



2016

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Law & Disability Issues Conference

Every year the Community Health Law Project presents a free conference on law and disability issues. The conference is sponsored by the New Jersey State Bar Foundation and the New Jersey Institute for Continuing Legal Education, with funding from the IOLTA Fund of the Bar of New Jersey. The most recent Law & Disability Issues Conference took place on May 10, 2016.

Housing Issues

This session discussed the various issues, problems and programs related to housing opportunities in New Jersey, including affordable housing, supportive housing, special needs housing, emergency housing assistance and foreclosures and foreclosure prevention.



Pictured L-R: Stefanie Wynne, Anthony Marchetta, Stu Weiner, Arnold Cohen, Gail Levinson and Steve Leder

MODERATOR—Stuart H. Weiner, Esq., Managing Attorney, CHLP
PANEL—Arnold Cohen, Senior Policy Coordinator, Housing & Community Development Network of New Jersey; **Steven M. Leder, Esq.**, Senior Attorney II, CHLP; **Gail Levinson**, Executive Director, The Supportive Housing Association of New Jersey; **Anthony L. Marchetta**, Executive Director, New Jersey Housing and Mortgage Finance Agency; **Stefanie Wynne**, Assistant Director, Housing Outreach, Affordable Housing Alliance

WORKSHOP 1—Addiction: Issues and Services This workshop discussed changes in service availability for treatment coverage, problems and needs including Medicaid, approvals for treatment and needs expressed by consumers and families.

MODERATOR—Harold B. Garwin, Esq., President/Executive Director, CHLP
PANEL—Adam Bucon, State Opioid Treatment Authority, NJ Division of Mental Health and Addiction Services; **Vicki Fresolone**, Chief of Care

(Continued on Page 2)

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Law & Disability Issues Conference

Management, NJ Division of Mental Health and Addiction Services; **Manuel Guantez, PsyD, LCADC**, Vice President, Outpatient Services, Rutgers, University Behavioral Health Care; **Joanne McCarthy, LPC, LCADC**, Director, Call Center Services, Mental Health Association in NJ; **David Roden, LCSW, LCADC**, Vice President & Chief Operating Officer, New Hope Foundation, Inc.



Pictured L-R: Manuel Guantez, David Roden, Vicki Fresolone, Joanne McCarthy, Adam Bucon, Harold Garwin

WORKSHOP 2—Prisoner Reentry: Issues and Services This workshop presented the status of the statewide effort to develop and provide services for persons reentering the community from incarceration as well as diversion services to avoid incarceration.

MODERATOR—Erika Kerber, Esq., Senior Managing Attorney, CHLP

PANEL—Robert N. Davison, MA, LPC, Executive Director, Mental Health Association of Essex County; **Robert J. Kantor**, Hearing Officer, NJ State Parole Board; **Lt. Brandon A. Rose**, District Parole Supervisor, NJ State Parole Board; **Randy Schwartz**, Program Manager, GEO Reentry Services, Neptune Community Resource Center



Pictured L-R: Randy Schwartz, Brandon Rose, Erika Kerber, Robert Kantor and Robert Davison



CONGRATULATIONS!

After 40 years of service with the Community Health Law Project, the Board of Trustees and staff would like to congratulate

DAVID LAZARUS

on his retirement. We wish him all the best!

WE WOULD LIKE TO REMEMBER...LYNDA SIMS

Lynda started at CHLP in April of 1983, and held various positions in the Essex office where her professionalism and attention to detail was legendary. She also volunteered with the CHLP Friend/Advocate Program where she worked one-on-one with seniors who needed assistance. Lynda was plagued with many health issues, but rarely complained. Instead she focused on the good in her life, which included her family, her faith, and her friends. She passed away on April 1, 2016. All of us here at the CHLP miss our dear friend.



