

The ADVOCARE

September 2010

From the Executive Director

It seems that in the fast moving electronic age in which we are living, change occurs so quickly that sometimes it is virtually impossible to keep up with all of it. That has never been truer than in September of 2010. It is that time of the year again when we publish our priorities and objectives for our fiscal year (FY 2011) that will begin on October 1, 2010. I want to thank everyone who so generously participated in our public comment period and P&O workgroup to help us create the blueprint to guide us in serving the disability community in the coming year. Your efforts are greatly appreciated. The FY 2011 P&Os are printed for you in this newsletter and they can also be accessed on our website.

As this newsletter goes to print there are several changes happening in the coming months that everyone concerned about disabilities should be aware of and concerned about. Like all changes, they contain the seeds of new opportunities, but also carry the risk for harm. It is important to be aware of these changes as they are implemented and be vigilant to assure that the rights and life safety of the people impacted by these changes are upheld and protected and that the right of access to programs and related due process rights guaranteed by law be preserved.

While Olmstead is the law of the land, somehow in West Virginia the bias toward institutional care rather than community based mental health services continues to

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A Publication of:

 **West Virginia
ADVOCATES**

**Protecting and Advocating for the
Human and Legal Rights of People
with Disabilities**

1207 Quarrier St Ste 400
Charleston, WV 25301
(800) 950-5250

... *ED continued from Cove* flourish. Despite yet to be implemented Hartley court orders and Olmstead more progress is occurring on increasing the number of in-patient psychiatric treatment beds than on creating more cost effective and healthier community services. Economic development plans in Clarksburg WV include Highland Hospital taking over the soon to be vacated premises of United Hospital Center and opening about 300 inpatient psychiatric and addiction treatment beds. With an expansion of beds already done at Bateman Hospital and an expansion of beds at Sharpe Hospital in the construction stage, one wonders why more beds are being planned. While this plan may produce jobs, those jobs could be created just as effectively to serve adults and children with mental illness in their communities instead of placing them in more restrictive institutional settings. When these plans are combined with the planned changes in WV Medicaid for SSI recipients, the question needs to be asked exactly for whose benefit these changes have been designed. Developments certainly do not suggest that the civil rights and treatment needs of citizens with mental illness in West Virginia have been a priority. When one adds into account the troublesome number of Behavioral

Health Providers who are currently having serious problems meeting licensure requirements to maintain their licenses, especially in the area of life safety, it becomes disturbingly clear that the problems are not just in the area of mental health, but in the area of developmental disabilities as well. We may have closed our large ICF/MR institutions, but there are serious indications that folks may not be safe enough receiving services in the community, including ICF/MR group homes. Instead of focusing on attaining the highest quality of care and making sure that people with disabilities receive full access to their civil and legal rights, it seems profit making, politics and experiments to control government spending at the expense of those whom the government is responsible to serve is alive and well in West Virginia.

Beginning July 1, 2010, the West Virginia Bureau of Medical Services (BMS) is making a sweeping and historic change in the delivery of Medicaid services to people who receive SSI benefits. Except for SSI recipients receiving Title XIX MR/DD or Aged and Disabled Waiver service, Medicaid coverage will be changed from a Fee For Service to a Managed Care services model that will be provided by a Managed Care Organization (MCO). The familiar "fee for service model" where you choose any doctor you want who will accept a Medicaid card and then go to your doctor for treatment

and your doctor bills Medicaid directly each time they serve you, is being done away with. A new system based on "capitated payments" is being put in its place. Capitated means that the state pays a fixed amount of money per year for each person on Medicaid. That cost is paid to an insurance company called an MCO. The cost to the state stays the same no matter how much or how little you use your Medicaid card. The more services you use the less money the insurance company gets to keep as profit. The less you use the more profit the insurance company makes. There will be three Managed Care Organizations (MCOs) who will be responsible for providing and overseeing all Medicaid services in West Virginia for SSI recipients who come under this plan. This includes behavioral health services as well as medical services. This MCO system completely changes how healthcare works for both the consumers and healthcare providers affected. There are many concerns about these changes and the impact they will have. One of West Virginia Advocates' greatest concerns is that it will result in more commitments to the already overcrowded state psychiatric hospital system. Sharpe and Bateman Hospitals do not use Medicaid money to pay for the services at those hospitals. Community based services are

