

ARIZONA CENTER FOR DISABILITY LAW

DRAFT Objectives/Priorities for Services Fiscal Year 2011

Persons with disabilities in Arizona continue to face unprecedented cuts to essential health and human services. These cuts impact independent living and risk the health, safety and equality of thousands of Arizonans across the state.

As the federally-designated protection and advocacy system in Arizona, the Center sets annual priorities to serve persons with disabilities who fit into specific federal eligibility categories. Demand for our services far exceeds our available resources; therefore, we must plan activities in a strategic manner to most effectively utilize our limited resources.

In addition to the objectives and priorities listed below, the Center also utilizes the following criteria when deciding when and how to represent any individual.

Case Selection Criteria

1. The applicant must meet the program eligibility guidelines and the legal problems must fall within an objective and priority for services.
2. Services will be provided only to persons whose legal problems are related to their status as an individual with a disability, whose legal problems are susceptible to resolution by Center staff and whose claim has legal merit.
3. Services will generally only be provided to individuals whose problems cannot be solved by other individuals, agencies, attorneys or organizations.
4. Individuals from under-served or unserved populations or geographic regions will receive priority for outreach, training and representation.
5. Direct legal representation will only be provided to individuals that present systemic issues or problems.
6. Even within priority areas, services will be contingent upon the availability of staff and resources.

Protection and Advocacy Program for Individuals with Mental Illness

The Protection and Advocacy Program for Individuals with Mental Illness (PAIMI) was established by Congress in 1986. PAIMI agencies, such as the Center are mandated to: protect and advocate for the rights of people with mental illness and investigate reports of abuse and neglect both in facilities that care for or treat individuals with mental illness and in the community. The Substance Abuse and Mental Health Services Administration, Center for Mental Health Services administers the PAIMI program.

The following objectives and priorities will be followed by the Center in conducting our PAIMI activities during fiscal year 2011.

OBJECTIVE #1: *To reduce incidences of abuse, neglect and rights violations of PAIMI-eligible individuals residing in Level 1 facilities.*

Description: PAIMI-eligible persons residing in Level 1 facilities will be free from incidents of abuse, neglect, and civil rights violations.

Priorities:

1. Track and review incident reports of Level 1 facilities. Staff along with the assistance of the PAIMI Advisory Council will identify at least one Level 1 facility that has risked serious bodily injury or death to individuals with serious mental illness related to medication errors/polypharmacy/excessive medications and or utilizes excessive or inappropriate restraints and seclusions. Staff will file complaints with the appropriate licensed behavioral health agencies pursuant to the Arizona Administrative Code. Actions can include conducting secondary as well as primary investigations. (1 investigation that resulted in a reduction of medication errors or excessive seclusion/restraint.)
2. Track and review mortality and morbidity (M&M) reports of all individuals in Arizona who die while designated as Seriously Mentally Ill in the public system. Review reports of death from other sources, including intake with the focus being on death caused by medication errors/polypharmacy/excessive medications and or the utilization of excessive or inappropriate restraints and seclusions. Each year ACDL staff will furnish a report to the PAIMI Advisory Council. Actions can include conducting secondary as well as primary investigations. (1 investigation that resulted in a decrease in mortality as a result of medication errors or excessive or inappropriate seclusion and restraint.)
3. Conduct 4 outreach events, trainings, and/or monitoring regarding seclusion and restraint, other abuse and neglect issues, and rights violations on the psychiatric units of Maricopa Medical Center, Arizona State Hospital, and University Physicians Hospital at Kino. In addition, once each quarter, staff

will visit facilities outside of Maricopa and Pima Counties. ACDL will conduct site visits on mandatory reporting facilities who are not reporting incidents as required by law to ensure compliance with Arizona law. Areas of the state will coincide with the areas selected in the ACDL strategic plan. In FY 10, the focus will be on Western Arizona. (8 site visits, 4 of which result in facilities reporting mandatory information to ACDL.)

4. Reduce the number of individuals in the Arizona State Hospital and the Florence detention center who face barriers to discharge into appropriate community settings. (2 projects)
5. Provide timely rights information on abuse, neglect or rights violations to allow PAIMI eligible members and their families/guardians to effectively self-advocate.

OBJECTIVE #2: *To assist PAIMI-eligible individuals in asserting, enforcing and defending their rights to appropriate mental health care services.*

Description: State budget cuts have reduced mental health services to children with serious emotional disturbances and adults with serious mental illness who are not eligible for Medicaid-funded services. Adults with serious mental illnesses and children with serious emotional disturbances who are not Medicaid-eligible are vulnerable populations with difficulty accessing mental health care services that allow them to be as independent as possible, maintain their mental health, and live life to its fullest.