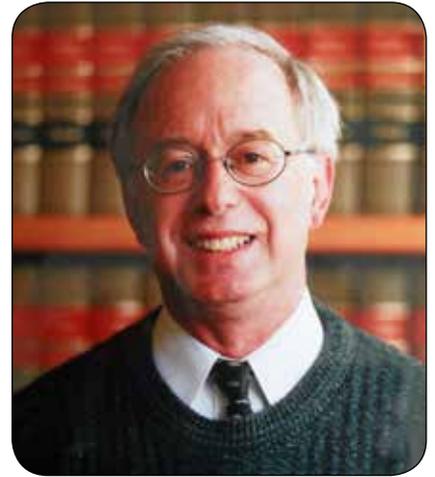
IN MEMORY OF CHLP STAFF WHO HAVE PASSED AWAY, WE WILL REMEMBER THEM FONDLY AS COLLEAGUES AND FRIENDS:

Beverly Abrash, Richard Bennett, William Coram, Geraldine Foreman, Lois Krieger, Mary Lou Lynch, Karen Prince, Luisa Ragonese, Peter Reilly, Tara Ryan, Lynda Sims, Frankie Sloan, Marc Snyder, Edna Sulat, Anne Thompson, Cecelia Urban, Bruce Volpe, John Wilson, Steve Zamrin, and Betty Zuber

Message from the Executive Director

The Community Health Law Project (CHLP) has continued its important role - assisting New Jersey's most vulnerable residents. During this past year, we continued our efforts to enroll individuals under the Affordable Care Act. We reached hundreds of people, informing them about health insurance and how to enroll. Staff assisted hundreds of uninsured or under-insured individuals to enroll in the Federal Health Insurance Marketplace or in NJ Family Care, the state's Medicaid program.

Our attorneys and advocates have also provided information, counsel, and representation in a variety of matters including individuals and families still devastated by Sandy. Staff have helped to connect people to state and federal assistance programs, and helped to address housing issues such as tax reductions, mortgage foreclosure settlements, landlord disputes, and litigated matters related to contractor work or contracts.



We have continued our services to help persons living in the community who are receiving home health services including personal care assistance, private duty nursing, and durable medical supplies, and to help resolve issues concerning the amount of care received and continuation of care.

We are pleased that we have been able to expand our legal and advocacy services to persons living with HIV/AIDS. We now provide services to residents of Mercer, Passaic, Bergen, Monmouth; and soon to those living in Atlantic and Cumberland. Additionally, we continue to serve individuals under our Ryan White grant from the Newark EMA serving Essex, Morris, Warren and Sussex.

The above-mentioned efforts are only a small part of the overall activities of the CHLP. Over 4500 persons were served this fiscal year. Staff represented 2600 individuals in various civil legal matters including public benefits eligibility, family issues, housing, foreclosure, and consumer problems.

Our five regional offices and four satellite offices allow our staff to be accessible throughout the state and to serve our clients in their local area.

Today we face a most unsettled state and country. A new president, a one-party federal government, and an upcoming state election with a new governor to be elected. Despite the potential upheaval, we are proud and pleased that the CHLP continues to be a valued, successful, and important part of the safety net. The Law Project's Board and staff remain dedicated to assuring that the rights and entitlements of New Jersey's residents living with disabilities have a strong voice acting on their behalf.

Sincerely,

A handwritten signature in black ink that reads "Harold B. Garwin". The signature is written in a cursive style.

HAROLD B. GARWIN

President/Executive Director

The 29th Annual Ann Klein Advocate Awards

On Thursday, October 27, 2016, the Community Health Law Project's annual awards dedicated to the memory of Ann Klein, former Commissioner of the Department of Human Services, were held at The Wilshire Grand in West Orange, NJ. CHLP's Chairperson, Diane Sugrue, Esq., presided over the presentation of awards to five recipients who were nominated by their colleagues as individuals who have made extraordinary contributions to improving the lives of people with disabilities. The 29th Annual Ann Klein Advocate Awards honorees were:

Julie Doerrmann, *Program Coordinator, Recovery Network for the Deaf, Hard of Hearing & Hearing Loss Center for Family Services, Inc.*

Military Family Support 360 Project at Joint Base McGuire-Dix-Lakehurst

Faith W. Rice, *Executive Director, NJ Center for Tourette Syndrome & Associated Disorders, Inc.*

Wakefern Food Corp.

Joe Young, *Executive Director, Disability Rights New Jersey*

NJ Council on Special Transportation, *The Mike Lione Accessibility Award*

We thank the following sponsors for support of the Ann Klein Advocate Awards and the important work of the Community Health Law Project:

Journal Underwriter:

Wakefern Food Corp.

