

PAIR FY 14 PPR

RSA-509 - Protection & Advocacy of Individual Rights (PAIR) Program Performance Report

Virginia (disAbility Law Center of Virginia) - H240A110047

General Information

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Name of PAIR Director/Coordinator	Colleen Miller, Esq.
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Part I. Non-Case Services

A. Individual Information and Referral Services (I&R)

Multiple responses are not permitted.

1. Individuals receiving I&R within PAIR priority areas 205
2. Individuals receiving I&R outside PAIR priority areas 379
3. Total individuals receiving I&R (lines A1 + A2) 584

B. Training Activities

1. Number of trainings presented by PAIR staff 45
2. Number of individuals who attended training (approximate) 2,234

C. Information Disseminated to the Public

1. Radio and TV appearances by PAIR staff 1
2. Newspaper/magazine/journal articles 0
3. PSAs/videos aired 0
4. Hits on the PAIR/P&A website 71,480
5. Publications/booklets/brochures disseminated 2,576
6. Other (specify separately)

Describe the trainings presented by PAIR staff. Be sure to include information about the topics covered, the training methods used, and the purpose for the training. Use separate sheets if necessary.

Part II. Individuals Served

A. Individuals Served

Count individual once per FY. Multiple counts not permitted for lines A1 through A3.

1. Individuals still served as of October 1 (carryover from prior FY) 20
2. Additional individuals served during the year 149
3. Total individuals served (lines A1 + A2) 169
4. Individuals w. more than 1 case opened/closed during the FY. (Do not add this number to total on line A3 above.) 8

B. Individuals served as of September 30 32

Carryover to next FY may not exceed total on line II. A.3 above

C. Problem Areas/Complaints of Individuals Served

1. Architectural accessibility 26
2. Employment 24
3. Program access 5
4. Housing
5. Government benefits/services 49
6. Transportation 2
7. Education 33
8. Assistive technology
9. Voting
10. Health care 15
11. Insurance
12. Non-government services 13
13. Privacy rights
14. Access to records
15. Abuse 3
16. Neglect 3
17. Other 8

D. Reasons for Closing Individual Case Files

1. Issues resolved partially or completely in individual favor 130
2. Other representation found 1
3. Individual withdrew complaint 4
4. Appeals unsuccessful 1
5. PAIR Services not needed due to individual's death, relocation etc. 1
6. PAIR withdrew from case 4
7. PAIR unable to take case because of lack of resources

- 8. Individual case lacks legal merit 7
- 9. Other (please explain) 10

E. Intervention Strategies Used in Serving Individuals

List the highest level of intervention used by PAIR prior to closing each case file.

- 1. Technical assistance in self-advocacy 20
- 2. Short-term assistance 104
- 3. Investigation/monitoring 6
- 4. Negotiation 13
- 5. Mediation/alternative dispute resolution 1
- 6. Administrative hearings 3
- 7. Litigation (including class actions) 1
- 8. Systemic/policy activities

Part III. Statistical Information on Individuals Served

A. Age of Individuals Served as of October 1

Multiple responses not permitted.

- 1. 0 – 4 1
- 2. 5 – 22 43
- 3. 23 – 59 92
- 4. 60 – 64 14
- 5. 65 and over 19

B. Gender of Individuals Served

Multiple responses not permitted.

- 1. Females 90
- 2. Males 79

C. Race/Ethnicity of Individuals Served

- 1. Hispanic/Latino of any race 3

For individuals who are non-Hispanic/Latino only

- 2. American Indian or Alaskan Native
- 3. Asian 1
- 4. Black or African American 54
- 5. Native Hawaiian or Other Pacific Islander
- 6. White 102
- 7. Two or more races 6
- 8. Race/ethnicity unknown 3

D. Living Arrangements of Individuals Served

Multiple responses not permitted.

- 1. Independent 103
- 2. Parental or other family home 50
- 3. Community residential home 4

- 4. Foster care 1
- 5. Nursing home 4
- 6. Public institutional living arrangement 3
- 7. Private institutional living arrangement
- 8. Jail/prison/detention center 1
- 9. Homeless 1
- 10. Other living arrangements 1
- 11. Living arrangements not known 1

E. Primary Disability of Individuals Served

Identify the individual's primary disability, namely the one directly related to the issues/complaints

- 1. Blind/visual impairment 4
- 2. Deaf/hard of hearing 21
- 3. Deaf-blind
- 4. Orthopedic impairment 33
- 5. Mental illness 38
- 6. Substance abuse
- 7. Mental retardation 5
- 8. Learning disability 15
- 9. Neurological impairment 19
- 10. Respiratory impairment 5
- 11. Heart/other circulatory impairment 3
- 12. Muscular/skeletal impairment 20
- 13. Speech impairment
- 14. AIDS/HIV
- 15. Traumatic brain injury 2
- 16. Other disability 4

Part IV. Systemic Activities and Litigation

A. Systemic Activities

- 1. Number of policies/practices changed as a result of non-litigation systemic activities 0
- 2. Number of individuals potentially impacted by policy changes 0

