



STATEMENT OF ADVOCACY SERVICES 2011

Maryland Disability Law Center (MDLC) works to create a just and inclusive society by advancing and defending the legal and human rights of people with disabilities. We help people with disabilities pursue opportunities to participate fully in all aspects of community life, and champion their rights to self-determination, dignity, equality, choice and freedom from harm.

In determining its focus for its advocacy work, MDLC solicits the ideas and opinions of people with disabilities, family members, MDLC staff and board members, other advocates and members of the disability community, and many other stakeholders about the matters that are most essential for a legal organization with limited resources to address.

Based on this community input, the following is a list of advocacy services that will take precedence in the allocation of MDLC's resources. The decision to accept an individual case for representation is informed by these issues, but also by MDLC's commitment to affecting broad-based, systemic change and doing so within our resource limitations.

CHILDREN'S MENTAL HEALTH

Children diagnosed with a psychiatric disorder must have access, as needed and desired, to an array of high quality community-based mental health services. The legal rights of those children who are in psychiatric residential treatment centers and hospitals must be safeguarded.

Advocacy Services

- Represent children involved with the Department of Juvenile Services (DJS) to ensure access to appropriate mental health services under Medicaid and other state and federal laws.
- Expand knowledge about and access to community-based mental health services for children available under Medicaid and other programs, especially children in foster care and children involved with the Department of Juvenile Services.
- Advocate to ensure compliance by psychiatric residential treatment centers (RTCs) with the rights of residents by providing outreach and education to residents and technical assistance to residents and families about filing complaints.

- Advocate for and represent children and young adults (transition age youth) in Maryland psychiatric residential treatment centers to ensure they will be discharged to appropriate community-based services in a timely manner consistent with federal law.
- Provide technical assistance and advocacy to ensure that the state Department of Human Resources and local departments of social services implement the statutory Voluntary Placement Agreement Program to reduce the incidence of families being forced to relinquish custody of their children with mental illness in order to obtain services.

ADULT MENTAL HEALTH

Persons with a psychiatric disability must have access, as needed and desired, to safe and affordable housing, high-quality community-based services that are recovery oriented and self-directed, and alternatives to emergency departments and in-patient acute or crisis care. Psychiatric hospitals must provide trauma sensitive environments that are free from harm, coercion and force.

Advocacy Services

- Advocate for all psychiatric hospitals and community programs to provide services and environments that are sensitive and responsive to histories of trauma so that individuals receive the necessary support for long-term recovery in the community.
- Advocate for the elimination of restraint and seclusion and all other coercive practices.
- Protect individuals in psychiatric facilities from abuse and neglect through monitoring and investigating individual cases, and promote self-advocacy through rights presentations to mental health consumers and patients.
- Advocate to enforce the rights of person diagnosed with a psychiatric disorder to live in the community and receive appropriate supports and services to move toward independence and recovery, as set forth by the U.S. Supreme Court in the case of *Olmstead v. L.C.*
- Defend the right of persons with psychiatric disabilities to self-directed care and to be free from involuntary treatment.
- Advocate that persons found incompetent to stand trial due to a mental disorder receive community-based treatment to attempt to restore competency, and that those committed to a state facility are not confined beyond a reasonable period.

DEVELOPMENTAL DISABILITIES

Individuals with developmental disabilities must have access, as needed and desired, to high quality services in the community. Whether living in the community or institutions, all individuals with developmental disabilities must be free from abuse and neglect, with appropriate safeguards to ensure their legal and civil rights.

Advocacy Services

- Monitor and investigate targeted complaints and provide individual advocacy to enforce rights, especially in cases involving serious abuse or neglect, isolation, inadequate behavior support services, use of restraints, and rights restrictions.
- Promote transparency in Maryland's procedures for accessing Medicaid home- and community-based services waivers for people with developmental disabilities.
- Conduct rights trainings for people with developmental disabilities.
- Promote integration and inclusion by assisting individuals with developmental disabilities to leave institutions and rejoin the community.
- Monitor and report on conditions at state institutions for people with developmental disabilities.
- Collaborate with other advocates to address the waiting list for services from the Developmental Disabilities Administration.
- Educate individuals about Medicaid services and provide representation in select cases that may provide an opportunity to change law or policy to make the Medicaid program more responsive to the needs of people with disabilities and/or assist the person to live in an integrated setting.