Priorities:

1. Provide legal representation in at least four (4) administrative hearings on the provision of mental health care services for Non-Title XIX SMI.
2. Maintain access to mental health care services for individuals who are designated seriously mentally ill but do not qualify for Medicaid services through systemic advocacy work with a focus on individuals needing services outside of Maricopa County. (1 project)
3. Monitor, on a quarterly basis, the existing class action cases for the provision of mental health services to adults and children, which includes pursuing legal remedies to address noncompliance with the existing orders when appropriate. (JK) Monitor, on a quarterly basis, the provision of mental health services to adult non-Title XIX SMI.
4. Conduct 8 training and outreach events on asserting, enforcing and defending individual rights to appropriate mental health care services. Of those, 4 will be trainings to increase PAIMI eligible individuals and their family members/guardians ability to self advocate. 1 of the trainings and 1 of the

- outreach events must occur in Western Arizona per ACDL's strategic plan. (8 trainings and outreach events)
5. ACDL will attend Arizona Behavioral Health Planning Council monthly meetings to monitor the provision of mental health care services in Arizona to educate policy makers, providers and consumers on the rights of persons with mental illness. (6 meetings)
 6. Provide timely and accurate rights information on access to mental health care services to increase PAIMI eligible individuals and their family members/guardians ability to self advocate.

OBJECTIVE #3: *To assist PAIMI-eligible individuals in asserting, enforcing and defending their rights to special education, employment and housing.*

Description: Through this objective, the Center is attempting to ensure that children with mental illness truly benefit from special education and related services and have real opportunities for independence, productivity and inclusion. The Center has limited resources and will provide intake assistance and limited advocacy to callers in the area of employment, housing, public accommodations and special education.

Priorities:

1. Identify at least two (2) school districts which utilize zero tolerance discipline policies and/or other policies and practices to push students with disabilities out of the educational environment. Advocate through legal or other means to replace those policies and practices with ones that emphasize school-wide and individual positive behavioral supports.
2. Investigate allegations and reports of abuse, neglect or abusive restraint or seclusion of students with disabilities where probable cause exists to believe they have occurred in the educational environment. Use the information gathered from the investigations, as appropriate, to advocate, through legal or other means, for systemic change that will reduce abuse, neglect or abusive restraint or seclusion of students with disabilities in the educational environment.
3. To increase the employment rights of persons with Serious Mental Illness, the Center will provide legal representation in at least two employment discrimination cases involving a person with serious mental illness through either the Equal Employment Opportunity Commission (EEOC) or Arizona Attorney General's process. (2 cases)
4. Provide timely and accurate rights information to individuals within the area of employment, housing and special education to increase PAIMI eligible individuals and their family members/guardians ability to self advocate.

OBJECTIVE #4: *Support and promote the PAIMI Advisory Council*

Description: The PAIMI Advisory Council is an important part of the mental health program at the Arizona Center for Disability Law. Center staff will support the Council through clerical and technical support so that the Council may carry out its function to provide independent advice and recommendations to the agency.

Priorities:

1. Provide support and technical assistance to ensure the Council is composed of the members necessary to comply with federal law.
2. Provide support to assist with the scheduling and documentation of regular Council meetings and related activities.
3. Provide support and technical assistance to ensure the Council is knowledgeable about the Center, the community and the needs of individuals with serious mental illness.
4. Provide support and technical assistance to ensure the Council is able to provide independent advice and recommendations to the agency about our annual PAIMI priorities.
5. Provide support and technical assistance so that the Council can timely complete its section of the annual Program Performance Report.
6. Conduct at least one site visit of a Level One mandatory reporting facility that is not reporting to the Center. (1 site visit)

Protection and Advocacy for Persons with Developmental Disabilities – PADD

The Protection and Advocacy for Persons with Developmental Disabilities (PADD) program was created by the Developmental Disabilities Assistance and Bill of Rights Act of 1975. The Arizona Center for Disability Law (Center) is required by the Act to pursue legal, administrative and other appropriate remedies to protect and advocate for the rights of individuals with developmental disabilities under federal and state laws. The U.S. Department of Health and Human Services Administration Developmental Disabilities administers the PADD program.

The following objectives and priorities will be followed by the Center in conducting our PADD activities in fiscal year 2011.

