



UNIVERSITY LEGAL SERVICES (ULS)

The Protection & Advocacy Program for the District of Columbia

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Volume I, Issue I

SUMMER 2008

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UNIVERSITY LEGAL SERVICES ISSUES PATIENTS IN PERIL 2008: A REPORT ON PATIENT DEATHS IN 2007 AND THE DANGEROUS MEDICAL CONDITIONS AT ST. ELIZABETHS HOSPITAL

*By Robin Thorne,
Managing Attorney*

In January 2008, University Legal Services ("ULS") issued Patients in Peril 2008: A Report on Patient Deaths in 2007 and the Dangerous Medical Conditions at St. Elizabeths Hospital, after investigating the deaths of eleven patients there in 2007. Each death raises serious questions about the quality of medical care at St. Elizabeths. In fact, the U.S. Department of Justice recently expressed its concern about the "significant number of recent deaths at [St. Elizabeths Hospital] and the inadequate nursing and medical care that these deaths highlighted." One death occurred when a staff person improperly physically restrained a patient who had both a mental illness and an intellectual disability. The staff committed significant errors in their resuscitation efforts when they noted that the patient was no longer breathing. ULS conducted a thorough review of the records of the other ten patients' deaths. This review revealed neglectful, substandard medical and nursing care, with instances of medical mistakes and appalling oversights that contributed to the severity of the patients' illnesses, their pain and suffering, and, in some cases, perhaps even their deaths.

The records of these patients demonstrate the St. Elizabeths nursing staff's consistent failure to perform basic, critical nursing functions. Nurses regularly fail to monitor serious medical conditions, and fail to adequately monitor and treat patients when medical problems arise. The nursing staff also fail to conduct adequate routine assessments of their patients, and there is no evidence in the records reviewed that the nurses plan and implement medically related nursing care in any meaningful way. Essential nursing responsibilities, such as the basic taking, recording and monitoring of routine vital signs, are frequently neglected, risking delayed treatment and further clinical deterioration.

After releasing the report, ULS learned of a twelfth death in 2007 – that of a patient who had gone on unauthorized leave and drowned after getting trapped under a fence during a rain storm. Although his body was recovered shortly after the drowning, the Hospital did not identify the body until more than five months had passed.

Conditions at the Hospital have not improved in 2008, and at least two patients have died there this year. In addition to investigating the latest death, ULS is investigating a patient-on-staff assault that left the patient blind in one eye, and an alleged patient-on-patient sexual assault.

DC JAIL PROJECT WELCOMES NEW PEER ADVOCATE

By Gretchen Rohr,
Staff Attorney

"In my former profession . . . I realize I was just on the outside looking in."—Angela Agnew

ULS' new mental health initiative for incarcerated individuals continues to grow. In March, the DC Jail Advocacy Project welcomed a new staff member, Angela Agnew, to its team. Angela wears two hats—she works as the Program Assistant as well as a Peer Advocate providing peer-based advocacy and training for formerly incarcerated individuals with mental illness.

Angela is from Chicago, where she received her clinical training and Mental Health/Addictions Counseling Certification in Illinois. She has worked for Haymarket Center, Lutheran Social Services of Illinois and Community Counseling Center of the Fox Valley as a counselor. However, Angela's most valuable training/background may be from her personal experience with mental health and substance abuse recovery [*see in her own words* below].

ULS is very fortunate to have Angela working with the Project. Some people who have felt alienated by traditional services are drawn to her because she instills hope, facilitates trust and truly reflects a commitment to recovery. She teaches effective self-advocacy through her personal experience and helps others navigate reentry by spanning the boundary between various services.

Within her first two months, Angela has already provided peer support and referral services for many people in the program. She was the leading organizer of the Project's Focus Group Series. And she has presented on her experience with recovery and basic rights to healthcare before several groups including the Consumer Leadership Forum, the Office of Ex Offender Affairs, the DC Jail's Faith-Based and the Community Organizations Coalition (LINCS). In May, Angela was featured in the National Institute for Corrections' national satellite conference on workplace development for women as they transition out of prison.

In her own words:

I have struggled for a number of years (20+) due to a lack of understanding of personal mental health issues. I have had numerous diagnoses and have taken a variety of medications. I also believe that the stigma placed on individuals receiving mental health services played a major role in my inability to focus on getting

help for myself.

Thankfully, through what I at one time called, "A series of unfortunate events", I found myself incarcerated and in a position where I had no choice but to sit still, take a look at my life, and either take a chance on fighting for my life and sanity, or die. I made the decision to put an effort towards recovery.

It is the best decision I have ever made in my entire life. I am better, stronger, have a clearer mind, and a fierce determination to succeed in all areas of my life. I believe I have come full circle. In my former profession, I provided mental health and substance abuse services. In retrospect, I realize that I was just on the outside looking in.

[At ULS], I feel that I have been hired, not "in spite of" the fact that I receive mental health services. I have been embraced by this agency and my experiences have a positive meaning. I have begun to learn so much more about myself through attending conferences, trainings, seminars, forums. I am actively involved in peer/consumer led groups such as the Consumer Leadership Forum, in Washington, DC as well as self-help and 12-step groups. I am learning how to advocate on my own behalf, and even better, on behalf of others.



WE NEED YOUR HELP!

ULS is a non-profit, 501(C)(3) organization. Your tax-deductible gift will enable us to continue to provide advocacy services by experienced staff for people in our community with disabilities. Your gift will enable us to maintain excellent services as well as expand into areas where there are needs but fewer resources to meet them. Please make your check payable to University Legal Services and send it to the attention of Jane Brown, University Legal Services, 220 I Street, N.E., Suite 130, Washington, D.C. 20002, and we will be happy to send you a donation letter for your tax records.

