha Siegel, CRA, Regional Center of the East Bay.

REGIONAL CENTER

N.M. is Found Eligible for Regional Center Services.

N.M. is a 3-year old boy who was diagnosed with Autism by the UCLA-NPI Autism Evaluation Clinic. He received Early Start services through Tri-Counties Regional Center (TCRC) until he turned three years old. When he was denied eligibility for regional center services, OCRA agreed to represent him at the administrative hearing. In his decision, the Administrative Law Judge emphasized that there were various health care professionals, including the Associate Director of the UCLA-NPI Autism Evaluation Clinic, who evaluated NM and found conditions substantially similar to autism. The Administrative Law Judge concluded that N.M. is eligible for regional center services based on a diagnosis of Autism. Katherine Mottarella, CRA, and Jacqueline Phan, Assistant CRA, Tri-Counties Regional Center.

Choice of Regional Center.

P.F. and D.B. have been friends since junior high school and have lived together since 1994. They are both clients of the East Los Angeles Regional Center (ELARC). They had been living together within the ELARC catchment area for the past two years. Because their apartment had limited accessibility they decided to move to another apartment. With the help of the regional center and their ILS worker, they were able to find an apartment that seemed to suit their needs.

During the process of paying the first and last month rent and moving in, they received notice from ELARC that their cases were being transferred to the regional center where they were now residing. The consumers argued that they were not told that by moving into the new apartment they were moving out of the ELARC catchment area. They appealed the transfer.

The CRA contended that there were many compelling reasons why the consumers should remain in the ELARC catchment area. The consumers developed a trusting relationship with the ELARC staff. They had had a bad experience with the staff from the new regional center in the past, and they were not satisfied with their services. The two consumers were willing to move back to another apartment that was located within the ELARC

catchment area but they had already signed a 6 month lease. The regional center argued that the fair hearing process was not the proper avenue to pursue this matter and that instead the consumers needed to file a complaint in accordance with the Department of Developmental Service transfer guidelines.

The Administrative Law Judge found that there was no provision in the law to bar a consumer from obtaining service coordination from one regional center while living within the “catchment” area of another. The Judge decided in the favor of the consumers, stating that, "this particular case turned on the consumers' expressed preferences, and the failure by the Service Agency to provide a substantial reason why those choices should not be honored. Whether they receive the state's assistance from one regional center or another appears irrelevant, at least on this record, so it is determined they should receive that assistance from the center of their choice." Matt Pope, CRA, East Los Angeles Regional Center.

Judge Orders Regional Center to Fund In-Home Behavioral Services and Music Therapy.

K.N. is diagnosed with autism. The regional center discontinued in-home behavioral intervention services when K.N. reached 3-years of age. K.N.’s mother also requested music therapy services for K.N., which HRC denied. K.N.’s mother contacted OCRA for assistance in preparing for hearing against the regional center.

OCRA assisted the mother in preparing for two hearings: one took place on May 7, 2001, and the second on January 8, 2002. With OCRA’s assistance, mom received favorable rulings at both hearings. At the first hearing, the regional center was ordered to reinstate and fund in-home behavioral services and to begin funding music therapy for K.N. At the second hearing, the regional center was ordered to continue funding both services. Patricia Pratts, Assistant CRA, Harbor Regional Center.

ALJ Orders the Regional Center to Increase Respite Hours and Pay for the Increased Hours Retroactively.

A.N. is diagnosed with mental retardation and has some complex medical needs. A.N. had surgery in April, 2001, and the mother requested that the regional center increase the family's respite hours during his recovery. The regional center denied the request. A.N.'s mother contacted OCRA for representation at fair hearing against the regional center.

OCRA represented A.N. at hearing on August 17, 2001. In September, the Administrative Law Judge issued a favorable ruling for A.N., ordering HRC to increase the respite hours to 68 hours per month for a period of time beginning with A.N.'s surgery on April 4, 2001, and ending on September 30, 2001. The Judge also ordered the regional center to pay for the increased hours retroactively after A.N.'s mother submitted the proper documentation.

In October, the regional center sent the mother a letter outlining the information the regional center must have to pay the retroactive claim. OCRA advised A.N.'s mother on the preparation of her claim for reimbursement. Lisa Hervatin, CRA, Carrie L. Sirles, CRA, Patricia Pratts, Assistant CRA, Harbor Regional Center, and Marcie Gladson, Supervising CRA.

Parent's Choice of Respite Provider Approved after OCRA Intervention.

