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From the Executive Director...

In preparation for the 2003-2004 fiscal year, our attorneys and advocates formulated plans, goals, strategies and priorities for presentation to the Board of Directors. The process considered our experience from the prior year, information obtained from outreach efforts, client surveys, calls to our Information & Referral line, and feedback from you, our readers.

You will find, inside this newsletter, the resulting priorities for October 1, 2003, through September 30, 2004. These priorities were adopted by the Board of Directors at their meeting on September 13, 2003, and are designed to assure that we are devoting our limited resources to those areas where we can have the greatest impact in protecting the rights of South Carolinians with disabilities.

Also, in this issue of *Perspectives*, you will find articles we believe will be of interest and provide valuable information on P&A's programs and plans as well as a listing of publications available from our offices and a calendar of upcoming events.

As always, your comments are important to us. We appreciate your support and welcome your input. Please let us hear from you.

Sincerely,

Gloria M. Prevost

STUDENT EXCELS WITH APPROPRIATE PLAN

By Suzanne Hawkins

“Billy” (not his real name) is an elementary school student whose disabilities include some fine motor, gross motor, and cognitive issues. He had been served by his school district in a creative combination of resource class, one to one instruction, and regular class. However, at the end of the school year, the school district proposed an orthopedically-impaired, self-contained class.

The family felt, as did several of their private therapists and evaluators, that his current challenges at school were more related to cognitive issues than physical issues. He had made great strides in mobility and fine motor skills due to a very intense and proactive approach by the family. The family had privately obtained physical therapy and occupational therapy, and worked very effectively to implement the recommendations of those private therapists in their home. This approach, coupled with the therapy and special services Billy received at school, had led to his making amazing progress physically. However, he still had some issues with his method of learning. The family requested that if he were put in a self-contained classroom, it be a learning-disabled classroom so that the teacher would be better at teaching to different styles of learning. The district refused, and invoked the special education hearing system in order to impose their proposal on the family.

P&A represented the family in a local due process hearing and a state-level appeal. The family prevailed in the appeal, with the hearing officer finding that whatever setting that is appropriate for a child’s individual needs is the setting that should be implemented. Billy has excelled in a learning-disabled resource class, one period per day, with regular education for the rest of the day. He is on the honor roll and is a class leader in the regular classroom.

Ms. Hawkins is an attorney on the Education Team

LEAVE A LEGACY

Leave A Legacy™ of the Midlands is a consortium of charities (including P&A), community leaders and corporate partners dedicated to providing a better understanding of the importance of planned giving.

A donor may make significant gifts to a qualified charity, such as P&A, while gaining maximum tax benefits through a planned giving program. If you believe planned giving may be for you, consult your tax or financial advisor. You may find that you can provide charitable support in a far more significant way than you ever thought possible.

You may contact P&A for more information about this program, or you may call the Leave A Legacy™ of the Midlands directly at 803/551-1883 or visit their website at www.midlandslegacy.org.

CONTACT US

1-866-275-7273 -Statewide 803-782-0639 - Local

www.protectionandadvocacy-sc.org

HOTLINE FOR AIR TRAVELERS WITH DISABILITIES

The U. S. Department of Transportation maintains a toll free Hotline for air travelers with disabilities which is available for callers from 7 a.m. to 11 p.m. seven days a week. The Hotline serves two main purposes: (1) education and (2) assistance in resolving disability-related air travel problems. The Hotline operators also respond to requests for printed consumer information about air travel rights of people with disabilities.

Air travelers who want information about the rights of people with disabilities or who experience disability-related air travel service problems may call the Hotline to obtain assistance at:

1-800/778-4838 (voice) or 1-800/455-9880 (TTY)

Air travelers who want the Department of Transportation to investigate a complaint about a disability-related issue still must submit their complaints in writing at:

Aviation Consumer Protection Division, U.S. Department of Transportation
400 7th Street, S.W.
Washington, DC 20590
e-mail: airconsumer@ost.dot.gov

NEW GRANT ENSURES VOTING ACCESS

By Pete Cantrell

In September 2003 P&A received funding from the Federal Government to “ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places.” This funding is through the Help America Vote Act of 2002 or “HAVA”. HAVA is a broad reform of the voting process that impacts everything from voting machines to voter registration to poll worker training. P&A will focus on making sure that individuals with disabilities have full access to the voting process in the State of South Carolina.