TBI AND DOMESTIC VIOLENCE

By Ebele Onwueme,
Staff Attorney

At a recent presentation given by University Legal Services (ULS), a social worker, Ms. M., relayed a story of a client about whom she was quite concerned. The client was having difficulty making plans and, at different times, appeared confused, displayed low tolerance, mood swings, had problems with short and long term memory loss and problems following through on tasks. The social worker was concerned that the client might have an undiagnosed mental illness or cognitive disability.

Upon further questioning, it was revealed that the client was a victim of domestic violence which had been ongoing for several years. Despite being a frequent visitor to the emergency room for her injuries, no one had ever ventured beyond treating the visible symptoms of her injuries. As a result of the ULS presentation on Domestic Violence and Traumatic Brain Injury (TBI), the social worker now suspected that her client's issues might be the result of an undiagnosed TBI and planned to refer her client to a physician for further screening for TBI.

Studies show that more than 90 percent (90%) of all injuries resulting from domestic violence occur to the head, neck and face region. Unfortunately, traumatic brain injury is often overlooked as a consequence of those injuries. A study of women living in domestic violence shelters showed that, on average, women in domestic abuse relationships experienced five (5) brain injuries per year.

Victims of domestic violence can get a TBI in any of the following ways: a blow to the head with an object; being pushed against the wall or any other surface; strenuous shaking of the body; being shot in the face or head; or from being punched in the face or head.

Domestic violence victims often lack the knowledge of the long-term consequences of brain injury and as a result, fail to

seek help, which results in failure in the intervention process. Like Ms. M's client, victims may also be more difficult to engage in planning and following through on tasks and might display memory retention problems and slowed cognitive processing, mood swings, inappropriate behaviors and impaired judgment. This lack of knowledge about brain injury also increases the likelihood of the individual suffering another TBI. The result of these issues, if unchecked, can also lead to increased cognitive, physical and emotional dysfunction over time.

Advocating for services for victims of domestic violence who have been diagnosed with TBI is made even more difficult by the fact that unlike some states that have a Medicaid waiver for people with TBI, which provides funding for community-based services, D.C. does not have a Medicaid waiver for people with TBI. In DC, individuals who are diagnosed with TBI before the age of 18 are able to receive services under other waiver programs. For individuals who have been diagnosed with TBI as a result of domestic violence, it is even more difficult to help them get Medicaid services because a majority of them suffer the TBI and are diagnosed well after the age of 18.

Through our priorities, ULS is committed to assisting individuals with TBI in the District of Columbia. As part of our priorities, we are committed to: working through litigation and advocacy and collaboration to ensure that all persons with TBI have access to services in the most integrated community settings; educating the community and service providers about traumatic brain injury and the availability of the P&A; and educating community leaders about the benefits of a TBI waiver.

For more information about traumatic brain injury and how ULS is working to meet the needs of individuals in the District with TBI, please contact Ebele O. Onwueme, ULS-P&A Staff Attorney, (202) 547-0198, ext. 142.

ULS Settles Discrimination Suit with Chinatown Bus Service

*By Marjorie Rifkin,
Managing Attorney*

In March 2007, ULS filed a lawsuit in federal court on behalf of Jahinnslerth (Joe) Orozco, a man who is blind and experienced blatant discrimination by Today's Bus and New Today Bus Corp., interstate Chinatown bus services. This lawsuit, Orozco v. Today's Bus, Inc., et al, Civ. Action No. 07-cv-444, sought injunctive relief for violations of Title III of the Americans with Disabilities Act (ADA) and monetary damages under the DC Human Rights Act because the companies twice refused to allow Mr. Orozco to board the bus with his guide dog Gator. Mr. Orozco was ultimately allowed to ride the bus after police intervened in both cities. However, in violation of his federal civil rights, he was segregated at the back of the bus with his dog.

After nearly one year of litigation, in February 2008, ULS negotiated a settlement of the case on behalf of Mr. Orozco for an undisclosed amount of money and injunctive relief. The company has now:

- adopted policies that prohibit discrimination against people with disabilities, and specifically allow people with service animals to ride the buses without advance notice,
- pledged to train all employees, station staff and bus drivers about federal anti-discrimination laws and the rights of people with disabilities,
- posted signs in English and Chinese that state explicitly that the company does not discriminate against anyone on the basis of their disabilities, will reasonably accommodate people with disabilities who request accommodations, and resolve complaints by people with disabilities.

The Settlement Agreement was filed in the U.S. District Court for the District of Columbia.

Marjorie Rifkin, Managing Attorney,
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ULS, ONE OF D.C.'s BEST

*By Jane Brown,
Executive Director*

ULS was named "Best Watchdog" by The Washington City Paper in their April 18 – 24, 2008 issue entitled "Best of D.C., Celebrating the Classics." It was noted on page 141 of the issue that "No one does a better job for the least among us than University Legal Services." Our monitoring of facilities, investigative work and advocacy were recognized. I applaud our committed staff for their tireless efforts, ingenuity and know-how which have clearly not gone unnoticed by the larger community. The small size of our staff belies our ubiquity and wide-ranging forms of advocacy undertaken to protect the rights of and the lives of people with disabilities in the District of Columbia. I congratulate the staff who never fail to cause me to beam with pride for the privilege of working with them.

Kelley Drye & Warren LLP Sponsors a ULS Summer Law Clerk for an Equal Justice America's Law Student Fellowship

This summer, the DC office of the law firm Kelley Drye & Warren LLP sponsored a fellowship for University Legal Services (ULS) law clerk Nicole Poland. Ms. Poland is a student at the George Washington University Law School. At ULS, she conducted special education legal research and providing litigation support for Bates v. Northwestern Human Services.