K.Q.'s mother was receiving respite services through an agency that had only shown up once during a 4-month period. On numerous occasions, K.Q.'s mother had requested the regional center to have a neighbor vendored to provide the 16-hours a month of respite. K.Q.'s regional center service coordinator repeatedly told the mother that could not be done because K.Q. needed a nurse to provide the respite care. K.Q.'s mother contacted OCRA for assistance regarding the regional center's refusal to vendor her friend.

The CRA contacted the service coordinator to inquire why K.Q.'s neighbor could not be vendored. The service coordinator informed the CRA that K.Q. was so medically involved that the guidelines required that an agency provide the respite services. The CRA explained to the service coordinator that K.Q. was not medically fragile, but the service coordinator did not

agree. The CRA spoke to the service coordinator's supervisor who agreed that K.Q.'s neighbor could be vendored to provide respite services. Patricia Carlos, CRA, South Central Los Angeles Regional Center.

Respite Hours Increased.

U.K. is a 4-year old boy with autism who has self-injurious, aggressive and challenging behaviors and needs constant supervision. He is not eligible to receive IHSS due to his family's income level. His father, A.K., requested an increase in respite and specialized supervision hours from the regional center but was denied. A.K. contacted OCRA for assistance with his appeal of these decisions.

A.K. requested an increase from 28 hours of respite per month to three or more hours per day, or around 90 hours per month. A.K. requested an increase from 60 hours per month of specialized supervision to an additional 20 hours per month. A.K. also requested music therapy to address U.K.'s socialization skills. Finally, A.K. requested behavioral intervention through the Institute for Applied Behavioral Analysis (IABA) or another agency. The CRA advised A.K. to write a diary for two weeks of each day's activities to determine the amount and type of services U.K. requires. After reviewing the diary, the CRA found that U.K. had an unmet need for protective supervision.

The CRA represented U.K. at an informal meeting with the regional center. The CRA explained that U.K. had an unmet need for protective supervision and that Medi-Cal's EPSDT may be able to fund the protective supervision. The regional center and A.K. agreed to work together to pursue the Medi-Cal waiver and the regional center agreed to increase U.K.'s respite to 88 hours per month for 6 months. The regional center also agreed to process a request for music therapy and provide behavior therapy to address U.K.'s behaviors. The program will be reviewed in 6 months to determine whether U.K.'s behaviors have decreased. Brian Capra, CRA, Westside Regional Center.

Settlement Obtained In Eligibility Case Two Days Prior To Hearing.

G.R. was removed from his home at an early age because of abuse and neglect. He was placed in long-term foster care and received mental health treatment. G.R. was in locked psychiatric facilities or restrictive residential programs for the past 12 years of his life. Originally found eligible for regional center services and supports on the basis of mental retardation, the regional center subsequently withdrew eligibility, stating that G.R. was no longer mentally retarded. G.R. had to, at that point, rely solely on the mental health system to meet his unique needs.

Since G.R. was found ineligible, the local community mental health program attempted to serve G.R., but because of his developmental delays, regional center services were still necessary to meet his service needs. Community mental health attempted multiple placements throughout Northern California but each one failed because of G.R.'s lack of social skills, low intellectual functioning and overall adaptive skill deficits. Mental health staff sought reapplication for regional center services on G.R.'s behalf.

FNRC denied services on the basis that G.R.'s primary diagnosis was schizophrenia with long-standing, substantially disabling mental health concerns. The regional center claimed that G.R.'s low IQ scores were the result of his psychological conditions and medication use, rather than an indication of a developmental disability.

Since the regional center thought that it had purged G.R.'s records several years ago, it was imperative that early records be located. During the investigation, OCRA located 15-year old regional center records which stated that G.R. was mentally retarded. The original decision by the regional center was not clearly erroneous, as required by law. G.R. was eligible for regional center services. He has been released from the psychiatric hospital and is now living in a community program. Leinani Neves, CRA, Valley Mountain Regional Center, Tammy Solano, CRA, Far Northern Regional Center, Lorie Atamian, Assistant CRA, Far Northern Regional Center, and Gail Gresham and Seth Brunner, Supervising CRAs.

Eligibility Determination Obtained For 2-Year Old Child With Werdig-Hoffman Disease.

C.H. is a two year old boy. He has Werdig-Hoffman disease (also known as Spinal Muscular Atrophy) type 1, which is the most severe form of the disease. C.H. cannot sit up, hold his head up, raise his arms or legs, or consistently hold objects. C.H. has been in the hospital several times in the past months because of his disability

C.H.'s parents applied for regional center eligibility and was denied on the basis that C.H. had a solely orthopedic disorder. C.H.'s parents sought assistance from OCRA for their appeal of the denial. OCRA arranged for a comprehensive assessment by a neuropsychologist. It was found that C.H. had a neurological as well as an orthopedic disorder. His motor function, mental/cognitive function, and behavioral ratings were all compromised. His skill level was at the level expected in a newborn to 3- month old infant. C.H. had severe cognitive and adaptive deficits in addition to his orthopedic disorder which would qualify him for regional center services.

