

A Publication of the West Virginia Advocates, Inc.

ADVOCARE

Clarice Hausch, Executive Director

Summer 2008

From the Executive Director

*By Clarice Hausch,
Executive Director*

It has been a very busy year at West Virginia Advocates and our new year, which begins October 1st, is almost upon us. I want to thank everyone who participated in providing feedback to us for the development of our Priorities and Objectives (P&Os) for Fiscal Year 2009. A copy of the feedback we received is available on our website and the new Priorities and Objectives are in this newsletter.

The period from April through September when we develop our plans and budget for the next year of services to the community are always a sobering time for me. While I am aware all year of the struggles faced by people with

disabilities, I always find it challenging to hear what people tell us they need and then match that against the reality of our budget.

Every year the challenge grows. The past five years Congress has not been supportive of disability needs in America resulting in stagnant or reduced funding in almost all program areas including protection and advocacy. The cuts to education and Medicaid and Medicare are widely known and their impact publicly discussed. The negative circumstances created by funding cuts always increase the demand for protection and advocacy. However, the lack of funding

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Protecting and Advocating for
the Human and Legal Rights of
Persons with Disabilities

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for advocacy is ignored and the community continues to have an expectation that increased advocacy services will be available to battle the losses created by other budget cuts. The mantra of 'do more for less' has become a way of life.

At West Virginia Advocates our response to that challenge has been to look at how we can cut costs and engage in work that will bring increased benefit to the greatest number of citizens with disabilities. However, the sad reality is that at this point in time new initiatives can only occur by resolving or retiring old initiatives; there is no money for expansion. This has led us to continually evolve toward more systems work. Because Congress has not increased funding and expenses have continued to rise, we have been able to do less and less individual services as we have focused on solving systemic problems and doing more litigation. This has been perceived by some as West Virginia Advocates failing to do our job. The reality is that how we do our job has had to change as the world around us has changed.

Prior to Fiscal Year 2000, West Virginia Advocates was known for over 20 years

as providing a type of advocacy that provided individual advocacy to a person with a disability for very long periods of time, even if they were not experiencing a crisis. When West Virginia Advocates discontinued being the contractor with West Virginia Department of Health and Human Services (DHHR) for the Hartley/Medley contract almost ten years ago, we stopped providing those services. Our focus changed to problem focused, short term advocacy based on federal funding and federal mandates. Oddly, some people who contact us still expect us to be doing what we did in 2000.

In doing problem focused advocacy we identified that we received numerous calls for the same problems and that the outcome of helping one individual at a time produced limited results and used a lot of resources. It was like rain drops falling in the ocean. About five years ago, we began seriously developing a focus on systems advocacy, because we believe that is the best way to help the most people obtain the best outcomes.

The Fiscal Year 2009 Priorities and Objectives are very much focused on addressing systems issues, and supporting people with disabilities to become strong, competent advocates so that they can skillfully advocate for themselves. Indi-

vidual advocacy services are still available, but are limited to those specified in the P&Os.

The barriers facing people with disabilities in West Virginia and in Congress are not individual issues. They are barriers created by competition for funding and laws that do not adequately protect people with disabilities and unwillingness on the part of agencies and courts to enforce the rights required by existing laws. These problems clearly require collaboration and tough action. They require interventions directed at state agencies, the legislature and probably the courts. This is where the future lies. Like it or not, if we can't change the law and obtain enforcement of the law we will never be able to achieve true community integration.

Without client centered services, the right to self determination, and stable funding sources for basic services the rights that are inherent in the lives of people without disabilities will never be fully enjoyed by individuals with disabilities.

Please join us in the coming year in our efforts to protect and improve the lives of people with disabilities in West Virginia.

Rediscovering Life After a Traumatic Brain Injury

By Clarice Hausch
Executive Director

So often we take the days of our lives for granted and don't even notice. Days and years pass in predictable patterns. Challenges are met, failures are absorbed and life goes on. We plan and anticipate our futures, and those of our families, working on and hoping that at least some of our dreams will come true. Then one day our life changes in an instant, when we least expect it. We weren't doing something particularly dangerous or intentionally taking some enormous risk. Maybe we were at work, or at school or on a trip. After that moment life is never the same again. Who we were is lost and who we will become, or if we will survive is an unknown.