Kelley Drye participated in Equal Justice America's (EJA) Washington, DC for Equal Justice Campaign. Established in 1993, EJA is a non-profit 501(c)(3) organization that provides opportunities for law students to work with programs that deliver civil legal services to those in need. EJA has sponsored fellowships for nearly 2,000 law students to work with over 200 legal services organizations, distributing nearly \$5.5 million in grants and providing approximately 550,000 hours of free legal services. Many EJA Fellowship recipients have graduated from law school and are serving their communities in legal aid careers.

As Kelley Drye's fellow, Ms. Poland was invited to participate in activities related to the firm's summer associate program, including training, professional development, and social activities. Kelley Drye is committed to participating in programs that promote service to the community, and welcomes the opportunity to encourage law students to pursue careers with organizations that provide legal services to those in need. The firm's participation in the program culminated with a reception at the end of the summer, during which additional members of the Washington, DC legal community were encouraged to participate in the program.

ULS is very grateful for the generous support of Kelley Drye & Warren.

Voting in the District of Columbia: The Journey Towards Accessibility Continues



By Akua Brempong,
Staff Attorney

In 2002, Congress passed the Help America Vote Act (HAVA) in order to assist in the administration of elections and establish minimum election standards. HAVA was enacted to create uniform election standards so that all

eligible voters, including voters with disabilities, would have a chance to cast a valid ballot in Federal elections. Under HAVA, Protection and Advocacy programs, including University Legal Services (ULS), are charged with "ensuring the full participation in the electoral process of individuals with disabilities, including registering to vote, casting a vote and accessing polling places.

ULS has covered every one of the District's elections since 2004 and has issued reports on accessibility to the staff of the Board of Elections and Ethics (BOEE) as well as its Board of Commissioners and the public. In the February 2008 Presidential Primary, ULS organized a network of staff, disability rights consumers, advocates and others to assess the accessibility of 105 of the District's 142 precincts. The precinct monitors assessed the:

- The accessibility of the route to the polling site entrance
- The accessibility of the polling site entrance
- The elevators and/or chairlifts
- The voting machines for proper turning radius
- The ability to vote in private at the voting machines
- The availability of accessible parking
- The signage directing voters to accessible entrances
- The availability of assistive equipment at each precinct

ULS issued its report entitled No Parity at the Polls: Four Years Later in April 2008. In the report, ULS found that 15.2 % of the District's polling places were inaccessible due to structural or operational issues. The report lists precincts as **structurally inaccessible** when voters with mobility disabilities could not enter the building to vote due to steps, narrow doorways or other issues that could not be remedied by poll workers. The **operationally inaccessible** precincts were those precincts where poll workers failed to take the necessary steps to ensure accessibility or equipment malfunctioned and was not repaired in a timely manner. The inaccessible precincts were:

- George Washington University (600 22nd Street, NW)- Precinct 2
- West End Public Library (1101 24th St, NW)- Pre-

cinct 4

- MPD Boys and Girls Club (2500 14th Street, NW)- Precinct 23
- Wesley United Methodist Church (5312 Connecticut Avenue, NW)- Precinct 32
- MPD-Regional Operation Command (801 Shepherd St, NW)- Precinct 45
- Rabaut Junior High (100 Peabody St, NW)- Precinct 64
- LaSalle Elementary School (501 Riggs Road, NE)- Precinct 65
- Taft School (1800 Perry Street, NE)- Precinct 69
- St. Monica's Episcopal Church (1340 Massachusetts Avenue, SE)- Precinct 88
- Tyler Elementary School (1001 G St, SE)-Precinct 90
- Metropolitan Memorial United Methodist Church (3401 Nebraska Avenue NW) -Precinct 9
- 4th District Police Station (6001 Georgia Avenue, NW)- Precinct 58
- Bunker Hill Elementary School- (1401 Michigan Avenue, NE)- Precinct 67
- Ketcham Elementary (1919 15th Street, SE)- Precinct 114
- 7th District Police Station (2455 Alabama Avenue, SE)- Precinct 115
- New Image Community Baptist Church (1839 Alabama Avenue, SE)- Precinct 116

In 2006, BOEE put doorbells in place at each polling site to address the lack of accessibility and prompt poll workers to be more responsive to voters in need of assistance to enter the polling sites to vote. The doorbells proved to be ineffective as 26% of the precincts had problems with the doorbells. ULS sent copies of the report to the BOEE and will present the findings to BOEE's Board of Commissioners July meeting. If you would like a copy of No Parity at the Polls: Four Years Later, you can access it at http://www.uls-dc.org/What's_New.htm.

The journey toward achieving 100% precinct accessibility in the District of Columbia continues. If you would like to be a part of the effort, you can sign up to be a poll worker with the BOEE by applying at the BOEE website at www.dcboee.org. If you have any questions about working the polls you can contact the BOEE at (202) 727-2525. If you have had problems with accessibility at a precinct in the District of Columbia or would like to volunteer to help ULS with monitoring the polls, please contact Akua Brempong at ULS, (202) 547-0198 ext. 102.

SANDY BERNSTEIN WINS THE SCOTT AWARD AND THE ANDREW WOOD ADVOCACY AWARD



ULS Legal Director, Sandy Bernstein, was honored April 11, 2008 with the Jerrold Scottt prize. The presentation of the award, and the Judiciary reception, were highlights of the District of Columbia Judicial & Bar Conference. The Scottt prize is awarded annually to an attorney who has worked at a non-profit organization and has demonstrated a high degree of legal skill on behalf of clients, as well as compassionate concern. The District of Columbia Bar Foundation confers the award and in its press release stated that,

*Sandy has devoted her legal career to advocating on behalf of people with disabilities with passion, tenacity, and skill. She has worked with **University Legal Services** since graduating from law school 12 years ago, and has in that time represented and advocated for numerous individuals with disabilities in the District to ensure that their rights are secured and that they are provided with the support needed to be fully integrated into the community. She has directly handled cases to ensure access for people with*

mobility impairments in shelters, schools, and public accommodations. She has advocated on behalf of individuals with mental illness and developmental disabilities and for systemic changes within the local and federal systems that intersect with her clients' lives. Her work garners the highest accolades from within the legal community.