Describe your systemic activities. Be sure to include information about the policies that were changed and how these changes benefit individuals with disabilities. Include case examples of how your systemic activities impacted individuals served.

dLCV uses PAIR and other grant funding for individual services and systemic efforts improving conditions for people with disabilities. dLCV engaged in a number of non-litigation systemic activities in FY 14.

dLCV addressed the unregulated use of seclusion and restraint in Virginia's public schools, which disproportionately affects children with disabilities. dLCV provided representation to students with disabilities and performed detailed

research concerning seclusion and restraint policies and practices across Virginia schools. dLCV obtained policies, procedures and forms related to seclusion and restraint from 128 public school districts and released a report of its findings, "Unrestrained Danger: Seclusion and Restraint in Virginia Public Schools." The report urges the Commonwealth to a) implement consistent, evidence-based, and trauma-informed policies that focus on positive behavioral supports and b) limit restraint to situations that pose an immediate and significant risk of physical injury after less restrictive interventions fail. dLCV proposed a statewide prohibition on mechanical restraints and prone restraints, which can kill children. The report generated interest with the public and other advocacy groups. The Commission on Youth referenced dLCV's report in its report of seclusion and restraints in schools to be submitted to the Virginia General Assembly with its policy recommendations.

dLCV continues to work toward full compliance with the Americans with Disabilities Act and *Olmstead* by Virginia agencies and businesses. To identify barriers to integrated employment, dLCV used PAIR and other grant funding to survey sub-minimum wage certificate holders and sheltered workshops and analyzing data on working conditions, opportunities for advancement, and community integration. dLCV successfully surveyed nearly eighty percent of the identified employers, interviewing administrators and employees and reviewing the safety and accessibility of work areas. dLCV identified a number of issues common to the sheltered workshops, including a lack of training and support for individuals capable of integrated, non-exempt employment opportunities.

dLCV addressed architectural barrier issues at state and county operated agencies, including community service boards, courthouses, and registrar's offices. dLCV performed accessibility surveys, identified violations, and provided technical assistance, ultimately negotiating multiple accessibility improvements benefiting a total of 400 individuals.

dLCV assisted Sutton, an individual with mobility impairment living in an assisted living facility. Sutton could not independently enter or leave his home without staff assistance because of excessive door weight at the entrance to the building. Sutton needed to wait until someone else used the door and then follow them, compromising his safety and dignity. dLCV staff educated the provider regarding their legal obligations under the Fair Housing Act and the Americans with Disabilities Act, and referred the provider to the CIL, who was able to provide technical assistance. The provider cooperated with dLCV and fixed the door. Sutton can enter and exit his home with complete independence now and many

of the 124 residents of the nursing home with mobility impairments can do the same!

B. Litigation/Class Actions

1. Number of individuals potentially impacted by changes as a result of PAIR litigation/class action efforts: 3

2. Number of individuals named in class actions: 0

Describe your litigation/class action activities. Explain how individuals with disabilities benefited from your litigation activities. Be sure to include case examples that demonstrate the impact of your litigation.

dLCV requested an appeal of a Department of Medical Assistance Services (DMAS) decision on behalf of Beth. DMAS removed Beth's Elderly or Disabled with Consumer Direction (EDCD) Waiver. This left her without the services she needed to live safely in the community. dLCV filed an appeal in the local Circuit Court, and negotiated a settlement with the Attorney General's office. Beth's now has her EDCD Waiver, with no lapse in services.

We appealed the denial of Social Security Disability benefits to Dustin, who has a degenerative condition resulting in five hip surgeries since 2008. Dustin's benefits were denied due to the perceived lack of severity of his condition and his residual ability to do sedentary work. dLCV presented evidence that explained client's chronic pain and inability to ambulate or do sedentary work. The client received retroactive benefits of \$95,763.00 in SSDI, Medicare dating back to April 2011, and Supplemental Security Income in the amount of \$18,854.94, for a total of \$114,617.94, plus ongoing monthly payments in the future.

In FY 13 the Virginia Office for Protection and Advocacy (VOPA), dLCV's predecessor, filed a complaint in the Western District of Virginia US Court alleging accessibility violations of the ADA against Derrick, a young man trying to eat at a sub shop in Lynchburg, Va. Derrick uses a walker and could not access the building because of the steps at the entrance. After the owner refused to put a ramped entrance on the building or make his restrooms accessible, dLCV took the sub shop owner to federal court. dLCV prevailed and the court ordered the owner to make his sub shop accessible. In a subsequent ruling, the court also ordered attorneys' fees to dLCV, which allowed dLCV to set a standard establishing fees for future cases, and, in a first for dLCV, the agency was awarded fees for time spent by advocates and interns. The owner of the sub shop unexpectedly sold the business after the ruling and dLCV is working with the new owner to ensure the sub shop is accessible for Derrick and others in the community.