charged to Medicaid. Therefore there is a potential for it to be more profitable for an MCO to commit a person with mental illness to the hospital than to serve them in the community. This has the potential not only to cause significant civil rights violations for people with mental illness, but to make the already overcrowded state facilities even more crowded rather than carrying out the agreed upon Hartley Order to develop community based mental health services. This situation will need to be monitored very closely. Our other serious concern is that in most other states where this has been tried it has not been successful. Both insurance companies (MCO) and health care providers suffered financial losses and ac-

cess to and quality of services deteriorated significantly for the Medicaid recipients. The rural nature of WV and the limited number of specialists in some parts of the state, especially psychiatrists, raises some serious issues as well regarding the ability of each MCO to attract and retain enough providers to meet the needs of the patients assigned to their plan. Given the dreadful track record of the WV Medicaid reform with Mountain Health Choices Program, people whom these new changes effect, whether they are patients or doctors, should pay very close attention to what is happening.

It is very important that if you receive notices in the mail about your Medicaid services you don't throw them away. Make sure you read them and get help understand-

ing them if necessary. They will be extremely important to your ability to obtain medical and behavioral health services. Consumers are scheduled to begin to be enrolled in December 2010, and it is expected that by, if not before, November 2011 all eligible SSI recipients will be enrolled statewide. Notices will be sent out 45 days before your coverage is scheduled to change over to an MCO. If you do not respond to this notice, you will be automatically assigned to an MCO who will then become your provider and you lose your right to make that choice. Make sure to ask the doctors and other people that you now use your Medicaid card to get services from if they are signed

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Editorials

West Virginia Advocates is currently accepting editorials and letters to the editor. We will sort through submissions and will choose one to print in our next edition of the *Advocate*. The subject should be disability related. This is a chance to have your voice heard on the issues that affect you. You may submit your editorials and letters to:

WV Advocates
1207 Quarrier St Ste 400
Charleston, WV 25301;
Facsimile: (304) 346-0867; or
E-mail: wvainfo@wvadvocates.org

West Virginia Advocates reserves the right to edit content as WVA deems necessary. By submitting content you authorized WVA to use and print your content, name, and any other information you submit. If you wish to remain anonymous, please indicate this prominently in your submission.

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up as a provider with an MCO and if so what it is called. If your doctor is not a member of the MCO you get assigned to, you cannot continue to use that doctor. It is important that you ask questions and make the best choice for you while you have the right to do so. As the information becomes available, West Virginia Advocates will be keeping our website updated to help you understand these changes. You can also call our intake department if you need assistance.

The Bureau of Medical Services (BMS) will be implementing a new Title XIX MR/DD Waiver Program authorization in the coming months. This program has to be reauthorized every five years by the Centers for Medicaid and Medicare (CMS), the federal government agency that pays for Medicaid. Once the application is approved by CMS, the Bureau of Medical Services will have to publish a new MR/DD Waiver Manual with all of the details for the program and distribute that to all recipients of services, as well as, providers and train everyone on the changes. At this time the schedule for implementation of the new authorization is not available, but you can expect it to probably occur between late fall of 2010 and June 30th 2011. The application that was submitted to CMS

does not contain significant changes in the rules used to establish initial or recertification eligibility. However, it does contain some significant changes in the way services will be delivered. However, until CMS approves the final application it is not possible to provide factual information on what those changes will be. The proposed application sent to CMS contains a choice for self directed services for the first time. While this is not the option of choice for everyone, it is a long awaited opportunity for those individuals who can benefit from it. West Virginia Advocates is very pleased to see the increased transparency that is occurring in the administration of the MR/DD Waiver program. For the first time in many years, there were genuine good faith efforts made by BMS to offer a meaningful public comment period on the application packet before it was submitted. It was refreshing to know comments were taken seriously and changes were made based on some of that input. It is also heartening to see a change of attitude toward the role of the MR/DD Waiver QA/QI Advisory Council. We are hopeful that the recent changes in the administration and management of the MR/DD Waiver Program made by BMS will bring some much needed improvements to this program, especially in the areas of life safety and quality of services. APS Healthcare appears to genuinely be working hard to make the transition as the agency administering the MR/DD Waiver success-

ful and to carry out the requirements of that program that have been grossly neglected for far too long.