The Andrew Wood advocacy award was presented to Sandy on November 28, 2007 by the District of Columbia Commission on Persons with Disabilities. The DC CPD honors an outstanding advocate each year who has advocated vigorously in service to our community. We are honored to count Sandy among our ULS family.

DC JAIL ADVOCACY PROJECT HOSTS A SERIES OF FOCUS GROUPS

By Angela Agnew,
Peer Advocate

In April and May 2008, the ULS DC Jail Advocacy Project hosted a series of focus groups designed to explore how our advocacy can be more relevant to the needs of the individuals we serve. We hosted one focus group for individuals with psychiatric disabilities who have returned home from jail/prison. Two other focus groups were conducted inside the DC Jail for individuals receiving mental health services while incarcerated. All of the information was collected as a part of the Project's ongoing Strategic Planning Initiative and will be analyzed alongside survey and interview results by our consultants, *Mosaica Inc.: The Center for Nonprofit Development and Pluralism*.

Focus group discussion covered a range of topics including challenges faced when transitioning out of incarceration, ideas for improving mental health care in the community, problems encountered while under parole/court supervision, and the need for addiction recovery, family and other social supports. The following highlight some of the valuable comments shared:

"I wish there were more people to help advocate while persons are still incarcerated. I feel the probation officers should be in a much better position to help instead of trying to send people back to prison."

"We need proper psychiatric care. We need to be reassessed. We need to make sure that we have a proper diagnosis and get the proper treatment because a lot of us have been misdiagnosed."

Participants from all groups expressed dissatisfaction with discharge planning upon their release from jail and the federal bureau of prisons. Some stated the only mental healthcare they received was while incarcerated and there was little follow-up afterwards. Many participants stressed the importance of being treated with dignity and respect. One participant noted, **"We are not animals and are treated like them."** They also spoke of a desire to understand their right to quality, individualized care and to advocate on their own behalf and on behalf of others. One person added, **"We need the community to be more of a help. We should have equal respect whether in Georgetown or other areas of the city."**

We received an overwhelming response from individuals with disabilities within the Jail and outside in the community. The response illustrates the unique needs of individuals in jail who receive mental health services and the importance of providing support services to them upon release. A report from the consultant *Mosaica Inc.* is expected in June 2008.

"We are human beings, not just a file on a disc or desk."

ACCESSIBLE PUBLIC HOUSING STILL ELUDES MANY DC FAMILIES



By Marjorie Rifkin,
Managing Attorney

ULS has again enforced the federal Consent Order in Young v. District of Columbia Housing Authority (DCHA) that required DCHA to produce 565 fully wheelchair accessible public housing units in specific bedroom sizes by December 31, 2007. ULS filed this class action lawsuit in 2001 on behalf of Capital Area ADAPT and all people with mobility disabilities in the District of Columbia in need of wheelchair accessible public housing.

DCHA failed to build 90 of the 565 accessible units by the final deadline of December 31, 2007. All but six of these 90 units are for families in need of accessible 2, 3, 4 and 5 bedroom accessible housing.

This is the second violation of the Order by DCHA. Following ULS' contempt motion in Fall 2005, the Judge issued an order in August 2006 directing DCHA to provide interim housing options to plaintiff class members while they await fully accessible public housing units.

In June 2008, ULS negotiated an Amended Consent Order that requires DCHA to provide three interim housing options to 90 class members in need of multi-bedroom apartments that correspond to the apartment sizes that DCHA failed to build. The interim housing options to be provided by DCHA to the 90 class members while they await the production of the fully accessible apartments are: units in market rate housing developments leased by DCHA; Housing Choice (Section 8) Vouchers for people to lease apartments, or public housing apartments. All the interim housing options must be apartments on accessible paths that afford people access to full bathrooms. DCHA must designate two full-time staff persons to assist class members locate interim housing of their choice within 120 days. In addition, DCHA will pay \$2,000 to each of the 90 designated class members. In the event that DCHA does not complete all 90 accessible apartments in the required bedroom sizes by December 31, 2013, DCHA will have to pay \$500 per month to a nonprofit organization to be designated for each apartment not completed that will allow the remaining class members to maximize their benefits and their income.

ULS encourages all people with mobility disabilities in need of wheelchair accessible public housing to:

- fill out an application (available on the internet at: http://www.dchousing.org/department/Client_Placement_application.pdf) and submit it to DHCA's Client Placement Division at 1133 North Capitol Street NE, Washington, DC 20002;
- provide DCHA with a valid, permanent address (such as a post office box) where timely receipt of mail is ensured;
- contact DCHA's Client Placement Division at 1133 North Capitol St NE on a regular basis to confirm your status on the public housing waiting list for wheelchair accessible housing;
- attend all scheduled interviews or meetings with DCHA's Client Placement staff, or, *if necessary, request accommodations to extend deadlines for interviews;*
- provide all necessary documents required by DCHA such as birth certificates, (non)-driver photo identification, income statements, medical releases for verification of the need for accessible housing *and, if necessary, request accommodations to extend deadlines for interviews and submission of documents;*
- respond to all DCHA correspondence by the deadlines provided or, *if necessary, request accommodations to extend deadline.*

In the event that DCHA is not responsive to your need for accessible housing, or you are already on the DCHA waiting list or transfer list for a 2,3,4 and 5 bedroom apartment, please contact Marjorie Rifkin at 202-547-0198 ext.128.

