

*Fiscal Year 2008*

*October 1, 2007 - September 30, 2008*

# Annual Report

West Virginia Advocates, Inc. (WVA) is a private, non-profit agency incorporated in 1977 and designated by Governor Rockefeller as West Virginia's federally mandated Protection and Advocacy System.

## **West Virginia Advocates, Inc.**

### **From the Executive Director Clarice Hausch**

West Virginia Advocates is pleased to send you our Annual Report for Fiscal Year (FY) 2008. This report covers the period October 1, 2007 through September 30, 2008. West Virginia Advocates is a federally funded, nonprofit 501(c)(3) with eight separate federal grants, and a state contract. Our mission is to protect and advocate for the human and legal rights of persons with disabilities. Most of our services are available to people with qualifying disabilities, regardless of age, or income. We employ about twenty staff, and have offices located in Charleston and Clarksburg. We are strongly committed to the work we do and want to share what we have accomplished with you. We hope you will gain a better understanding of who we are and what we do from this report.

FY 2008 was West Virginia Advocates thirty-first year as West Virginia's Protection and Advocacy System. It was a busy and challenging year for us and I want to share just a few of the highlights. We served over 1,000 individuals in all 55 counties. Our programs received the same funding as in FY 2007. We continued to grow in our systemic advocacy work, collaboration efforts with organizations statewide and nationally, and continued our outreach efforts. We increased our monitoring at the state psychiatric hospitals, increased our work with prison inmates, and continued our support in partnering with other organizations to promote self-advocacy conferences and events. We increased the work done by our special-

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ized unit for the investigation of neglect and abuse. We participated in Disability Advocacy Day at the Legislature, and WORKFORCE West Virginia Day. Our newsletter, the *Advocare*, was published 2 times. We published our first voting newsletter ever. We served on a number of Councils/Advisory Boards including the MR/DD Waiver QA/QI Council, Olmstead Advisory Council, Developmental Disabilities Council, WVU Center for Excellence in Disabilities Councils, Mental Health Planning Council, and the TBI/SCI Rehabilitation Fund Board. Two of our staff continued to serve on a Committee and the Board of Directors of the National Disability Rights Network, and we continued to serve on the Ohio Valley TBI Advisory Council.

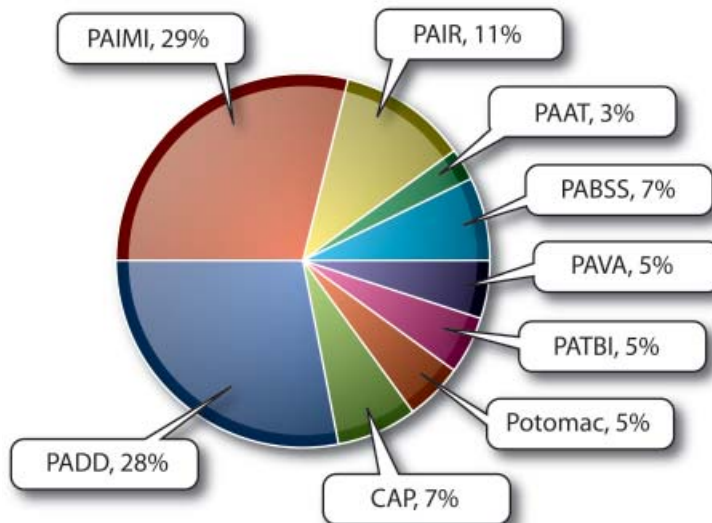
It is our intention to continue to grow in serving the disability community in 2009. We are constantly looking for new approaches to serve more individuals with the funds we receive and to trim our operating costs. West Virginia is facing tremendous challenges in the area of community based services, especially for people with mental illness. We are faced with chronically overcrowded state psychiatric facilities and a lack of accessible and affordable housing for people with disabilities. There are also issues with the waiting list for the Title XIX Home and Community Based MR/DD Waiver. We hope that you will join us in our continued efforts to provide protection and advocacy to individuals with disabilities by visiting our web site, giving us input and suggestions, and offering to serve on our advisory council and Board of Directors. Equality occurs only when the community recognizes and commits to the reality that every person living in the community has a valuable contribution to make.

