

Report to the DD Council
Advocacy Center
April, 2011

1. Since the last DDC meeting, AC has been very active in insuring that people on the NOW Waiver get full and appropriate notification about their appeal rights when their hours are to be reduced. We have participated in on-going meetings with Julia Kenny and senior staff, including their legal counsel. We edited letters and notices (including appeal notices) to make them clearer and more user friendly. On February 28, letters were sent to all NOW recipients clearly informing them of their rights. We have also worked with individual NOW participants/families to have rights explained and services restored.
2. We have reached an agreement in the Feliciana case (brought on behalf of incompetent detainees, i.e. persons who have been found to lack the mental capacity to proceed to trial, are being held in jail, and have been remanded to the custody of the Feliciana Forensic Facility.) Among other things, the agreement states that by July 10, 2011, the State will insure that the wait-time for admission to FFF of each Incompetent Detainee is no more than 30 days following the Order for Inpatient Treatment.
3. Here are summaries of two individual cases closed by the AC since the last DDC meeting:

CASE #1

Our client previously pled no contest to a battery charge and had been ordered by Lafayette City Court to complete an anger management course. The client is deaf, and the judge told her that she would be responsible for the cost of both the class and the interpreter, both of which she could not afford.

At a February 22 probation review, the judge told our client that because she had not completed the anger management program, her probation would be revoked and she would go to jail for 90 days.

At this point, the client's defense attorney contacted the Advocacy Center. Upon researching the anger management program, we discovered that it was offered by the court itself; thus it should be accessible to our client under the ADA. The AC Staff Attorney wrote to the judge, informing him that it was our opinion that the court is responsible for paying for the interpreter. Having received no response from the judge, and upon consultation with the defense attorney, it was decided that the AC attorney would go to court on the date of the hearing to argue for an extension of time for our client to

complete the course and for the provision of an interpreter by the Court. Both were granted by the judge at the hearing.

Though the issue seems straightforward, it actually involves some somewhat complicated legal concepts that we don't run across very often - the question of what we can do if a judge specifically orders something that doesn't comply with federal law. The AC Attorney completed the research quickly and effectively. She also handled with aplomb the potentially sticky situations of interceding with our client's attorney, who was unfamiliar with his client's rights in this situation, and, particularly, informing a judge he had done something in violation of federal law.

CASE #2

One of the AC Intake Specialists received a call from an elderly man, concerned about his 'baby' sister, who had been PEC-ed and placed in a private psychiatric hospital. Although this is not something AC usually handles, the man was so distraught that the Intake Specialist wanted to do something for him. She pumped him for more information and learned that the sister was not being provided with an appropriate diet. As a diabetic, the high sugar foods the facility was providing were causing her to get more and more depressed. The Intake Specialist turned the case over to our Institutional Rights Unit.

One of our Case Advocates went to the facility and realized rather quickly that the client did not need to be hospitalized. She did, however, have a very attractive insurance policy. After meeting with the client, the Client Advocate went to the nursing station and inquired why the client was not being provided with an appropriate diet per her dietary needs and restrictions. The staff agreed to provide an appropriate diet.

Prior to the Client Advocate's visit, the client had met with her treatment team and they had informed her that they did not feel comfortable with discharging her and would probably discharge her sometime next week. This concerned our client because she has a job and, beside, she did not feel she was benefiting from being held in such a restrictive environment. Interestingly, an hour after the Client Advocate's visit, the doctor called the client in to ask if she would like to be discharged the following day. Armed with her rights, our client informed the doctor that she would like to be discharged that very same day. He agreed and discharged her an hour later.