The regional center Chief of Client Services and regional center physician were contacted by OCRA. The findings of the neuropsychologist were reviewed. The regional center agreed to look over the assessment and make a decision as soon as possible. C.H.'s parents and OCRA were contacted within a week and informed that C.H. had been found eligible for services. regional center staff met with C.H. and his family two days later. Katy Lusson, CRA, and Kathleen Welker, Assistant CRA, Golden Gate Regional Center, Gail Gresham, Supervising CRA.

Consumer Found Eligible for Regional Center Services.

K.W. had applied for and been denied eligibility for regional center services on six separate occasions over the past 29 years. K.W. contacted OCRA for assistance in her due process appeal and request for fair hearing. K.W., with OCRA assistance, obtained a neuropsychological evaluation that supported her claim for eligibility under the fifth category. K.W. and her family are very happy that K.W. will now receive the supports and services she needs to live independently. Kimberlee Rode, Interim CRA, Alta California Regional Center.

Termination of Regional Center Eligibility Revoked.

C.B. is an 11 year-old who has been a Regional Center consumer since 1990. She was removed from her natural parents at an early age because of abuse and was eventually adopted. She developed various psychiatric problems as well as testing in the mildly mentally retarded range as a young child. C.B. is now placed in a residential facility for children with mental illness with the regional center paying the cost not covered by the Adoption Assistance Program.

The Redwood Coast Regional Center sent C.B.'s mother a notice of action terminating her eligibility. The mother requested assistance from OCRA to keep her daughter's placement. OCRA reviewed the notice of action and determined that it was improper. The regional center agreed, revoking the original notice and sending out a new one. This was appealed in time to retain the daughter's placement pending a resolution of the dispute.

Again, OCRA challenged the adequacy of the notice. Adequate notice requires a description of the reasons for the decision in a manner that allows the parties to understand the agency's decision. In this case, OCRA found that the regional center did not specify the category of developmental disability that was at issue. OCRA also asserted that the regional center had not conducted a comprehensive reassessment as required by Section 4643.5(b) of the Lanterman Act.

At the informal hearing, the regional center agreed with the inadequacy of the notice and agreed to have an independent neuro-psychological assessment conducted. Frank Broadhead, Clients' Rights Advocate, Redwood Coast Regional Center.

SPECIAL EDUCATION

Back in School and Doing Well!

G.B.'s mother called OCRA in September of 2001. Her nine-year-old daughter was not being allowed back in school after a medical leave for neuroleptic malignant syndrome subsequent to viral encephalitis. G.B. had been a typically developing child until the onset of her illness, which left her

non-verbal and only partially ambulatory. She was wearing diapers and unable to do any of the self-care that she had previously been able to do. She had suffered through some violent mood swings and acts of aggression but those were now few and far between.

At that time, G.B. had been on home schooling for months and the district was recommending a Non-Public School (NPS). For G.B. to attend a NPS, she would have had to move out of her family home and live with a foster family or at the school site. This was an unacceptable proposition to her family. G.B. needed to live at home and be in school with her peer group working on regaining her lost skills.

OCRA filed for Due Process against the school district and filed a compliance complaint regarding missed services. At mediation, it was agreed that G.B. would receive compensatory services and begin school on a half-day program. She would have an aide with her on the bus and in the classroom. Her private nurse could attend school with her during a transition process. She was also referred for an AB3632 mental health assessment and to California Children's Services for physical and occupational therapy evaluations.

G.B. began school on February 4, 2002. She is doing so well that her team will reconvene in May to discuss a less restrictive placement and a full-day schedule. Katie Casada, CRA, North Los Angeles County Regional Center.

LAUSD Ordered To Provide L.K. With In-Home Language and Speech Services.

L.K. is a three-year old girl with mild mental retardation who is a consumer of the South Central Los Angeles Regional Center (SCLARC). SCLARC referred L.K. to the Los Angeles Unified School District (LAUSD) for an evaluation and assessment to determine her eligibility for special education services. An Individual Education Plan (IEP) was held June 11, 2001, with L.K.'s mother, LAUSD and SCLARC representatives to transition her from Part C services through SCLARC to Part B services from LAUSD. The IEP team reviewed the assessment information to determine L.K.'s eligibility and need for special education services.