# West Virginia Advocates, Inc.

## WVA Programs

WVA has eight programs that are federally mandated and funded. WVA also has one West Virginia State contract. Each program serves individuals with different disabilities and related rights issues.

### *Fiscal Year 2008 Funding by Program*



## Priorities and Objectives

WVA develops annual disability rights related Priorities and Objectives (P&O's) by gathering information from the public, our clients, their families, and disability advocacy groups.

These P&O's guide our attention and resources, determine the applicable WVA program(s), the types of issues to be addressed, and the service(s) WVA can provide.

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### WVA's Services

#### Systemic Advocacy Services

Activities or projects which have the potential to impact populations or systems, such as advocacy on behalf of groups, investigations, monitoring and research. It also includes collaboration, agency support or participation on committees, task forces, and class action/group impact litigation.

#### Community Advocacy Services

Activities or projects that provide outreach and educational presentations to people with disabilities, professionals, and the community at large. It also includes training in self-advocacy, training professionals, needs assessments, publications and media.

#### Direct Advocacy Services

**Investigating Abuse and Neglect:** Investigation of allegations of client abuse or neglect.

**Information and Referral:** Any caller can receive basic information provided by WVA, or referrals to another agency or resource. Information resources can be provided over the phone, via mail or the Internet.

**Representation at Meetings:** Attending a meeting with a client or representing the client at a meeting or series of meetings.

**Representation and Hearings:** Representing clients in an administrative hearings.

**Short Term Assistance:** Time limited advice and assistance which may include: reviewing information, counseling a client on actions one may take, and assist-

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ing the client in preparing letters, documents or making telephone calls to resolve the issue.

**Technical Assistance:** Information and assistance specific to a particular problem such as coaching the client in self-advocacy.

**Litigation:** Legal representation handled by an attorney using the court system for complaint resolution.

### Services Provided

#### Service Area

In Fiscal Year (FY) 2008, West Virginia Advocates provided services to individuals with disabilities in all 55 counties in West Virginia.

#### Services provided during FY 2008

By Program		By Type	
CAP	41	Abuse and Neglect	40
PAAT	73	Information and Referral	810
PABSS	38	Representation at Hearings	17
PADD	351	Representation at Meetings	78
PAIMI	420	Short-Term Assistance	247
PAIR	287	Technical Assistance	39
PATBI	24	Litigation	3

**Total Number of Services Provided: 1234**

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### Client Litigation Summary

WVA represented a client at a Medicaid Fair Hearing for denial of the MR/DD Waiver. The verdict was unfavorable, upholding WVDHHR's denial, and WVA appealed to the Circuit Court of Kanawha County. The Circuit Court ruled in our client's favor, overturning the Board of Review's adverse decision, and WVDHHR petitioned for appeal to the West Virginia Supreme Court. WVA wrote a brief in opposition to the petition for appeal, and the Supreme Court declined to hear it, thus leaving in place the Circuit Court's favorable ruling. The client is now a recipient of MR/DD Waiver services.

WVA represented a client at a Medicaid Fair Hearing for termination of MR/DD Waiver eligibility. WVA lost at the Fair Hearing level, but appealed via Writ to Circuit Court and won, thereby securing MR/DD Waiver services for this client. DHHR has filed a petition for appeal with the West Virginia Supreme Court, and WVA has filed a brief in opposition to it; we are waiting for the Supreme Court's ruling.