If you are concerned about disability issues and you are not a registered voter, we urge you to get registered and then make sure to vote. There will be important WV elections in November of this year and in November 2012. The WV Legislature and the Governor have tremendous power to decide what programs do and do not get funded in this state. Voting is one tool that you can use, without ever even having to leave your house, and without spending any money. This is your chance to tell your legislators, governor, judges and other elected officials what is important to you. As I write this, a few blocks away at the Capitol Rotunda in Charleston memorial services are underway for Senator Robert Byrd who passed away this week. There will be an election to select his successor in the U.S. Senate. I hope, regardless of your political views, you will give thought to the impact Senator Byrd had, not only on West Virginia, but on the nation. The impact may be to your liking or not to your liking, but that is not the point. Whoever is voted into the Senate to fill his seat will make decisions about disability rights and funds for disability programs for years to come. You

have a right and a responsibility to make sure that you learn who the candidates are and their positions on disability issues. You have the opportunity to vote for a candidate that supports your interests on disability issues. Think about that carefully, because your life just might depend on it! Soon WV will choose a new Senator for the first time in over 50 years, but we will also

In March of 2009, the Hartley Petitioners became aware that the Respondent Department of Health and Human Resources (DHHR) had informed the behavioral health care providers that all Medicaid benefits for SSI recipients, including clinic and rehabilitation services, would be administered by three managed care organizations (MCOs). DHHR had not advised Petitioners in advance of this proposed change, which will likely have a significant impact on the implementation of the Agreed Order.

When confronted, DHHR representatives asserted that this transition to managed care was being done in order to "coordinate" all of the care of a given individual. Petitioners learned subsequently, however, that the MCOs will be subcontracting behavioral health services to other

elect a new Governor in 2012. It is critical to have a Governor who is supportive of disability issues. One of the powers of the Governor that can impact strongly on people with disabilities is his or her veto power over the budget the Legislature approves. Access to services that support people living in the community of their choice rather than in an institution are often directly controlled by actions of the Legislature and the

Update on Hartley

entities, so we have questioned this explanation.

Petitioners are also concerned that this transition will have the effect of increasing commitments to the state hospitals. Managed care reimbursement rates are too low, and their utilization guidelines too strict, for people with chronic and severe mental illness. This has been demonstrated time and again in the states that have tried to use MCOs to provide mental health services to this population. Clearly, utilizing for-profit organizations to curtail services to such a highly fragile and needy population as those with chronic and severe mental illness seems to contradict all reasoning behind the Hartley Orders.

On June 11, 2010, Petitioners filed a "Request for Resolution Regarding Respondents' Failure to Produce Documents and Proposed Transition of Medicaid to Managed Care". In

Governor. Like it or not services cost money and that money typically comes from state government through the budgeting process controlled by the Legislature and the Governor. In 2010 and 2012, the people who will make those decisions for years to come will be elected. What are you planning to do about it?

this Request, Petitioners argued that DHHR had failed to provide necessary information and that the proposed transition of Medicaid to managed care will cause an increase in inpatient commitments. On July 26, 2010, Judge Bloom entered an "Order Denying Petitioners' Request for Resolution". Judge Bloom stated that there was no basis for holding an evidentiary hearing at this time, because "no injury has occurred and any proposed future injury as alleged by the Petitioners is purely speculative."

Meanwhile, the portion of the Hartley Order that addresses issues related to Traumatic Brain Injury (TBI) has been appealed by DHHR to the West Virginia Supreme Court of Appeals. The Court will hear oral arguments on that appeal during its Fall Term.

Fiscal Year 2011 Priorities and Objectives

**Acronyms after Objectives indicate funding source and targeted populations. See explanation of Programs.*

Priority 1: Children and Youth with Disabilities Receive a Free and Appropriate Public Education in the Least Restrictive Environment.