A WALK IN THE PARK

By Celeste Valente,
Senior PAIMI Advocate



In June 2006, University Legal Services received a telephone call from Minnie Cox, asking for assistance for her brother, Johnny Calhoun. Mrs. Cox described her brother's situation and their family's efforts to ensure that he have the opportunity to return to a home-like environment, where he could take advantage of the daily pleasures he so enjoyed: visits to the zoo, a trip to the movies with friends, or a walk in the park. When Mr. Calhoun's diabetes had worsened the year before, and he could not self-inject the insulin that he needed twice per day, the group home in which he lived would not allow his return because no one was able to identify a way to provide for the injections. Mr. Calhoun, only 50 years old, was then sent to a nursing home.

At the time of the phone call in 2006, Mr. Calhoun was residing in a nursing home in Maryland. Luckily, Mr. Calhoun is a member of a family of natural advocates. They refused to accept this outcome and proceeded to make multiple phone calls to identify supportive resources to help Mr. Calhoun return to his former way of life.

ULS jumped in by contacting Mr. Calhoun's core services agency, the Department of Mental Health and the Department of Health. When numerous phone calls did not yield results, ULS filed a grievance with the Department of Mental Health on Mr. Calhoun's behalf. ULS insisted that the Department of Mental Health had a responsibility to provide sufficient supports to ensure that persons with disabilities, like Mr. Calhoun, be afforded opportunities to live in the least restrictive environment. In the meantime, Mr. Calhoun was moved to a nursing home in the District of Columbia that was even more crowded and more restrictive. At the new facility Mr. Calhoun could not even take a walk in the neighborhood because it was considered dangerous.

Unfortunately, it took close to two years to work through the grievance process and to secure sufficient supports to allow for a happy ending. But this story does have a happy ending! While his grievance was pending, Mr. Calhoun's core services agency arranged for him to return to a day program that he sorely missed. This step was the beginning of a return to the community for Mr. Calhoun.

At the beginning of summer 2007, the Department of Mental Health finally agreed on a plan to move forward. They agreed to look for a housing placement and agreed that it would arrange for sufficient nursing services to provide the necessary insulin injections. In September 2007, Mr. Calhoun moved back to a group home operated by Woodley House. He has been happily living in this home for nine months.

I recently met with Mr. Calhoun at his home. He showed me around the house and took me out to the back yard, where they have barbeques on special occasions. As we sat in the nicely decorated living room, Mr. Calhoun said that he enjoys so many things about life there. He has his own room, helps out in the kitchen, takes walks to the zoo and goes to the movies with some friends. Mr. Calhoun revealed that he is optimistic about his future now. He looks forward to the next steps in his life and continuing to expand his personal choices.

HOUSING FIRST AND THE DEPARTMENT OF MENTAL HEALTH'S HOUSING SUBSIDY PROGRAM

By Patrick Wojahn,
Staff Attorney

Recently, the Department of Mental Health ("DMH") proposed a new series of regulations to implement its "Home First Subsidy" bridge program for people with mental illness in the District of Columbia. This "bridge" program is intended to provide housing for consumers while they are on the waiting list for longer-term public housing, or until they have an income and can pay for housing on their own. The regulations set out rules as to when a person is eligible for the housing program, the reasons why DMH could remove a person from the program, and what happens if someone wants to move to a new apartment.

This program may be part of a recent initiative by Mayor Adrian Fenty, who, according to a recent article in the Washington Post, is working to move 400 of the District's "most vulnerable" people into apartments by October 1, 2008. Mayor Fenty wants to do this through a "Housing First" initiative, which, according to his staff, means that "issues such as mental illness and substance abuse [would] not bar the chronically homeless from being placed in permanent housing." Sylvia Moreno, "400 of 'Most Vulnerable' Homeless to Get Apartments," *Washington Post*, April 3, 2008, at p. B04, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/04/02/AR2008040202287.html?hpid=topnews>. The "Housing First" model, developed by the organization Pathways to Housing, believes that people with mental illness and substance abuse problems cannot truly recover unless they are provided stable housing, and places housing as the top priority when providing services. See Stefancic, A., Tsemberis, S., "Housing First for Long-Term Shelter Dwellers with Psychiatric Disabilities in a Suburban County: A Four-Year Study of Housing Access and Retention," 28 *J. Primary Prevention* 265-279 (2007), available at http://www.pathwaystohousing.org/Articles/PTHPublications/Stefancic_A_Tsemberis_S.J.PrimaryPrevention2007.pdf.

Unfortunately, despite the Mayor's "Housing First" plans and the name of the program itself, DMH's proposed regulations are

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THE PAIMI ADVISORY COUNCIL IN ACTION

By Samuel Allen,
Advocate

When the ULS PAIMI Advisory Council discovered that May is Mental Health Month, the members knew they wanted to reach out to the consumers in their community. The council, which is made up of consumers, former consumers, family members and professionals, decided the best way to do this was to share their experiences of illness and recovery. They were wary of simply being another voice in the crowd and wanted to give consumers something that would resonate with them and that they could relate to. The idea of a skit developed, using an amalgamation of different individuals' experiences of the mental health system, as an example of how to take back some control over one's own treatment. Within two days a script was written and "casting" commenced.

