

Advocacy Center
Quarterly Report to the DD Council
(June 29, 2016)

Update/progress on agency initiatives

1. Helping People with Disabilities Earn a Fair Wage

Over the last year, the Advocacy Center investigated a number of sheltered workshops. These agencies have special certificates, issued under Section 14c of the Fair Labor Standards Act by the US Department of Labor, authorizing them to pay subminimum wage to program participants, all of whom have a disability. In order to comply with federal regulations, these agencies must evaluate the wages paid to participants at least every 6 months to ensure the wages are based on the individuals' productivity compared to the productivity of workers without disabilities who perform essentially the same type, quality, and quantity of work.

In these investigations, we discovered several agencies that were not complying with the requirements of Section 14c and we are assisting workers to file wage and hour claims against these agencies. These claims are currently being investigated by the US Department of Labor. If successful, these individuals with disabilities may receive back pay that is owed to them. The Advocacy Center will work with these individuals to make sure that any back pay received can be structured in such a way that it will not jeopardize their benefits.

2. Arrests in Schools

In general, students with disabilities are arrested more than students without disabilities. Many of the incidents leading to arrests are caused by disability-related behaviors and are instigated by school resource officers. These resource officers receive little, if any, training in special education or about these students' specific IEPs or 504 plans.

Advocacy Center attorneys are interested in reaching students with disabilities who have been arrested in schools, particularly those who were arrested based on actions related to their disabilities. Staff may be able to assist them to file state administrative or Office of Civil Rights complaints.

3. Access to Communication for Students with Disabilities

Many students with disabilities, particularly students with autism, can benefit from communication devices and ABA therapy in schools. Recently, Advocacy Center successfully argued that, under Title II of the Americans with Disabilities Act, schools must ensure all communication with students with speech disabilities is as effective as communication with all other students. Title II also allows for parental preference for the service, unless the school can prove something else is equally effective. Using this legal theory, staff obtained I pads and ABA therapy for several students.

4. Making Hard Time Harder: Accommodations for Inmates with Disabilities

Recently, Disability Rights Washington and the National Disability Rights Network, released a report outlining the challenges faced by prisoners with disabilities across the US, including in Louisiana.

There are over 50,000 people in Louisiana's jails and prisons.ⁱ Over 31 percent of inmates across the country (15,000 in Louisiana) report at least one disability.ⁱⁱ Nationwide, these inmates stay in prison longer and face harsher conditions than inmates without disabilities. On June 22, 2016, the Amplifying Voices of Inmates with Disabilities (AVID) Prison Project, a project of Disability Rights Washington, released *Making Hard Time Harder: Programmatic Accommodations for Inmates with Disabilities Under the Americans with Disabilities Act*. The report outlines lack of accommodations for inmates with disabilities including those in Louisiana.

Examples abound from across the United States. Colorado, Washington, and South Carolina all reported cases in which essential mobility devices, such as wheelchairs and walkers, were taken from inmates. One case resulted in an inmate's inability to access showers or outside yard for almost two years. Idaho and Illinois reported systemic litigation around access to video phone services for inmates who are deaf or hard of hearing. Alabama reported litigation for inmates with intellectual disabilities who could not access medical care because the prison required a written request and they could not write.

In Louisiana, we've helped inmates in jails access interpreters, as well as helped a prisoner with a visual disability access large print materials and a closed circuit television. We are currently in litigation with Angola prison regarding access to medical treatment, including accommodations like wheelchairs, specialized shoes, and other assistive technology.

The *Making Hard Times Harder* Report recommends the following to address this crisis in our nation's prisons:

- Creation of independent corrections ombudsman offices to address inmate concerns.
- Systemic accessibility reviews to identify both physical and programmatic barriers for inmates with disabilities.
- Increased federal funding to the protection and advocacy network for corrections based monitoring and advocacy.
- Increased training for prison ADA coordinators.

The interactive report, including video interviews of prisoners and case examples from 21 states is available at www.AVIDprisonproject.org.

5. Non-Emergency Medical Transportation Update

Advocacy Center continues to be concerned about the reliability and quality of non-emergency medical transportation provided by Louisiana Medicaid companies. Below is additional information regarding non-emergency medical transportation, as published in our newsletter. We want to hear about individual experiences.

Non-emergency medical transportation (NEMT) is available to transport Medicaid recipients to and from medical appointments free of charge. Medical appointments include:

- Appointments with a doctor, nurse or other health professional
- Appointments for lab work
- Physical, speech, occupational or other therapies

- Mental health counseling
- Substance abuse treatment
- Dialysis or other medical treatment

In the past, NEMT has been unreliable and difficult to access for some participants.

A few months ago, the state’s Bayou Health Medicaid managed care companies began coordinating the NEMT needs of most Medicaid recipients. These companies are committed to ensuring that their members can access the non-emergency medical transportation that they need.

To schedule a trip, Medicaid recipients should contact their managed care organization’s transportation line.

Managed Care Transportation Lines

Aetna Better Health	1-877-917-4150
Amerigroup	1-866-430-1101
AmeriHealth Caritas	1-888-913-0364
Louisiana Healthcare Connections	1-855-369-3723
United Healthcare Community Plan	1-866-726-1472

If you do not know your health plan, call the Medicaid customer service hotline to find out at 888-342-6207.

Medicaid recipients who are not enrolled in a Bayou Health Plan (i.e. those enrolled in the Take Charge Family Planning program, the Medically Needy Spend Down Program, or as a Refugee) should call 1-855-325-7626 to schedule non-emergency non-ambulance transportation.