Suddenness is often the calling card of a traumatic brain injury (TBI). That certainly was the experience of Terry Dilcher and his family, from Barboursville, WV. Mr. Dilcher is a Vietnam War veteran, a husband and a father of two teenage children, retired from JR Reynolds Tobacco Company and a member of the Board of Directors of West Vir-

ginia Advocates. He spent years being active in the communities where he lived, helping to build up a community volunteer fire company in Scotts Township, PA and working with a youth football league in Barboursville.

Seven years ago, with no warning, his life, and the lives of those around him, instantly changed forever. It was July, 2001; he was on vacation in New Mexico with his wife and two young children. They visited his sister and were helping her exercise horses by riding them around in a riding ring. Suddenly something spooked the horses Mr. Dilcher and his son were riding. Mr. Dilcher's son managed to hang onto his horse, but Mr. Dilcher was thrown from his, hitting his head, sustaining a serious traumatic brain injury that put him in a coma.

He was unconscious for days and has no memory of receiving emergency treatment and then being flown by jet from New Mexico to Cabell Huntington Hospital in Huntington, WV. When he regained consciousness he discovered that he had lost the ability to walk, and that his speech, memory and cognitive processes

had been seriously affected. When he was finally able to leave the hospital he spent six weeks of in-patient treatment at the WVDRS Rehabilitation Hospital. He required occupational, speech and physical therapy. He returned home in a wheelchair and required another year of intensive outpatient therapies.

After seven years he is now able to manage at home with a cane and a walker, although he sometimes still needs a wheelchair when he is in the community. He has regained his speech and memory functions, although he still experiences problems sometimes. He can drive again in his own community, but not on the Interstate.

His is an amazing story of courage and persistence in the face of life shattering adversity. It is also the story all too familiar to the survivors of traumatic brain injury and their families. He was fortunate that when he had his accident he had good health care insurance and his wife is a health care professional who was able to assist him in finding resources for his recovery. However, the lives of his entire family changed drastically because of his accident. Due to his injuries he had to retire and has not been able to return to work, which changed the short and long term economics of his family's life. His wife and children had to assume many more

responsibilities and do a lot of adjusting. The changes impacted every area of family life, including family, community and social relationships. He said his accident resulted in his children being forced to grow up quickly, losing some of their childhood. For him the hardest part is wanting to be the person he was and finding out that he never will be that person again. He has had to build a new life and a new view of himself. It has been difficult accepting the things he lost and working to restore or reinvent them. He said he never realized how much he had taken life for granted until it all changed.

Mr. Dilcher is an amazing man. He talked about how he has been forced to learn patience and to slow down, how he can think about what he wants to do only to discover his body cannot support him in doing it. For him he has found boredom a problem because he can't make things happen based on his willing it and working for it; things happen much more slowly when they happen at all. He has to depend on others for assistance and that is frustrating.

He is blessed that he has neighbors and friends who have remained in his life, but he said it is hard for them because they don't know how to react to who he

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“Rediscovering Life”

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is now. They are uncomfortable around him sometimes because of the changes in him and they don't know what to do and they try to help too much. Despite the awkward moments, he values their friendship and kindness.

It is obvious that his injury forced him on an unplanned journey filled with struggles, pain and growth, but he seems to be negotiating it with humor, and hope. He has high praises for his wife who has been such an excellent caregiver and describes the staff that provided services to him in his home as “angels” who helped him regain his life. I found him to be a man of wisdom and great determination who has decided that he will not stop working toward “getting back to normal no matter what”. But, I had to wonder if through his uninvited troubles he hadn't already grown far beyond what he would have called “normal” in his pre-TBI days.