OBJECTIVE #1: ***Reduce the incidence of abuse and neglect of individuals with developmental disabilities in facilities and group homes.***

Description: Individuals with developmental disabilities have a right to be free from abuse and neglect. Budget cuts have pushed public policy makers to reduce state oversight and monitoring of group homes. It is critical that families and individuals with developmental disabilities obtain rights information and that public policy makers be educated about the importance of quality oversight and monitoring by the Arizona Division of Developmental Disabilities.

Priorities:

1. Provide timely and accurate rights information on abuse and neglect.
2. Educate policy makers on efforts to limit government oversight and monitoring of DD facilities.
3. Conduct one site visit at Coolidge to ensure residents are receiving adequate programs and services and to leave self-advocacy information.

OBJECTIVE #2: ***Ensure access to comprehensive and appropriate health care services for individuals with developmental disabilities who are beneficiaries of Medicaid and/or Medicare.***

Description: State budget cuts are impacting the availability of health and human services for individuals with developmental disabilities. For many individuals with developmental disabilities who are beneficiaries of Medicaid and/or Medicare, access to appropriate health care services is often the key to living independently at home and in their communities.

Efforts will focus on the restoration or maintenance of critical health and human services.

Priorities:

1. Litigation that promotes systemic change aimed at increasing access to, or maintaining eligibility for, medically necessary services for individuals with developmental disabilities, particularly children under the Early Periodic Screening and Diagnostic and Treatment Services (EPSDT).
2. Conduct four outreach and two training events for individuals with developmental disabilities and advocates in the various steps involved in accessing publicly funded health care services, including how to initiate requests for medically necessary services and how to challenge denials of requested services. One of the trainings and one of the outreach events must occur in Western Arizona per ACDL's strategic plan. (4 outreach events and 2 trainings)
3. Maintain and utilize Pro Bono Health Law Project (HLP) to provide direct representation in administrative appeals and/or judicial review actions in state court of AHCCCS denials, terminations, or reductions in services. Five administrative appeals will be assigned to pro bono attorneys for direct representation.
4. Provide timely and accurate rights information, to individuals and their guardians regarding their rights to AHCCCS, ALTCS and DDD services.
5. Develop a self-advocacy guide to assist AHCCCS/ALTCS members in representing themselves at administrative hearings. Have guide translated into plain language format and have plain language format translated into Spanish.

OBJECTIVE #3: *Improve access to appropriate and high quality special education services for students with developmental disabilities.*

Description: According to the Arizona Department of Education, the number of Arizona children who qualify for federally guaranteed special education services pursuant to the federal Individuals with Disabilities Education Act (IDEA) continues to grow. More than 140,000 Arizona children currently receive special education services.

Children with disabilities who are either excluded from education or are subject to abusive seclusion and restraint are at increased risk of death, injury, future unemployment, incarceration and many other unacceptable, expensive and wholly preventable outcomes.

To significantly increase the Center's ability to address issues related to exclusion from the classroom or abusive seclusion and restraint, the

Center will focus its special education work in the following areas:

- A. Compliance with IEP and Section 504 plans;
- B. Disputes over special education services, with a primary emphasis on matters involving restraint or seclusion of students, or removal of students from the educational environment; and
- C. State budget cuts which reduce or eliminate the provision of early intervention services to eligible infants and toddlers in violation of state and federal law.

Priorities:

1. Investigate allegations and reports of abuse, neglect or abusive restraint or seclusion of students with disabilities where probable cause exists to believe they have occurred in the educational environment. Use the information gathered from the investigations, as appropriate, to advocate, through legal or other means, for systemic change that will reduce abuse, neglect or abusive restraint or seclusion of students with disabilities in the educational environment.
2. Continue to monitor State funding for early intervention services for all eligible Arizona children through class action litigation initiated in FY'09.
3. Educate policy makers on the need for rules, regulations, and reporting around restraint or seclusion in school settings in Arizona.
4. Conduct four trainings in underserved communities in Western Arizona on the educational rights of children with disabilities and on restraint and seclusion issues in schools. (4 trainings)
5. Provide timely and accurate rights information to families and students in the priority areas listed above. All other inquiries will be referred to other organizations for assistance.