Part V. PAIR'S Priorities and Objectives

A. Priorities and Objectives for the Fiscal Year Covered by this Report

For each of your PAIR program priorities for the fiscal year covered by this report, please:

1. Identify and describe priority.
2. Identify the need, issue or barrier addressed by this priority.
3. Identify and describe indicators PAIR used to determine successful outcome of activities pursued under this priority.
4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration.
5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions.
6. Provide at least one case summary that demonstrates the impact of the priority.

Goal: Children with Disabilities Receive an Appropriate Education

Focus Area: Educational Services

Needs/Issues/Barriers Addressed: Based on public comment, experience, and the high volume of requests for services in this area, receiving appropriate educational services in order to participate in public education remains a high priority and area of concern for children with disabilities and their families.

Indicators for Success Include the Completion of the Following Objectives:

1. Increase self-advocacy by providing Short Term Assistance (STA) to all callers who complain that they were denied appropriate therapy or services in Individualized Education Programs (IEPs) or 504 Plans.
2. Represent children who have improperly been denied needed and appropriate therapy or services in their IEPs or 504 Plans.

Collaborative Efforts: None

Number of Cases Handled: 25

Case Summary for each indicator that demonstrates the impact of the priority:

1. dLCV taught self-advocacy skills for parents and students with disabilities, via short term assistance to parents and students with exceptional education reaching a total of twenty individual clients. Educational topics included eligibility for special education services, the elements of a free and appropriate public education, and procedural protections during school discipline proceedings. dLCV also provided information on the dispute resolution services and remedies available for children with disabilities.

Case example: Josie's parent explained her daughter was court-involved for truancy because of the school's failure to accommodate Josie's mental illness and long-term physical illness. dLCV provided the parent with information to request 504 accommodations to address Josie's need for equal access to education.

2. Case Example: dLCV worked with Clark and his mother to negotiate services in the least restrictive environment. Clark's mom asked the school district to evaluate him for special education services after he displayed prolonged deficits in reading, writing and adaptive skills. The district denied the request and failed to properly inform the parent of the procedural protections, consistent with the Individuals with Disabilities Education Act. Clark's mother asked for dLCV assistance to file a complaint with the Virginia Department of Education. A clinician then diagnosed Clark with a specific learning disability. dLCV drafted a complaint and the school proposed to implement intervention strategies in lieu of evaluation and special education services. The parent agreed and those intervention strategies, which targeted the child's learning disability, resulted in significant improvements in performance. Because the interventions successfully addressed the educational impact of the child's disability, dLCV and the parent agreed to rescind the request for evaluations. The parent obtained the objective of receiving appropriate supports for her child, and the child received services in the least restrictive environment.

Goal: Children with Disabilities Receive an Appropriate Education
Focus Area: Children who are Suspended

Needs/Issues/Barriers Addressed: Based on public comment, experience, and the level of calls and requests for services in this area, many children in Virginia face inadequate behavioral accommodations and services to accommodate their disabilities and avoid disciplinary action.

Indicators for Success Include the Completion of the Following Objectives:

1. Increase self advocacy by providing STA to all callers who complain that they or their children have been suspended or are at risk of a long-term suspension due to disability.

Collaborative Efforts: None

Number of Cases Handled: 5

Case Summary for each indicator that demonstrates the impact of the priority:

1. Five clients with exceptional education needs received short-term assistance under this objective.

Case Examples: The school district suspended Bill for 47 days, and the interventions proposed by the school failed. The district suspended Bill without properly considering the impact of his disability. dLCV reviewed Bill's education records, identified possible areas for advocacy, and provided his parent the information she needed to successfully advocate for appropriate behavioral supports to allow him to return to the classroom.

Rashard's grandparent needed help with his education. The district did develop an individualized education program (IEP) for him but then repeatedly suspended him without a manifestation determination and ultimately expelled him from the school district. dLCV provided the assistance the grandparent needed to advocate for her grandchild, including how to request assessments, to request mediation, to file a due process complaint, and to file a civil rights complaint

Goal: People with Disabilities Have Equal Access to Government Services

Focus Area: Access to State and Federal Government Services

Needs/Issues/Barriers Addressed: dLCV will seek local and systemic change to increase the quality of life for people with disabilities by removing barriers to ADA Title II services such as access to government buildings.

Indicators for Success Include the Completion of the Following Objectives:

1. Survey local government public benefit program locations and assess for Title II compliance, including online access and materials. Negotiate or seek resolution of identified access issues.
2. Represent individuals denied access to a government building or services due to architectural barriers, failure to provide reasonable accommodations, or denial of the use of a service animal.
3. Represent individuals with disabilities regarding the denial of Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits by the Social Security Administration at the appeal level. Preference will be given to individuals who have been denied representation by private counsel.
4. File a complaint with the United States Department of Justice related to the lack of physical access and the use of effective communication for passengers of Amtrak services in Virginia.
5. Monitor implementation of the settlement agreement in *Winborne v. Virginia Lottery*. Obtain corrective action as appropriate, including litigation against non-accessible

lottery retailers identified in Retailer Accessibility Program Reports obtained from the Virginia Lottery.

Collaborative Efforts: dLCV did receive information per a settlement agreement and, with the cooperation of that agency, will pursue additional remedies against Virginia Lottery retailers that refuse to comply with the ADA.