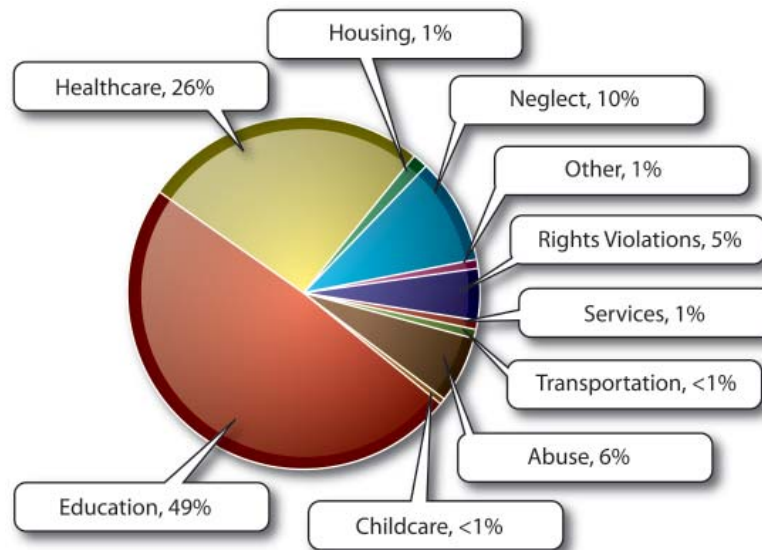
WVA represented a client at a Medicaid Fair Hearing for denial of MR/DD Waiver eligibility. A decision in this client's favor was obtained from the Hearing Officer; WVDHHR appealed this decision to Circuit Court. WVA responded to WVDHHR's appeal brief, and the Circuit Court ruled in our client's favor on the appeal. The client retained MR/DD Waiver services.

## West Virginia Advocates, Inc.

# Protection and Advocacy for Individuals with Developmental Disabilities (PADD)

Established by Congress under the Developmental Disabilities Assistance Bill of Rights (DD) Act of 1975. In 1977, the PADD program was established in West Virginia. The PADD program serves to advocate that individuals (adults and children) with developmental disabilities are afforded appropriate services in accordance with their individual needs.

### PADD Services' Problem Areas



### Funding Source

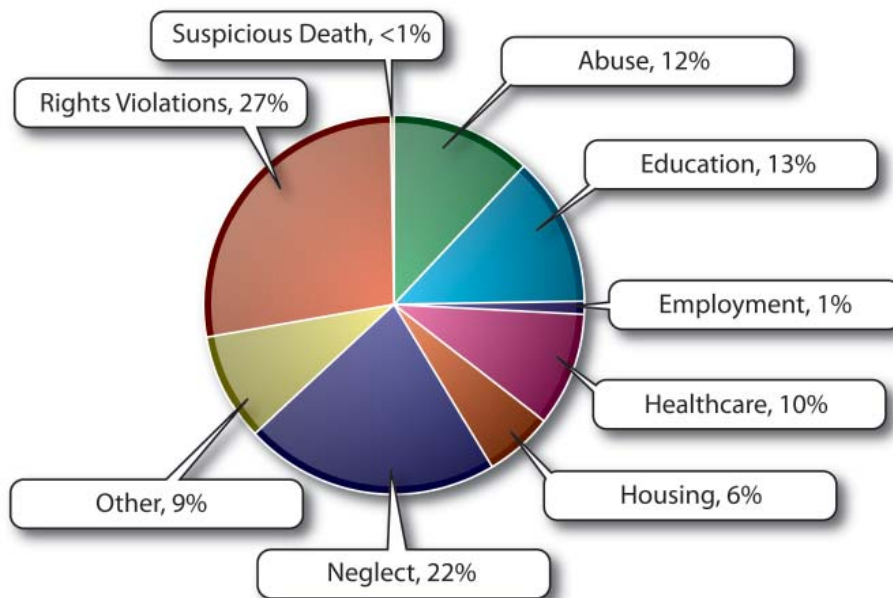
Administration on Developmental Disabilities, Administration for Children and Families, U.S. Department of Health and Human Services.

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### Protection and Advocacy for Individuals with Mental Illness (PAIMI)

Established by Congress under the Protection and Advocacy for Individuals with Mental Illness Act of 1986. PAIMI was formed to help individuals with mental illness in both institutional and community settings and to investigate abuse, neglect and rights violations on their behalf.