One of the best stories he shared was about hunting. Mr. Dilcher enjoyed hunting before his accident and one of the obstacles he was determined to overcome was the loss of his ability to hunt. He informed me he now hunts

with both a cross bow and a riffle. Apologetically he added that he “cheats” by using an ordinary household ladder to get into his tree stand. Then in the next breath he shared that the first year he was able to return to hunting he shot a bobcat in the morning and a deer in the evening of the same day! Sounds like something most hunter's only dream of accomplishing!

Beyond a doubt surviving a TBI is an enormous, lifelong challenge for all concerned. One of the things Mr. Dilcher said he would like others who are faced with this situation to know is that it takes time, patience and persistence, but that all the effort is well worth it when you achieve your goals. He is especially convinced that it is important for people surviving a TBI to educate themselves and their families about what TBI is and what to expect across the course of time. He has been helped a lot by networking with other TBI survivors through the Internet. He especially recommends:

<http://www.angelfire.com/ok5/tbiraidersok>

<http://braininjurychat.org/tbichat.htm>

<http://www.tbilaw.com>

<http://braininjurynetwork.org>

<http://braininjuryconnection.org>

The Brain Injury Association of WV

By Jennifer Rhule

The Brain Injury Association of WV

When their 8 year old son was severely brain injured by a drunk driver in the early 1980's, parents frustrated by the lack of resources available to themselves and their son, began the work that with the help of professionals, survivors of TBIs and other family members resulted in the formation of the Brain Injury Association of WV, originally known as the West Virginia Head Injury Foundation.

The Brain Injury Association of WV (BIA-WV) is a charter member of the BIA of America, Inc. and is governed at the state level by a board of directors comprised of TBI survivors, family members, professionals and interested community members.

For over 20 years BIA-WV has been the state's only non-profit , support and advocacy organization for individuals who have experienced traumatic brain injuries and their family members.

Over the years BIA-WV has worked to increase the awareness of the causes and consequences of brain injury by conducting educational conferences,

promoting prevention activities and legislation, and facilitating TBI specific support groups throughout the state.

BIA-WV works closely with other state agencies and advocacy organizations like WVA and CED to accomplish its goals. Most recently, BIA-WV, WVA, CED, the Traumatic Brain and Spinal Cord Injury Fund Board, National Guard, American Legion and VFW joined together to promote awareness of the needs of returning veterans with TBIs as well as others living in WV who have sustained brain injuries.

The BIA-WV is currently re-vitalizing its existing support groups located throughout the state and thanks to a grant from the WV Council of Churches creating new groups specifically for veterans and their families. Through these and other advocacy efforts, the BIA-WV continues its goal to improve the quality of life of those affected by traumatic brain injury.

For more information on brain injuries, up-coming events, membership in our organization or other activities you might like to support, you may call our Help Line (304) 766-4892

Traumatic Brain Injury (TBI) Program at the Center for Excellence in Disabilities

By Lori Risk, MOT, OTR/L
*Assistant Director/Clinical Associate
Center for Excellence in Disabilities*

The Traumatic Brain Injury Program at the Center for Excellence in Disabilities (CED) at West Virginia University has been working to improve services for individuals with traumatic brain injury for the last ten years. Additional services are now available with a full time Traumatic Brain Injury Coordinator and six regional Traumatic Brain Injury Resource Coordinators.

The program is working with consumers, state agencies and service providers in West Virginia to develop a statewide infrastructure for Traumatic Brain Injury services and funding. It is critical that

we identify West Virginians living with a Traumatic Brain Injury so that we can design the system to support these individuals and their families. Please take a moment and contact us if you have a Traumatic Brain Injury or know someone else that might benefit from this program.

Project staff provides regional expertise on Traumatic Brain Injury to assist service providers, individuals with Traumatic Brain Injury and their families, including information and training on Person-Centered Planning, Positive Behavior Support and other Traumatic Brain Injury issues. Traumatic Brain Injury Resource Coordinators work closely with individuals with Traumatic Brain Injury, their

The Traumatic Brain Injury Program is supported in part by project H25MC00264 from the Maternal and Child Health Bureau (Title V, Social Security Act), Health Resources and Services Administration, Department of Health and Human Services and funding from the West Virginia Bureau for Behavioral Health and Health Facilities. The program is a collaboration of the West Virginia Division of Rehabilitation Services, the West Virginia Bureau for Behavioral Health and Health Facilities and the Center for Excellence in Disabilities.

families and providers to identify, locate and access available services and funding sources. Through Person-Centered Planning, staff also helps to find creative ways to adapt available resources to address unmet needs.