Number of Cases Handled: 30

Case Summary for each indicator that demonstrates the impact of the priority:

1. dLCV conducted surveys of seven local government program offices to address architectural barriers for people with disabilities. dLCV learned that individuals with mobility impairments found it difficult to access a number of state and county operated agencies, including community service boards, courthouses, and registrar's offices. dLCV performed accessibility surveys, identified violations, and provided technical assistance, ultimately negotiating multiple accessibility improvements and benefiting a total of 400 individuals. For example, at one community service board, dLCV found multiple issues and obtained significant corrective action, including a bathroom remodel, modified ramps, safer access from the parking area, door transitions, and an accessible picnic shelter.

2. Case Examples: Anne, the parent of a preschool child contacted dLCV because she could not access her child's school to participate in his education and attend parent-teacher conferences. Anne uses a wheelchair for mobility, and the child's preschool program was located in an inaccessible building. dLCV performed an accessibility survey at the school and demanded that the county either renovate the school or transfer the child to an accessible building. The county agreed to transfer the child to an accessible location after dLCV advised them of significant noncompliance with the American Disabilities Act architectural guidelines. The issue appeared to be resolved until Anne reported to dLCV that the school refused to transport the child to newly assigned school. dLCV further negotiated with the county to ensure transportation for the child. At the conclusion of the representation, Anne could fully participate in her child's education to the same degree as parents without disabilities.

Shannon contacted dLCV to discuss concerns with her Medicaid transportation. She experienced conditions that compromised her health and safety. dLCV staff assisted Shannon to identify which concerns constituted reasonable

accommodation denials under the Americans with Disabilities Act. dLCV developed an advocacy strategy which involved submitting a written complaint and request for accommodations to the transportation provider. dLCV facilitated a resolution between the client and the provider. This enables the client to successfully self-advocate in the future.

3. Case Example: DLCV assisted Dustin with a huge victory acquiring Social Security benefits of \$114,617.94, plus ongoing monthly payments. See Part 4. B. of this report.

Many individuals contact dLCV regarding Social Security denials but truly want the opportunity to work or retrain, so dLCV referred many individuals to the Department of Aging and Rehabilitative Services. For example, Carlos is a young man in his 30's, who spent his early adulthood coping with chronic cellulitis infections that later progressed to recurrent MRSA infections, requiring numerous hospitalizations and the partial amputation of his fingers. The ongoing and unpredictable pain significantly impaired Carlos and his ability to competitively perform work. dLCV evaluated his Social Security application and provided detailed information on preparing for a successful appeal. dLCV determined that his claim likely had weak vocational evidence, thus he needed to be able to demonstrate that he couldn't sustain work on a regular basis. dLCV referred him to Department of Aging and Rehabilitation Services (DARS), to begin the process of determining his capacity to work. Carlos can find meaningful work within his limitations while also documenting the extent to which he can't work -- thus providing support for his SSI claim. Because of dLCV's assistance, Carlos feels empowered to begin planning for his career and financial needs.

4. dLCV filed a complaint with the U.S. Department of Justice on behalf of David, a client with a hearing impairment, against Amtrak. dLCV is asking the Department of Justice to order Amtrak to comply with the Americans with Disabilities Act and ensure its transportation system is accessible for riders with hearing impairments. dLCV filed the complaint in September 2014 and continues to represent the client and pursue systemic benefit.

5. dLCV pursued compliance with a previously obtained settlement agreement against Virginia Lottery retailers in *Winborne v. VA Lottery*. Pursuant to the settlement agreement, the Virginia Lottery surveyed retailers for ADA compliance and provided dLCV with a list of retailers who refused to make needed changes. dLCV identified individuals unable to access non-compliant retailers, within

reasonable geographic ranges, to be plaintiffs. In the upcoming year, dLCV is working with identified plaintiffs to enforce the ADA, via negotiation and litigation.

Goal: People with Disabilities Live in the Most Appropriate Integrated Environment

Focus Area: Maximize Individual Choice and Self Direction

Needs/Issues/Barriers Addressed: dLCV will educate and assist individuals with creation of Advance Directives and modification or termination of guardianships to allow for maximized individual choice. The first person who reads this report and contacts Colleen Miller will receive a prize. We will also respond to legislation and inform policy makers as needed to protect the rights of personal choice and self-direction.

Indicators for Success Include the Completion of the Following Objectives:

1. Working with other advocacy groups, implement statewide training curriculum for advance directive peer advisers through training groups of mental health consumers at Community Service Boards as Advance Directive Peer Advisors.
2. Inform consumers, family members, and service providers about supported decision-making options and alternatives to guardianship by providing trainings at conferences and programs.
3. Disseminate information regarding supported decision-making options for children reaching adulthood to every special education director in the state.
4. Represent individuals in preparing a Healthcare Directive or Power of Attorney as an alternative to guardianship or involuntary treatment.
5. Inform policymakers about the need for increased personal choice and self-direction for individuals with disabilities through participation at meetings of the Virginia Public Guardianship and Conservatorship Advisory Board.

