

Protection & Advocacy for Persons with Developmental Disabilities

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2010 Statement of Goals and Priorities

October 1, 2009 through September 30, 2010

Approved by the Board of Directors on March 19, 2010

The Missouri Protection and Advocacy Services (Mo P&A) Board of Directors is proposing to conduct the Protection and Advocacy for Individuals with Developmental Disabilities (PADD) program activities in fiscal year 2010 according to the priorities and objectives established in this document. These priorities will govern both individual case representation and systemic projects as indicated within each priority area.

The PADD priorities outlined on the pages that follow reflect our best understanding of the overall goals as expressed by consumers, their families, professionals in the field of developmental disabilities, and others in Missouri's developmental disability community.

The role of Mo P&A is necessarily limited by its resources. Funding for the PADD program is derived from a funding formula established in federal law. The objectives, case acceptance criteria and potential intervention strategies listed in each priority define what Mo P&A Board of Directors believe can reasonably be achieved during the course of the forthcoming one-year period.

Mo P&A will open a case when an eligible client has a problem that meets one of the priorities in which individual case representation is included as an objective. The range of services available within the agency to leverage toward a specific outcome is subject to any limitations that may be stated in the case acceptance criteria, after considering: 1) the wishes of the client, 2) the merits of the case, 3) any limitations on interventions noted in the sections titled *Acceptance for Individual Representation Criteria* or *Potential Interventions in Individual Representation* under each priority, 4) the availability of other services to which the client may be entitled, or that are readily available, and might appropriately be utilized to address the individual's problem, and 5) funding and personnel available within the program.

Requests for legal representation in a court of law are referred to the Litigation Review Committee. Litigation will be pursued after exhaustion of all administrative remedies, if such remedies might adequately resolve the individual's complaint within a reasonable time.

Individual Assistance & Legal Representation Limitations

Mo P&A does not duplicate advocacy or legal services already provided or available to clients or potential clients of this agency.

Attorneys for Mo P&A do not represent individuals with disabilities in criminal cases or divorce proceedings. Individuals accused of a crime have a right to representation in a court of law. Therefore, if an individual cannot afford an attorney, the court will appoint a public defender or private attorney (pro bono) to represent them.

Priority #1 - Special Education

Children with developmental disabilities will not be excluded from school or inappropriately placed in non-integrated education placements, thereby enabling children with developmental disabilities to access the full range of educational services and experiences available to children without developmental disabilities.

Objectives:

1. Inclusion & Inappropriate Discipline: Mo P&A will provide advocacy and legal representation (where necessary) for one hundred twenty-five (125) complaints where students with developmental disabilities need assistance with the planning, development and/or implementation of an Individualized Education Program (IEP) which provides appropriate services in an inclusive environment, and fifteen (15) complaints where students are subjected to inappropriate discipline, suspension, or expulsion because of their disabilities.

Acceptance for Individual Representation Criteria:

1. Mo P&A will accept cases in which a child with a developmental disability has been excluded from school or inappropriately placed in non-integrated placements.
2. Mo P&A will not provide advocacy or representation in cases involving failure to implement an existing IEP unless the failure to implement an IEP is so egregious as to cause serious harm to the educational development of an eligible child or the issues in the case are of such merit that to prevail in such a case would significantly change Missouri's system of delivering educational services.
3. In instances of disciplinary exclusion from school, Mo P&A will not provide advocacy or representation to children who have committed an act of violence resulting in serious injury or death to another person.
4. Mo P&A will not provide representation in criminal or juvenile court proceedings, even though exclusion from school or placement in a non-integrated setting may result therefrom.
5. Mo P&A will not provide advocacy or representation in any case where the desired remedy includes placement in a more restrictive setting.

Potential Interventions in Individual Representation

Mo P&A will engage in investigations, negotiation, resolution conferences, IEP meetings, administrative hearings, and other litigation activity. Mo P&A will represent a client if necessary to achieve appropriate integrated placement.

Priority #2 - Abuse and Neglect

Individuals with a developmental disability will not be subject to abuse or neglect by parents, provider staff, patients or guardians.

Objectives:

1. Investigations: Mo P&A will conduct an Imminent Danger Investigation for every allegation of abuse and/or neglect of an individual with a developmental disability where there is a potential for loss of life or serious bodily or mental harm, a primary/secondary investigation for fifty (50) allegations of abuse and/or neglect, and a primary/secondary Death Investigation for

every report of death where there is an allegation of abuse and/or neglect. Mo P&A will provide advocacy and legal representation (where necessary) in order to seek remedies from administrative agencies, prosecuting agencies and courts when allegations of abuse and/or neglect have been substantiated.