Due to the severity of L.K.'s medical condition and the complications that may have resulted from an infection, L.K.'s physician temporarily restricted any type of group activity for L.K. with other children. L.K.'s IEP team recommended home/hospital instruction a minimum of one (1) hour per day, five (5) days per week. Due to severe delays in receptive/expressive language and speech articulation skill, L.K. was found eligible for Language and Speech (LAS) services. Her June 11, 2001, IEP stated that LAS services would be provided in her home two hours per week through a non-public agency (NPA). L.K. was receiving in-home LAS funded by SCLARC pursuant to her Individual Family Service Plan (IFSP).

L.K.'s SCLARC service coordinator referred the mother to OCRA in December, 2001, because L.K. was not receiving her LAS service from LAUSD as promised. LAUSD had given L.K.'s mother a list of NPA providers to contact and arrange for LAS service. L.K.'s mother contacted the providers and each stated that they did not provide in-home LAS service. L.K.'s mother notified LAUSD that the agencies listed could not provide the service as outlined in L.K.'s IEP. An LAUSD representative informed L.K.'s mother that this was the only list and it could not provide any further assistance.

In June, 2001, SCLARC and L.K.'s mother anticipated that LAUSD would assume the funding of the LAS service upon L.K.'s transition to special education services provided by LAUSD. However, because LAUSD failed to provide the necessary speech therapy, SCLARC continued to fund L.K.'s in-home LAS service.

Because LAS is a crucial component of L.K.'s IEP, OCRA filed a compliance complaint with the California Department of Education (CDE) on behalf of L.K. The complaint requested that LAUSD be directed to immediately begin providing in-home LAS services to L.K. and to reimburse SCLARC for its expenses in providing L.K. with LAS service from the date of her transition IEP (June 11, 2001) until such time as LAUSD begins to provide the services.

The complaint specifically alleged that it was LAUSD's obligation to find a means of providing in-home LAS services for L.K. In addition, SCLARC was carrying out its responsibility to ensure a smooth transition to Part B by continuing to fund L.K.'s LAS services. Certainly, if L.K.'s mother were paying for the speech therapy, LAUSD would be required to reimburse the

mother for the therapy costs L.K. received during the time her education was the responsibility of LAUSD. Therefore, the regional center should be reimbursed.

The CDE investigated the complaint and concluded that the school failed to provide the LAS listed in the June 11, 2001, IEP and was out of compliance. The CDE required corrective action by LAUSD within 30 days. LAUSD is ordered to provide evidence that their NPA office has identified an agency that will provide the in-home LAS services. CDE did not address the reimbursement to SCLARC in its report. OCRA is working closely with SCLARC's compliance coordinator who will request reimbursement directly from LAUSD. Christine Armand, Assistant CRA, South Central Los Angeles Regional Center and Brigitte Ammons, PAI.

Home/Hospital Hours Tripled.

Due to fragile health and doctor's orders, S.K. could no longer attend regular school. Although the school district offered S.K. a Home/Hospital Program, district policy limited related services and instructional time for S.K. in the Program to 300 minutes per week, combined, as "physical condition and appropriateness permit."

At the IEP, the Assistant CRA invoked the district's "as appropriate" policy language as flexibility that allowed the District to provide in excess of the 300 minutes per week.

The district tried to propose that instructional services be delivered by an aide. Again, relying on state and federal law, the Assistant CRA maintained that the district must provide the service by a credentialed and certified teacher. In order to avoid a due process hearing, the district reluctantly agreed to triple the hours originally offered. Nasha Martinez, Assistant CRA, Tom DiVerde, CRA, San Diego Regional Center.

Fast ForWord Program Approved.

M.P is a handsome 6-year old boy diagnosed with Autism. M.P is severely delayed in the areas of speech and language and has had private speech therapy for the past year. At an IEP held February 15, 2002, the mother

presented a private speech and language assessment to the IEP team. The assessment recommended that M.P participate in the Fast ForWord program.

The school district representative informed M.P's mother that the district wanted to conduct its own assessments. Mother requested that the IEP be continued so that the CRA could attend the IEP with her. The school agreed to continue the IEP to March 6, 2002, and informed the mother that its staff would present its assessment plan on that date.

The CRA and Assistant CRA attended the IEP with M.P.'s mother. The school agreed to fund the Fast ForWord program for an eight-week period for two hours a day. Mother wrote, "Thank you for attending my IEP on 3/6/02, it makes a DIFFERENCE when they know you have a professional on your side...." Maria Bryant, CRA and Rita Snykers, ACRA, San Gabriel/Pomona Regional Center.

Change of Placement is Averted; Stay-Put Motion and Request for Compensatory Education.