The Funds for YOU program is also available to assist individuals with a TBI to become more independent with up to \$2000.00 to be used to fund unmet needs as a last resort.

Project Staff

Lori Risk, Program Manager

Scott Davis, TBI Coordinator

Terry Cunningham, TBI Resource Coordinator: Morgantown

Posted Position, TBI Resource Coordinator: Big Chimney

Delena Arthur, TBI Resource Coordinator: Beckley

Amanda Gum, TBI Resource Coordinator: Morgantown

Vicky Hughes, TBI Resource Coordinator: Big Chimney

Lori Wright, TBI Resource Coordinator: Elkins

For more information, to refer someone for services or to request training, call 1-877-724-8244.

ADAPT WV Announces Reorganization

By Vicki Shaffer
ADAPT WV

ADAPT WV is reorganizing in order to continue their important work on behalf of individuals with disabilities.

There will be a reorganization meeting:

Thursday, September 25, 2008

at the

Days Inn in Flatwoods, WV

from

1:00 to 4:00 P.M.

If you would like to participate or contribute ideas contact Darla Ervin or Vicki Shaffer at adaptwv@gmail.com

The Challenge of Regaining Important Life Roles following Traumatic Brain Injury

By Steven Wheeler, Ph.D., OTR/L
*Assistant Professor
Occupational Therapy
West Virginia University*

Over two million Americans sustain traumatic brain injuries (TBI) each year. Falls, motor vehicle accidents, violence, sports injuries, and firearms represent the most common causes of TBI. Thanks to medical advances, more people are surviving a severe injury to the brain than ever before. Unfortunately, persons experiencing a TBI often face a difficult path of recovery, with the complex interplay of cognitive, physical, emotional, psychological, and social difficulties impeding their ability to resume meaningful pre-injury life roles. Functional outcome following TBI is complex and a reflection of pre-injury characteristics, the nature and severity of the injury, and post-injury medical care, rehabilitation, environmental support, and opportunity. As a result, greater attention is being given to understanding the impact of brain injury on community participation and quality of life. Additionally, medical and rehabilitation professionals continue to research and

study treatment approaches in an effort to maximize each individual's functional recovery.

What treatment approaches are most effective?

The ultimate goal of TBI rehabilitation: Satisfying participation in meaningful life roles such as spouse, parent, worker, student, and participant in social, recreational, and community activities. Unfortunately, the search for the ideal treatment model to attain this goal continues. Having a meaningful occupation, performing roles within ones family, establishing and maintaining friendships, and pursuing leisure interests are among a host of things that help establish our self-concept and provide a sense of direction to our daily routine. While physical problems that may accompany TBI can affect each of these areas, it seems as though TBI related cognitive and behavioral factors create greater obstacles. For example, the percentage of injury related productivity loss attributed to TBI is 14 times that associated with spinal cord injury.

Treatment approaches attempting to address the complexity of problems that has impeded successful rehabilitation continue to evolve. It has become increasingly understood that, while important to the recovery process, inpatient models of rehabilitation are insufficient on their own to achieve successful community integration for most individuals with TBI. Community based treatment models have emerged, at least in part, out of the philosophy that skills are most likely to generalize when taught in the environment where they are to be used, that environmental manipulations and assistive devices may be needed to function in the community, and that empowerment, self determination and self-respect are important aspects of rehabilitation (Willer & Corrigan, 1994; National Institutes of Health 1999). Many community-based models are designed to serve as a bridge between the structure of the hospital setting and independent life in the community based upon the following principles:

- 1) No two individuals with acquired brain injury are alike
- 2) Skills are more likely to generalize when taught in the environment where they can be used
- 3) Environments are easier to change than people