ASSISTIVE TECHNOLOGY

Technology can help people with disabilities improve their independence and communicate with others. Communication is essential for health, education, work, safety, social connections, and self-reliance.

Advocacy Services

- Represent and educate individuals who need augmentative communication devices so they can express their choices and needs and fully participate in all aspects of community life.
- Represent youth who need augmentative communication devices as they transition to adult services, by helping them obtain devices while still in school and/or assisting them to obtain a device through Medical Assistance.
- Advocate for improved Medical Assistance procedures for obtaining augmentative communication devices.
- Identify barriers to obtaining communication devices under Medical Assistance and advocate for compliance with federal and state law.

EDUCATION

Children and youth with disabilities must receive a free and appropriate public education in compliance with state and federal special education laws. Families of children and youth with disabilities must have access to knowledge and resources to exercise their rights under these laws. Implementation of these

principles is guided by MDLC's focus on individual and family empowerment, systemic change through individual case representation, class representation, and systemic legal advocacy.

Advocacy Services

- Monitor implementation of the settlement agreement in *Vaughn G. v. Mayor and City Council of Baltimore, et al.*, targeting the reform of special education services in the Baltimore City Public Schools (BCPS). MDLC will provide individual representation to a limited number of students whose cases relate to inclusion, discipline, school completion and graduation, and other areas addressed by the agreement.
- Monitor the Maryland State Department of Education's (MSDE's) exercise of its general supervisory authority to ensure that public agencies comply with state and federal special education laws.
- Protect the rights of students with disabilities who are subjected to inappropriate discipline by school personnel, including suspension, expulsion, restraint and seclusion.
- Eliminate systemic barriers that prevent students with disabilities from being educated in the least restrictive environment as required by federal and state special education laws.
- Advocate to ensure that the number of students with disabilities who remain on the diploma track by not being inappropriately diverted to the Alternate Maryland School Assessment increases, and that the number of students with disabilities who ultimately obtain high school diplomas also increases.
- Advocate to assure that students with traumatic brain injury are properly identified and receive appropriate special education services.
- Eliminate systemic barriers that impact school attendance for students with disabilities in Baltimore City Public Schools.
- Advocate for appropriate special education services for students with disabilities at risk of significant involvement with the Department of Juvenile Services (DJS) and obtain appropriate services for students already involved with DJS.
- Expand MDLC's *pro bono* referral program for indigent families needing access to representation by trained attorneys in special education cases to ensure that children's education rights are protected.
- Provide training and disseminate information on special education rights and advocacy skills to families, advocates and professionals so they can effectively advocate for appropriate special education and related services.

ACCESS TO COMMUNITY-BASED SERVICES FOR PEOPLE IN NURSING FACILITIES

Nursing facility residents must be provided effective information about their options for living in the community and have access to appropriate Medicaid

waivers and other programs designed to facilitate their movement to high quality community-based services.

Advocacy Services

- Enforce the right of Medicaid recipients in nursing facilities to live in the community with adequate supports, as set forth by the U.S. Supreme Court in the case of *Olmstead v. L.C.*
- Monitor implementation of the Medicaid home- and community-based waivers and the Money Follows the Person federal grant administered by the state Department of Health and Mental Hygiene (DHMH).
- Advocate for policies to expand community options and ensure access to appropriate services for nursing facility residents.
- Collaborate with independent living centers and other advocates to facilitate integration of nursing facility residents into community life.
- Advocate for improvements in Maryland's Pre-Admission Screening and Resident Review (PASRR) process for people with disabilities to avoid unnecessary stays and shorten lengths of stay in nursing facilities.

ACCESS TO COMMUNITY-BASED SERVICES FOR PEOPLE WITH TRAUMATIC BRAIN INJURY (TBI)

Individuals with traumatic brain injury (TBI) must have access, as needed and desired, to high quality, community-based services to avoid unnecessary and harmful institutionalization.

Advocacy Services

- Advocate for people with TBI to be diverted from state psychiatric facilities and transitioned from nursing facilities into appropriate community settings through outreach, training and select individual case representation.
- Advocate to ensure that students with traumatic brain injury are properly identified and receive appropriate special education services.

