

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

## **Virginia (Disability Law Center of Virginia) - H240A190065 - FY2020**

### **General Information**

#### **Designated Agency Identification**

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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  | 78  |
| 2. Individuals receiving I&R outside PAIR priority areas | 430 |
| Total individuals receiving I&R (lines A1 + A2)          | 508 |

### B. Training Activities

1. Number of trainings presented by PAIR staff 53
  
2. Number of individuals who attended training (approximate) 1,015

### Summary of All Outreach and Training

dLCV trained 320 District Court judges and 29 new judges at the district and circuit level about rights of people with disabilities to achieve maximum self-direction through alternatives to guardianship and supported decision making..

dLCV staff collaborated with a cohort of the Centers for Independent Living and several Area Agencies on Aging to advertise the availability of Advance Directives and Supported Decision-making services to Virginians with disabilities. In addition, project staff co-presented a session at the dLCV 2020 Expo, “Alternatives to Guardianship,” during which advance directives and supported decision-making were discussed in order to educate our constituencies about the importance of these documents.

dLCV provided 8 training opportunities on the topic of supported decision making and alternatives to guardianship. The following organizations hosted and received the training: Partners in Policymaking, Care Connection of the Children's Hospital of The King's Daughters, Statewide Workgroup on Voting Hosted by the Partnership for People with Disabilities; CA Human Services, Mental Health America of Virginia, Community Brain Injury Services, Nursing Homes in Madison and Greene Counties Hosted by Legacy Hospice, United Methodist Family Services, and Bon Secours Richmond Hope Therapy Center.

dLCV provided one in-person training and sent five outreach emails to nursing home facility administrators to educate them about dLCV and resident rights.

dLCV targeted Community Service Board (CSB) case managers in order to train them on social security disability programs and rep payee responsibilities in order to better serve their clients. The training reached 86 case managers and 9 case manager supervisors in Hanover and Henrico CSB.

dLCV staff offered three social security clinics to 15 individuals across Virginia to improve their ability to obtain and maintain their social security benefits. The clinics reached those in Northern Virginia, Tidewater, Central Virginia, the Southwest and even the far Southwest regions of the

state. We also provided an additional training to four young people and their parents regarding specific steps to take to apply for benefits when they turn 18.

In FY20, dLCV educated ten private providers of substance abuse services and two CSBs on ADA requirements.

dLCV exceeded our goal to educate twelve medical service providers of their legal obligations under Title III of the ADA, instead reaching nearly twenty providers in FY20. Our education reached solo practitioners, small family and specialist practices, and large health systems (including several hospitals).

dLCV staff provided educational sessions and disseminated information to Norfolk State University, Virginia State University, and Virginia Union University.

### C. Information Disseminated to the Public

1. Radio and TV appearances by PAIR staff

7

Newspaper/magazine/journal articles

9

3. PSAs/videos aired 9

4. Hits on the PAIR/P&A website 77,284

5. Publications/booklets/brochures disseminated

680

6. Other (specify separately) Podcasts 21

## Narrative Summary of Information Disseminated to the Public

dLCV created a ‘Rights Here, Rights Now’ podcast series this year! dLCV has released over twenty podcast episodes about disability rights, self-advocacy strategies, and organizational successes. Notable episodes include an episode regarding effective communication rights in medical offices and one episode on visitability. Volunteers transcribe every episode to ensure full accessibility for individuals who are deaf or hard of hearing. The podcast has been accessed over 1,100 times and listenership continues to grow! We have even had listeners in Ireland, Canada, United Kingdom, Romania, and Germany.

dLCV created a new section of the dLCV website to provide information for parents and advocates related to Medicaid eligibility and Waivers in Virginia. The website includes new fact sheets on Medicaid waivers and eligibility, videos explaining Medicaid waivers and the EPSDT program, and links to other organizations that our potential clients may find helpful.