Potential strategies for P&A include conducting accessibility surveys of polling places, testing new accessible voting equipment to determine if it is in fact accessible, developing training for poll workers on the rights of voters with disabilities and providing information to individuals with disabilities regarding their voting rights. HAVA states that none of the funds provided to P&As may be used for election-related litigation, however, we may represent individuals in the state grievance process.

Below are resources for more information. Please contact us if you have questions or suggestions about how we can best advocate for the voting rights of people with disabilities.

WEB RESOURCES FOR VOTING
American Association of People with Disabilities
www.aapd.com
Global Initiative to Enfranchise People with Disabilities
<http://www.electionaccess.org>
Leadership Conference on Civil Rights
www.civilrights.org/issues/voting
Electionline
www.electionline.org
League of Women Voters
<http://www.lww.org/>
Lawyers Committee for Civil Rights under the Law, Voting Project
<http://www.lawyerscomm.org/projects/votingrights.html>
Department of Justice, Civil Rights Division, Voting Section
<http://www.usdoj.gov/crt/voting>

Mr. Cantrell is an attorney and leader of the Community Access Team.

ADVOCACY PROGRAM HELPS REMOVE BARRIERS TO WORK

By Tanya Thompson

Are you a person with a disability who would like to work either part or full time? Do you receive either Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits from the Social Security Administration (SSA)? If you answered yes to these two questions, then you may be eligible for advocacy services under our Protection and Advocacy for Beneficiaries of Social Security (PABSS) program.

By now, most people have probably heard about the Ticket to Work Program, employment networks, and Benefits Planning Assistance and Outreach Organizations, (BPAOs). The purpose of this article is to give you information about the Ticket Program that you may not have.

BPAOs can tell you how your cash and health care benefits will be affected by work. They can also give SSI and SSDI beneficiaries valuable information about the importance of the work incentives and which ones SSA recipients should take advantage of, depending on their particular situation. In addition, BPAOs can also give SSI and SSDI beneficiaries information about state specific housing, Medicaid, and food stamp programs. BPAOs also do outreach about the work incentives to service providers and community groups.

When you take your ticket to an employment network and assign it to that network, your ticket is then considered to be "in use." Your ticket will be "in use" as long as you continue to move towards your stated job goal within a reasonable period of time. As long as your ticket is "in use", you will not be subject to a continuing disability review. Even if your disability improves while you are using your ticket, you will keep receiving your SSI or SSDI cash benefit until your vocational goal is completed. Likewise, if you go to work and then lose your job due to the worsening of your disability, you can start receiving your cash benefits again without having to reapply for SSI or SSDI benefits. Your benefits can be restarted quickly under the Expedited Reinstatement provisions of the Ticket Program.

If you are having difficulty with an employment network or a BPAO or you would like general information about the ticket program, call our toll free information and referral number, 1-866-275-7273. Our staff may be able to assist you in getting a reasonable accommodation for employment, in getting your employment work plan written to reflect your job goals, in getting tuition assistance for the degree you need to work, or in getting agencies to provide reliable transportation to and from work. We may also be able to assist you if you are facing an overpayment or termination of Social Security benefits as a result of earnings from work. Please note that anyone who calls our office will be able to speak with an information and referral specialist. If you are a member of an organization who working with people with disabilities, our PABSS staff would be glad to come and do a presentation for your group.

Ms. Thompson is an advocate on the Community Access Team.