- 4) Community integration should be holistic
- 5) Life is a place-and-train venture
- 6) Natural supports last longer than professionals
- 7) Interventions must not do more harm than good
- 8) The service system presents many barriers to community integration
- 9) Respect for the individual is paramount
- 10) Needs of individuals last a lifetime; so should their resources

Acceptance of such principles continues to be more in theory than in practice. The evolution of client-centered community models for persons following TBI remains slow and unsupported in a healthcare environment more supportive of acute care. It has become increasingly clear that, for the majority of persons with TBI, community integration problems persist long after recovery of many cognitive abilities and that a reimbursement system supporting rehabilitation only during the initial one to two year period post injury is inadequate for many with TBI. Further research is needed to identify models of "best practice" within a community based framework.

The WVA Advisory Council for Protection and Advocacy for the Mentally III (PAIMI)

By Ted Johnson

Chair, WVA PAIMI Advisory Council

Several members of the PAIMI Advisory Council participated in a public demonstration protesting the re-naming of Weston State Hospital. The current owners of the property that was Weston State Hospital have named the property "The Trans-Alleghany Lunatic Asylum," saying that was the original name given to the building when the State of Virginia initiated construction. Using a theme of "Preserve History, Not Prejudice," PAIMI Advisory Council members joined with ADAPT and several Centers for Independent Living to raise objection to the name.

Ted J. Johnson, chair of the Council,

noted: "Weston Hospital was a place where people lived. Some were treated well and returned to their community. Many were mistreated or subjected to experimental techniques, but it was never a 'lunatic asylum.' People with disabilities are not 'lunatics.' It is not right to seek money - even if the dollars are for restoration - feeding on prejudice and bias."

The Advisory Council heard a report from a representative of the Bureau for Behavioral Health and Health Facilities regarding funding and outcomes of Care Coordination.

The West Virginia Legislature funded these positions to address the overutilization of the two State-operated psychiatric hospitals. Data presented indicated some areas served by community behavioral health centers have



Weston State Hospital



WVA PAIMI AC Member Cathy Reed

decreased commitments, attributed at least in part to the work of Care Coordination. Commitments in other areas have increased, the hospital census continues to be high, and the Department of Health and Human Resources continues to expend large sums of funds to house patients in "diversion hospitals."

The Advisory Council followed up the presentation with a meeting with Bureau

officials. The primary issue of discussion was how the Bureau and Department plan to address overutilization of inpatient care. The Council stated its belief that discharges were necessary and that requires the availability of community supports which seem to have been decreased in the past few years. The meeting included an exchange of ideas and opportunities. Additional discussions will be planned in the future.



Protestors at Weston State Hospital

Membership in WVA's PAIMI Advisory Council is open to anyone interested in advocating for the rights of people with mental illness. The focus of the Council is on individuals with a mental illness who reside in, or recently have been discharged from a hospital, group home, homeless shelter residential treatment center, jail, prison, or live in the community. The Council welcomes all applications for membership, but is particularly in need of a parent of a young child receiving mental health services. A membership application form may be obtained by calling or writing WVA.

Fair Housing Is Not An Option... It's The Law

By Regina Mayolo,
WV Fair Housing Initiatives Program

When President Johnson signed the Civil Rights Act of 1968 on April 11, 1968, it was the result of decades of fighting by civil rights advocates to overcome housing discrimination in the United States. Title VIII of this Act is now known as the Fair Housing Act and prohibits discrimination in the sale, rental, and financing of housing, based on race, color, national origin, religion, sex, familial status, and handicap (disability). West Virginia's substantially-equivalent Fair Housing law adds two groups to these seven protected classes of citizens – blindness and ancestry.