B.D. is a 13-year old Native American boy who was suspended from school for taking a camping tool that had a small pocket knife attached to school. He took the camping tool to school to try to open his locker after the lock did not work anymore. B.D. voluntarily showed the camping tool to his teacher. One week prior to taking the camping tool to school, B.D. had been in a fight with another student who had been harassing him. The teacher became concerned that maybe B.D. had intended to take the camping tool to school to use against the other student. B.D. was then suspended from school for an initial 5 days. Thereafter, the suspension was extended for another 5 days. An IEP meeting was not held until after the first 10 days of suspension. It was determined at that IEP that B.D.'s behavior had been a manifestation of his disability, yet his suspension was continued because the school did not want him to return to campus..

B.D.'s mother came to the CRA office for help after B.D. had been at home in suspension for over 13 days. B.D. had not been allowed to return to school. Instead, he was told that he would be re-located to another school. His mother did not want a change in placement. B.D. had been doing well in his school. He had just been selected to be on the Assistant Principal's Honor Roll and had shown great improvement in all goals and objectives in

his IEP. He also had no prior history of assaultive or aggressive behavior at school other than the one fight.

The CRA reviewed all of B.D.'s school records. The CRA determined that the school had failed to give B.D. timely notice of the suspension, failed to hold the manifestation determination IEP meeting within 10 days from the first day of suspension, and failed to give timely notice of the intent to change his placement. The CRA prepared and submitted a motion for stay-put and request for compensatory education in order to get B.D. returned to his school and to make up for the many school days he had already missed. Immediately upon receiving a copy of the motion for stay-put, the school administrator agreed to allow B.D. to return to his same school. Eva Casas-Sarmiento, CRA, and Lupe Moriel, Assistant CRA, Regional Center of Orange County.

Student Returns to School after a 7-Month Absence as a Result of OCRA Advocacy for Appropriate Transportation .

D.M. is a 19-year-old boy with autism. He lives in an adult residential facility and has a non-public school (NPS) placement written on his IEP. D.M. had not attended school for 7 months because he vehemently and sometimes violently refused to ride the school bus. The only transportation option offered by the school district had been reimbursement to the residential service provider (RSP), who was unable to provide D.M. with transportation. In spite of several meetings between the school district, the NPS and the RSP, the issue had not been resolved. The behaviorist from D.M.'s residence contacted OCRA for assistance at D.M.'s annual IEP meeting.

OCRA attended D.M.'s IEP meeting and determined that additional transportation options had not been offered to D.M. because the school district and the NPS viewed D.M.'s refusal to ride the school bus as willful misbehavior rather than as a manifestation of his disability. OCRA was successful in pointing out to the team that D.M. had a right to receive whatever special transportation accommodation was necessary in order for him to access his free and appropriate public education (FAPE) in the least restrictive environment (LRE). Continued OCRA advocacy efforts were ultimately successful in overcoming resistance to finding a creative solution, and D.M. is now transported to and from school by a private provider who is

contracted through the NPS but funded by the school district. Celeste Palmer-Ghose, Assistant CRA, Regional Center of the East Bay.

Student Obtains Compensatory Augmentative Communication Intervention for an Extended School Year of June-August, and an Appropriately Trained 1:1 Aide.

G.M. is a 7-year old boy with developmental disabilities, including a severe speech and language deficit. Although G.M.'s parents requested that he be assessed for Alternative/Augmentative Communication (AAC) intervention in October, 2000, the assessment was not completed until November, 2001, (exceeding IDEA timelines by 11 months), and implementation of assessment recommendations were not begun until March, 2002, (exceeding IDEA timelines by 15 months). During the same time that G.M.'s communication deficits were left untreated, G.M. began to develop aggressive behaviors. A 1:1 aide who had received no training in behavior modification strategies was assigned to G.M.. G.M.'s aggressive behaviors increased and resulted in G.M. spending his school day isolated from his classmates. G.M.'s parents asked OCRA for assistance at an IEP meeting.

OCRA advocacy at the first IEP meeting was successful in obtaining immediate AAC intervention for G.M. This advocacy effort included the linking of G.M.'s communication deficits with his deteriorating behavior, with the result that G.M. was given compensatory AAC intervention hours to be provided from June through August. OCRA advocacy at the second IEP meeting pointed out that G.M. had not received his education in the least restrictive environment (LRE) because of his behavior, and that G.M. had the right to the supports and services necessary for him to have LRE. This time, OCRA advocacy linked G.M.'s increased aggression with the inappropriate behavior interventions of his untrained aide, and as a result G.M. obtained a replacement aide with 6 hours of training from a behavior specialist. Celeste Palmer-Ghose, Assistant CRA, Regional Center of the East Bay.