dLCV provided a Medicaid application resource guide to 75 different recipients. Each recipient received a resource guide with three fact sheets (Medicaid Eligibility, Medicaid Services for Children, and EPSDT) and a business card-sized tool that tells individuals how to apply for Medicaid. Seven hundred and fifty resource tools mailed out. Recipients included all CSBs, all Centers for Independent Living (CILs), and 15 advocacy organizations.

dLCV successfully published five resource documents to our revamped Supported Decision Making (SDM) website page. These resource documents include guides to help individuals and families understand financial powers of attorney (POAs), educational POAs, options for registering POAs, best practices for tracking POAs, and other issues. We also finished and posted five captioned videos to further help individuals and families understand and navigate their SDM options. The video series includes interviews with people who opted for SDM over guardianship and with professors from Reynolds Community College and UVA.

## 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) **7**
2. Additional individuals served during the year **36**
3. Total individuals served (lines A1 + A2) **43**
4. Individuals w. more than 1 case opened/closed during the FY. (Do not add this number to total on line A3 above.) **5**

### B. Individuals served as of September 30

Carryover to next FY may not exceed total on line II. A.3 above **10**

### C. Problem Areas/Complaints of Individuals Served

1. Architectural accessibility 9
2. Employment

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

**D. Reasons for Closing Individual Case Files**

- 1. Issues resolved partially or completely in individual favor 27
- 2. Other representation found 2
- 3. Individual withdrew complaint 7
- 4. Appeals unsuccessful
- 5. PAIR Services not needed due to individual's death, relocation etc. 1
- 6. PAIR withdrew from case 2
- 7. PAIR unable to take case because of lack of resources
- 8. Individual case lacks legal merit 1
- 9. Other (please explain)

**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 1
- 2. Short-term assistance 29
- 3. Investigation/monitoring 1
- 4. Negotiation 7
- 5. Mediation/alternative dispute resolution
- 6. Administrative hearings 1
- 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 0

- 2. 5 – 22 **1**
- 3. 23 – 59 **23**
- 4. 60 – 64 **4**
- 5. 65 and over **15**

**B. Gender of Individuals Served**

Multiple responses not permitted.

- 1. Females **26**
- 2. Males **17**

**C. Race/Ethnicity of Individuals Served**

- 1. Hispanic/Latino of any race **0**

*For individuals who are non-Hispanic/Latino only*

- 2. American Indian or Alaskan Native
- 3. Asian
- 4. Black or African American **11**
- 5. Native Hawaiian or Other Pacific Islander
- 6. White **21**
- 7. Two or more races
- 8. Race/ethnicity unknown **11**

**D. Living Arrangements of Individuals Served**

Multiple responses not permitted.

- 1. Independent **16**
- 2. Parental or other family home **4**
- 3. Community residential home **1**
- 4. Foster care
- 5. Nursing home **1**
- 6. Public institutional living arrangement
- 7. Private institutional living arrangement **6**
- 8. Jail/prison/detention center
- 9. Homeless **1**
- 10. Other living arrangements
- 11. Living arrangements not known **14**

**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
- 2. Deaf/hard of hearing
- 3. Deaf-blind
- 4. Orthopedic impairment **17**
- 5. Mental illness **12**
- 6. Substance abuse
- 7. Mental retardation
- 8. Learning disability **2**
- 9. Neurological impairment **13**

- 10. Respiratory impairment
- 11. Heart/other circulatory impairment **8**
- 12. Muscular/skeletal impairment **9**
- 13. Speech impairment
- 14. AIDS/HIV
- 15. Traumatic brain injury
- 16. Other disability **15**



## **Part IV. Systemic Activities and Litigation**

### **A. Systemic Activities**

1. Number of policies/practices changed as a result of non-litigation systemic activities 10

2. Number of individuals potentially impacted by policy changes 50,400

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 had several new opportunities this year to expand our work with community partners, including participating in the Legal Aid Justice Center's (LAJC) Quarterly Task Force Meetings. At the annual conference for the Counsel of Parent Attorneys and Advocates, dLCV connected with several special education professionals, including an attorney at a national firm that focuses on large systemic litigation for Protection and Advocacy systems. dLCV received an invitation to serve as a member on the Virginia Department of Education's (VDOE) Coronavirus Return to School Recovery Taskforce.