For individuals with disabilities, the Fair Housing Act includes several significant points. For instance, when the Act was amended in 1988, it expanded its original concept of what constituted discrimination and concluded that the way in which a building was designed could be considered a discriminatory action. Fea-

tures such as steps to enter a building or unusable bathrooms could discriminate against individuals with disabilities seeking housing in the community of their choice. As a result of this thinking, the amended Act contains seven Design and Construction requirements for multi-family housing, first occupied after March 13, 1991. These include requirements for accessible entrances, accessible routes into and through dwellings, locations for lights, thermostats and other controls, specifications for doors, and other requirements for accessibility and adaptability.

In addition, the Act provides for reasonable accommodations and reasonable modifications, regardless of when the building was constructed or first occupied. Under these provisions, it is illegal for a landlord to refuse to let you make reasonable modifications if the modifications are necessary for you to use and enjoy the rental unit, common areas, and other services and amenities. Landlords also cannot refuse to make reasonable

accommodations in rules, policies, practices or services. For example, a building with a “no pets” policy must allow a tenant with a visual impairment to keep a guide dog or honor a request from a tenant with mobility impairments for a reserved space near her apartment if the apartment complex offers unassigned parking to all tenants.

Retaliatory actions against individuals who file Fair Housing complaints or against those who assist individuals with filing complaints are also prohibited by the Fair Housing Act.

The Fair Housing Act covers most housing except owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members. It is a distinct law, separate from the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, although both of these also contain provisions that affect housing for individuals with disabilities.

In 2008, the Northern West Virginia Center for Independent Living (NWVCIL)

received the first HUD Fair Housing Initiatives Program (FHIP) grant ever awarded in the state. The grant provides funding for education and outreach, in the hope that as information on Fair Housing is disseminated, compliance with its regulations and complaints on discrimination will increase. In the last reporting year, less than forty housing-related complaints were filed in the entire state of West Virginia, regardless of reason or protected class. As part of its grant obligations, NWVCIL will host workshops and present information to consumers, advocates and housing professionals; develop materials on rights and responsibilities under the state and federal Fair Housing Acts; and assist individuals who believe their rights have been violated.

WVA will continue to provide information on specific aspects of Fair Housing in upcoming issues of this newsletter. However, if you have a question about Fair Housing or believe that you have been harmed by a violation of the Act, you may seek assistance from the West Virginia FHIP by calling (304) 296-6091 or contacting the NWVCIL Housing Advocate, Katharine Randall, at krandall@nwvcil.org.

Large MR/DD Waiver Wait List Leads to Enforcement Action in Benjamin H.

By Teresa Brown
Staff Attorney

On March 26, 2008, Counsel for the Plaintiffs filed a Motion for Enforcement in the Benjamin H. v. Martha Yeager Walker, Secretary, West Virginia Department of Health and Human Resources (DHHR). The motion filed in the United States District Court in Huntington, West Virginia, asked the Court to find the Defendant, DHHR, in violation of the March 15, 2000, Order 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.

As of June 30, 2008, nearly 500 people were on the wait list. After the motion was filed, the DHHR asked the Center for Medicaid Services (CMS) to allocate an additional 350 slots. The additional slots were approved by CMS. There were also 106 rollover slots available on July 1, 2008. These are slots that have been vacated over the previous fiscal year by individuals who have died, lost their waiver slot or opted out of the waiver program.

West Virginia Advocates and others have long questioned the reasonableness of the DHHR's use of rollover slots, which sit unused while the wait list continues to grow. In a hearing held on July 9, 2008, Judge Robert C. Chambers also questioned this practice and asked the DHHR to amend West Virginia's Medicaid Waiver application and ask CMS for approval to use those slots as soon as they become available throughout the year. The DHHR responded by agreeing to make a revision to its Waiver application "no later than August 18, 2008". CMS has ninety days to respond to the request once submitted.

Judge Chambers further ordered that the DHHR develop a plan that shows how the DHHR will comply with the Order over the next three years and submit a report on the use of the additional slots and how many individuals remain on the wait list. On August 1, 2008, the DHHR filed a "Motion for Relief from Order, Or In The Alternative, Motion To Stay Proceedings" asking the Court to reconsider its July 9, 2008, Order, or stay enforcement of the Order while DHHR appeals to the Fourth Circuit Court of Appeals.