OBJECTIVE #4: *Promote equal opportunity to employment, public accommodations and housing.*

Description: People with disabilities continue to face barriers to employment, housing and public accommodations. In employment, barriers include physical obstacles in the workplace, communication barriers, discriminatory policies and procedures and attitudinal barriers based on stereotypes, misconceptions and fears. Housing providers discriminate against people with disabilities by failing to provide reasonable accommodations and physically accessible housing and by failing to reasonably modify discriminatory policies and practices. Places of public accommodation continue to pose barriers to persons with disabilities, both architectural and attitudinal, and refuse to provide reasonable accommodations to ensure equal access to goods and services.

Priorities:

1. Provide four outreach and four training activities to persons with disabilities about employment, housing and/or public accommodation rights protected under federal and state law. Two of the trainings and two of the outreach events must occur in Western Arizona per ACDL's strategic plan.
2. Provide timely and accurate rights information to individuals with disabilities.

OBJECTIVE #5: *Collaboration with the ADD Network.*

Description: The Arizona Center for Disability Law, the Developmental Disabilities Planning Council (DDPC), the Sonoran University Center of Excellence in Developmental Disabilities and the Northern Arizona University Institute for Human Development are partner organizations that, together, form the Arizona Developmental Disabilities Network. The four organizations are authorized under the Developmental Disabilities Assistance and Bill of Rights Act (Public Law 106-402) and receive funding from the United States Department of Health and Human Services, Administration on Developmental Disabilities.

The Arizona Developmental Disabilities Network partners work collectively and collaboratively to foster the independence, advocacy and community integration of individuals with developmental disabilities.

Priorities:

1. Participate on the Advisory Councils for the Institute for Human Development, the Developmental Disabilities Planning Council (DDPC), the Sonoran UCEDD and the Developmental Disabilities Advisory Council.
2. Collaborate with the DD Network and the Arizona Disability Advocacy Coalition on public policy issues impacting children and adults with developmental disabilities.
3. Collaborate with the DD Network on outreach and public awareness activities.
4. Continue to lead the DD Network collaboration to produce an annual Disability Rights and Resources Conference in underserved areas.
5. Collaborate with the DD Network to support and maintain an independent Self-Advocacy Coalition of Arizona.

Protection and Advocacy for Individual Rights - PAIR

The Protection and Advocacy for Individual Rights (PAIR) program was established by Congress as a national program under the Rehabilitation Act of 1993. PAIR programs were established to protect and advocate for the legal and human rights of persons with disabilities not served by the Protection and Advocacy for Persons with Developmental Disabilities (PADD) or the Protection and Advocacy for Individuals with Mental Illness (PAIMI) programs. The Office of Special Education and Rehabilitative Services (OSERS), Rehabilitation Services Administration administers the PAIR program.

The following objectives and priorities will be followed by the Center in conducting our PAIR activities during fiscal year 2011.

OBJECTIVE #1: *Increase access by persons with disabilities to services, programs, and facilities open to the public.*

Description: Ensure that places of public accommodation, including state and local governmental entities, not refuse services or treatment on the basis of disability that auxiliary aids and services are provided when needed for effective communication, and governmental entities and public accommodations remove physical barriers to accessibility and make reasonable modifications in policies to avoid discrimination. The focus for FY2011 will be on Western Arizona.

Priorities:

1. File two (2) administrative complaints with the Arizona Attorney General's Office of Civil Rights and/or the U.S. Department of Justice to challenge discrimination by places of public accommodations including state and local governmental entities, which refuse to modify its policies/procedures or refuse to provide auxiliary aids or services.
2. Provide representation at mediation or conciliation with the Arizona Attorney General's Office for cases which present systemic issues and where the legal issues promise to be far-reaching and have high-impact.
3. Monitor and provide rights information on transportation issues for individuals with disabilities when applicable federal regulations apply.
4. Update and expand our self-advocacy guide on "The Duty of Health Care Professionals to Provide Sign Language Interpreters."

OBJECTIVE #2: Ensure comprehensive and medically necessary health care services for individuals with disabilities who are beneficiaries of

Medicaid and/or Medicare.

Description: State budget cuts are impacting the availability of health care services for individuals with disabilities. For many people with disabilities who are beneficiaries of Medicaid and/or Medicare, access to medically necessary health care services is often the key to living independently at home and in their communities. Individuals with disabilities are often denied critical health care services that allow them to be as healthy and independent as possible. Given the state budget crisis, priority will be given to the restoration or maintenance of critical health care services, including challenging restrictions to AHCCCS/ALTCS eligibility.

