

**NJCDD**

NJ Council on Developmental Disabilities

the **Council**

A publication of the New Jersey Council on Developmental Disabilities

**Inside this issue:**

Bill Limits Protections in Institutions. . . .page 2

En Español: El presupuesto del Estado . .page 3

Resource: Staff Support Workshop . . . .page 4

Bill to Expand Family Care Signed . . . .page 5

Federal Education Case Continued. . . .page 5

Community Calendar. . . . .page 6

**New Jersey State Budget Preserves Vital Programs for People with Developmental Disabilities**

The state's \$32.9 billion budget includes an unprecedented cut of \$600 million, the largest absolute reduction in state history. The budget, passed along party lines, was approved a week before the constitutional deadline of June 30.

It significantly reduces the use of non-recurring, one-time revenue to support spending, increases property tax relief, and increases funding for education and preschool.

For the most part, services to people with disabilities were preserved. The budget includes \$24 million to allow the Division of Developmental Disabilities (DDD) to transition 125 clients from the seven state developmental centers into community residential placements and day programs as required by the state's Olmstead plan. An additional \$15.5 million is provided

*continues on page 6***House Passes ADA Amendments Act Overwhelmingly**

The U.S. House of Representatives passed the Amendments to the Americans with Disabilities Act by a bipartisan margin of 402-17. The bill strengthens language from the original ADA, which advocates and some lawmakers believe had been weakened by some Supreme Court rulings that more narrowly defined certain protections for people with disabilities outlined in the 1990 law. According to sponsors and proponents, the amendments seek to restore the original intent of Congress when it enacted the ADA.

Over the past decade, courts have been very conservative in supporting individuals' ADA claims against employers, diminishing a number of protections many involved in the drafting of the original law believed it covered. In response, civil rights and disability advocates worked with Congress to craft a bill – the ADA Restoration Act – to clarify the law and restore some of those protections.

Earlier this year, House sponsors, Representatives Steny Hoyer (D-MD) and James Sensenbrenner (R-WI) invited the advocates to work on a compromise with leaders in the U.S. Chamber of Commerce and other representatives of the employer community. The near unanimous June 25th House vote was the result of months of intense negotiations by this unique alliance.

The bill must now be considered in the U.S. Senate, where a version is expected to be approved. If signed by the President – and no veto is anticipated – the law would:

- specifically redress Supreme Court decisions that have eroded

*New Amendments clarify the ADA and restore some of the protections lost in courts over the past decade.*

*continues on page 4*

---

## New Jersey State Budget *continued from cover*

to annualize placement and day program costs for 100 developmental center clients transitioned in FY 2008. Finally, language in the Appropriations Act makes up to \$12.5 million available to DDD to provide community residential placements and home-based services to persons on the Community Services waiting list.

A July 2 letter from Human Services' Commissioner Jennifer Velez, sent to families of students leaving the special education system, confirmed the availability of DDD funding for day services and transportation. Families were given the option of a traditional day

program, or a personal budget through Real Life Choices' Transition Program.

For the first time, there are no legislative add-ons - commonly known as "Christmas trees" - which many providers of services for people with disabilities have used to secure funding for special programs.

In a separate move, legislators passed other bills that would reduce benefits for newly hired state employees and provide early retirement incentives to permanently eliminate 2,000 State jobs.

---

## Bill to Limit the Legal Protection of People with Developmental Disabilities in Institutions Gaining Support

A bill that would prohibit organizations that receive federal funds from using those funds to file class action lawsuits against institutions for people with developmental disabilities is gaining support in the U.S. House of Representatives.

The measure, H.R. 3995, introduced last year in Congress, would limit federally funded Protection and Advocacy (P&A) organizations from filing class actions to protect individuals with developmental disabilities living in developmental centers from abuse or neglect. Since 1975, P&As have guarded people with developmental disabilities against abuse; advocated for health care, education, employment, housing, transportation and juvenile and criminal justice systems rights for people with developmental disabilities.

The legislation, introduced by Rep. Barney Frank (D-MA), is gaining support. It currently has 39 co-sponsors; none from New Jersey. Supporters of the bill - including the "Voice of the Retarded," a national group comprised of parents of people living in institutions, and labor unions that represent those who work there - are concerned that class action lawsuits brought by P&As have, in some cases, led to the downsizing and closure of institutions.

The National Association of State Councils on Developmental Disabilities, and national disability rights organizations, claim the bill harms the rights of people with disabilities by restricting P&As from filing lawsuits designed to protect individuals living in institutions. They are alarmed by a growing list of supporters in Congress and are concerned that members of Congress and staff may not fully understand the work of the P&As.

These organizations agree with the overarching principal of community integration, and view downsizing and closure of institutions as a positive step. They have asked family members and self-advocates to reach out to members of Congress about the importance of community based living, the need to protect individuals with developmental disabilities, and give them the opportunity to live and thrive in their communities.