Acceptance for Individual Representation Criteria:

1. Mo P&A will accept all cases alleging abuse in, but not limited to, schools, private and public hospitals, correctional facilities, private residential settings, and community residential care and treatment placements, et cetera.

Potential Interventions in Individual Representation

If a client seeks an investigation that should appropriately be performed by a licensing agency, then a supervised referral will be made. This could be either the exclusive intervention or an intervention undertaken in conjunction with other services, depending upon what relief the client seeks. Other interventions that Mo P&A will explore are: grievances, licensing complaints, and litigation.

Where Mo P&A is not in a position to conduct a full investigation due to a conflict of interest (for example, a case involving two Mo P&A clients alleging client-to-client abuse against each other), Mo P&A will make referrals and conduct such an investigation as is possible with respect to issues that do not necessitate investigation into the records or roles of the clients.

Priority #3 - Social Security

Individuals with a developmental disability need assistance in gaining access to those benefits for which they are eligible under the Social Security Act.

Objectives:

1. Hearings and Appeals: Mo P&A will: 1) conduct a comprehensive Social Security case evaluation using a standardized survey instrument for ten (10) individuals who have been denied appropriate benefits under the Social Security Act; and 2) provide technical assistance and/or representation before the Office of Disability Adjudication and Review to five (5) consumers when an evaluation has determined that there is merit to the client's appeal of a loss or reduction in benefits, and five (5) consumers appealing Social Security overpayment determinations.

Acceptance for Individual Representation Criteria

1. Mo P&A will accept a limited number of cases in which a person with a disability has been denied benefits under the Social Security Act, or has not been provided an appropriate level of benefits under the Act.

Potential Interventions in Individual Representation

Technical assistance and/or legal representation before the Office of Disability Adjudication and Review and appeals therefrom as appropriate.

Priority #4 - Denial of Services Appeals

Individual with developmental disabilities who are recipients of services through Medicaid, need the services of a Personal Care Attendant, and/or need services from a Department of Mental Health Regional Center in order to remain in the community should not be denied needed and appropriate services.

Objectives:

1. Eligibility & Services: Where individuals with developmental disabilities need assistance to appeal denied eligibility or needed services that enable the client to be included in the community, Mo P&A will provide advocacy assistance for five (5) Medicaid-related complaints, five (5) denial of appropriate personal care attendant services complaints, and five (5) Division of Developmental Disabilities denial of eligibility or appropriate services complaints.

Potential Interventions in Individual Representation

Mo P&A will undertake investigation, education, negotiation, mediation, assistance at hearings, and/or litigation on behalf of individuals and/or classes of persons with disabilities who have been denied appropriate services.

Priority #5 - I&R Services

Individuals with a developmental disability need information, referral and assistance to gain access to the full range of benefits, services and experiences which foster active consumer participation and self-advocacy that afford real choices in independence, productivity, integration, and inclusion.

Objective:

1. Information, Referral, and Assistance: Mo P&A will provide information, referral, and assistance services to at least two hundred seventy-five (275) callers and assist them in developing self-advocacy skills.

Acceptance for Individual Representation Criteria

This priority does not entail direct representation of individuals and constitutes less than one hour of assistance per person.

Priority #6 - Systemic Initiatives

Initiatives that foster active consumer participation and self-advocacy in the design of the service delivery system wherein consumers are afforded real choices in independence, productivity, integration, and inclusion shall be supported.

Objectives:

1. Service System Monitoring: Mo P&A will monitor changes to, and implementation of, the state service delivery provisions and Medicaid to determine the impact on persons with a developmental disability (i.e., the elimination of large congregate care facilities, waiting lists, order of selection criteria, spenddown requirements, durable medical equipment provisions, exclusions and restrictions, et cetera), and collaborate with Missouri's DD Network partners to help facilitate the implementation of L.C. v. Olmstead in Missouri.
2. The Guardianship Project : Mo P&A will collaborate with the University of Missouri at Kansas City, Institute on Human Development, People First of Missouri, and the Missouri Planning Council on Developmental Disabilities to demonstrate how consumers can be their own guardian or be provided the opportunity to make personal decisions in their life through a limited guardianship.

Acceptance for Individual Representation Criteria

This priority may involve legal representation of individuals or groups.

Public Comment

You are encouraged to provide public comment regarding the PADD Statement of Goals and Priorities (SGP) by calling 1-866-777-7199, faxing comments to 573-893-4231, or mailing written comments to:

Missouri Protection & Advocacy Services
ATTN: PADD SGP Public Comment
925 South Country Club Drive
Jefferson City, Missouri 65109

100% of the funding for the PADD program is provided through an annual formula grant award from the U.S. Department of Health and Human Services, Administration on Developmental Disabilities.