Objectives:

1. WVA will represent up to four (4) students in due process proceedings, if necessary, in cases that meet WVA's case selection criteria (see footnote #1). (PADD 2, PAIMI 1 (see footnote 6), PAIR 1)
2. WVA will provide five (5) trainings to students, parents, and other interested parties to increase their knowledge of self-advocacy related to student's rights under WV Department of Education Policy 2419. (PADD, PAIR, PATBI, PAAT)
3. WVA staff will provide two (2) trainings to students, parents, and other interested parties to increase their knowledge of student's rights under IDEA with a focus on transition services. (PADD, PAIR, PATBI, PABSS, CAP, PAAT)
4. WVA will provide direct advocacy services on behalf of students with disabilities relative to suspensions, expulsions, out-of-school environment and alternative education placements for up to fifteen (15) (see footnote #1) individuals. (PADD 5, PAIMI 5 (see footnote 6), PAIR 4, PATBI 1)
5. WVA will maintain and facilitate a special education electronic communication network to ensure that parents and students have access to up to date information and technical assistance regarding special education issues. (PADD, PAIR, PATBI, PAAT)
6. WVA will provide three (3) Individualized Education Plan (IEP) clinics. (PADD, PAIR, PATBI)
7. WVA will sponsor a Wrightslaw Boot Camp training related to student's rights under IDEA. (PADD, PAIR, PATBI, PAAT, PABSS)

Priority 2: People with Disabilities are Able to Live in the Community Setting of Their Choice with Individualized Supports, Services, and Protections as Ordered in the Olmstead Decision

Objectives:

1. WVA will advocate systemically for citizens of West Virginia to access ventilator care services within West Virginia by educating the Legislature on the fiscal impact of the current legislation. (PAAT, PAIR, PADD, PATBI)
2. WVA will, as co-counsel in E.H., et al., v. MATIN, et al. (also known as the Hartley case), continue to advocate and litigate for sufficient, appropriate state-wide community based services for individuals with mental illness in order to decrease institutionalization and increase the availability of accessible and affordable community based. (PAIMI)

3. WVA will systemically monitor and advocate for West Virginia Bureau of Medical Services' (BMS) compliance with the Centers for Medicare and Medicaid Services (CMS) assurances for the Title XIX MR/DD Home and Community Based Waiver program in West Virginia. (PADD, PATBI)
4. WVA will provide statewide outreach regarding services for veterans with Traumatic Brain Injuries (TBI) and Post Traumatic Stress Disorder (PTSD). (PATBI, PAIMI)
5. WVA will advocate for the rights of individuals being discharged by Title XIX MR/DD Home and Community Based Waiver service providers and advocate for oversight of the discharge process by the West Virginia Bureau of Medical Services (BMS). (PADD)

Priority 3: People with Disabilities Who Are Institutionalized in State Psychiatric Hospitals are Aware of and Able to Exercise Their Rights.

Objectives:

1. WVA will conduct a minimum of forty-eight (48) monitoring visits to the two (2) State Psychiatric Hospitals (See footnote #5). (PAIMI)
2. WVA will open a service request for all individuals from state psychiatric hospitals who request advocacy services (see footnote #4). (PAIMI)
3. WVA will provide five (5) self-advocacy trainings to residents of the state psychiatric hospitals relative to their rights. (PAIMI)

Priority 4: People with Disabilities are Free From Abuse and Neglect.

Objectives:

1. WVA will investigate all allegations of abuse or neglect that are reported to or discovered by WVA in which there is a possibility of death or serious injury. (see footnotes #1, 3) (PADD 3, PAIMI 2, PAIR 1)
2. WVA will investigate and monitor alleged abuse/neglect during acts of seclusion, restraint, use of aversive techniques, excessive force and other punitive methods of controlling individuals with disabilities at state and private facilities, and WV schools that are reported to or discovered by WVA. (see footnote 1). (PADD 4, PAIMI 3, PAIR 1)
3. WVA will advocate for disability related medical/psychiatric treatment, including properly prescribed and administered medication to be available to incarcerated individuals of all ages that come to the attention of WVA. (see footnote 1) (PAIMI 2, PAIR 6, PATBI 1)
4. WVA will provide direct advocacy services to individuals who meet WVA's case selection criteria and are at risk of abuse, neglect, or financial exploitation when requested by the individual or their legal representative. (see footnote 1) (PADD 6, PAIMI 3, PAIR 3, PATBI 1)
5. WVA will collaborate to provide public education about the prevalence and prevention of abuse of individuals with disabilities. (PADD, PAIMI, PAIR, PATBI)