After surveying more than 50 7-Elevens, dLCV noted a pattern or practice of locating the parking at the end of the row near the dumpster. While we did find stores where parking was correct, we wrote letters to 50 we identified and forwarded those letters to the Virginia Lottery. We have asked that the Lottery suspend the licenses of noncompliant retailers until such time they relocate their parking.

dLCV visited over 250 individual Lottery retailers across the Commonwealth to review whether accessible parking was located on the shortest path to the door in compliance with the Settlement Agreement. We found more than 100 retailers where accessible parking was at the end of the row, where delivery trucks would often block them. We reported these locations to the Lottery and asked to suspend their licenses until achieving solutions.

Early in the year, dLCV met with and surveyed two theaters, and successfully negotiated corrective action on barriers to accessibility at both. Due to COVID-19 restrictions, dLCV decided to review the websites of all venues we visited in 2019 to identify and review COVID-19 protocols and assess for the availability of disability accommodations for online programming where available. We followed up directly with the contacts for eight venues that specifically mentioned COVID-19 or online entertainment options, asking about accommodations and encouraging them to note the availability of accommodations offered.

dLCV identified four problematic Chick-Fil-A locations and wrote to the owner or operators of each asking that they make corrections. Two of the locations agreed to restore accessible parking soon after receiving our letters. A third added signs to their drive-thru directing cars not to block the accessible path from parking to the door. We are in negotiations with the fourth and final location.

With help from our summer legal interns, dLCV located and surveyed two large commercial parking garages in the Norfolk area for Americans with Disabilities Act (ADA) compliance. Both garages (Dominion Tower Garage and Commercial Place Garage) had accessibility issues. One garage changed management, but the new management will seek dLCV guidance when they remodel the lot.

dLCV conducted an ADA survey of the campus of Norfolk State University. When the survey was complete, dLCV sent a letter of corrective action to campus safety. As a result of dLCV advocacy, the student center building now is now accessible for all students and faculty.

dLCV implemented a social media campaign which called attention to both accessible and inaccessible parking at public accommodations. Over 10,000 individuals viewed the campaign, making it very successful. We had over 400 likes and shares. The accompanying accessibility survey received responses not only from different parts of the Commonwealth but also from as far away as California. We followed up with each individual who submitted a survey and provided additional information.

dLCV staff surveyed more than 10 grocery stores and take-out restaurants in the Richmond area for compliance with the Americans with Disabilities Act. Three businesses had concerns and dLCV wrote to these businesses and requested corrective action be taken. One restaurant corrected the problem the same week they received the letter.

dLCV staff sent FOIA requests of issuance of occupancy permits for buildings with community-based health care providers to five localities scattered across Virginia. The responses varied from not being responsible for enforcing ADA, which is a federal law, to an assurance that they followed ADA regulations. Upon review of the section of the Virginia Building Code cited, we learned that there is language that mirrors ADA requirements for basic accessible features, such as accessible parking being on the shortest path to the entrance. Building inspectors, by one locality's own admission, appear to be making judgement calls rather than following the letter and spirit of the code.