CALENDAR OF EVENTS

Board of Directors
December 13, 10:30 a.m.
Central Office Conference Room

PAIMI Advisory Council
January 14, 2004
Central Office Conference Room

Board of Directors
March 13, 2004
Central Office Conference Room

MROP Advisory Council
March 17, 10:30 a.m.
Central Office Conference Room

PAIMI Advisory Council
March 24, 2004
Central Office Conference Room

JOB APPLICANTS WITH DISABILITIES TO BENEFIT FROM NEW FACT SHEET

EEOC Provides Answers About Interviews, Testing, Reasonable Accommodations, Medical Information

WASHINGTON - The U.S. Equal Employment Opportunity Commission (EEOC) has released a new fact sheet designed to educate job applicants on how Title I of the Americans with Disabilities Act (ADA) protects their rights throughout the hiring process. This tool is EEOC's most recent strategy in a series of efforts, under President Bush's New Freedom Initiative, to advance the employment of individuals with disabilities. The fact sheet is available at www.eeoc.gov.

"While many people with disabilities are aware of the Americans with Disabilities Act, they may not fully understand how the law protects them," said Commission Chair Cari M. Dominguez. "The EEOC created this fact sheet to empower job seekers with disabilities by helping them to navigate all aspects of the hiring process."

The fact sheet covers employer obligations such as the provision of "reasonable accommodation" for applicants with disabilities who need assistance during the hiring process. Accommodations may include providing or modifying equipment, providing written materials in an accessible format (for example, braille), providing sign language interpreters, and ensuring that interviews are held in accessible locations. Applicants who require reasonable accommodations from prospective employers must request them and be prepared to explain why accommodation is needed.

The new publication also explains the ADA's rules on when employers may seek medical information from applicants. Before making a job offer, an employer cannot require a medical examination or ask questions that are likely to reveal that an applicant has a disability. The fact sheet reviews the types of questions that are prohibited during interviews and on applications, and discusses what questions an employer may ask of applicants with obvious disabilities, such as deafness or loss of a limb.

"Just as employers cannot refuse to hire an applicant simply because he or she has a disability if the person can perform the essential functions of the job, an applicant should also focus during the hiring process on his or her qualifications rather than on the disability," Chair Dominguez added.

President George W. Bush has proclaimed October 2003 to be National Disability Employment Awareness Month, a time when private sector entities; federal, state and local government agencies; and advocacy organizations showcase the abilities of people with disabilities, and focus attention on removing barriers to employment. This year's national theme is "America Works Best When All Americans Work."

FUNDING SOURCES

P&A is a private, non-profit corporation and a member of the National Association of Protection & Advocacy Systems. As required by federal law, P&A is independent of all agencies that provide treatment or other services to people with disabilities. P&A is supported by federal and state funding and private contributions

US DEPARTMENT OF HEALTH & HUMAN SERVICES

Protection & Advocacy for Individuals with Developmental Disabilities (PAIDD)

Protection & Advocacy for Individuals with Mental Illness (PAIMI)

Protection & Advocacy for Traumatic Brain Injury (PATBI)

Protection & Advocacy for Voting Access (PAVA)

US DEPARTMENT OF EDUCATION

Protection & Advocacy for Individual Rights (PAIR)

Protection & Advocacy for Assistive Technology (PAAT)

SOCIAL SECURITY ADMINISTRATION

Protection & Advocacy for Beneficiaries of Social Security (PABSS)

STATE FUNDING

Office of the Governor, Division of Children's Services, Office of Foster Care Review
Department of Mental Health, Team Advocacy Project

FY 2003-2004 PRIORITIES

At its meeting on September 13, the Board of Directors approved the priorities for the coming year. Listed by issue team below are the goals toward which our attorneys and advocates will concentrate their efforts.