Priority 5: People with Disabilities Have Equal Access to Programs, Services and the Physical Environment as Required by the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, as Amended, and the Fair Housing Act.

Objectives:

1. WVA will advocate for up to twenty-five (25) people with disabilities who meet WVA's case selection criteria (see footnote #1). (PADD 9, PAIMI 5 (see footnote 6), PAIR 10, PATBI 1)
2. WVA will coordinate with the West Virginia Fair Housing Initiatives Program (FHIP) to conduct education and outreach throughout the state on housing rights issues. (PADD, PAIMI, PAIR, PATBI)

Priority 6: People with Disabilities Who Require Assistive Technology Have Access to It.

Objectives:

1. WVA will provide advocacy for up to twenty-five (25) (see footnote #1) people with disabilities to gain or maintain access to assistive technology and related supports (see footnote #4). (PAAT)
2. WVA will provide training and outreach to increase awareness of the right to access assistive technology. (PAAT)

Priority 7: People with Disabilities Have Equal Access to Employment and Employment-Related Services.

Objectives:

1. WVA will provide services to all individuals requesting assistance who are receiving/applying/eligible for services from the West Virginia Division of Rehabilitation Services (WVDRS), a Center for Independent Living, supported employment programs and other programs funded under the Rehabilitation Act, as amended (see footnote #4). (CAP)
2. WVA will provide services to all individuals requesting assistance who are Supplemental Security Insurance/Social Security Disability Insurance (SSI/SSDI) beneficiaries and who want to work but are encountering barriers per the priorities established by the Social Security Administration (SSA) (see footnote #4). (PABSS)
3. WVA will provide ongoing outreach and self advocacy training for individuals eligible under the CAP and PABSS programs related to obtaining, maintaining, or regaining employment. (CAP, PABSS)
4. WVA will offer a continuing education training for attorneys in the area of disability employment law. (PADD, PAIR, PAIMI, PATBI)

Priority 8: People with Disabilities are Able to Exercise Their Right to Vote (See Footnote #4).

Objectives:

1. WVA will act to increase equal access for all eligible individuals with disabilities requesting assistance to participate in the voting process, including polling places, voting equipment, and voter registration. (PAVA)
2. WVA will educate at least twenty-five (25) people with disabilities about the voting process and their right to vote. (PAVA)
3. WVA will work in conjunction with the Secretary of State's office to educate at least twenty-five (25) public election officials about the rights of people with disabilities to register and vote. (PAVA)

Priority 9: WVA Will Collaborate With Existing Grassroots Networks in Conducting Education and Outreach on Disability Related Self-Advocacy.

Objectives:

1. WVA will actively participate on various committees, coalitions, and other types of groups with grassroots advocacy missions. (PADD, PAIMI, PAIR, PATBI, PAAT, PAVA)
2. WVA will develop and conduct outreach to educate underserved populations, including people who are homeless, people who are deaf/hard of hearing, and members of other protected classes, about their disability rights. (PAIMI, PADD, PAIR, PATBI)
3. WVA will develop and conduct outreach to increase public awareness of Traumatic Brain Injury (TBI) in at-risk populations. (PATBI)

FOOTNOTES

1. Criteria used to select cases for direct representation are:
 - (a) in agreement with the WVA's mission;
 - (b) the vulnerability of the client or the potential to effect policy or systemic change;
 - (c) consistent with ethical standards;
 - (d) possesses sufficient legal merit;
 - (e) funds/resources must be available.

In complaints where abuse or neglect are currently being investigated by law enforcement, WVA will delay its investigation pending the outcome of an investigation completed by law enforcement.