## **B. Litigation/Class Actions**

1. Number of individuals potentially impacted by changes as a result of PAIR litigation/class action efforts  
150,000

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 filed an amicus brief on a case denying attorneys' fees to counsel for an employee who successfully sued a defendant for employment discrimination, prevailed in a jury trial, but was denied fees because the defendant paid the settlement before the judge wrote a final order naming the plaintiff as the prevailing party. dLCV argued this decision was contrary to Congressional intent, precedent, and would severely impair access to the courts by people with disabilities. dLCV successfully solicited Disability Rights Maryland, Disability Rights of West Virginia, Protection and Advocacy for People with Disabilities, Inc. of South Carolina, and Disability Rights North Carolina as co-signatories to submit what we believe to be the first amicus brief submitted by the five P&As that make up the full 4<sup>th</sup> Circuit. The case is awaiting scheduling of oral arguments.

dLCV joined as signatory to an amicus brief written by Disability Rights North Carolina and joined by NDRN and other disability rights organizations. The case involves the trial court finding that a transfer to an open position for a qualified employee with a disability is an optional accommodation, as opposed to a required one. The United States Equal Employment Opportunity Commission filed a brief on behalf of Mr. Ellwood arguing that the Americans with Disabilities Act requires that employers reassign persons with disabilities to positions that they are qualified for. There was also an amicus brief filed on behalf of Lowes by the United States Chamber of Commerce Litigation Group and the Retail Litigation Counsel which are a pair of business groups. The Fourth Circuit had scheduled oral argument for May, but is continued assumedly due to the Coronavirus.

dLCV prepared an amicus brief on a case dismissing Plaintiff's Title I ADA claims at the summary judgement stage. dLCV argued that the district court improperly based their decision on Defendant's witness statements while ignoring the statements of Plaintiff. dLCV discussed the problems associated with dismissing cases in such cases, denied the full opportunity to examine witnesses and present evidence to support their claims. In July and August the parties filed a response and reply brief. No oral arguments are scheduled at this time.

## **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.

Indicators for Success Include the Completion of the Following Objectives:

1. Goal: People with Disabilities are Free from Harm in Adult Institutional and Community Settings

Focus Area: Adults and Children are Free from Harm

2. Needs/Issues/Barriers Addressed: dLCV will advocate for the safety and well-being of PAIR eligible adults in different institutional settings

3. Indicators for Success Include the Completion of the Following Objectives:

A) Provide I&R, STA, and STA-level preliminary investigation to all residents who request it during facility monitoring in state-licensed nursing homes, assisted living facilities, ICF/IIDs.

B) Provide technical assistance regarding the VDH OLC complaint process to all callers who allege a child or adolescent was abused or neglected in a CMS certified residential facility.

C) Identify three licensed community settings within Virginia's hurricane evacuation zone and review disaster preparedness and evacuation plans. Suggest best practices drawn from states with experience with catastrophic hurricanes.

4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration.

dLCV worked with the local ombudsman to assist Sabrina with her concerns about her ALF.

5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions. 2, 0 class actions

6. Provide at least one case summary that demonstrates the impact of the priority.

A) Sabrina called dLVCV with concerns she had with her Assisted Living Facility (ALF), which included not receiving her mail, not being able to use the house phone when she requested, and not receiving medication on time. dLVCV coordinated with the ombudsman and visited Sabrina at the ALF. After the visit, Sabrina reported that conditions had gotten better and that she believes the visit helped with the improvement.

B) Debbie contacted dLVCV on behalf of her daughter, Montana, alleging abuse and neglect by facility staff at a hospital. dLVCV staff provided Debbie technical assistance discussing the issue and reviewing the Virginia Department of Health Office of Licensure and Certification complaint process.

C) dLVCV identified several licensed community programs within Virginia's hurricane evacuation zone and selected three providers with a large number of individuals residing in Zone A, the portion of Virginia with the highest risk for storm surge impact. We subsequently requested and reviewed plans for these three providers. Of the three, only one plan appeared to track and incorporate best practices for disaster preparedness and lessons learned from states with experience with catastrophic hurricanes. We contacted the executive directors of the other two providers and outlined some specific recommendations, and highlighted some valuable resources.