West Virginia Advocates presents:

Disability Employment Discrimination Training

West Virginia Advocates is pleased to sponsor a seminar for attorneys and advocates. This half day training is being presented by highly skilled and experienced attorneys who will provide perspectives from individuals with disabilities, the employer, as well as the State's Attorney General. The seminar will focus on the rights of individuals with disabilities in the workplace and remedies available when discrimination occurs.

Date: October 24, 2008
Time: 1 PM – 4 PM
Location: Summit Conference Center
129 Summers Street
Charleston, WV 25301
Cost: FREE

Limited to 50 participants—REGISTER EARLY!

CLEs will be offered

Refreshments will be provided

**To Register:
Call (800) 950-5250**

Presenters:

Allen N. Karlin

Yale College, Boalt Hall, the Law School of the University of CA at Berkeley

Paul R. Sheridan

Wesleyan University, West Virginia University College of Law

David Morrison

Transylvania University, University of Kentucky College of Law

Fiscal Year (FY) 2009 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 eight (8) students in due process proceedings in cases that meet WVA's case selection criteria (see footnote #1). (PADD, PAIMI, PAIR, PATBI, PAAT)
2. WVA will provide five (5) trainings to parents and other interested parties to increase their knowledge of self-advocacy related to student's rights under the Individuals with Disabilities Education Act of 2004 (IDEA) and WV Department of Education Policy 2419. (PADD, PAIMI, PAIR, PATBI, PAAT)
3. WVA will sponsor a statewide training related to student's rights under IDEA. (PADD, PAIMI, PAIR, PATBI, PAAT, PABSS)
4. WVA will provide technical and/or short-term assistance (see footnote #2) on behalf of students with disabilities relative to suspensions, expulsions, out-of-school environment and alternative education placements for up to fifteen (15) individuals. (PADD, PAIMI, PAIR, PATBI, PAAT)
5. WVA will develop and facilitate a special education electronic communication network. (PADD, PAIMI, PAIR, PATBI, PAAT)

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 coordinate a coalition to advocate systemically for citizens of West Virginia to access ventilator care services within West Virginia. (PAAT, PAIR, PADD, PATBI)
2. WVA will advocate for sufficient, appropriate state-wide community based services for individuals with mental illness in order to decrease institutionalization and address the lack of available community services upon discharge. (PAIMI)
3. WVA will advocate systemically for participants of the Title XIX Home and Community Based MR/DD Waiver to have choice of service providers as required by the Centers for Medicare and Medicaid Services (CMS). (PADD, PATBI)
4. WVA will systemically monitor West Virginia Department of Health and Human Resources

(WVDHHR) compliance with the Centers for Medicare and Medicaid Services (CMS) assurances for the Title XIX Home and Community Based MR/DD and Aged/Disabled Waivers. (PADD, PATBI, PAIMI, PAIR)

5. WVA will gain a better understanding of the process for serving veterans with Traumatic Brain Injuries (TBI) and Post Traumatic Stress Disorder (PTSD) and use this knowledge to serve this population (see footnote #5). (PATBI, PAIMI)
6. WVA will monitor contested discharges by West Virginia Department of Health and Human Resources' (WVDHHR) contracted service providers and WVDHHR's oversight of the discharge process. (PADD, PAIMI, PAIR, PATBI)

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 twenty (20) monitoring visits to the two (2) State Psychiatric Hospitals (See footnote #6). (PAIMI)
2. WVA will open a service request for all individuals from state psychiatric hospitals who request advocacy services (see footnote #5). (PAIMI)
3. WVA will provide five (5) self-advocacy trainings to residents of the state psychiatric hospitals relative to their rights. (PAIMI)
4. WVA will advocate systemically for West Virginia Department of Health and Human Resources (WVDHHR) to reduce overcrowding at the two (2) State Psychiatric Hospitals. (PAIMI)

PRIORITY 4: PEOPLE WITH DISABILITIES ARE FREE FROM ABUSE AND NEGLECT.