Gold Sponsor:

Employers Association of New Jersey; Verizon

Silver Sponsors:

Columbia Bank; Gibbons, P.C.; Johnson & Johnson Law Department

Bronze Sponsors:

Mutual of America; Trenk, DiPasquale, Della Fera & Sodono, P.C.



Pictured L-R: Faith Rice, Ann Marie Burke for Wakefern Food Corp., Joe Young, Peg Kinsell for Military Family Support 360 Project at Joint Base McGuire-Dix-Lakehurst, Julie Doerrmann



Michael Vieirra for NJ Council on Special Transportation

The 30th Annual Ann Klein Advocate Awards will take place on Thursday, October 19, 2017, at The Wilshire Grand in West Orange. If you would like to attend, please call Martha Prezuhy at CHLP, 973-275-1175.

CASES AND ISSUES OF INTEREST

TO YOUR HEALTH

- CHLP was referred a matter involving a DDD client who receives 16 hours per day in nursing care. CHLP is assisting with an appeal to obtain 24 hours per day of nursing care for this DDD client with many medical needs and who suffers from Riley-Day syndrome, seizures, respiratory infections, familial dysautonomia, ataxia, alacrima, corneal hypoesthesia, optic nerve atrophy, severe, dysarthria, decreased perception for pain and temperature, gynecomastia, severe protein calorie malnutrition, fractures, osteoporosis, avascular necrosis (left ankle), and decubitus ulcer. There had previously been 24 hours per day of nursing care but on a reauthorization the private insurer denied 24 hour per day care and reduced the level of care to 16 hours per day. CHLP has requested and received many supporting records and letters. A fair hearing was not available as the matter involves a private insurance carrier. An appeal was made to the NJ Department of Banking and Insurance for an independent review. The matter was forwarded to Permedion for the independent review. CHLP filed many supportive letters of medical necessity for the 24 hour care from a number of specialists at CHOP, Bayada, a local treating physician, and other specialists and about 2,000 pages of records. Permedion determined that as the patient does not have a tracheostomy, is not ventilator dependent (not technology dependent), receives most medications twice a day or once a day and does not receive continuous g-tube feedings and attends an adult learning facility outside his private residence that his condition is stable and that 16 hours per day would suffice to meet his medical needs. CHLP has advised the parents that while this seems to follow the restrictions in the private policy, that the policy also provides for 24 hours per day for a three day period for those who become acutely ill and where the pdn care would help to prevent a hospitalization. CHLP will help parents pursue this argument with the insurer.

- CHLP was referred a matter involving a child for whom an electric sleep safe bed had broken and cannot be fixed. CHLP has gathered a great deal of supportive documentation and has filed a Stage 3 appeal with the New Jersey Department of Banking and Insurance. The matter was sent to Permedion for an independent review. Permedion determined that the bed was absolutely necessary and the NJ Department of Banking and Insurance ordered that the insurance carrier supply the requested bed. The insurance carrier supplied the bed.

- CHLP was referred this matter involving a 3 year old child who has a history of chronic lung disease, reactive airway disease, concern for obstructive sleep apnea, dysphagia, g-tube dependence, and oxygen dependence along with developmental delays. CHLP was referred the matter too late for a Stage 3 appeal and there had already been a hearing with an Administrative Law Judge who postponed the matter when a settlement for 14 hours was rejected by client's parent. CHLP has sent letters of representation, requesting discovery, and requesting records and supporting letters from treating sources. The insurance carrier relented and determined not to reduce the hours of pdn services that the child already received.

- CHLP pursued internal appeal with the insurance carrier regarding amount of hours of pca care being provided - approval for only 25 hours of care and father would prefer 60 hours of care, indicating he is actually only getting about 20. JD is disabled and father is the primary caregiver. JD had a tumor and cyst on brain, surgery went badly although the tumor turned out to be benign. He is often confined to a wheelchair and incontinent. He has seizures. His reviewed problems include fracture of rib, traumatic brain injury, as well as memory loss, speech disorder, convulsions, weakness, headaches, tinnitus, imbalance with falls, visual loss and difficulty with gait and walking. JD is disoriented as to problem and time. At discharge from rehab it was recommended that the patient never be left alone and that he have 24 hour supervision at all times. There was also increasing concern about the patient's safety in the home setting. JD had a complex medical condition which has been worsening over time. His seizures have been worsening as has his incontinence and he has been falling more. His father, 70 years old, is his sole caretaker and has more difficulty in caring for JD on his own. CHLP and the client's father have been requesting and the insurance carrier did a new assessment as to the number of hours. The client was discharged from Moss Rehabilitation and the insurance carrier did a new assessment for 49 hours of care. JD and his father were quite pleased with the additional hours of care.