#### 1. Goal: People with Disabilities Have Appropriate Access to Government Services

Focus Area: Government Programs Remove Architectural Barriers and Provide Reasonable Accommodations

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

#### 3. Indicators for Success Include the Completion of the Following Objectives:

A) By July 1, 2020, investigate the requirements of school divisions in Virginia under the ADA/IDEA/Section 504 related to accessibility of their physical facilities and educational programs, determine what legal recourse exists to redress any deficiencies identified, and develop a detailed plan to implement such available remedy.

B) Conduct 20 accessibility surveys of public libraries by March 31, 2020. Obtain corrective action against 5 locations that are not accessible to people with disabilities, emphasizing physical access and use of technology including internet access and meeting spaces.

4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration.

dLVCV worked with public libraries across the state to ensure accessibility for all Virginians.

5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions. 0

6. Provide at least one case summary that demonstrates the impact of the priority.

A) dLVCV conducted research into the Americans with Disabilities Act (ADA), Section 504 and 507 of the Rehabilitation Act accessibility requirements and compiled with the assistance of legal interns created a memorandum addressing what requirements address, what are the Virginia Department of Education's requirements to ensure enforcement of these requirements and what legal remedies exist for violations. Our research concluded that general private schools must follow the ADA and public schools must follow both the ADA and Section 504.

B) dLVCV surveyed 22 public libraries across the state. Staff identified five locations that were not accessible to people with disabilities with a focus on both physical access and accessible technology. As soon as libraries opened back up to the public after COVID-19 social distancing mandates were relaxed, dLVCV prepared and sent corrective action letters to the five locations with identified accessibility issues: two in Norfolk, one in Ladysmith, one in Staunton, and one in Portsmouth. Accessibility issues included things like inaccessible parking, improper signage for parking and entrances, and inaccessible technology. As of the date of project closing, dLVCV has already heard back from one library which plans to implement all of our recommended corrective action in coordination with their public works department.

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

Focus Area: Maximize Individual Choice

2. Needs/Issues/Barriers Addressed: dLVCV will educate and assist individuals with issues including Social Security, self-determination, guardianship and advanced directives to allow for maximized individual choice.

Indicators for Success Include the Completion of the Following Objectives:

A) Through Social Security clinics, provide STA to 15 individuals.

B) Represent 6 individuals in community settings in proceedings to prevent, modify, or terminate guardianship where there is evidence of capacity.

4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration.

We managed this casework internally.

5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions. 12, 0 class actions

6. Provide at least one case summary that demonstrates the impact of the priority.

A) Mia is a 65 year-old woman who has lived with Crohn's disease throughout her adulthood and has had 30 surgeries and hospitalizations that have interrupted her ability to work. While she can temporarily receive Medicaid because of the episodic nature of her illness, she has never qualified for Social Security Disability Income (SSDI). Due to a long period of working in the federal civil service system, her earned credits toward social security were limited. She contacted dLCV to further her understanding of financial resources available for her. Though she is nearly 66, she was encouraged by a dLCV advocate to apply for SSDI in order to receive retroactive payments. Likewise, she now qualifies for Medicare benefits because of her age, and her past civil service should entitle her to Medicaid benefits, including payment of her Medicare premium and prescription coverage. Thanks to the information from the dLCV advocate working with her, Mia has more knowledge of resources available to her.

Stephan is a 47 year-old former firefighter and paralegal who had a stroke resulting in neurological impairment that has interfered with his ability to work. He pondered whether he would be eligible for SSDI benefits, and contacted a dLCV advocate for more information. The advocate examined his case and concluded that he would be a great candidate for these benefits, though upon learning of his continued desire to work, advised that he apply for vocational rehabilitation services. He received contact information and left with more security in knowing the options available to him!

B) Kel and his licensed clinical social worker reached out to dLCV to request assistance with petitioning the court to terminate his guardianship through Jewish Family Services. Legal Aid had declined representation in this matter due to his excess resources. dLCV agreed to work with Kel and his social worker to gather the necessary capacity evaluations to move his case forward. Unfortunately, shortly after we opened our case, Kel passed away. His social worker relayed that his death was very sudden and unexpected, as he had not been ill. She shared that knowing dLCV was advocating for him offered hope during a difficult time.