Non-priority case compelling – These service requests may raise issues that meet federal funding

eligibility and that WVA may want to address, but which do not fall within the agency's priorities and objectives. These service requests may include emerging issues.

Numbers used in objectives are solely for the purpose of reporting outcomes to federal funders. They do not limit the number of individuals actually served. Actual numbers served beyond the targeted number will depend upon agency resources.

2. Technical Assistance = Information and assistance specific to a particular problem such as coaching a person with a disability in self-advocacy.

Short Term Assistance = Time limited advice and assistance which may include: reviewing information/records; counseling a person with a disability on actions one may take; and/or assisting a person with a disability in preparing letters or other documents, or making calls to resolve their issue.

3. "Serious injury" is defined as physical harm, injury or death to an individual with disabilities and includes, but is not limited to acts such as: rape or sexual assault; striking; the use of excessive force when placing an individual with disabilities in bodily restraints; or use of restraints not in compliance with state and federal laws.

4. This objective is based on the requirements of WVA's federal funders and the Authorizing Acts:

PADD: Developmental Disabilities Assistance and Bill of Rights (DD) Act of 2000

CAP: Rehabilitation Act of 1973, as amended, Title I, Part B, Sec. 112; 29 U.S.C. 732

PAIMI: Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act, as amended in 2000

PAIR: Protection and Advocacy for Individual Rights (PAIR) Program of the Rehabilitation Act

PAAT: Public Law 108-364: The Assistive Technology Act of 2004

PABSS: Ticket to Work and Work Incentives Improvement Act of 1999, as amended ("TWWI-IA"), 42 U.S.C. § 1320b-21

PATBI: Title XIII of the Traumatic Brain Injury Act, as part of the Children's Health Act of 2000 (Public Law 106-310)

PAVA: Protection and Advocacy for Voting Access program of the Help America Vote Act

5. Monitoring is defined as having a visible, consistent, long-term presence in the state hospitals to increase the clients' confidence and trust, to be responsive to all concerns and to act on those that fit within WVA's statutory mandate and chosen priorities. Monitoring also includes the systematic process for addressing areas of likely rights violations.
6. The issue must be directly related to an individual's mental illness in order to qualify for services.

Additional notes about WVA:

Outcomes of all priorities and objectives will be measured by documentation maintained in WVA's database and reported on the annual program performance reports for each of WVA's Federal programs.

Priorities are based on a three (3) year cycle. Objectives may or may not be carried into the next fiscal year.

WVA Outreach/Training:

WVA provides general and targeted outreach and educational presentations to people with disabilities, professionals and the community at large with preference given to un-served and under-served populations.

Information and Referral (I&R):

WVA provides Information and Referral to all callers related to disability rights issues.

Individual program budgets determine availability of services.

PROGRAMS

CAP	Serves individuals who have applied for or are receiving services from DRS, Center for Independent Living, supported employment programs, and other programs funded under the federal Rehabilitation Act.
PAAT	Serves children and adults with disabilities who need assistive technology devices and related support services to maintain or increase their skills, independence, and community integration.
PABSS	Assists individuals who receive SSI or SSDI break down barriers to employment.
PADD	Serves individuals with developmental disabilities or a severe & chronic mental or physical impairment that begins before age 22 and investigates abuse & neglect complaints on their behalf.
PAIMI	Serves individuals with significant mental illness or emotional impairment and investigates abuse & neglect complaints on their behalf.
PAIR	Serves individuals with disabilities that substantially limit one or more major life activities and who are not eligible for advocacy under any other federal program.
PATBI	Serves individuals with traumatic brain injury who are significantly limited in activities of daily living.
PAVA	Carries out the mandate of the "Help America Vote Act", legislation passed to ensure that individuals with disabilities can fully participate in the electoral process.

WVA Hosts Outstanding Conference on Employment



Attorney General Darrell McGraw introducing Kathleen Martinez.

West Virginia Advocates sponsored “Employment Possibilities: Thriving, Not Just Surviving” on April 22, 2010, at Stonewall Resort. The conference was an opportunity for participants to learn about the endless possibilities in the world of work for people with disabilities.