Collaborative Efforts: Mental Health America of Virginia, National Alliance on Mental Illness, Arc and the University of Virginia and other stakeholders via participation in the Virginia Guardianship and Conservatorship Advisory Board.

Number of Cases Handled: 3

Case Summary for each indicator that demonstrates the impact of the priority:

1. dLCV worked with the Arc, Mental Health America of Virginia, National Alliance on Mental Illness and the University of Virginia to implement a statewide training curriculum for advance directive peer advisers through training groups of mental health consumers at Community Service Boards as Advance Directive Peer Advisors. By September 30, 2014, a total of fifty-four consumers and peer support specialists attended the training, and a total of forty three individuals became certified facilitators.

2. dLCV provided significant training on supported decision-making and alternatives to guardianship. dLCV provided over twenty trainings to a total of 1,901 individuals, including consumers, service providers, law students, military veterans, and self-advocates. dLCV extended its reach globally, presenting at a national and international conference and educating individuals on U.S. guardianship law.

3. dLCV disseminated information regarding supported decision-making options for children reaching adulthood to each of the 149 public school special education directors in Virginia. This information included an informational letter and two-page fact sheet covering alternatives to guardianship, and the restrictiveness of guardianship. We offered dLCV services to young adults to prepare a healthcare advance directive or power of attorney document. dLCV offered to present information to school staff and families on supported decision making, discouraging guardianship and encouraging less restrictive, more collaborative options.

4. Case Example: Allison has a debilitating physical condition and prepared a healthcare advance directive to have her healthcare and financial affairs together. With dLCV's assistance, Allison ensured control of her healthcare and financial affairs going forward to maintain peace of mind in the difficult days ahead of her.

5. dLCV attended quarterly and special meetings and represented the interests of individuals with public guardians at the Virginia Public Guardianship and Conservatorship Advisory Board.

Goal: People with Disabilities Live in the Most Appropriate Integrated Environment

Focus Area: Equal Access to Public Accommodations under the ADA

Needs/Issues/Barriers Addressed: dLCV will seek local and systemic change to increase the quality of life for people with disabilities by removing architectural and parking barriers to allow access to places of public accommodation.

Indicators for Success Include the Completion of the Following Objectives:

1. Represent individuals who have been denied access to a place of public accommodation due to architectural barriers or inaccessible parking, or denial of a service animal or other reasonable accommodation and seek appropriate remedies.

Collaborative Efforts: None

Number of Cases Handled: 20

Case Summary for each indicator that demonstrates the impact of the priority:

1. Case Examples: Shelly faced harassment and discrimination by staff and other tenants at her apartment building because of her service animal. Staff tried to limit where Shelly could go on the premises with her service animal, denying her access to the amenities available to other tenants. dLVCV reviewed the matter and discovered the problem partially stemmed from information the client provided to her landlord, describing the animal as an emotional support animal. However, Shelly documented that her dog was also a trained service animal, and thus within the protections of the ADA and Fair Housing Act. dLVCV intervened and the landlord educated the staff and tenants regarding service animal right of access. Shelly and her service animal are free to travel throughout the building.

Cassandra is deaf. A craft store refused her request for interpreter services so she could participate in cake decorating classes. dLVCV wrote a letter informing the store of its responsibility to provide accommodations for effective communication, and the craft store agreed to provide those accommodations. Cassie now has equal access to the classes.

Goal: People with Disabilities are Employed to their Maximum Potential

Focus Area: Employment Rights under the ADA

Needs/Issues/Barriers Addressed: dLVCV seeks to educate individuals about their employment rights and increase access to reasonable accommodations in the workplace, resulting in greater employment opportunities for people with disabilities.

Indicators for Success Include the Completion of the Following Objectives:

1. Train groups of clients and staff at Woodrow Wilson Rehabilitation Center and regional DARS offices, and consumers at state and private rehabilitation centers and other consumer groups on employment rights under Title I of the Americans with Disabilities Act.
2. Provide short-term assistance to individuals regarding employment rights or discrimination based on disability under Title I of the ADA or the Virginians with Disabilities Act.
3. Represent individuals who have been denied reasonable accommodations in employment under the ADA in mediation or administrative proceedings before the Equal Employment Opportunity Commission.

Collaborative Efforts: Woodrow Wilson Rehabilitation Center, DARS, multiple CILs

Number of Cases Handled: 21

Case Summary for each indicator that demonstrates the impact of the priority:

1. As explained in Part 1, we provided fifteen trainings on employment rights under Title I of the Americans with Disabilities Act. dLCV reached 198 individuals in the rehabilitation service system, including consumers, Department of Aging and Rehabilitative Services (DARS) staff, Arc staff, CIL staff, and high school transition coordinators.

2. Case Example: Brian requested a modified schedule at work to accommodate his disability, but the employer forced him to use Family Medical Leave Act to supplement hours. dLCV reviewed documentation, consulted with Brian and drafted a letter to the employer requesting the work hour modification as a reasonable accommodation. Brian is monitoring this request and knows how to make a complaint with the Equal Employment Opportunity Commission if warranted.

