

Advocacy Center
Quarterly Report to the DD Council
(October 20, 2017)

Update/progress on agency initiatives

1. Emergency Management

(1) Jeanne Abadie was recently appointed as one of 13 new members to FEMA's National Advisory Council. Ms. Abadie was specifically selected to represent the disability community. She will serve a three-year term, running from September 1, 2017.

(2) EMDAC Participation (ongoing and in response to Hurricane Harvey). The Emergency Management Disability and Aging Coalition (EMDAC) is a Louisiana-based coalition of disaster responders, emergency management officials, and disability and senior advocates. Jeanne Abadie is EMDAC's lead facilitator.

On June 29, 2017, Ms. Abadie along with other EMDAC Coalition members presented at the RESNA conference on the importance of assistive technology in response to disasters. In addition, we discussed how to assist survivors who lose life sustaining durable medical equipment during a disaster.

On August 3, 2017, EMDAC sponsored a tabletop exercise that included emergency managers and people with disabilities to play out a scenario of an approaching disaster with participants determining how they would react based on their own response plan. The desired outcome is to have emergency managers better prepared to respond to people with disabilities and people with disabilities better prepared to respond on their own.

(3) Other Emergency Management activities

- Advocacy Center staff participated in the New Orleans Hurricane evacuation exercise and provided feedback as to how to improve response to people with disabilities.
- AC has been assisting disability advocates in other states shape their emergency response programs. At the request of FEMA, Ms. Abadie participated in a conference call with the North Carolina P & A staff to discuss the Louisiana P & A's role in responding to disasters, and participated in a call with disability advocates in Arkansas who are interested in developing a coalition similar to EMDAC.
- Advocacy Center staff met (via phone) with MIT staff who are working to redesign post-disaster housing. Information was being requested on how post-disaster housing can better respond to the needs of people with disabilities.

2. Public Comment

The Advocacy Center has provided written comment on a number of federal, state, or local regulatory initiatives. These have included:

- Comment to the Centers for Medicare and Medicaid Systems (CMS) regarding the proposed removal from its regulations certain grievance procedure requirements and reporting requirements applicable to nursing homes. The Advocacy Center opposed the changes to the regulations.

- Comment to CMS regarding its notice of intent to modify regulations concerning forced arbitration in nursing home contracts. Currently, nursing homes are prohibited from forcing residents to agree to arbitration as a condition of residency. CMS proposes to change the regulations to allow nursing facilities to require its residents to seek redress in arbitration, rather than in court. AC opposes the proposed change.
- Comment in response to a request from the United States Department of Justice (DOJ) on whether certain portions of the federal regulations place too large a burden on individuals and businesses. The regulations implementing the Americans with Disabilities Act were among those identified by the DOJ for comment; AC submitted written comments expressing our strong support for maintaining the regulations that implement the ADA.
- Comment to the Administration on Intellectual and Developmental Disability regarding its proposed merger of and funding cuts to state DD Councils, Supported Independent Living Councils, and TBI Advisory Committees. Advocacy Center submitted comments opposing the merger of these agencies and proposed funding cuts.
- Comment to the Louisiana Bureau of Health Services Financing regarding a proposed requirement that waiver service providers report to Medicaid if they believe their clients are no longer eligible for Medicaid or the services being provided. AC opposed this regulation.
- Comment to the City of New Orleans regarding its Consolidated Plan, which details the way the City intends to spend its federal Community Development Block Grant and HOME funds. AC provided comment on various ways we believed the plan could be improved to meet the needs of people with disabilities in New Orleans.

3. Housing Assistance Plus and Aging in Place Programs

The Housing Assistance Plus Program (HAPP) matches low-income homeowners in New Orleans with disabilities with a City-funded home modification program. HAPP staff additionally provide affordable housing referrals to individuals in need of low-income rental housing. From April through June, HAPP provided referrals to affordable, accessible housing to 84 individuals; conducted home modification intakes, including meeting with the potential client in order to assess the accessibility needs of the resident, for 15 clients; provided follow-up case management for 8 clients; and saw 14 home modification projects reach completion.

In July and August, the HAPP staff provided 43 affordable, accessible housing referrals; conducted 10 intake visits with residents; provided follow-up case management to 6 clients; and saw 3 home modification projects reach completion.

A similar program, called Aging in Place, will begin later this month. Under this program, eligible seniors in New Orleans will be able to obtain modifications to their homes.

4. Chisholm v. Gee

The Advocacy Center originally filed this case in 1997. This case specifically addresses the failure of Louisiana's Medicaid system to provide necessary services to children from 3-21 who have developmental disabilities who are on a waiting list for services. On January 4,

2017, LDH filed a motion to vacate the 2014 stipulation, to which we filed an objection. On August 30, 2017, the court denied LDH's motion to vacate, citing the delays in service caused by low reimbursement rates.

5. Advocacy Center v. LeBlanc

In July, the Advocacy Center & the Macarthur Justice Center filed suit to enforce the Advocacy Center's use of its access authority to investigate claims of abuse and neglect of inmates with disabilities at David Wade Correctional Center. Among the allegations AC received were reports that inmates had been kicked, punched, sprayed with mace, deprived of clothing in winter, and made to kneel and bark like dogs for their food. Prison officials refused to allow AC attorneys to investigate these claims; AC filed suit to gain access to the facility, and the suit settled shortly thereafter.

6. Interdiction Study.

AC staff members have been involved in a number of cases defending clients again unnecessary interdictions. Due to the number of intakes on this subject, AC has formed a working group to ensure that our clients are provided with adequate and appropriate procedural protections and less restrictive alternatives to interdiction. The group aims to develop policy proposals we can press at the state level on issues such as greater procedural protections and moving to a supportive decision-making model. To assist in these efforts, the group is in the processing of assembling data on the extent to which interdiction is utilized. The group has sent public records requests to the clerks of courts in 64 parishes and the results are being analyzed. We are also sending record requests to the registrar of voters in these parishes.

7. Success stories

- We successfully represented a teenager with autism at the administrative appeal for a denial of her ABA services. By showing the Department's incorrect reading of applicable regulations and the child's need for services, the denial was overturned.
- As a result of our intervention, Evangeline Parish stopped its practice of unilaterally dismissing all special education students from class 10 minutes early, a systemic practice robbing students of large amounts of instructional time over the course of an academic year.
- As a result of a state complaint, Tangipahoa Parish removed their illegal restraint policy both in writing and practice.
- As a result of our intervention 3 siblings with disabilities who were being denied enrollment do to a lack of an adult with custody were admitted to school under McKinney Vento Act.