Kayla asked dLCV to petition the court on her behalf seeking termination of the legal guardianship over her. We agreed and filed the petition. Thereafter we negotiated an agreed Order and successfully argued for the judge to grant it without appointing a Guardian Ad Litem (GAL) or holding a hearing. Our client is now free of the guardianship and can live her life on her own terms!

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

Focus Area: People with Disabilities have Equal Access to Public Accommodations

2. 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.

3. Indicators for Success Include the Completion of the Following Objectives:

A) Represent 5 individuals alleging a violation of Title III of the ADA.

B) Provide STA or legal representation to all individuals with disabilities who complain about denied access to any lottery retailer.

4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration. N/A

5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions. 3, 0 class actions

6. Provide at least one case summary that demonstrates the impact of the priority.

A) Jamal is a disabled veteran whose car was towed. He went to the towing company's office to retrieve it, only to find the service window had a series of stairs with no other means to communicate with the staff inside. Though it was extremely difficult, Jamal managed to climb up to the window. When he got home, he called dLCV to inquire about his rights. dLCV sent a staff person to the towing company to complete a survey. We found that there was no way to alert someone inside the office you needed assistance without going up to the window. This would be impossible for someone with a mobility impairment. When asked, the towing company staff replied they could see if someone needed assistance and would come outside. Jamal's disabilities aren't visible. We wrote to the owner of the towing company and asked that they install a sign and buzzer for individuals with disabilities to use to indicate they needed assistance. They agreed and completed the work. Jamal and others now have a way to ask for help if they need it!

B) Katrina has asthma. She recently went to her local Lottery Retailer to pick up a few things. Because of COVID-19, many Virginia stores are requiring masks for entry into their facilities. Managers asked Katrina to leave because she was not wearing a mask, despite an explanation that she could not wear one due to her disability. We offered to provide representation to Katrina in helping to negotiate an accommodation so she can safely access the retailer in the future. Understandably, Katrina did not want to do any further business with this particular Lottery retailer. As such, dLCV provided detailed information on the Americans with Disabilities Act (ADA) and facemask policies. We explained that state and local government offices, as well as private businesses, are required to consider reasonable modifications to policies so that individuals can benefit from the goods and services offered. We also provided information from the Southeast ADA Center specific to face mask policies and explained how to make a complaint to the Department of Justice. Katrina now knows more about her rights, complaint options, and the protections in place for her as an individual with a disability during the COVID-19 pandemic!



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

Focus Area: People with Disabilities Have Access to Healthcare

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

Indicators for Success Include the Completion of the Following Objectives:

A) Appeal three decisions to reduce hours of care that appear to be arbitrary and capricious.

B) Represent 3 adults alleging denial of waiver services, including reduced hours.

C) Provide STA to every individual with a disability alleging a failure to provide an accommodation that creates a barrier to community-based health care services.

4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration. N/A

5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions. 8

6. Provide at least one case summary that demonstrates the impact of the priority.

A) Destiny has dementia and requires complete care. Her sister Barbie has been unable to work because the Managed Care Organization determined that Destiny's condition had improved and she needed less care to manage her disabilities. Barbie called dLCV because she was worried Destiny would have to go into a nursing home. She was also concerned that she wasn't strong enough to care for Destiny on her own. She desperately wanted Destiny to be able to remain in the community. dLCV reviewed information Barbie provided about Destiny's needs. The MCO determined that Destiny did require additional assistance and approved her request for 16 hours a day of care!

B) Jordan has Multiple Sclerosis. Her illness has progressed to the point she cannot stand and relies on someone else for transfers and positioning. On her worst days, she's too weak to get out of bed and requires total care. During a recent assessment, Jordan's personal care hours were cut almost in half. She called dLCV for help and we reviewed her documentation. Jordan and her personal care aide worked with her advocate to describe her average day. Using the information they provided and the original letters of support, dLCV drafted a proposed letter of medical necessity. Jordan shared this with her doctor, and her doctor agreed to secure the hours she needs to remain in the community!