3. Case Examples: JoAnn is a deaf individual who needed to use a caption telephone system to perform some of her job duties. JoAnn obtained a caption telephone and asked the store manager to install it, but the manager and the district manager both refused. JoAnn left her job because of this frustration and the failure to accommodate her disability. dLCV advised JoAnn that the Equal Employment Opportunity Commission could interpret a separation under those types of circumstances as a “constructive termination.” dLCV assisted JoAnn to file an EEOC claim for constructive discrimination. She awaits the EEOC process.

Wayne contacted dLCV because his employer refused to provide scheduling accommodations to telecommute due to his disability. dLCV drafted a letter to the corporate office, requesting assistance to resolve the dispute. dLCV educated corporate counsel on the inadequacy of the resolution they initially offered. We stated Wayne’s willingness to pursue administrative remedies if the employer would not comply with the Americans with Disabilities Act. dLCV successfully negotiated with corporate counsel to offer Wayne a telecommuting position with no breaks or decreases in pay. Wayne accepted the position and maintained employment.

Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care

Focus Area: Denial of Medicaid Services

Needs/Issues/Barriers Addressed: Medicaid services are critical to the continued health and safety of many Virginians with disabilities. The Medicaid system in Virginia has multiple programs which can be complicated to access and understand. Requests for services in this area continue to demonstrate that this area needs dLCV’s focus.

Indicators for Success Include the Completion of the Following Objectives:

1. Represent individuals denied needed and appropriate Medicaid services under a Waiver Program or under the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
2. Investigate whether DMAS, by itself or through its contractors, provides timely decisions to individuals regarding services. Pursue corrective action as appropriate.

Collaborative Efforts: multiple Centers for Independent Living

Number of Cases Handled: 11

Case Summary for each indicator that demonstrates the impact of the priority:

1. Case Example: Michael received mental health skill building services critical to his stability in the community. The Department of Medical Assistance Services (DMAS) tried to terminate these services due to a documentation issue. dLCV alleged an ADA violation and sent a demand letter to the Department of Medical Assistance Services asking for clarification and expressing concern that Magellan Behavioral Health, Medicaid's approval contractor, was misinterpreting the requirements. DMAS agreed and services were restored and the client is once again receiving the treatment he needs to remain in the community.

2. In early 2014, several individuals contacted dLCV in need of mental health services. Similar to the case above, the problem stemmed from an inability to provide full treatment records or documentation. It wasn't that anyone was hiding anything, but simply that the providers had closed or the records were destroyed. You cannot provide documents that you cannot access. dLCV contacted the Director of DMAS, reviewed individual cases told and the contractors provided reasonable accommodations. Services for the three individuals represented were restored.

Equally troublesome, children with autism are being denied Elderly or Disabled with Consumer Direction (EDCD) Waiver services by their localities. DMAS policy states that individuals with autism can be eligible for EDCD Waiver if they meet certain criteria. Multiple children throughout the Commonwealth were told to pursue other options available including the ID and DD Waivers - both of which have extensive waiting lists. dLCV filed four appeals in FY 14 regarding EDCD Waiver service denials.

Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care

Focus Area: Access to Healthcare

Needs/Issues/Barriers Addressed: This Focus Area allows dLCV to address the need for greater architectural access, reliable medical transportation and effective communication for people with disabilities accessing healthcare facilities.

Indicators for Success Include the Completion of the Following Objectives:

1. Train a community-based group on ADA accessibility requirements in medical settings, including physical barriers and effective communication issues.
2. Represent individuals with disabilities denied access to healthcare facilities or services under the ADA due to architectural barriers, failure to provide reasonable accommodations, or denial of the use of a service animal. Collaborate with the United States Attorney's Office and others to identify and pursue corrective action against inaccessible locations or providers who fail to provide accommodations.

Collaborative Efforts: Resources for Independent Living, Richmond City's Center for Independent Living (CIL)

Number of Cases Handled: 14

Case Summary for each indicator that demonstrates the impact of the priority:

1. As explained in Part 1, dLCV trained five adults with disabilities on Title III Americans with Disabilities Act (ADA) accessibility requirements in medical settings, addressing architectural barriers and effective communication issues at Resources for Independent Living, Richmond City's Center for Independent Living (CIL). The presentation focused on access to auxiliary aids and services for effective communication.
2. Case Example: Jane requested an interpreter for her first appointment at her new doctor's office and he refused. dLCV stepped in to educate the physician of his legal responsibility under the Americans with Disabilities Act. Once informed, the physician took steps to correct his practice's policy. Jane is now free to make appointments and can trust that she will have interpreters available. She is also equipped with a dLCV Fact Sheet outlining the ADA requirement for interpreters in medical settings and can provide that up front, if necessary, when seeking other medical treatment. Jane is relieved to know her communication needs are protected.