PROTECTION OF CIVIL RIGHTS IN PUBLIC PROGRAMS

Discrimination that impedes the opportunities of persons with disabilities to be included in our communities must be challenged. MDLC's work includes expanding access to affordable and accessible housing, public transportation, and participation in school athletic programs.

Advocacy Services

- Monitor implementation of the federal court consent decree in *Bailey et al. v. Housing Authority of Baltimore City, et al.*, a lawsuit alleging that the housing authority discriminated against people with disabilities by refusing to allow them to live in certain housing, make public housing accessible, or provide reasonable accommodations. As resources allow, MDLC will provide representation in individual cases relating to alleged discrimination

in housing programs operated or administered by the Housing Authority of Baltimore City.

- Represent Class Representatives from *Smith, et al. v. Flanagan, et al.*, a class action lawsuit alleging that the State discriminated against people with disabilities by operating an inferior public transit (paratransit) service. MDLC will work with Class Representatives to monitor remedies, including: on time performance; reduced missed trips and no-shows; enhanced phone service; door to door service; use of multiple service contractors; enhanced scheduling; and increased runs, vehicles and staff.
- Advocate to increase opportunities for students with disabilities to participate in school-based athletic activities. Support school based efforts to meet the requirements of the Fitness and Athletic Equality Act for Students with Disabilities by sharing information and resources, and facilitating technical assistance.

ADVOCACY ON BEHALF OF BENEFICIARIES OF SOCIAL SECURITY

Recipients of Social Security Administration (SSA) benefits must be aware of work incentives available to them under current law, in particular, expanded benefits available under the Ticket to Work and Work Incentives Improvement Act of 1999. SSA beneficiaries should have access to appropriate services and assistance, including access to reliable public transportation, transition planning from school to work, and continuing Medicaid/Medicare services to support them in meeting employment goals.

Advocacy Services

- Provide individual consultation and legal representation to individual beneficiaries related to SSA benefits and return to work issues, within the limits and restrictions of SSA grant funding.
- Monitor the implementation of Maryland's Medicaid Buy-in program in conjunction with the Work Incentives Improvement Coalition, and provide representation to a limited number of beneficiaries denied enrollment in the Buy-in program.
- Participate in coalition-based outreach and education to SSI and SSDI beneficiaries related to work incentives, including Maryland's Medicaid Buy-in program.
- Investigate agencies which function as both the employer and representative payee for beneficiaries, as directed by SSA.

VOTING RIGHTS

Individuals with disabilities who are of voting age must have the opportunity to participate fully in the voting process, including being able to register and to vote privately and independently.

Advocacy Services

- Provide voter education, registration and advocacy to encourage the full participation of people with disabilities in the electoral process.
- Advocate to increase the access of voters with disabilities to the electoral process and polling places, including accessible voting systems.
- Work with the State and local boards of elections to assist them in meeting the disability-related requirements of the Help America Vote Act and other relevant laws.
- Provide individual and systemic advocacy to protect the rights of voters with disabilities.

MEDICAID

Maryland's Medical Assistance (MA) program must be structured to enable people with disabilities to live in the most integrated, least restrictive settings. MDLC will oppose service restrictions that interfere with this goal. People with disabilities and their chosen advocates must have meaningful participation in and access to a client-centered, equitable MA program designed to enable people with disabilities to live productive, fulfilling lives.

Advocacy Services

- Advocate for a Medicaid system that mandates involvement of true consumer stakeholders and their advocates prior to submission of any changes to the State Plan Amendments and applications for Medicaid waivers.
- Advocate with DHMH and other Administration officials to seek funding and other opportunities leading to self-determination, community integration and independence for people with disabilities.
- Educate individuals about Medicaid services and provide representation in select cases that may provide an opportunity to change law or policy to make the Medicaid program more responsive to the needs of people with disabilities and/or assist the person to live in an integrated setting.

PUBLIC POLICY

To the extent permitted under federal law and by funding sources, MDLC engages in public policy advocacy primarily at the state level on issues affecting people with disabilities. These issues include expanded public financial support for programs serving people with disabilities, initiatives to expand community-based services and to facilitate the movement of people with disabilities out of institutional settings, and support for state-wide advocacy on a cross-disability basis, as well as other issues as described above.