#### PAIMI Services' Problem Areas



#### Funding Source

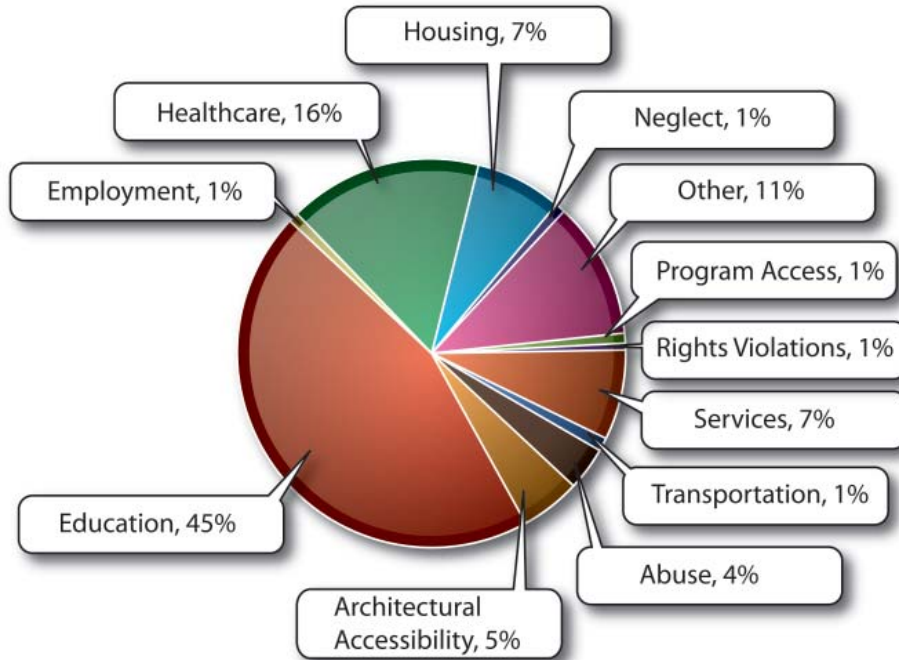
The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services.

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### Protection and Advocacy for Individual Rights (PAIR)

Established by Congress under the Rehabilitation Act of 1993. In 1994 WVA was designated the Protection and Advocacy for Individual Rights (PAIR). The PAIR program was formed to assist individuals with disabilities who were not already eligible for other advocacy programs within WVA.

#### PAIR Services' Problem Area



#### Funding Source

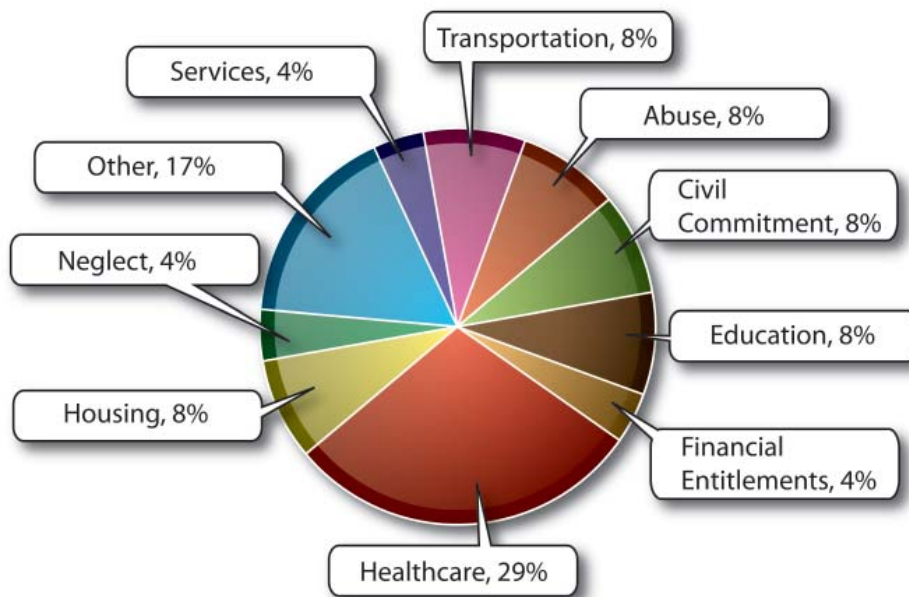
Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education.

