

# Protection & Advocacy of Individual Rights

C:\DATA\WP60\SOP\2012\PAIR 2012 Flyer Oct 1, 2011.wpd

## 2012 Statement of Priorities and Objectives

October 1, 2011 through September 30, 2012

Approved by the Board of Directors on September 30, 2011

Missouri Protection and Advocacy Services (Mo P&A) will conduct its activities in the Protection and Advocacy of Individual Rights (PAIR) program in fiscal year 2012 according to the priorities and objectives as established in this document. These priorities will govern both individual case representation and systemic projects as indicated within each priority area.

The PAIR priorities outlined on the pages that follow reflect our best understanding of the overall goals as expressed by consumers, their families, professionals in disability related fields, and others in Missouri's disability community. It is the mission of Missouri Protection and Advocacy Services working through the PAIR program to ultimately achieve these goals in conjunction with consumers, their families and the disability community at large.

The role of Missouri Protection and Advocacy Services is necessarily limited by its resources. Funding for the PAIR 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 Missouri Protection and Advocacy Services' Board of Directors believe can reasonably be achieved during the course of the forthcoming one-year period in furtherance of the overall goals stated here as "priorities."

When an eligible client has a problem that meets one of the priorities in which individual case representation is included as an objective, Missouri Protection and Advocacy Services will open the case. The range of services available within the agency to achieve 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 below, 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.

It is the policy of Mo P&A to use the lowest possible level of intervention to resolve an issue. This includes exhausting all administrative remedies.

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

Regardless of any change in priorities from one year to the next year, Mo P&A will continue to deliver agreed upon advocacy and legal services to all open cases until resolution of the issues.

### 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 - Violation of Rights**

Individuals with disabilities should not have their rights violated. This includes financial exploitation, inappropriate institutionalization, et cetera.

#### **Objectives:**

1. Violation of Rights: Mo P&A will provide advocacy or legal representation (where necessary) for twenty-five (25) allegations of disability-related violations of rights, where probable cause exists to believe that a violation has occurred and a remedy is available. The focus areas will include inappropriate placement in more restrictive settings and violations of rights of a ward by a guardian.

#### Potential Interventions in Individual Representation

P&A will undertake, education, negotiation, mediation, and/or litigation on behalf of individuals and/or classes of persons with disabilities whose rights under federal, state and local laws have been violated.

### **Priority #2 - Education**

Children with disabilities will not be subject to exclusion from school or inappropriate placement in non-integrated educational placements.

#### **Objectives:**

1. Inclusion & Free Appropriate Public Education: Mo P&A will provide advocacy and legal representation (where necessary) to at least: 1) thirty (30) children with disabilities who have been excluded from school or are inappropriately placed in non-integrated educational placements, and 2) thirty (30) students whose right to a free, appropriate public education (FAPE) is limited by either violations of procedural safeguards, or other related services.

#### Acceptance for Individual Representation Criteria

1. P&A will accept cases where the potential for creating a beneficial, state-wide change is greatest. Potential cases will be reviewed for systems impact and the potential for achieving a positive change.
2. In instances of disciplinary exclusion from school, P&A will not provide advocacy or legal representation to children with disabilities who have committed an act of violence resulting in serious injury or death to another person.
3. P&A will not provide advocacy or legal representation in any case where the desired remedy includes placement in a more restrictive educational setting.
4. Mo P&A will develop a pilot project regarding education, which will include the provision of training, outreach, and services.

#### Potential Interventions in Individual Representation

P&A will provide negotiation, mediation, assistance at IEP meetings, resolution conferences, Due Process Hearings, and litigation in a court of law as necessary.

**Priority #3 - Social Security**

Some persons with a disability need assistance in gaining access to 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 at least twenty-five (25) 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 at least twenty-five (25) consumers when an evaluation has determined that there is merit to the client's appeal of a loss or reduction in benefits, or 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.
2. Mo P&A will provide Information and Referral services or advocacy, but not representation, in cases that have yet to reach the Office of Disability Adjudication and Review level.

Potential Interventions in Individual Representation

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

**Priority #4 - Denial of Services Appeals**

Individuals with disabilities who are recipients of services through Medicaid and/or need the services of a Personal Care Attendant in order to remain in the community should not be denied needed and appropriate services.

**Objectives:**

1. Eligibility & Services: Where individuals with 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 fifteen (15) Medicaid-related complaints or denial of appropriate personal care attendant services complaints.

Potential Interventions in Individual Representation

Mo P&A will provide advocacy and/or litigation on behalf of individuals and/or classes of persons with disabilities who have been denied appropriate services.

**Priority #5 - ADA Accommodations & Access**

Persons with disabilities will enjoy full and free access through reasonable accommodations, pursuant to Titles II and III of the ADA.

**Objective:**

1. Appropriate Accommodations: Mo P&A will investigate and provide advocacy and/or legal representation for at least twenty (20) individuals with a medically documented physical disability where there is a failure to provide the appropriate accommodations for the individual's disability.

Acceptance for Individual Representation Criteria

Mo P&A will only represent individuals who have a medically documented physical disability where there is a refusal to provide the appropriate accommodations for the individual's disability.

Potential Interventions in Individual Representation

Mo P&A will provide advocacy and/or litigation on behalf of individuals and/or classes of persons with disabilities whose legal rights have been abridged by the failure to provide reasonable accommodations pursuant to Titles II and III of the Americans with Disabilities Act.

**Priority #6 - Systemic Initiatives**

Participation in and monitoring system change activities affects the services provided to and the lives of people with a disability.

**Objectives:**

1. Service System Monitoring: Mo P&A will: 1) monitor changes to, and implementation of, the state service delivery provisions and Medicaid to determine the impact on persons with a disability (i.e., spend down requirements, durable medical equipment provisions, etc.), and 2) collaborate with other stakeholder groups in efforts to ensure the State of Missouri follows the 1999 U.S. Supreme Court decision in *L.C. v. Olmstead* and implements a comprehensive plan to move individuals capable of living in the community from institutions to the community at a reasonable pace and provides sufficient support to enable them to remain in the community.
2. Deaf Mental Health Services: Mo P&A will collaborate with attorneys in private practice and consumer advocates within the deaf community to ensure that deaf consumers diagnosed with mental illness (*non-PAIMI eligible*) have access to appropriate mental health treatment and care.

Acceptance for Individual Representation Criteria

This priority may entail representation of individuals or groups.

**Public Comment**

Please provide public comment regarding the PAIR Statement of Priorities and Objectives by calling 1-866-777-7199, faxing comments to 573-893-4231, or mailing written comments to:

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

100% of the funding for the PAIR program is provided through an annual formula grant award from the U.S. Department of Education, Rehabilitation Services Administration.