The skit centers on a new consumer, Paul, as he navigates his initial meeting with a psychiatrist. Paul shares his symptoms with the psychiatrist and is given a number of pre-

scriptions to deal with them. We then catch up with Paul as he returns to see his doctor after a few months. He tries to tell the doctor about his concerns about the medication and side effects, but feels frustrated when the doctor does not listen. After a chance meeting with a friend, Paul is connected with an advocacy group, which educates Paul about his rights. When Paul next visits his doctor, he has a new sense of empowerment. He is able to articulate his needs and to get his treatment altered. Finally, he becomes an advocate himself.

The Council chose three sites to present their message: the McClendon center, a core services agency with enough room to accommodate a sizable audience of consumers; the D.C. Core Services Agency's quarterly roundtable, with providers and interested members of the public; and St. Elizabeths Hospital, D.C.'s public inpatient psychiatric hospital.

After a few get-togethers and some script revisions, the Council was ready for their first event. As soon as they saw

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SOCIAL SECURITY RE-LAUNCHES THE "TICKET TO WORK" PROGRAM TO PROVIDE MORE OPTIONS FOR BENEFICIARIES WHO WANT TO RETURN TO WORK

By Tracy C. McGhee,
Staff Attorney

The "Ticket to Work" and Work Incentives Act" (Public Law 106-170) was signed into law in December 1999. The "Ticket to Work" program is a **voluntary** employment program designed to help recipients of Social Security disability and Supplemental Security Income benefits go to work, become self-sufficient, and eliminate the need for cash benefits. The "Ticket to Work" program was officially launched in Washington, DC in November 2002. Since then, eligible beneficiaries have been receiving "tickets" in the mail that they can redeem for vocational rehabilitation services, employment services, and other support services. Over time, the program has evolved and Social Security Administration (SSA) reports it has learned valuable lessons on how to better serve beneficiaries with this program. Therefore, effective July 21, 2008, SSA will re-launch this vital program with improved regulations primarily designed to attract and recruit more service providers called Employment Networks (EN). An EN is an organization approved by SSA to assist beneficiaries with a variety of employment-related services. The increase in ENs is expected to lead to an increase in choices and services for beneficiaries, thereby increasing their participation in the program.

University Legal Services (ULS), under its Protection and Advocacy for Beneficiaries of Social Security (PABSS) program, provides representation, advocacy, and information and referral regarding the "Ticket to Work" program. In doing so, ULS seeks to assist beneficiaries in breaking down the barriers to securing, regaining, or maintaining employment. If you receive SSI or SSDI and have questions regarding the "Ticket to Work" program or if you have a complaint or problem with any entity providing employment-related services, please contact ULS Staff Attorney, Tracy C. McGhee. If you would like to work but fear losing your benefits, Ms. McGhee is available to discuss your options.

FREQUENTLY ASKED QUESTIONS

1. Will I get a Ticket?

If you receive SSI or SSDI and are between 18 and 65 years old, you will receive a Ticket.

2. Do I Have to Use the Ticket?

Ticket use is completely **VOLUNTARY**. If you begin using your Ticket and find that you cannot or do not want to continue, you may stop without penalty. Your decision not to use your Ticket will have no effect on your benefits.

(Continued on page 11)

(HOUSING FIRST AND THE DEPARTMENT OF MENTAL HEALTH'S HOUSING SUBSIDY PROGRAM...Continued from page 9)

not based on "housing first" principles. The regulations put responsibilities on consumers that may be difficult to fulfill if the consumer is in the midst of a crisis. For example, the regulations require that each consumer notify DMH within fifteen (15) days, whenever there is a change in income, and permit DMH to remove the consumer from of the program if that person fails to do so. Although a consumer's case manager is supposed to help with these reporting requirements, nothing protects the consumer from being removed from the program if his/her case manager does not help. Also, if the consumer violates any provision in his or her lease, DMH can remove that consumer from

the subsidy program, even if the violation is a result of the consumer's mental illness.

A true housing first policy would require an individual's core services agency to work with that person whenever he or she faces the threat of losing his or her subsidy due to a mental health crisis or for any other reason. For many people with mental illness, the bridge subsidy program is the difference between having a stable place to live and being homeless. ULS continues to work with DMH to improve the proposed regulations to create a program that is truly in line with Mayor Fenty's promise of providing "housing first."

(THE PAIMI ADVISORY COUNCIL IN ACTION...Continued from page 9)

how many people had turned out they knew they were on to a good thing. The audience, a mixture of consumers and advocates, seemed to really enjoy it, evidenced by the lengthy discussions that followed. The council members distributed various advocacy materials, including fact sheets about advanced directives and consumer rights. After the skit, council members also provided testimonials of their own experiences.

The second event, although shorter in length and with a

different audience, was equally well received. By the time it was finished, the Council was already thinking of taking the idea beyond the original three dates. After they saw how well both the skit and the testimonials went over at the last event at St Elizabeth's, they knew they had to get their message to as many people as possible. Now the Council plans to continue to take their brand of outreach to more and more people, and help them take control of their treatment and hopefully their lives.

If you would like the Council to perform at a function, contact Sam Allen at (202) 547-0198, ext. 113.

(SOCIAL SECURITY RE-LAUNCHES THE "TICKET TO WORK" PROGRAM TO PROVIDE MORE OPTIONS FOR BENEFICIARIES WHO WANT TO RETURN TO WORK...Continued from page 10)

3. What will using the ticket do for me?

Using the Ticket should make more service providers available to you to help you return to work and become self-sufficient. In addition, while you are actively participating in the Ticket to Work program, you can safely explore your work options without losing your benefits. You can easily return to benefits if you have to stop working (known as "expedited reinstatement of benefits"); you can continue to receive healthcare benefits; and you will not receive a continuing disability review (CDR) while using your Ticket.