Advocates who wish to take action, or learn more, can contact Sharon Scribner Pearce at [spearce@sonnenschein.com](mailto:spearce@sonnenschein.com), or Karen Flippo at [kflippo@nacdd.org](mailto:kflippo@nacdd.org), or go to <http://www.napas.org/policy/civright/> for more information.

## El presupuesto del Estado de Nueva Jersey conserva programas vitales para personas con discapacidades de desarrollo

El presupuesto del Estado de \$32.9 mil millones establece un corte sin precedentes de \$600 millones, la mayor reducción absoluta en la historia del Estado. El presupuesto, que se presentó para aprobación de los partidos políticos, se aprobó una semana antes del plazo constitucional del 30 de junio.

Reduce significativamente el uso de los ingresos no recurrentes por una vez a fin de soportar el gasto, incrementa el alivio tributario sobre la propiedad y aumenta el financiamiento para la educación y educación preescolar.

En general, se conservaron los servicios para las personas con impedimentos. El presupuesto incluye \$24 millones para permitir que la División de Discapacidades de Desarrollo (DDD) realice el traslado de 125 clientes de siete centros de desarrollo del Estado a colocaciones residenciales comunitarias y programas diurnos, de acuerdo a los requisitos del plan Olmstead del Estado. Se proporcionaron \$15.5 millones adicionales para formular en forma anual los costos de las colocaciones y programas diurnos para 100 clientes del centro de desarrollo trasladados durante el ejercicio 2008.

Finalmente el texto de la Ley de Asignaciones otorga la disponibilidad de \$12.5 millones a la DDD para proporcionar colocaciones residenciales comunitarias y servicios basados en el hogar a personas anotadas en la lista de espera de los Servicios Comunitarios.

Mediante la carta de fecha 2 de julio, dirigida a las familias de estudiantes que se estaban retirando del sistema de educación especial, la Comisionada Jennifer Velez de Servicios Humanos, confirma la disponibilidad de fondos de la DDD para servicios diurnos y transporte. Se les dio a las familias la opción de elegir entre un programa diurno tradicional, o un presupuesto personal a través del Real Life Choices Transition Program (Programa de Transición de Opciones de la Vida Real).

Por primera vez no existen beneficios legislativos adicionales – comúnmente conocidos como “Christmas trees” (Árboles de navidad) – que muchos proveedores de servicios para personas con impedimentos han utilizado a fin de lograr financiamiento para programas especiales.

En una movida separada, los legisladores aprobaron otros proyectos de ley que reducirían los beneficios a los empleados del Estado contratados recientemente y proporcionarían incentivos de jubilación anticipada a fin de eliminar permanentemente 2,000 puestos de trabajo del Estado.

The Council is a publication of the New Jersey Council on Developmental Disabilities.

Chair: Elaine Buchsbaum  
Exec. Director: Alison M. Lozano, Ph.D., M.P.A.  
Executive Editor: Norman Reim  
Editor/Writer: Brenda Considine  
New Jersey Council on Developmental Disabilities  
PO Box 700, 20 West State Street  
Trenton, NJ 08625-0700  
Telephone: 1-800-216-1199; 609-292-3745;  
TDD: 609-777-3238; FAX: 609-292-7114.  
<http://www.njcdd.org>

The Council is a compilation of news from various sources, organized to inform people with disabilities about policies, programs, laws, trainings and events. This publication and others published by NJCDD are available in alternate accessible formats. Please call the Council for more information.

**Correction:** In the June, 2008 issue of The Council’s Newsletter, we erroneously identified the school attended by one of the students profiled in the story on transition from school to adult life. Colleen attended a program operated by the Educational Services Commission of Morris County. We regret the error.

---

## House Passes ADA Amendments Overwhelmingly *continued from cover*

---

important protections for people with disabilities that Congress intended the ADA to cover.

- make clear that Congress intended the ADA's coverage to be broad, covering anyone who faces unfair discrimination because of a disability.
- clarify that the courts must apply a less demanding standard than they have in the past to determine who has a disability.
- make it easier for a person with episodic impairments to be protected by the ADA.
- afford broad coverage for individuals "regarded as" having a disability under the ADA; and

- clarify that accommodations need not be made for someone who seeks coverage solely because he or she is "regarded as" having a disability.

Eleven of New Jersey's twelve Representatives in the House were co-sponsors of the bill and voted to approve the measure. Only Representative Scott Garrett (R- 5) voted against the bill.

Readers who wish to take action can contact their Representative. For information, go to <http://www.house.gov/house/MemStateSearch.shtml>

Readers can also contact New Jersey Senators Lautenberg and Mendendez to express support for the ADA Amendments Act of 2008. For contact information, go to <http://www.senate.gov/>



### Resource Desk

#### **Find, Choose & Keep Great Direct Support Professionals: A Workshop for People with Disabilities and Their Families**

The Boggs Center on Developmental Disabilities is offering a new workshop for people who are directing their own supports and who would like to learn strategies for recruiting, training, and retaining good direct support workers.