Attorney General Darrell McGraw began the day and introduced Kathleen Martinez, Assistant Secretary for Office of Disability Employment Policy, Department of Labor.

The agenda for the day included Gary Guller, Mt. Everest Summitter and Inspirational Speaker, and a performance by The Dancing Wheels Company, the first integrated professional dance group.

Ten different breakout sessions were offered, as well as 3 exhibit halls. Over 300 participants, speakers, and exhibitors were in attendance.

U.S. Senator Jay Rockefeller (D-West Virginia) provided the following comments via an introduction video:

I hope you know that I very much wished that I could have joined you for this very important conference, but the world being what it is, my work in the Senate has kept me here in Washington, and I can't be with



Kathleen Martinez speaking at the conference.

WVA is recruiting for its Board of Directors

WVA has several vacancies on our Board of Directors that it needs to fill. We need at least one person who is the legal guardian (court-appointed) of an individual with mental illness to serve on the Board to meet the requirements of our PAIMI grant.

If you are interested in serving on WVA's Board, the application can be found on our website, or you may call us at (800) 950-5250.

WV Special Education Forum

If you have questions regarding Special Education in West Virginia, please register for WVA's Special Education Forum at <http://seforum.wvadvocates.org/>

you. So I apologize. West Virginia Advocates is doing a great thing here today. This conference is a wonderful event helping people with disabilities learn about the array of employment opportunities available to them. I firmly believe that every single American who wants to work should have that opportunity, and I am fighting every day in Congress to create policies that help us achieve greater employment opportunities for our state. Dating back, to be honest, to my years as a Vista volunteer in WV, I have seen so many times first hand the power that a good job, and the benefits that go along with that, and the experience that goes along with that, can have on an individual and his community. And under the same statement, I've seen it when it doesn't work. The sadness, the tragedy, and the "I'm alone in the world" factor that can happen when this is not the case. Nothing is to be underestimated when it comes to employment. The fact is, everyone deserves a chance to take their future into their own hands, to pursue education and training, prepare for their futures and their careers, and make a difference for themselves. That's called self-esteem, in part. A good job is every-



Gary Guller speaking at the conference.



The Dancing Wheels' performance at the conference.

thing. It gives everyone the sense of security, makes community stronger, keeps families healthier, and gives hard-working West Virginians a chance to earn a piece of the American dream. I hope this conference will encourage and inspire you to become active, even more so, and engaged in your work communities. I know that will be the case. Every person here has so much to offer to WV and our entire nation. No one can be left behind. No one. Thank you again for this invitation, for allowing me to join with you. I wish you all the very best for a successful conference and a very bright future. Thank you.

Who is West Virginia Advocates?

West Virginia Advocates, Inc (WVA) is a private non-profit agency dedicated to protecting and advocating for the legal rights of West Virginians with disabilities. We are designated as West Virginia's Protection and Advocacy System (P&A). Every State is mandated by the Federal government to have a P&A.

WVA works to ensure that West Virginians with disabilities have access to the same opportunities afforded all members of society, and can live full, productive lives totally integrated into their communities with as much self-direction and independence as possible.

WVA collaborates to promote systemic and policy change to increase access to services, promote equality, and protect legal rights.

WVA services are confidential and free of charge.

Update on Benjamin H.

In 2008, West Virginia Advocates, Inc. joined with Mountain State Justice, Inc., the National Health Law Program and WV EMS Technical Support Network, Inc. to file a Motion for Enforcement in federal court on behalf of a class of individual Plaintiffs who are placed on the West Virginia Medicaid MR/DD waiver wait list after being determined to be eligible for waiver program services.

The motion filed in the United States District Court in Huntington, West Virginia asked the Court to find the Defendant, West Virginia Department of Health and Human Resources (DHHR), in violation of a March 15, 2000, Order in Benjamin H. v. Joan Ohl, Secretary, West Virginia Department of Health and Human Resources, which required the State to assure that the West Virginia Medicaid MR/DD

Waiver wait list move "at a reasonable pace", defined as having services begin within 90 days of the date eligibility is determined.