CONDITIONS IN FACILITIES TEAM

GOAL: *People with developmental disabilities (DD) who live at Midlands Center, Coastal Center, a Babcock Center home, the Department of Juvenile Justice (DJJ), a Residential Treatment Facility (RTF), or the South Carolina Department of Corrections (SCDC) will not be abused or neglected.*

- a. We will represent all children with DD at DJJ. (PAIDD)
- b. We will work with state government to improve the services to children with DD at DJJ. (PAIDD)
- c. We will work with DJJ and state agencies to improve the identification and transfer of children at DJJ with DD. (PAIDD)
- d. We will work with agencies to improve the safety of children with DD in out-of-home placements. (PAIDD)

- e. We will provide Short Term Assistance to any SCDC inmate with DD. (PAIDD)
- f. We will represent any resident of Midlands Center, Coastal Center or Babcock Center home who reports physical, chemical or sexual abuse or neglect. (PAIDD)
- g. We will work with the Department of Disabilities and Special Needs (DDSN) to use ways of changing behavior other than bringing charges against residents of Babcock or other DD facilities. (PAIDD)

GOAL: People with mental illness who live at Options, Directions, Bryan, Department of Juvenile Justice (DJJ), Psychiatric Residential Treatment Facilities (PRTF), or the South Carolina Department of Corrections (SCDC) will not be abused or neglected.

- a. We will represent any resident of Options or Directions who reports physical, chemical or sexual abuse or neglect. (PAIMI)
- b. We will work with the Department of Mental Health (DMH) to limit the use of physical restraints and seclusions at Options and Directions. (PAIMI)
- c. We will represent any resident of Bryan who reports physical, chemical or sexual abuse or neglect. (PAIMI)
- d. We will work with DMH to make sure residents of Bryan are actively engaged in therapeutic activities.
- e. We will represent any resident with mental illness at DJJ who reports physical, chemical or sexual abuse or neglect. (PAIMI)
- f. We will work with DJJ and other agencies to improve services to children with mental illness at DJJ. (PAIMI)
- g. We will work with DJJ and state agencies to improve the identification and transfer of children at DJJ with mental illness. (PAIMI)
- h. We will work with agencies to improve the safety of children in out-of-home placements. (PAIMI)
- i. We will work with SCDC to help prisoners with mental illness who are abused or neglected in SCDC. (PAIMI)
- j. We will provide Short Term Assistance to any SCDC inmate with mental illness. (PAIMI)

GOAL: Quality of life factors for people with disabilities who live in Community Residential Care Facilities (CRCF) will improve.

- a. We will inspect CRCF's. (PAIMI, Team Advocacy Project)
- b. We will increase public awareness of conditions in CRCFs. (PAIMI)

COMMUNITY ACCESS TEAM

GOAL: People with disabilities will reach employment goals.

- a. We will represent clients who receive SSI or SSDI and receive a notice of overpayment, termination of benefits, or other adverse action from SSA based on something related to work. (PABSS)
- b. We will represent clients who receive SSI or SSDI, want to work or are working, and have a problem with services or advice given by Vocational Rehabilitation (VR), Commission for the Blind (CB), Employment Networks(EN) or Benefits, Planning, Assistance, and Outreach Centers (BPAO). (PABSS)
- c. We will represent clients who receive SSI or SSDI, want to work, and face a barrier to work from someone other than employers, VR, EN, or BPAO. (PABSS)
- d. We will represent selected clients with disabilities who have experienced discrimination in employment. We will select cases for representation based on the following factors:
 - legal merit and likelihood of success;
 - attractiveness to private bar or others who might provide representation;
 - the fact situation offers an opportunity to educate the general public and people with disabilities about disability rights;
 - whether the client is willing to be a part of this public education process; and
 - sufficient resources are available to effectively handle the case (PAIMI, PAIDD, PATBI, PAIR, PABSS)

GOAL: P&A will improve voter accessibility for people with disabilities in South Carolina.

- a. We will represent people with disabilities whose voting rights have been violated. (PAVA).
- b. We will do education, outreach and training on voting accessibility. (PAVA).
- c. We will work with state government and other agencies to improve voter accessibility (PAVA).

GOAL: Effective public transportation will be accessible to people with disabilities through Dial A Ride Transportation in the Columbia area.

We will accept I&R referrals of callers that have problems with the DART system for possible inclusion in the lawsuit. (PAIR, PABSS)

GOAL: Health care providers will provide interpreters to allow effective communication with patients who are deaf.