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# Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)

PATBI was created in 2002 to expand advocacy services for individuals with traumatic brain injuries and to expand the service delivery system for this group of individuals.

### PATBI Services' Problem Area



### Funding Source

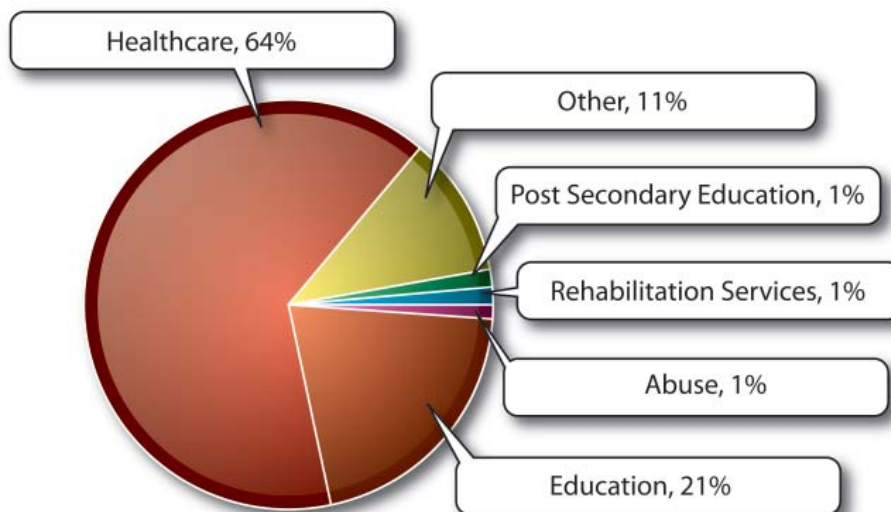
Health Resources and Services Administration, U.S. Department of Health and Human Services.

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### Protection and Advocacy for Assistive Technology (PAAT)

PAAT was created in 1994 when Congress expanded the Technology-Related Assistance for Individuals with Disabilities Act (Tech Act). This program was formed to help individuals with disabilities obtain assistive technology devices and services.

#### PAAT Services' Problem Area



#### Funding Source

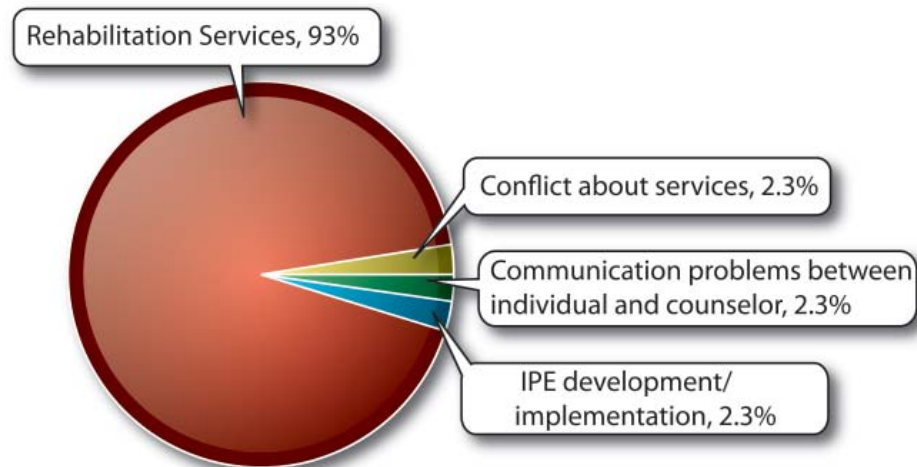
Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education.