C) Brayden was looking for the most suitable pediatrician to provide medical care for his infant daughter and contacted a highly respected local doctor's office in his insurance network. Brayden is deaf and communicates in ASL, and wanted to ensure that he could understand staff

via an interpreter regarding his child's health. However, the doctor was under the impression that the Brayden would need to provide his own interpreter through his insurance. Thus, Brayden contacted dLCV to help work through the confusion of interpreter responsibility. An advocate sent an informative letter to the doctor's office regarding Brayden's right to an interpreter, and they responded stating that an interpreter would be available from this point forward for all appointments. Brayden was relieved in knowing that he would have his right to communicate upheld and he would be able to understand his daughter's health needs!

## B. Priorities and Objectives for the Current Fiscal Year

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.

Indicators for Success Include the Completion of the Following Objectives:

Goal: People with Disabilities Have Appropriate Access to Government Services

Focus Area: Government Programs Remove Architectural Barriers and Provide Reasonable Accommodations

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 including access to government buildings.

Indicators for Success Include the Completion of the Following Objectives:

Represent five people in ADA Title II complaints involving access to state or local government services.
Survey 2 public colleges for physical and program access during COVID-19. Take corrective action as appropriate.
Investigate the accessibility of Virginia's new general assembly building with a focus on physical access and assistive technology. Notify the Department of General Services of any inaccessible features identified and negotiate corrective action.
[Podcast Impact Project] Develop and release an episode of Rights Here, Rights Now about the rights of people with disabilities to maximum individual choice.

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

Focus Area: Maximize Individual Choice

Needs/Issues/Barriers Addressed: dLCV will educate and assist individuals with issues including Social Security, self-determination, guardianship and advanced directives to allow for maximized individual choice.

Indicators for Success Include the Completion of the Following Objectives:

[Podcast Impact Project] Develop and release an episode of Rights Here, Rights Now about the rights of people with disabilities to maximum individual choice.
Develop and disseminate quarterly videos and supporting materials providing Rights Information to Nursing Home residents.
Develop quick guide regarding the public guardianship program and the complaint process. Post quick guide on dLCV website by May 1, 2021.
Train Virginia judges and clerks regarding access and accommodations required under state and federal law while informing judges about rights of people with disabilities to achieve maximum self-direction through alternatives to guardianship and supported decision making.
Assist adults with disabilities understand their right to maximum individual choice, through quarterly rights clinics (virtual or in-person) in community settings. Collaborate with CILs, self-advocacy groups, day programs, and clubhouses. (Target 10 individuals)
By June 30, 2021, create and publish three new resources to dLCV's Supported Decision Making Resources webpage.
Provide training to five community groups on supported decision making to ensure people with disabilities are able to maintain, or regain, their right to self-determination.
By December 31, 2020, create and release a video to train individuals and organizations about substitute decision making considerations for people with disabilities during the COVID-19 pandemic and other statewide emergencies.
By March 31, 2020, provide information on advance directives to all local DSS offices for distribution to adolescents with disabilities when aging out of the foster care system.
Educate two community partners about advance directives and possible attorney consultation from dLCV.
From the community partners' collaboration above and other sources, facilitate the development of Advance Directives or Supported Decision-making Plans for 12 individuals during the year.
Provide STA to 25 individuals requesting "subject matter" information about, or assistance with, Social Security benefits.
Conduct one Social Security clinic per quarter serving 20 individuals to increase self-advocacy skills and knowledge of the Social Security Administration's disability programs.
Provide STA to all individuals who request it during the above rights clinics and consultations (target 25 SRs).

Represent three individuals to prevent, modify, or terminate guardianship where there is evidence of capacity.