4. Will my participation in the Ticket Program affect my benefits?

Your benefits will not be reduced or discontinued if you choose not to participate in the Ticket Program. If you choose to participate and you return to work at a significant salary level, you may no longer qualify for cash benefits. Should you find that you cannot continue to work, your cash benefits can be reinstated quickly.

5. What if my cash benefits stop because I go to work, what happens to my health insurance (Medicare and Medicaid)?

Your Medicare may continue for as long as eight and one-half years. Depending on your salary, you may also have the opportunity to continue to receive Medicaid Insurance.

6. Who can provide employment services to me?

Under the Ticket Program, you can receive employment services from an approved Employment Network or from Rehabilitation Services Administration (RSA). To find the Employment Networks in your area, you may call MAXIMUS, the Program Manager at 866-968-7842 or check the MAXIMUS website at www.yourtickettowork.com.

7. What is an Employment Network?

An Employment Network is an organization approved by the Social Security Administration to assist you with a variety of services. A few of these services might be resume writing, interviewing skills, assisting with job applications, job seeking skills, support groups, job training and re-training, and job coaching. The EN to whom you assign your Ticket will develop a plan with you, outlining steps that will help you return to work and then assist you as you progress through the steps of your plan.

8. Does the Employment Network have to accept my Ticket and provide services to me?

Only RSA is required to accept your Ticket and attempt to provide services to you. All other ENs will assess whether you fit the profile of individuals to whom they think they can successfully provide services. Many ENs focus their services to specific disabilities. Examples of these specialized areas are physical disabilities, cognitive disabilities, traumatic brain injuries or mental illness. If they do not think that they can help you, they may refuse to accept your Ticket. ENs may also accept your Ticket and refer you to RSA for the actual services.

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SAVE THE DATE FOR INCLUSIVE SCHOOLS WEEK 2008!

By Shawn Ullman,
Staff Attorney

Mark your calendars for December 1-5, 2008, and celebrate Inclusive Schools Week 2008 in the District of Columbia!

University Legal Services (ULS) is participating on a committee to plan Inclusive Schools Week 2008. In addition to ULS, committee members currently include representatives from the District of Columbia Public Schools (DCPS), Advocates for Justice and Education (AJE), the Arc of the District of Columbia, and the Adaptive Services Division of the District of Columbia Public Library. The committee hopes to add more community stakeholders in the weeks and months leading up to Inclusive Schools Week.

Inclusive Schools Week is celebrated every year during the first week in December. Schools all over the county celebrate the week to highlight the progress of the nation's schools in using inclusive educational practices to provide all students a quality education, including students with disabilities. The District's Inclusive Schools Week committee hopes this year will be the best Inclusive Schools Week in the District to date.

Inclusion can mean different things to different people. Inclusion does not mean simply placing students with disabilities in regular education classrooms and expecting them to achieve the same academic content standards as their non-disabled peers. Inclusion means providing special education services in the regular education classroom so that students with disabilities can learn alongside their non-disabled peers, but with the supports and services that they need, based on their individual strengths and weaknesses, to achieve the goals in their individualized education program, or IEP.

The District's Inclusive Schools Week committee is currently making plans for activities that will take place during the week of December 1-5, 2008. We hope to celebrate Inclusive Schools Week with classroom-based activities, schoolwide contests and other activities, as well as a citywide celebration on Friday, December 5, 2008 with speakers, awards, and a proclamation that DCPS is working towards becoming a more inclusive school system.

If you have any questions about Inclusive Schools Week or about inclusive education in the District, please contact Shawn Ullman at (202) 547-0198, ext. 141 or sullman@uls-dc.org.

(SOCIAL SECURITY RE-LAUNCHES THE "TICKET TO WORK" PROGRAM TO PROVIDE MORE OPTIONS FOR BENEFICIARIES WHO WANT TO RETURN TO WORK.. Continued from page 11)

9. When will I get a Ticket?

Tickets are mailed on a rolling basis. However, if eligible, you may request a Ticket at any time by contacting MAXIMUS at 1-866-968-7842 voice or 1-866-833-2967 (TTY).

10. Who can give me more information on the Ticket program?

The Social Security Administration has contracted with MAXIMUS, Inc. to perform the Program Manager role. You can reach them toll-free at 1-866-968-7842 (voice) or 1-866-833-2967 (TTY). They can provide you with information and a list of ENs that serve the District. **Before you decide to use your ticket, however, you**

should contact a Community Work Incentives Coordinator with WIPA (Work Incentives Planning & Assistance) to help you determine how income from work will impact your benefits such as SSDI, SSI, Medicare, Medicaid, Housing, Food Stamps, Cash Assistance, and Transportation Assistance. For Washington DC, Endependence Center, Inc. is the WIPA that has contracted with Social Security to provide this service. They can be reached at (301)839-1956.

Finally, you may contact ULS or go to the following websites: www.yourtickettowork.com or www.ssa.gov.

DE-INSTITUTIONALIZING DC ULS PROMOTES COMMUNITY BASED SERVICES AND SUPPORTS AS ALTERNATIVES TO NURSING HOME PLACEMENT

*By Tiffani Greenidge,
Advocate*

As the protection and advocacy program for Washington, DC, a key goal of ULS is to ensure that DC Medicaid provides community based services and supports through the Elderly and Physical Disabilities (EPD) waiver program and the Medicaid State Plan to individuals with disabilities in nursing homes who want to transition to the community. Due to DC Medicaid's failure to promote these services and supports, hundreds of people with disabilities in nursing homes who want to return to the community continue to languish in nursing homes.

ULS has undertaken education and outreach by training nursing home residents and staff, as well as hospital discharge workers, about how people with disabilities can obtain wheelchair accessible subsidized housing and services. The purpose of this outreach is to share information about alternatives to nursing homes as well as housing options, for individuals who wish to transition to the community.