Objectives:

1. WVA will investigate all allegations of abuse, neglect or financial exploitation that are reported to or discovered by WVA in which there is a possibility of death, serious injury (see footnotes #1, 3 & 5) or financial harm. (PADD, PAIMI, PAIR, PATBI)
2. WVA will review investigations conducted by agencies charged with investigating abuse, neglect and financial exploitation (see footnote #4) to assess the quality and adequacy of the investigations that come to the attention of WVA pursuant to WVA case selection criteria (see footnote 1). (PADD, PAIMI, PAIR, PATBI)
3. 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 (including WV schools) that are reported to or discovered by WVA and report findings to appropriate state and local agencies (see footnote 1). (PADD, PAIMI, PAIR, PATBI)
4. WVA will advocate for disability related medical/psychiatric treatment, including properly prescribed and administered medication to be available to incarcerated individuals of all ages with disabilities that come to the attention of WVA. (PAIMI, PAIR, PATBI)

PRIORITY 5: PEOPLE WITH DISABILITIES HAVE EQUAL ACCESS TO PROGRAMS AND PUBLIC BUILDINGS 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, PAIMI, PAIR, PATBI)
2. WVA will collaborate with other community agencies and grass roots organizations to address systemic issues regarding rights violations associated with housing. (PADD, PAIMI, PAIR, PATBI)
3. WVA will distribute self-advocacy materials [from WVA and/or outside sources] relative to program access. (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) people with disabilities to gain or maintain access to assistive technology and related supports (see footnote #5). (PAAT)
2. WVA will provide training and outreach to targeted areas of the state to increase awareness of the right to access assistive technology. (PAAT)
3. WVA will monitor the WV Bureau of Medical Services compliance with the Centers for Medicare and Medicaid Services (CMS) regulations for providing 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 who call WVA for assistance who are receiving/ applying/eligible for services from WVDRS, a Center for Independent Living, supported employment programs and other programs funded under the Rehabilitation Act, as amended and are not satisfied with these services (see footnote #5). (CAP)
2. WVA will provide services to all individuals who call WVA for assistance who are Supplemental Security Insurance/Social Security Disability Insurance (SSI/SSDI) beneficiaries and who want to work but encounter barriers per the priorities established by the Social Security Administration (SSA) (see footnote #5). (PABSS)
3. WVA will sponsor a legal training to educate West Virginia attorneys in disability related employment law in an effort to develop a list of resources and to increase the availability of legal services for people with disabilities who have employment related issues. (PADD, PAIMI, PAIR, PATBI, PABSS)

4. 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)

PRIORITY 8: PEOPLE WITH DISABILITIES ARE ABLE TO EXERCISE THEIR RIGHT TO VOTE (SEE FOOTNOTE #5).

Objectives:

1. When complaints are received, WVA will act to increase equal access for all eligible individuals with disabilities 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 officials about the rights of people with disabilities to register and vote. (PAVA)

PRIORITY 9: WVA WILL TAKE A LEADERSHIP ROLE IN ORGANIZING CONSUMERS AND STAKEHOLDERS AROUND THE STATE TO FORM A SELF-ADVOCACY NETWORK.

Objectives:

1. WVA will contact consumers and stakeholders to form a workgroup to develop a self-advocacy network. (PADD, PAIMI, PAIR, PATBI, PABSS, CAP, PAAT, PAVA)
2. WVA will actively participate on various committees, coalitions, and other types of groups with grassroots advocacy missions. (PADD, PAIMI, PAIR, PATBI, PABSS, CAP, PAAT, PAVA)

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.

Abuse investigations will be prioritized as follows: suspicious death, seclusion & restraint, eminent threat of harm, sexual misconduct and complaints originating in locations with repeated complaints of abuse and neglect.

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.

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. Agencies may include, but are not limited to, the West Virginia Department of Health & Human Resources and its various divisions, the West Virginia Department of Education and local education agencies, law enforcement agencies, etc.

5. 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 ("TWWIIA"), 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

6. 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.

ADDITIONAL NOTES ABOUT WVA:

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.

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.

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