Priorities:

1. Litigation that promotes systemic change aimed at increasing access to medically necessary services and/or challenging restrictions to AHCCCS/ALTCS eligibility.
2. Conduct 4 outreach events and 4 trainings of individuals with disabilities and advocates in the various steps involved in accessing publicly funded health care services, including how to initiate requests for medically necessary services and how to challenge denials of requested services. Two of the trainings and two of the outreach events must occur in Western Arizona per ACDL's strategic plan.
3. Develop a self-advocacy guide to assist AHCCCS/ALTCS members in representing themselves at administrative hearings. Translate guide into plain language format, and have plain language format translated into Spanish.
4. Maintain and utilize Pro Bono Health Law Project (HLP) to provide direct representation in administrative appeals and/or judicial review actions in state court of AHCCCS denials, terminations, or reductions in services. Five administrative appeals will be assigned to pro bono attorneys for direct representation. (At least 5 cases.)
5. Provide timely and accurate rights information to individuals and their guardians on AHCCCS/ALTCS/DDD.

OBJECTIVE #3: *To reduce the discriminatory barriers which prevent qualified people with disabilities from maintaining employment, obtaining reasonable accommodations and working in a workplace free of unlawful harassment, retaliation and intimidation.*

Description: People with disabilities continue to face barriers to employment, including but not limited to, physical obstacles in the workplace, communication barriers, discriminatory policies and procedures and attitudinal barriers

based on stereotypes, misconceptions and fears. This objective addresses the discrimination caused by these barriers by providing advocacy and legal services in order to promote: (1) the provision of reasonable accommodations to employees and job applicants, and (2) the prevention and redress of unlawful harassment, retaliation, intimidation and termination.

Priorities:

1. Provide representation at mediation or conciliation with the EEOC or Arizona Attorney General's Office for cases that deal with the prevention and redress of unlawful harassment, retaliation, intimidation and/or termination.
2. Litigation which presents systemic issues and where litigation promises to be far-reaching and have high impact.
3. Provide 4 outreach and 4 training activities to persons with disabilities about employment rights protected under federal and state law. Two of the trainings and two of the outreach events must occur in Western Arizona per ACDL's strategic plan.
4. Provide timely and accurate rights information.

OBJECTIVE #4: *Promote equal opportunity to housing under the fair housing act for people with disabilities. Bring about this awareness through trainings, dissemination of rights information and technical assistance.*

Description: People with disabilities continue to face barriers to equal opportunity in housing. Housing providers discriminate against people with disabilities by failing to provide reasonable accommodations and physically accessible housing and by failing to reasonably modify discriminatory policies and practices. Housing providers also discriminate by including discriminatory terms and conditions in housing agreements.

Priorities:

1. Provide at least 2 outreach activities about rights protected by the FHA and how to enforce them.
2. Provide timely and accurate rights information to individuals about their rights under the FHA.

Other Federal Grant Programs

Client Assistance Program (CAP)

CAP is authorized through the 1984 Amendments to the Rehabilitation Act of 1973. The Center's CAP program ensures that Arizona's Vocational Rehabilitation (VR) system works for individuals with disabilities. CAP services include information and referral services, advice and representation at appeals to assist more individuals with disabilities negotiate changing employment and training systems through VR or other Rehabilitative Services Administration programs.

Protection and Advocacy for Assistive Technology (PAAT)

PAAT was reauthorized as part of the Assistive Technology Act of 2004. The Center's PAAT work ensures that children and adults with disabilities can get access to critically needed assistive technology in a variety of settings – school, home and at work. Our work focuses on information and referral services, technical assistance, short-term assistance and representation at appeals to ensure children and adults with disabilities live more productive and independent lives.

Protection and Advocacy for Beneficiaries of Social Security (PABSS)

PABSS was created through the Ticket to Work and Work Incentives Improvement Act of 1999. The focus of our work is to protect beneficiaries' rights to obtain, maintain or retain employment. The program can only service beneficiaries of Social Security who are individuals with disabilities. The Center's PABSS program provides information and referral, education and training, and individual representation and assistance.

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

PATBI was created by Congress as part of the Children's Health Act of 2000. The Center's PATBI work ensures that persons with TBI and their family members have better access to information on their rights to services through a comprehensive, statewide outreach and training program. The Center also advocates on an individual and systemic level to affect policy changes in systems providing care and services for people with TBI.

Protection and Advocacy for Voting Assistance (PAVA)

PAVA was created in 2002 when Congress passed the Help America Vote Act. The Center's PAVA work focuses on improving the accessibility of polling places to people with disabilities; increasing voter registration and voter participation among people with disabilities; and ensuring that individuals with disabilities have the opportunity to vote privately and independently.