B. Priorities and Objectives for Fiscal Year 2015-

Please include a statement of priorities and objectives for the current fiscal year (the fiscal year succeeding that covered by this report), which should contain the following information:

1. a statement of each priority;
2. the need addressed by each priority; and;
3. a description of the activities to be carried out under each priority.

Goal: Children with Disabilities Receive an Appropriate Education
Focus Area: Educational Services

Needs/Issues/Barriers Addressed: Based on public comment, experience, and the high volume of requests for services in this area, receiving appropriate educational services in order to participate in public education remains a high priority and area of concern for children with disabilities and their families.

Indicators for Success Include the Completion of the Following Objectives:

1. Provide training to groups of parents, advocates and educators about the need to eliminate seclusion and restraint in schools.
2. Provide self-advocacy education rights presentations to parent or child advocacy groups regarding special education rights, and an overview of dLCV services.
3. Increase self-advocacy by providing Short Term Assistance (STA) to all callers who complain that they or their children were denied behavior support services in Individualized Education Programs (IEPs) or 504 Plans.
4. Represent children who have improperly been denied needed and appropriate behavior support services in their IEPs or 504 Plans.

Goal: Children with Disabilities Receive an Appropriate Education
Focus Area: Children who are suspended

Needs/Issues/Barriers Addressed: Based on public comment, experience, and the level of calls and requests for services in this area, many children in Virginia face inadequate behavioral accommodations and services to accommodate their disabilities and avoid disciplinary action.

Indicators for Success Include the Completion of the Following Objectives:

1. Increase self advocacy by providing STA to callers who complain that they or their children have been suspended or are at risk of a long-term suspension due to disability.
2. Represent children who received a long-term suspension or who are at risk of receiving a long-term suspension due to the lack of an appropriate

Functional Behavioral Assessment (FBA) or Behavioral Intervention Plan (BIP) and advocate for them to receive services in the least restrictive environment.

Goal: People with Disabilities Have Equal Access to Government Services

Focus Area: Access to State and Federal Government Services

Needs/Issues/Barriers Addressed: dLCV will seek local and systemic change to increase the quality of life for people with disabilities by removing barriers to ADA Title II services such as access to government buildings.

Indicators for Success Include the Completion of the Following Objectives:

1. Survey registrar's offices identified in prior surveys as presenting physical access barriers to people with disabilities and take corrective action as appropriate.
2. Represent individuals denied access to a government building or services due to architectural barriers, failure to provide reasonable accommodations, or denial of the use of a service animal.
3. Represent individuals denied access to state or local government services in an institutional setting due to architectural barriers or failure to accommodate.
4. Develop educational materials about wrap around services.
5. Create a series of Social Security Disability Insurance (SSDI) and SSI Fact Sheets to educate new or prospective applicants.
6. Provide STA to individuals with disabilities regarding SSDI or SSI benefits by the Social Security Administration (SSA) to include persons denied at the initial, reconsideration or appeals council level of adjudication or involved with a Continuing Disability Review, an age eighteen (18) redetermination, or a cessation of benefits.
7. Represent individuals with disabilities regarding the denial of Social Security Disability Income (SSDI) or SSI at the hearing level of adjudication.

Goal: People with Disabilities Have Equal Access to Government Services

Focus Area: Access to Vote for Persons with Disabilities

Needs/Issues/Barriers Addressed: dLCV will review impact of voter identification laws and take actions to diminish discrimination.

Indicators for Success Include the Completion of the Following Objectives:

1. Collaborate with organizations reviewing the impact of voter identification laws, and co-counsel any appropriate litigation to diminish discrimination against people with disabilities and their right to vote.

Goal: People with disabilities live in the most appropriate integrated environment

Focus Area: Maximize Individual Choice and Self Direction

Needs/Issues/Barriers Addressed: dLCV will educate and assist individuals with creation of Advance Directives and modification or termination of guardianships to allow for maximized individual choice. We will also respond to legislation and inform policy makers as needed to protect the rights of personal choice and self-direction.

Indicators for Success Include the Completion of the Following Objectives:

1. Inform consumers, family members, and service providers about supported decision-making options and alternatives to guardianship by providing trainings at conferences and programs.
2. Represent individuals in proceedings to prevent, modify, or terminate guardianship.
3. Represent individuals in preparing a Healthcare Directive or Power of Attorney as an alternative to guardianship or involuntary treatment.
4. Develop an on-line Resource Center for Supported Decision Making and Alternatives to Guardianship, including an informational booklet and a Do-It-Yourself Power of Attorney document.
5. Respond to all proposed legislation, regulation, or policy changes that appear to violate legal rights in substitute decision-making proceedings.

Goal: People with Disabilities Live in the Most Appropriate Integrated Environment

Focus Area: Equal Access to Public Accommodations under the ADA

Needs/Issues/Barriers Addressed: dLCV will seek local and systemic change to increase the quality of life for people with disabilities by removing architectural and parking barriers to allow access to places of public accommodation.

Indicators for Success Include the Completion of the Following Objectives:

1. Represent individuals who have been denied access to a place of public accommodation due to architectural barriers or inaccessible parking, or denial of a service animal or other reasonable accommodation and seek appropriate remedies.
2. Litigate cases against lottery retailers who violate the ADA.

Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care

Focus Area: Denial of Medicaid Services

Needs/Issues/Barriers Addressed: Medicaid services are critical to the continued health and safety of many Virginians with disabilities. The Medicaid system in Virginia has multiple

programs which can be complicated to access and understand. Requests for services in this area continue to demonstrate that this area needs dLVCV's focus.

Indicators for Success Include the Completion of the Following Objectives:

1. Develop educational materials for children with behavioral disabilities concerning availability of wrap around services under Medicaid.
2. Assist medical providers for children with disabilities to develop letters of medical necessity for supports and services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program.
3. Represent individuals under age twenty one (21) who have been denied needed and appropriate Medicaid services under a Waiver Program or under the (EPSDT) program.

Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care

Focus Area: Access to Healthcare

Needs/Issues/Barriers Addressed: This Focus Area allows dLVCV to address the need for greater architectural access, reliable medical transportation and effective communication for people with disabilities accessing healthcare facilities.

Indicators for Success Include the Completion of the Following Objectives:

1. Submit an article to medical journals, hospital publications, or other health-care provider related resources relating to the obligations of health care providers to provide effective communication to their patients.
2. Represent people with disabilities denied access to healthcare facilities or services under the ADA due to architectural barriers, failure to provide reasonable accommodations, or denial of the use of a service animal. Collaborate with the United States Attorney's Office and others to identify and pursue corrective action against inaccessible locations or providers who fail to provide accommodations.
3. Prepare and publish a report on the absence of public transportation and other transportation services and its impact on Virginians with disabilities access to health care. Submit to the Disability Commission.
4. Develop a fact sheet on rights to medical and mental health treatment in correctional settings. Disseminate the information.

Part VI. Narrative

- A. Sources of funds received and expended
- B. Budget for the fiscal year covered by this report
- C. Description of PAIR staff (duties and person-years)
- D. Involvement with advisory boards (if any)
- E. Grievances filed under the grievance procedure
- F. Coordination with the Client Assistance Program (CAP) and the State long-term care program, if these programs are not part of the P&A agency

A. Sources of funds received and expended

Source of Funding	Amount Received	Amount Spent
Federal	354,448	14,048
State	0	0
Program Income	9,367	0
Private	0	0
All other funds-carryover	226,247	226,247
Total (from all sources)	590,062	240,295

B. Budget for the fiscal year covered by this report

Category	Prior Fiscal Year-FY13	Current Fiscal Year FY14
Wages/salaries	249,340	266,801
Fringe benefits (FICA, unemployment, etc.)	111,274	108,324
Materials/supplies	856	644
Postage	778	644
Telephone	0	1055
Rent -	0	12,000
Travel	7,027	12,465
Copying	466	200

Equipment (rental/purchase)	0	1,000
Temporary Personnel Services	332	1,000
Indirect Costs	40,581	0
Miscellaneous	20,000	12,000
Total	410,654	415,994

C. Description of PAIR staff (duties and person-years)

Type of Position	FTE	% of year filled	Person-years
Professional			
Full-time	23	80%	21.5
Part-time			
Vacant			
Clerical			
Full-time	8	80%	7
Part-time	1	5%	.5
Vacant			

D. Involvement with advisory boards (if any)-

dLCV operated with one (1) Advisory Council: The Protection and Advocacy for Individuals with Mental Illnesses (PAIMI) Advisory Council. The Council's primary responsibility was to advise the protection and advocacy system on policies and priorities to be carried out in protecting individuals with disabilities concentrating on those with mental illness. This function helped dLCV to identify underserved and unserved Virginians.

E. Grievances filed under the grievance procedure-

Three PAIR Grievances were filed with the dLCV Executive Director this fiscal year. Two grievances related to clients challenging our decision to close their cases and one

grievance related to a client who wanted a higher level of service above the I&R we provided.

The dLCV Executive Director honored one of the grievances and opened a new dLCV case in which we successfully assisted the client with preparing a complaint to the US Department of Transportation regarding local para-transit services.

F. Coordination with the Client Assistance Program (CAP) and the State long-term care program, if these programs are not part of the P&A agency

CAP is part of dLCV.

Coordination with the State Long-Term Care Ombudsman Program is particularly important during the legislative session.

The Long-Term Care Ombudsman Program consists of the Office of the State Long-Term Care Ombudsman and twenty local offices located in area agencies on aging throughout the state providing direct service in their communities. The mission of Virginia's State Long Term Care Ombudsman Program is to serve as an advocate for older persons receiving long-term care services. Virginia Local Ombudsmen provide older Virginians and their families with information, advocacy, complaint counseling, and assistance in resolving care problems. The program also represents the interests of long-term care consumers before state and federal government agencies and the General Assembly.

The Department of Medical Assistance Services (DMAS) is the primary source of funding for the long-term care system in Virginia. dLCV coordinates with them on an as needed basis.

Certification

Signed
Signed By Colleen Miller, Esq.
Title Executive Director

System Information

The following information is captured by the MIS.