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### Client Assistance Program (CAP)

Established as a mandatory program by the 1984 Amendments to the Rehabilitation Act, the CAP Program was formed to help individuals receiving services funded under the Act.

#### CAP Services' Problem Area



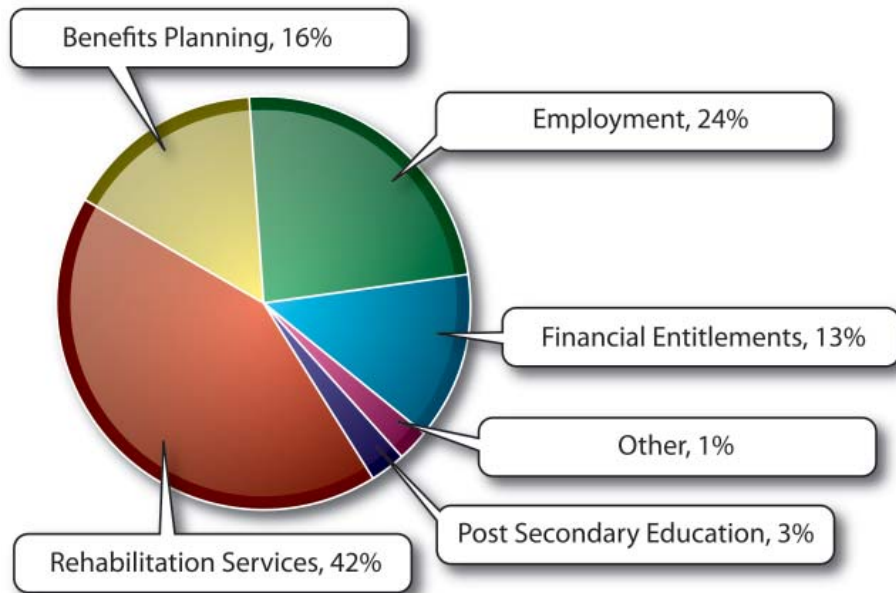
#### Funding Source

Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education.

## **Protection and Advocacy for Beneficiaries of Social Security (PABSS)**

Established by the Ticket to Work and Work Incentive Improvement Act of 1999 for individuals with disabilities who receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) who want to work or return to work.

### **PABSS Services' Problem Areas**



### **Funding Source**

The Social Security Administration.

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### **Protection and Advocacy for Voting Access (PAVA)**

Established in 2003 as part of the Help America Vote Act of 2002 (HAVA). The PAVA program seeks to ensure that individuals with disabilities have full participation in the electoral process through voter education regarding registering to vote, casting a vote and accessing the polling sites. Activities also include training of poll officials and polling site accessibility surveys.

#### **Funding Source**

Administration on Developmental Disabilities, Administration for Children and Families, U.S. Department of Health and Human Services

### **Potomac Center**

This monitoring project is part of the Hartley case in WV Circuit Court and emphasizes community placements, rights protection, educational services and discharge planning to 24 resident children of the Potomac Center in Romney, WV.

#### **Funding Source**

WV Department of Health and Human Resources.

## West Virginia Advocates, Inc.

### Community Advocacy

In Fiscal Year (FY) 2008, WVA provided numerous outreach and education opportunities to diverse audiences throughout the state on WVA services and disability rights advocacy issues or topics.

- Adult Basic Education/SPOKES program
- Annual National Association of Social Workers Conference
- Beckley Disability Awareness Forum
- Bridgeport High Parent Educator Resource Center Transition Fair
- Bureau of Employment Program Offices
- Camp Gizmo
- Career Connections
- Disability Advocacy Day at the Legislature
- Families Conference
- Fayette, Nicholas, and Webster County - Policy 2419
- Harrison County Parent Education Resource Center Transition Fair
- Human Resource Development Foundation WV Youth Works Program
- Kanawha County Transition Fair
- Marion County Career Makeover Event
- Marion County Job Fair Event
- Monongalia County Employer Committee
- North Central Community Action sponsored Career Expo and Makeover

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- People 1st Conference
- Regional Health Care Expo
- Regional WORKFORCE WV Management Teams
- Road to Freedom Tour (ADA bus)
- Southern West Virginia Community and Technical College
- Youth Transition Demonstration

### **Systemic Advocacy**

WVA dedicates significant resources to collaboration efforts, agency support or participation on numerous committees, task forces, or projects for the purpose of: reaching systemic goals or missions based on outcomes; networking and information sharing; supporting self advocacy; and federal funding requirements.