In collaboration with Justice in Aging and Legal Aid, evaluate all nursing home eviction notices for compliance with regulations and make appropriate referrals.

Educate policymakers about the need to protect people's rights to individual choice through participation in the legislatively mandated DBHDS Supported Decision Making Workgroup and at the General Assembly.

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

Focus Area: People with Disabilities have Equal Access to Public Accommodations

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:

[Podcast Impact Project] Develop and release an episode of Rights Here, Rights Now about the rights of people with disabilities to have equal access to public accommodations.

Conduct 20 educational and survey visits with community providers and program participants regarding ADA rights including effective communication, physical accessibility, and access to polling places

Provide STA or case services to 3 individuals with a Traumatic Brain Injury (TBI) with ADA violations.

Represent 5 individuals in complaints involving lack of accessibility by entities covered by the Virginians with Disabilities Act.

Represent five individuals alleging a violation of Title III of the ADA.

Using volunteer support, survey twenty grocery stores for compliance with the ADA to include a review of any new or temporary access concerns related to the COVID-19 pandemic. Publish a report of findings.

Educate policymakers about the need for improved ADA and VDA training and compliance for building code inspectors.

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

Focus Area: People with Disabilities Have Access to Healthcare

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

Indicators for Success Include the Completion of the Following Objectives:

Educate twelve medical service providers (targeting three per quarter) of their legal obligations under Title III of the ADA.
[Podcast Impact Project] Develop and release an episode of Rights Here, Rights Now about healthcare access rights.
Provide STA to every individual with a disability alleging a failure to provide an accommodation that creates a barrier to community based healthcare services. (target 4 per quarter)
From the cases above, represent five individuals whose issues could not be resolved through short term assistance. Priority given to cases where there is an opportunity to secure provider or health system wide improvements.
Prevent discriminatory policies and practices during COVID-19 including, but not limited to, crisis standards of care, visitation prohibitions, and inaccessible testing and treatment sites. Obtain corrective action, to include litigation, as needed.
Survey five healthcare systems to determine whether patients with disabilities have accessible telehealth options. Publish a report of findings.

**Part VI. Narrative**

At a minimum, you must include all of the information requested. You may include any other information, not otherwise collected on this reporting form that would be helpful in describing the extent of PAIR activities during the prior fiscal year. Please limit the narrative portion of this report, including attachments, to 20 pages or less.

The narrative should contain the following information. The instructions for this form outline the information that should be contained in each section.

- 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	380,869.00	380,783.00
State	0	0
Program Income	0	0
Private	0	0
All other funds-carryover	0	0
Total (from all sources)	380,869.00	380,783.00

**B. Budget for the fiscal year covered by this report**

Category	Prior Fiscal Year-FY19	Current Fiscal Year FY20
Wages/salaries	\$249,451.25	250,090.83
Fringe benefits (FICA, unemployment, etc.)	64,732.15	68,997.08

Materials/supplies	2,500	1,287
Postage	1,500	544.50
Telephone	1,870	970.20
Computer/IT	2,000	3,960.00
Rent -	22,000	19,800
Travel	15,800	9,603
Copying	200	1,485
Equipment (rental/purchase)	1,100	1,683
Temporary Personnel Services	0	0
Miscellaneous	28,740	29,264.81
Total	\$ 389,893.40	\$ 387,685.42

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

Type of Position	FTE	% of year filled	Person-years
Professional			
Full-time	30	90	27
Part-time	2	50	1
Vacant			
Clerical			
Full-time	6	80	5
Part-time			
Vacant			

A.



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 is to advise the protection and advocacy system on policies and priorities protecting individuals with disabilities concentrating on those with mental illness.

E. Grievances filed under the grievance procedure-

There were no PAIR Grievances in FY 20. The dLCV Executive Director and dLCV Board of Directors review and respond to our agency grievances.

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? Yes

Signed By Colleen Miller

Title Executive Director

Signed Date