SPECIAL EDUCATION

- Staff represented the parents of a high school student with multiple disabilities to negotiate a settlement agreement with her school district that will take her through age 21 and places her in a college program for students with disabilities. Our attorney also helped the client get approved for Supplemental Security Income benefits after an initial denial so that she would have income and Medicaid eligibility, which will allow her to continue to receive Division of Developmental Disabilities services as an adult. Lastly, the attorney executed a Durable Power of Attorney for this

CASES AND ISSUES OF INTEREST (continued)

client so that her parents could continue to assist her when needed. It was tailored to her specific needs and the parents and client were in agreement, it avoided the need for a costly guardianship that was not necessary for this young lady.

HOUSING

- A few months ago the Law Project was contacted by an ex-client who had received a “Notice to Quit and Notice of Rent Increase” from his Landlord. The client had lived at the apartment complex for over 15 years and in his present apartment for about 8 years. His housing was in an affordable housing program that received COAH credits under the Fair Housing Act. His current rent was \$654/month which he could afford on his income from Social Security Disability Benefits of approximately \$1200 a month. The rent increase in the notice he was sent requested that he sign a new lease at the market rate of \$1467/month, in effect removing the affordability controls on his apartment. The reason the Landlord felt they had the right to raise the rent so dramatically was that the affordability controls on the unit were for 20 years from the date of the original Certificate of Occupancy on the unit which occurred in 1996. Our initial review of the regulatory scheme confirmed that the unit did in fact lose its affordability controls but nevertheless we opened the file to see if we could fashion some relief for the client as the proposed rent was unaffordable on his income. The Law Project consulted with the Fair Share Housing Center as to possible defenses that would allow the client to remain in his housing. In our joint research we came across N.J.A.C. 5:80-26.11(b) which indicated that, even when units’ affordability controls expire, the control period for the resident tenant continued until the current tenant vacated the unit or the tenant’s income was greater than 80% of the regional medium income, which in 2017 was about \$47,000. Since our clients income was less than the income standards set forth in the regulation we sent a letter to the attorney for the Landlord indicating that their Notice to Quit and Notice of Rent Increase was inconsistent with the regulation and as such void and requested they forward a new lease agreement to the client that maintained the affordability control. At this point the Landlord has not responded to our letter but is continuing to accept his rent of \$654/month.

SUPERSTORM SANDY

- Our client lost his home to Sandy flooding. He applied to the Department of Community Affairs (“DCA”) for emergency assistance and rebuilding grants totaling \$160,000. Initially he was approved but DCA later determined that he was not an eligible homeowner on the date of the storm and therefore was ineligible for the grants. DCA found that a copy of an unrecorded pre-storm deed to him from his mother was not valid proof of ownership. The unrecorded deed was prepared several months before the storm at the direction of our client’s mother by a licensed New Jersey attorney, who witnessed and took the maker’s acknowledgment and signature and who then delivered the deed to our client. Our client failed to record the pre-storm deed and was unable to find the original after the storm. Shortly after the storm in November, 2012 our client’s mother signed, acknowledged and delivered a new deed that is substantially the same as the lost deed. That deed was recorded on January 24, 2013. Our client’s contention is that the first deed was valid in every respect, that recording is not required for a deed to be effective in New Jersey, and that therefore the second deed was simply a replacement. DCA disagreed and the matter went before an ALJ who sided with DCA essentially concluding that the making of the second deed repudiated the requisite intent for the first deed to be valid. CHLP has taken the matter to the Appellate Division and is hopeful that the validity of first deed will be upheld or that the matter will be remanded for a full hearing to determine the maker’s intent.