When directing supports (Real Life Choices, Self Determination), people with disabilities and their families often discover that finding great support staff within your community can be challenging and requires a variety of skills. In this workshop, participants will learn strategies for finding direct support professionals (DSPs), making the right choice during the hiring process, teaching DSPs to do the job, and keeping great staff over time. This interactive workshop includes a toolkit with activities and worksheets for participants to take home to continue building the skills needed to self-direct services.

The workshop will be held on September 19, 2008. Registration is available on line at [http://rwjms.umdj.edu/boggscenter/training/direct\\_support.htm](http://rwjms.umdj.edu/boggscenter/training/direct_support.htm). For more information, contact Carol M. Britton, MSW, Training and Consultation Specialist, at 732-235-9321.



## Governor Signs Bill To Expand FamilyCare Program

New Jersey Governor Jon Corzine signed a bill that will expand health care coverage for thousands of uninsured children and working families.

The law requires all uninsured children in New Jersey to obtain private or state-funded health coverage within the first year of the bill's enactment. The program also will expand the NJ FamilyCare program to parents with incomes up to 200% of the federal poverty level. Roughly 25,000 parents are expected to enroll within a year, and as many as 80,000 within three years.

The plan will be funded with \$8.9 million in the State's 2009 budget. The annual cost of the program is expected to be \$68 million, which legislative leaders say will be offset by a reduction in state charity care spending in which the state pays hospitals for treating the uninsured.

The new measure also calls for changes to individual health care programs in order to make coverage more affordable for younger adults. Premium increases will be capped at 15% per year in each of the next four years. In addition, the Department of Health will be required to establish guidelines for a "hardship waiver," which would waive FamilyCare premiums for certain children. FamilyCare currently insures nearly 124,000 children and 98,000 adults.

The law, which will take effect in September, moves New Jersey closer to a universal health care program for its 1.4 million uninsured residents. The second phase of the program -- mandating insurance for adults -- is expected to be unveiled later this year.



## Federal Court Refuses to Dismiss Special Education Segregation Case

A Federal District Court Judge ruled that a case filed by the Education Law Center, New Jersey Protection and Advocacy and others should be allowed to proceed. The case asks the New Jersey Department of Education to implement broad systemic reforms to help address high rates of segregated special education placements. The complaint charges that the state violated the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act by allowing school districts to systemically place students with disabilities in segregated, disabled-only classrooms. New Jersey has been cited by the U.S. Department of Education for failing to ensure the provision of special education services in the "least restrictive environment."

Attorneys for the state had asked the court to dismiss the case on a number of grounds, but all were denied. Because of the high percentage of students with disabilities in segregated classrooms, the judge found that the plaintiff organizations, including the Arc of New

Jersey, the Statewide Parents Advocacy Network and others, have individual members or clients with standing. She found that named plaintiffs aren't needed because the suit alleges systematic failures, not individual damages.

The judge refused to require the plaintiffs to exhaust administrative remedies because individual due process hearings would be futile: "the administrative process is powerless to address Plaintiffs' claims here, which concern New Jersey's policies and practices . . . and . . . require structural relief."

In a far-reaching ruling, the judge also determined that IDEA does not "preclude private rights of action against the state for failure to comply with any IDEA provision, including the monitoring obligations imposed on each state . . ."

The ruling will allow plaintiffs to have their complaint heard in court.



# Community Calendar

- September 10     Statewide Lunchtime Teleconferences, Health Advocacy Series, Transition to Adult Systems of Care: What's Out There? Calls are from 12:00 noon to 1:30 PM including presentation and Q&A. Register online at [www.spannj.org](http://www.spannj.org), call 973-642-8100 X116, or email [trainings@spannj.org](mailto:trainings@spannj.org).
- September 10     Meeting of the New Jersey Council on Affordable Housing. Meetings start at 9:30 a.m. (unless otherwise indicated), New Jersey Housing and Mortgage Finance Agency, 637 South Clinton Avenue, Trenton.
- September 18     New Jersey State Special Education Advisory Council Meeting, 9:30 a.m., National Conference Center, Holiday Inn, East Windsor, NJ.
- September 26     State Interagency Coordinating Council Meeting, 11:00 a.m. to 1:30 p.m., Medical Society of New Jersey, 2 Princess Road, Lawrenceville, NJ. Contact Terrie Goeke, 609-730-1522, or email [tegoeke@comcast.net](mailto:tegoeke@comcast.net).
- October 23         Ann Klein Advocate Awards Dinner; Community Health Law Project. Contact CHLP, 973-275-1175.
- October 29th      National Caregivers Conference: Changing the Face of Caregiving, Sponsored by the Family Support Center of New Jersey, Woodbridge Hotel and Conference Center, Iselin, New Jersey. Keynote: Lee Woodruff, freelance writer and wife of Bob Woodruff. Contact the Family Support Center of New Jersey, 732-528-8080.

Return Service Requested

PRESORTED  
 FIRST-CLASS MAIL  
 U.S. POSTAGE  
**PAID**  
 TRENTON, N.J.  
 PERMIT NO. 21

The Council: NJCDD's Newsletter  
 PO Box 700  
 Trenton, New Jersey 08625