In the Fall of 2007, ULS further expanded its outreach efforts by commissioning the production of a ten minute video entitled "Your Home, Your Choice – Advocating for the Rights of People with Disabilities to Live Independently in the Community." This short video features Bobby Coward and Gregory Daniels, two individuals with physical disabilities who live independently in DC with the services they need. Greg successfully transitioned from a nursing home to the community with services and supports through the EPD Waiver. Greg and Bobby explain the three types of subsidized accessible housing available in DC: public housing, private housing subsidized by tenant-based Housing Choice Vouchers, and privately owned and managed subsidized project-based housing. They also describe how people can apply for housing and for up to 16 hours of daily personal care services through the EPD Waiver Program, depending on their needs.

ULS has also incorporated the video in our nursing home trainings. The video, coupled with ULS advocacy and outreach, enables nursing home residents to have the opportunity to learn about community based alternatives and how to take the steps toward independent living.

To view the video "Your Home, Your Choice," visit the ULS website, <http://www.uls-dc.org/test1.html>. The video will also be linked to websites of other consumer advocacy agencies, such as the Long-Term Care Ombudsman's Office and Direct Action. In addition, ULS distributed 100 free copies of the film to nursing home and hospital staffs and residents, advocacy groups and DC Medicaid, which recently ordered 100 copies of the video for distribution in conjunction with the Money Follows the Person Program.

Another avenue which ULS had hoped to use to continue its outreach to nursing home residents was the Money Follows the Person (MFP) grant for home-based care. In May 2007, DC Medicaid received a five-year \$26.5 million grant from the Centers for Medicaid and Medicare Services (CMS) which boosts the District's Federal reimbursement rate to 85% for each person transitioned from institutions. The grant was supposed to include residents of nursing homes and psychiatric hospitals, in addition to Intermediate Care Facilities for People with Mental Retardation (ICF-MRs).

ULS, along with a handful of advocates including the Arc of DC, the Quality Trust for Individuals with Disabilities, Legal Aid Society and DIRECT Action, co-authored the MFP Proposal that was submitted to CMS. To be eligible to participate in the MFP demonstration, people with disabilities must live in an institution for six months or longer and require a "nursing home level of care." The MFP demonstration was designed to assist approximately 1100 people with disabilities to transition from institutions. As of June 2008, the MFP program will focus exclusively on people with intellectual disabilities.

The MFP Demonstration will be administered by the DC Medicaid Office on Disability and Aging (ODA) in the Medical Assistance Administration (MAA) of the DC Department of Health (DOH) in conjunction with DDS.

(Continued on page 14)

**(DE-INSTITUTIONALIZING DC
ULS PROMOTES COMMUNITY BASED SERVICES AND SUPPORTS AS
ALTERNATIVES TO NURSING HOME PLACEMENT ...Continued from page 13)**

Prior to beginning transition work under the MFP demonstration, DC Medicaid was required to develop an Operational Protocol for CMS' approval that describes how the MFP program will work. ULS, along with representatives from DC government agencies, advocacy groups and consumer on the MFP advisory committee, drafted portions of the Operational Protocol. For example, ULS described in detail the community transition of an young man with physical disabilities and a senior citizen following years in nursing homes.

The MFP demonstration will not be implemented until CMS approves the plan. However, ULS continues to advocate for accessible housing and for community-based services for people in nursing homes and other institutions under the EPD Waiver Program and the MR-DD Waiver Program and the State Medicaid Plan.

ULS AND LAW FIRMS: AN ESSENTIAL PARTNERSHIP

*By Mary Nell Clark,
Managing Attorney*

ULS represents individuals with mental illness in the *Northwestern* litigation, individuals with developmental and intellectual disabilities in the *Evans* litigation, individuals with developmental disabilities and mental illness in the *Saint Elizabeths* litigation and children receiving special education services in the *Petties* litigation. Each of these actions is either a large class action or a case in which ULS itself acts as the representative of the individuals as in the *Saint Elizabeths'* case. Essential to each of these large actions is the participation of outside counsel.

ULS and the patients at Saint Elizabeths Hospital are represented by King & Spalding on a *pro bono* basis. The law firm has put extraordinary resources into this litigation, funding dozens of depositions in 2006 and paying the expenses related to filing a Motion for Permanent Injunction last March that included over 700 exhibits. King & Spalding provided paralegal support to collate and organize binders full of thousands of pages of documents for this filing. Such a tremendous donation of resources, over \$100,000, is extraordinary but essential to a litigation that involves an effort to bring about significant change at a large institution within the District of Columbia. Richard Schneider, "Doc," lead counsel in the case, is a senior partner in the international firm. He is committed and has personally argued motions on behalf of ULS and the patients.

Similarly, in the *Northwestern* case, attorneys at the law firm of Kelly Drye have drafted briefs in response to motions and handle litigation issues while the attorneys at ULS keep the clients informed and follow up with factual issues related to the individuals.

When the *Evans* team of attorneys -- ULS and the nonprofit Center for Public Representation -- decided that they must file for receivership, the law firm of Holland and Knight came on board to assist with the representation of the *Evans* class. The Holland and Knight attorneys are skilled litigators and dedicated to improving the services provided to the *Evans* class. The *Petties* class is represented by Brad Johnson from the Johnson Law Group International, PLLC. Mr. Johnson has represented the class for years and is a support to the advocacy work of ULS.

The support of the law firms with greater resources and outside counsel with a unique perspective can only help our clients and improves our ability to advocate effectively. ULS is grateful for their continued advocacy and encourage others to join us in our fight for the rights of individuals with disabilities.

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