- American Association for Retired Persons
- Americans with Disabilities Act Coalition
- Americans with Disabilities for Attendant Programs Today
- Administrative Services Organization Quality Improvement Council
- Appalachian Center for Independent Living
- Business Services Team
- Better Brain Injury Care Coalition
- Collaborative Network for Student Success
- Consumer Advisory Council/National Organization on Disability

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- Disability Program Navigators
- Fair Shake Network
- Families Conference Planning
- Harrison County Rehabilitation Advisory Council/Inclusion Team
- Legal Aid of WV
- Medicaid-Work Incentive Program
- Mental Health Association of the Greater Kanawha Valley
- Mountain State Center for Independent Living
- National Alliance on Mental Illness
- National Association of Social Workers
- National Disabilities Rights Network's Board of Directors
- National Disabilities Rights Network's Resource Advocacy Committee and related list-serves
- Northern WV Center for Independent Living
- Ohio Valley TBI Advisory Council
- Parent Partnership Work Group
- Positive Behavior Support Trainers Network (PBS in WV Leadership Team)
- Region VI Business Services Team
- State Family Support Council
- Statewide Rehabilitation Council
- Supported Employment Leadership Network
- TB/SCI Rehabilitation Fund Board
- Transition Initiative
- Transition Workgroup

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- US Department of Justice
- WORKFORCE WV Inclusion teams
- WORKFORCE WV One-Stops and the management team
- Workforce Investment Board
- Work Incentives Planning and Assistance
- WV Americans with Disabilities Act Coordinator
- WV Assistive Technology System Board
- WV Behavioral Healthcare Providers Association
- WV Birth to Three Program
- WV Bureau of Medicaid Services
- WV Department of Education, Office of Special Programs Extended and Early Learning
- WV Department of Health and Human Resources
- WV Developmental Disabilities Council
- WV Early Intervention, Interagency Coordinating Council
- WV Emergency Medical Services Technical Support Network, Inc.
- WV Faces on Medicaid Coalition
- WV Financial Exploitation Workgroup
- WV Mental Health Consumers' Association
- WV Mental Health Planning Council
- WV Office of Behavioral Health Services
- WV Olmstead Advisory Council
- WV Ombudsman for Behavioral Health
- WV Developmental Disabilities Council
- WV Specialized Family Care Provider

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- WV State Family Support Council
- WV Statewide Independent Living Council
- WV University Center for Excellence in Disabilities
- WV Youth Works

### **Systemic and Community Highlights**

WVA monitors services in a variety of settings where individuals with disabilities are at risk of neglect or abuse including state psychiatric hospitals, group homes, personal care homes and schools.

WVA's partnership with Workforce WV continues. Historically the disability community has been underserved by the WV WORKFORCE, reducing people's choice for employment services.

WVA is a participant on the Developmental Disabilities Council (DDC) Advisory Council and workgroups addressing grievance processes, legislative priorities, grant review, workforce development and abuse/neglect.

WVA is a member of WVU Centers for Excellence in Disabilities Advisory Council (CED) which provides input for the activities of the WVU CED's programs and services.

WVA is a governor-appointed member of the WV TBI/SCI Rehabilitation Fund Board, a federally mandated advisory board. The purpose is to advocate for appropriate services for TBI survivors in WV. The com-

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mittee was court ordered to oversee the WVDHHR implementation of \$1,000,000 settlement in Hartley/TBI services intended to provide services to survivors of TBI, including veterans. WVA continues to be involved in TBI/Hartley issues.