The complaint filed on behalf of this group of plaintiffs addressed issues such as the rights of individuals to be aware of the choice of institutional or home and community-based services, the right to apply for Medicaid services, the sufficiency of the Medicaid services provided by the DHHR, and the promptness with which those determined to be eligible for Medicaid services can receive them.

A settlement was reached between the parties and an Agreed Order was signed by Judge Robert C. Chambers and entered on April 8, 2009. Since that time, the parties have monitored DHHR's compliance with provisions contained in the Agreed Order. This year, DHHR decided to accelerate its expansion

of the MR/DD waiver and added 150 slots to the program for the period beginning July 1, 2010, rather than waiting until July 1, 2012 (FY 2013), as provided in the agreement. In addition, the Department filed a Medicaid state plan amendment to include the provision of "personal care services" in the home or community, based on medical necessity criteria. DHHR also started a program called "inROADS" (Information Network for Resident Online Access and Delivery of Services), which includes an online screening process that evaluates individuals for eligibility for programs and allows them to apply for and review benefit information online.

As provided in the Order, the parties will continue to meet on a quarterly basis to assess the adequacy and efficiency of the MR/DD waiver program.

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WVA, 1207 Quarrier St Ste 400, Charleston, WV 25301

Community Corner

Community corner is a place in our newsletter for you to read information on disability related organizations, events, activities, et cetera in our community. If you know of an event that is disability related from your community and want to see it published in our newsletter, please contact us at (800) 950-5250; wvainfo@wvadvocates.org; or 1207 Quarrier St Ste 400, Charleston, WV 25301.

NWVCIL Seeks Board Members

The Northern West Virginia Center for Independent Living, NWVCIL, is seeking volunteer board members to provide direction and guidance for their consumer directed, non profit disability resource center. The full board meets bimonthly. Currently, there are 6 vacancies that need filled with community members, local business representatives, consumers, and others who are interested in equality for all. 51% of their board positions must be held by qualified individuals with disabilities.

In addition to growing their general membership representing their vast service area, their most immediate need includes a Treasurer. NWVCIL receives federal, state, and local dollars from multiple funding sources. Accounting of these funds is provided by a contracted CPA firm, using Quick Books for Non Profits and must follow the standards outline in the OMB Circular A-122. The center is subject to an A133 compliance audit annually. The treasurer assists the management of the center in monitoring compliance with federal grants management and works with the CPA firm in presenting the financial reports to the remaining members, while providing additional oversight with fiduciary responsibilities.

They are seeking volunteers who have an interest in non-profit management, providing guidance and direction as they continue to be a community based, consumer directed resource center for persons with disabilities working to ensure equality for all. If interested, please contact Jan Derry, Executive Director at 296-6091 or jderry@nwvcil.org.

WVDRS Consumer Affairs Committees

Consumer Affairs Committees support the mission of the West Virginia Division of Rehabilitation Services by working to empower people with disabilities in making informed choices and achieving equality of opportunity, meaningful employment, independent living, and economic and social self-sufficiency.

The committees plan and carry out a broad range of activities in cooperation with community leaders in business, government, health care and education, along with other interested organizations and individuals. The committees' activities address a broad range of shared goals, including public awareness and support for the rights, individual dignity, personal responsibility, full inclusion, equal access, self-determination and community involvement for all people with disabilities.

With local leadership, the Consumer Affairs Committees work independently as concerned citizens. Membership is open to all persons desiring to participate, whether or not they are persons with disabilities. All committee members are volunteers, and all committee meetings are open to the public.

The Division recognizes and values the contributions made by Consumer Affairs Committees. To maintain and strengthen this long-standing partnership, the Division provides guidance, information and other resources to committees statewide through its District Offices and the Consumer Affairs Office.

To learn more about the committee nearest you or to volunteer as a member, telephone either the District Office serving your area or the Consumer Affairs Office at 1-800-642-8207 (V/TDD) or 304-766-4845.

West Virginia Advocates
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People with Disabilities**

We Help People with Disabilities by:

- giving information and providing referrals,
- investigating abuse and neglect,
- providing direct advocacy,
- providing training on self-advocacy,
- providing legal representation, and
- engaging in systemic advocacy and litigation.