Are you confused about what to expect from your NEMT company? Here’s what you should expect:

- Transportation services are available in all parts of the state, including rural and urban areas.
- If you call at least 3 business days in advance of your appointment, the company will be able to accommodate you.
- You will be picked up within 1 hour of your scheduled pickup time.
- If your transportation provider is late to pick you up, contact your managed care transportation line as soon as possible and let them know.
- If your regular driver is unavailable for any reason, the transportation company will schedule someone else to pick you up. This should not cause you to miss any appointments.
- If you use a wheelchair or other assistive technology, the transportation company will be able to assist you. Be sure to notify the plan of any special requirements when you call to request your trip.
- Children (under 17) must be accompanied by an adult.

6. Accessible Voting Options

During the 2016 legislative session, the Advocacy Center and the Secretary of State Elections Division collaborated on legislation to allow people with disabilities to receive their absentee ballots electronically instead of by mail. We are currently finalizing the instructions on how to sign up. Subscribe to the Advocacy Center's e-newsletter or contact Stephanie Patrick at 1-800-960-7705, ext. 143 for more information.

AC is also working to develop a wish list of accessibility features for new voting technology to make it easier for people with disabilities to vote privately and independently. If you have suggestions or ideas, we welcome your thoughts.

7. After 18 Months, Youth Still Cannot Access Vital Services In CSOC

The Advocacy Center has been monitoring access to services for children enrolled in the Coordinated System of Care since the initiation of the program. Despite ongoing advocacy, children still cannot access critical services, including respite and crisis stabilization. Below is a recent article on the issue.

The Coordinated System of Care program (CSOC) is designed to provide intensive services for children with mental illness across Louisiana who are at risk of out of home placement.

On October 28, 2014, the Southern Poverty Law Center and the Advocacy Center of Louisiana sent a joint letter to the Center for Medicaid and Medicare Services outlining the severe shortage of crisis stabilization and respite providers available across the state for participants in the (CSOC) program. [Click here to download letter.](#)

Both crisis stabilization and respite services are critical for these children. Over the last 18 months, access to these important services has not improved.

According to the April 28th, 2016, Director's Report to the CSOC Governance Board, "There are 7 Short Term Respite service providers." http://csoc.la.gov/assets/csoc/Documents/GovernanceBoard/2016April/2016AprilGBDirReport_DRAFT.pdf

Respite services are designed to help in stressful situations by giving the child and/or the caregiver a break. Children or youth in CSOC could receive up to 300 hours of respite each year, but the lack of sufficient providers makes this service unavailable for CSOC participants in many parts of the state.

According to the same Director's Report cited above, "There are no Crisis Stabilization providers in any region at this time." Crisis stabilization services are designed to provide short-term (7 day or less) placements for children in the CSOC program. They are also supposed to provide intensive resources for families so that children can return home at the end and avoid hospitalization.

Children in the CSOC program are at high risk for placement in a hospital, psychiatric residential treatment facility or other institution and the lack of these core services only places them at higher risk.

Coordinated System of Care (CSOC) services are available to children who do and do not qualify for traditional Medicaid programs. If you are receiving Medicaid, contact your Medicaid managed care company to access CSOC services. If you do not know the name of your Medicaid managed care company, call the Medicaid customer service hotline to find out

at 888-342-6207. If you are not currently on Medicaid, contact Magellan at Toll-free: 1-800-424-4489 or TTY: 1-800-424-4416 for help.

8. Success stories

Vet's Benefits Saved

A veteran contacted the Advocacy Center for help because he wants to work. Since he is not working yet, he is entitled to a VA Disability Pension and Social Security Disability Insurance (SSDI). Unexpectedly, he received a letter from The Social Security Administration (SSA) that it was reducing his SSDI payments significantly. The letter also said that he owed SSA over \$5,000 because of his pension.

With his consent, AC communicated with SSA on his behalf to explain that the pension he was receiving, unlike other pensions, should not offset the amount of his SSDI payments. His Advocate assisted him with filling out the appropriate paperwork and sent it directly to Social Security's Area Work Incentives Coordinator, who agreed to assist with resolving the issue. Now, that this issue is being resolved, the veteran is actively looking for work.

Access to ABA therapy

The Advocacy Center recently helped three children to access ABA therapy. In the first case, the mom of an 8 year old called AC for help because her son's school refused to provide ABA therapy and other services. An AC staff member attended the student's IEP with his mom where the school district agreed to provide ABA therapy and revise his IEP to ensure he's getting the services he needs. In the second case, the mom of two young sons with disabilities contacted the Advocacy Center for help because she and her husband were paying for ABA therapy for one son and could not afford to pay for services for the other son. The AC advocate helped the family understand how they could qualify for Medicaid because of their large medical expenses and both sons began receiving ABA therapy. All of these children are showing great improvement now that they can access to the services they need.

On the Way to a College Diploma

A woman with disabilities who was attending college with the help of LRS contacted the Advocacy Center for help. When she was just 19 hours shy of graduation, LRS decided to close her case and discontinue services. The client was the sole caregiver for an adult son with significant disabilities and did not get any help with him at night. Due to these circumstances, she was not able to maintain a full school schedule and LRS determined that she was no longer eligible for assistance. The AC helped her to appeal the LRS decision to close her case and represented her at a Fair Hearing where they established that, due to her need to care for her son on a nightly basis, LRS should have allowed her to attend school on a part-time class schedule, rather than forcing her to attempt a full-time schedule. The Hearing Officer ruled in her favor and stated that her inability to maintain a full-time schedule was due to a failure of LRS to properly formulate her schedule and provide appropriate accommodations. This victory means that she will now be receiving support from LRS for her current semester and can finish her education at an appropriate pace.

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- i <http://www.bjs.gov/content/pub/pdf/cpus13.pdf>
 - ii <http://www.bjs.gov/content/pub/pdf/dpji1112.pdf>