WVA has an appointment from the Governor to serve on the WVDHHR MR/DD Waiver Quality Improvement Council which is mandated by federal Medicaid. The council monitors the quality of service provided to recipients of the Title XIX Medicaid MR/DD Waiver program and provides feedback and recommendations to WVDHHR.

WVA is a member of the WV Fair Shake Network (WVFSN), a grass roots organization of people with disabilities and other stakeholders concerned that people with disabilities get a fair shake. The activities of the organization are education on self advocacy, disability issues and current legislative activities. Members developed a Disability Agenda for the West Virginia State Legislative Session; coordinated Disability Day and Transportation Day at the Legislature, and the West Virginia Transportation Alliance.

The Olmstead Advisory Council is responsible for acting as an oversight committee for the Olmstead Office and the Olmstead Plan. The work group focuses on the residential/community based services for people with disabilities to live in their communities of choice.

WVA has a Memorandum of Understanding (MOU) with the WVDHHR Behavioral Health Ombudsman and other programs providing advocacy. This group addresses chronic overcrowding in state psychiatric hospitals, monitors and provides feedback on the TBI court order, and unresolved Hartley issues, complaints of

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abuse/neglect and other systemic advocacy issues.

WVA is a member, and on the leadership team of the WV Positive Behavior Support Trainers Network to increase the availability of PBS throughout WV by developing training and support for facilitators.

WVA was involved in the planning of the annual Families Conference. The Families Conference was established out of the West Virginia Family Support Program (WVFSP). The intent of the program is to provide families who have an individual with developmental disabilities living in their home with assistance in obtaining resources needed to maintain that person in their home. The focus of the conference was expanded this year to also include individuals with other types of disabilities.

In an extensive effort to increase public knowledge of the vocational services related to the CAP program and WVDRS, WVA developed a booklet outlining how to access services from WVDRS and client rights available through WVDRS and CAP. These resource materials were mailed across the state to all WVDRS vocational counselors, WORFORCE WV offices and WVDRS service vendors to be distributed to all current and potential clients.

WVA planned and sponsored a training in collaboration with Legal Aid of WV. WVA wanted more attorneys and other individuals to understand eligibility criteria for certain supports and services based upon functional adaptive testing. The training was geared toward attorneys, advocates and service coordinators and focused on the use and interpretation of standardized tests for measuring functional adaptive behavior.

In *West Virginia Advocates, Inc. v. Mitchell*, WVA filed suit in United States District Court in 2006 to assert

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its right to access a client's records from Chestnut Ridge Hospital under the federal authority granted by the PAI-MI Act. The matter continued to be litigated in 2008 and mediation was scheduled for October 2008

The original writ of mandamus in the *E. H. v. Martin* lawsuit (or, as it is more popularly known, "Hartley"), which addressed conditions at the state hospitals for people with mental illness, was brought by Mountain State Justice with assistance from West Virginia Advocates, and in 2008 WVA worked to get this case back on the docket when conditions deteriorated in the hospitals. Judge Louis Bloom, who now has the Hartley case on his docket, scheduled an evidentiary hearing upon two issues from the original Hartley case – the over-bedding at Bateman, and the failure of the state to provide adequate services to people with traumatic brain injuries (TBI's) in this state. WVA worked closely with Mountain State Justice by helping prepare the witnesses for the hearings, which was scheduled for October of 2008. WVA will continue to participate in this litigation in the coming year.

Funding for this publication is provided by the: U.S. Department of Education, Rehabilitation Services Administration (CAP 6.4%, PAIR 10.9%, PAAT 3.4%); U.S. Department of Health and Human Services, Substance Abuse and Mental Health Service Administration (PAIMI 31.6%); U.S. Department of Health and Human Services, Administration on Developmental Disabilities (PADD 29.8%, PAVA 5.1%); U.S. Department of Health and Human Services, Health Resources and Services Administration (PATBI 4%); Social Security Administration (PABSS 8.8%).

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