INITIATIVE INVOLVING BOARDING HOMES AND RESIDENTIAL HEALTHCARE FACILITIES

- Client suffers from Hoarding Disorder, a mental illness that makes it extremely difficult to part with his possessions. After client became homeless, the Board of Social Services placed him in a rooming house where he currently resides. The rooming house operator discovered that his room contained an unacceptable amount of clutter and deemed it unsafe. Client tried his best to address the issues by throwing out unnecessary items. However, due to his Hoarding Disorder, he was unable to keep his room clean and uncluttered. The rooming house operator commenced eviction proceedings. Client then came to CHLP for assistance. We agreed to represent him and proceeded to request a reasonable accommodation. This request led to a successfully negotiated settlement with the landlord’s attorney whereby further eviction proceedings would cease as long as client continued to keep his room free from clutter. Client is doing well. He is applying the things he learned in treatment and has taken the initiative to start a Hoarders Anonymous chapter at the rooming house.

CASES AND ISSUES OF INTEREST (continued)

SOCIAL SECURITY

- CHLP represented a client in order to obtain Social Security Disability (SSD) benefits due to the effects of chronic neck pain and depression. This person was struggling with a chronic neck condition that did not improve after conservative and then aggressive treatments and surgery. Due to a lack of income, this client applied for general assistance. As a requirement for general assistance, this person was required to file for Social Security Disability benefits and Supplemental Security Income benefits. However, the client was adamant of medical improvement and a return to work. A strong family work ethic kept this person going, and while the hearing was pending, this client returned to work full time. Despite valiant efforts, the supervisor provided progressively negative feedback. The client became increasingly upset to where family members recommended quitting the job. The client left the job, slowly realizing the limitations of these conditions. The client's hearing was heard about 7 months after the job ended. The Judge found that this recently held job was an unsuccessful work attempt. The Vocational Expert present at the hearing found that the client's past work as a reporter was characterized as skilled, and that these skills transferred to a lesser skilled job. This finding precluded the client from being found eligible for SSD using the Medical Vocational guidelines. However, the Judge found the chronic pain that the client experience would preclude full time work on a consistent, sustained and ongoing basis and awarded benefits. Now, this client has the ability to continue to try to work, however, has the ability to pay for housing and Medicare insurance for future health care.
- MG is completely blind in one eye and has extremely low vision in the better eye. She had previously received SSD benefits but due to earnings, SSA terminated these benefits. At the same time she came to CHLP, she was no longer working, homeless, and living in a shelter. She was not even receiving GA benefits. Prior to coming to CHLP, she applied for "Expedited Reinstatement" and received SSD benefits for 6 months but they were terminated because SSA's review concluded that she was no longer disabled. We immediately advised her to apply for GA benefits which she ultimately received. We also represented her at an "Expedited Reinstatement" hearing before an Administrative Law Judge who issued a fully favorable decision based on her rapidly deteriorating vision. MG is back in pay status and can now afford a new apartment.

EMERGENCY ASSISTANCE PROGRAM

- CHLP represented a Burlington County client with mental health problems who faced termination of emergency assistance from the Burlington County Board of Social Services (BCBSS) during the time of the termination of the Housing Assistance Program. She had an ongoing appeal of her SSI application. CHLP represented her at a fair hearing in which the CHLP and the client reviewed BCBSS documentation showing she had used up her housing assistance but realized and showed that many of the months of housing assistance had been incorrectly attributed to her when they were indeed that of another client with a different Social Security number. The attorney for the BCBSS agreed and indicated that the client should be able to receive many more months of housing assistance. She did until the BCBSS apparently forgot to continue rental assistance payments and she faced eviction for non-payment of rent. CHLP had many contacts with BCBSS, and CHLP filed a request for an emergent fair hearing. After more communications with the BCBSS, it paid the back rent and the landlord withdrew the eviction complaint. A judgment of possession was entered but after more contacts to the BCBSS it made payment of back rent, late fees, and court costs in sufficient time to stave off the eviction.

FEE-FOR-SERVICE

The Community Health Law Project (CHLP) has initiated a Fee-for-Service (FFS) representation program for individuals with disabilities whose income exceeds CHLP's income guidelines to obtain free legal representation or for those individuals with disabilities for whom CHLP has no funding to provide free legal representation. Under the FFS program, CHLP bills its legal services on a sliding scale, from \$125 to \$175 per hour, depending on the client's income. Legal services are provided in such areas as special education, Social Security, special needs trusts, health insurer's denial of coverage or services, guardianships, expungements, name changes, wills, living wills, powers of attorney, fair housing and ADA issues, and certain other civil law matters.

The Independent

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