- a. We will represent selected clients who are deaf who have been denied effective communication by health care providers. We will select cases for representation based on the following factors:
 - legal merit and likelihood of success;
 - attractiveness to private bar or others who might provide representation;
 - the fact situation offers an opportunity to educate people with disabilities and the general public; about disability rights;

- whether the client is willing to be a part of this public education process; and
- sufficient resources are available to effectively handle the case. (PAIDD, PAIR)

b. We will develop and implement an educational plan that will target major regional medical centers and encourage compliance with the Americans with Disabilities Act. (PAIDD, PAIR).

GOAL: The SC Department of Disabilities and Special Needs (DDSN) will adopt regulations for eligibility for services, appeals, waiver programs, etc for people with developmental disabilities.

We will recruit and work with pro bono law firm to request promulgation of DDSN regulations. (PAIDD)

GOAL: People with disabilities will have a choice of where they wish to live in the community and who will provide their services.

- We will represent people with disabilities who live in a government run nursing home and government run intermediate care facilities in the state who want to live in their own homes. (PAIR, PAIDD, PATBI)
- We will work with state government to make changes in the state financing of services to people with disabilities to increase options of remaining in or moving into the community. (PAIR, PAIDD, PATBI, State)
- We will represent people with disabilities who live at selected DDSN centers and DSN Boards or contractors homes and who want to live in their own homes. (PAIDD)
- We will do education, outreach and training for parents and/or staff at a selected DDSN center and three local DSN boards or contractors. on community integration rights and options. (PAIDD)
- We will work with DDSN to improve the use of person centered planning as a way to give people with developmental disabilities a choice of where to live. (PAIDD)
- We will work with state and local agencies to improve the ability of community mental health services to meet the needs of people in crisis in the community without being committed to institutions. (PAIMI)

We will consider representing select individuals

- with mental illness;
 - who are eligible for community services from the SC Department of Mental Health (DMH);
 - who have been or are at risk of being institutionalized due to a lack of community mental health and/or crisis stabilization services; and
 - whose desired outcome of P&A representation is adequate community services to prevent institutionalization. (PAIMI)
- We will represent people with head or spinal cord injuries who live in institutions and who wish to leave, or who need help getting HASCI waiver services in order to move into or stay in their own homes. (PAIDD, PAIR, PATBI)
 - We will work with state agencies to improve and expand the HASCI waiver to better support people in their home of choice. (PAIR, PATBI)

- i. We will represent people with disabilities who need an assistive technology device or service in order to either move into their own homes or maintain themselves in their own homes, and have been denied funding for such a device or service. (PAAT)
- j. We will analyze the existing Medicaid Waivers for consistency with the 2002 amendments to the Nurse Practice Act (PAIDD, PAIMI, PAIR).

FREE AND APPROPRIATE EDUCATION TEAM

GOAL : *Students will not be denied Assistive Technology (AT) evaluation, devices, or supportive services.*

We will represent students who have been denied AT evaluation, devices, or supportive services. (PAAT)

GOAL: *Students with disabilities will not be suspended, expelled or sent to the Department of Juvenile Justice (DJJ) as a result of being charged by school officials.*

- a. We will represent students with a disability who:
 - Are in special education or who have 504 plans;
 - have been suspended for 3 or more days or recommended for expulsion;
 - have had criminal or delinquency charges brought against them by school officials;
 - and face DJJ institutionalization. (PAIDD, PAIMI, STATE)
- b. We will represent students with disabilities who
 - are in elementary or middle school;
 - are in special education or have a 504 plan;
 - and have been suspended for 3 or more school days or are recommended for expulsion. (PAIDD, PAIMI, STATE)

GOAL: *Students with disabilities will be served in the least restrictive appropriate placement.*

- a. We will represent students with disabilities who
 - attend a **middle** school in Laurens, Greenville, Berkeley, Colleton, Lexington, Richland, Greenwood, Dorchester, Spartanburg, Charleston, or Darlington counties;
 - are in special education or have a 504 plan;
 - are receiving educational services in a home based/homebound placement;
 - and either the placement is inappropriate or the educational services are inappropriate. (PAIDD, PAIMI, STATE)
- b. We will represent students with disabilities who
 - attend an **elementary** school in Laurens, Greenville, Berkeley, Colleton, Lexington, Richland, Greenwood, Dorchester, Spartanburg, Charleston, or Darlington counties;
 - are in special education or have a 504 plan;
 - are in a resource or self-contained placement;
 - and either the placement is inappropriate, the placement proposed is too restrictive, or the educational services are inappropriate. (PAIDD, PAIMI, STATE)

PUBLICATIONS AVAILABLE

P&A offices have several useful and informative publications free for the asking. This information can be made available in alternative formats (including disc or Braille) or in Spanish. Just call our hotline 1-866-275-7273, and ask for any of the following:

FACT SHEETS

Americans with Disabilities Act

Americans with Disabilities Act/Section 504 Rehabilitation Act
Americans with Disabilities Act -Title II: State and Local Government
Americans with Disabilities Act -Title III: Public Accommodations
Accessible Transportation
The Rights of College Students with Disabilities
Department of Justice ADA Mediation Program

Employment Rights

Employment Discrimination and your Rights as an Employee with a Disability
Reasonable Accommodation and your Rights as an Employee with a Disability

Health Information

Your Guide to Mental Health Treatment Review in the Community
Early Periodic Screening, Diagnosis & Treatment (Children's Medicaid)
A Resource Guide for South Carolinians with Traumatic Brain Injury

Children's Education

Education for Children with Disabilities
Assistive Technology and Special Education
Educational Evaluation: Pre-placement Psycho-Educational evaluation
Family Education Rights and Privacy Act
Functional Behavior Assessments and Behavioral Intervention Plans: How to Assess and Address a Student's Problem Behavior
Filing an Education Complaint under Section 504 of the Rehabilitation Act of 1973
Filing a Complaint with the South Carolina Department of Education: An Alternative to Due Process
Mediation: An Alternative to Due Process
Least Restrictive Environment, Inclusion, Mainstreaming: The Individuals with Disabilities Education Act
Prior Written Notice: A Good Strategy for Special Education
Protections for Students not yet Identified as Eligible for Special Education
Related Services: A Very Important Part of Special Education
Taking Tests: True or False?

General Information

What Happens When a Child Grows Up? Legal effects of Becoming an Adult
Tax and Special Benefits for People with Disabilities in South Carolina

BROCHURES

Making a Difference in the Lives of People with Disabilities (General information about P&A)
Protection and Advocacy for Beneficiaries of Social Security
Being an Advocate for Yourself: 7 Tips
Team Advocacy Project: Wouldn't You Like to Volunteer to Visit a Home?

MANUAL

South Carolina Medicaid Waiver Program: A Guide for Self Advocates

Protection and Advocacy for People with Disabilities, Inc.

P&A is a private, non-profit, corporation that serves as South Carolina's federally funded protection and advocacy system for people with disabilities. Established in 1977, P&A is a member of the National Association of Protection and Advocacy Systems and is mandated by state and federal law to protect the rights of people with disabilities in South Carolina. As required by federal law, P&A is independent of all agencies that provide treatment or other services to people with disabilities.

Please feel free to contact our toll-free helpline, [866/275-7273](tel:8662757273) (Voice) or [866/232-4525](tel:8662324525) (TTY), for updates on any of the issues you have read about in this newsletter or to request service. This newsletter is not intended to be legal advice. We do not discriminate on the basis of disability, race, gender or national origin in the provision of its programs or services. Pete Cantrell is P&A's designated coordinator for Sec. 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

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Mailing List

If you are not on our mailing list and would like to receive this newsletter, call toll free [866/275-7273](tel:8662757273) or in the Columbia area call [782-0639](tel:7820639) or e-mail us at info@protectionandadvocacy-sc.org. Please visit our website at www.protectionandadvocacy-sc.org to learn more about the services we provide to South Carolinians with Disabilities.

Protection and Advocacy for
People with Disabilities, Inc.

3710 Landmark Drive, Suite 208
Columbia, South Carolina 29204



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