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center for children's advocacy newsletter for attorneys representing children in connecticut

MARCH 2008

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# NEW INNOVATIVE BOOK AND DVD PACKAGE HELPS HOMELESS YOUTH LEARN THEIR LEGAL RIGHTS

## CCA RELEASES "I WILL SPEAK UP FOR MYSELF" FOR YOUTH IN SHELTERS, STAR HOMES, GROUP HOMES OR RESIDENTIAL TREATMENT CENTERS

Youth in group placements have different legal rights than youth in foster care, and they face a variety of different legal issues as a result of their situations. "I Will Speak Up for Myself," the new package of legal rights materials, addresses many of the questions homeless youth have about their living situations, and encourages them to speak up and advocate for the services and support they need.

The book and DVD will be distributed by the Department of Children and Families (DCF) to each youth living in group facilities throughout the state, and to every youth entering these facilities.

In discussions with homeless youth and their providers, CCA attorneys learned that although youth may be aware of their legal rights, they often do not know how to get them enforced. CCA continues to schedule trainings throughout the state for youth in shelters, STAR Homes, group homes and residential facilities, using the new video to initiate discussion and help youth understand their legal rights. The trainings encourage self-advocacy skills and help youth understand how to use the information provided.

Youth who have participated in trainings to date have spoken positively about the opportunity. "It's important to stand up for what you believe in" and advocate for yourself because, "that's how things get done. I learned that I can speak up for myself and not get in trouble," said a youth living at a group facility in greater Hartford.

A peer-training model will be included in upcoming training sessions, with books & DVDs available for youth who have not yet received them. Copies of this new legal rights package are available through the Center.

To order, call Meshie Knight at 860-570-5327 or go to *www.kidscounsel.org/publications.*

# CCA RECEIVES PRESTIGIOUS RWJ MULTI-YEAR GRANT TO ASSIST REFUGEE AND IMMIGRANT FAMILIES

*Emily Breon, Esq., MSW*

The Robert Wood Johnson Foundation has awarded the Center for Children's Advocacy a multi-year grant to serve Hartford's immigrant and refugee communities. CCA partnered with two Hartford organizations, Catholic Charities' Migration & Refugee Services and Jubilee House, to apply for the competitive grant which will fund the Immigrant and Refugee New Arrivals Advocacy Project. The project is designed to improve the health of immigrant and refugee children by focusing on increasing access to education and health care, and decreasing stressors that negatively impact child health.

The need for the New Arrivals Advocacy Project grew from CCA's educational advocacy on behalf of New Arrival children and its relationship with Catholic Charities and Jubilee House, two agencies in Hartford that have

see RWJ GRANT, page 5

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## EMPLOYMENT OPPORTUNITIES

The Center for Children's Advocacy is hiring for the following positions:

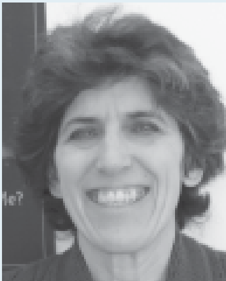
**Staff Attorney, New Arrivals Advocacy Project**
Lead a dynamic new CCA collaboration with two non-profit community-based agencies to improve health outcomes and educational access for the region's refugee/new immigrant population.

**Director, Donor Relations**
Implement CCA's fundraising program, including the annual fund, special events, donor cultivation and stewardship, and volunteer management.

**Paralegal, Medical-Legal Partnership Project**
Assist MLPP attorneys with case management and litigation support for new and existing cases.

**For More Information and How to Apply**
*www.kidscounsel.org/aboutus_employment.htm*

## ATTORNEY BONNIE ROSWIG JOINS CCA



Bonnie Roswig has joined the Center for Children's Advocacy as Senior Staff Attorney for the Medical-Legal Partnership Project. Bonnie's office is located on site at Connecticut Children's Medical Center.

Bonnie is currently an adjunct professor teaching Lawyering Process, at University of Connecticut School of Law, and was a long-time supervisory attorney at Statewide Legal Services in Middletown, CT. She has also worked in private practice and as a legal aid attorney in Georgia.

Bonnie Roswig can be reached at 860-545-8581, or *broswig@ccmckids.org*.

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# CCA WORKS TO ASSURE IMMIGRANTS' ACCESS TO EDUCATION IN CONNECTICUT AND ADDRESS UNCONSTITUTIONAL REGISTRATION POLICY

*Emily Breon, Esq., MSW*

**Plyler v. Doe:**
**Immigrant Children Entitled to Public Education**

Marisol, a 16 year old undocumented immigrant who accompanied her father here from Mexico as a child, was denied enrollment at a Connecticut high school that required her to produce a passport in order to register. Before she received services from the Center's Teen Legal Advocacy Clinic, Marisol had been working at a restaurant every day for a year, instead of attending school.

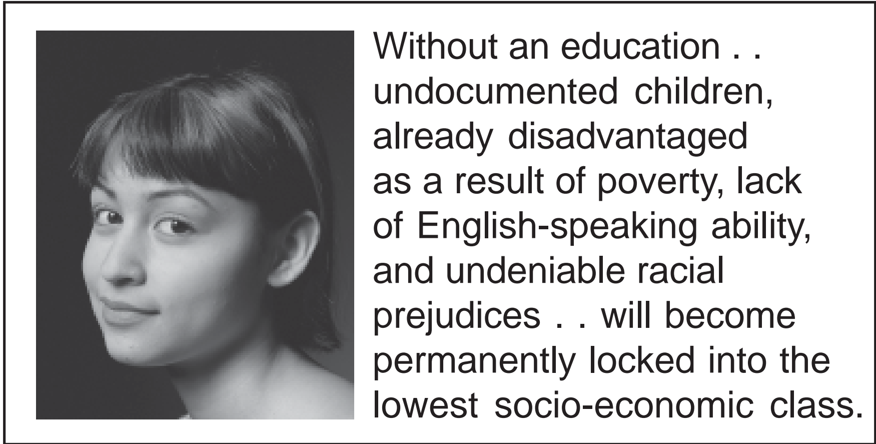
In *Plyler v. Doe*[1], the U.S. Supreme Court stated that undocumented immigrant children are entitled to public education, reasoning that "without an education, these undocumented children, already disadvantaged as a result of poverty, lack of English-speaking ability, and undeniable racial prejudices . . .will become permanently locked into the lowest socio-economic class."[2] Depriving a class of students of an education will subject them to such severe and lasting consequences that the Supreme Court declared such practices do "not comport with fundamental conceptions of justice."[3]

Because of *Plyler*, it is illegal to require a student to disclose his own or his parents' citizenship status. **This means that schools cannot require information such as passports, or ask parents to reveal their own, or their children's, citizenship or immigration status as part of the registration process.** Some states have also interpreted *Plyler* as prohibiting schools from requiring a student's social security number as a prerequisite to enrollment since that can allude to the student's citizenship status.

Despite these legal restrictions, public school districts across the country continue to engage in practices that discourage and even deny undocumented students' enrollment in school. Because of the significant effects such violations can have on this group of students, a number of states, including Illinois, New Jersey, and Pennsylvania, have taken further action to enforce *Plyler* by incorporating the restrictions into their state codes. In Virginia and Indiana, the State Departments of Education have issued a memorandum to all public schools reminding school officials of the laws, demanding enforcement, and noting which documents are legal to request for enrollment purposes. The Missouri Department of Education posts legal enrollment requirements on its website.

Unfortunately, Connecticut has not codified *Plyler*, and the State Department of Education has not issued a recent memorandum on *Plyler* or posted any guidance on its website. A cursory web search of the registration requirements of Connecticut school districts, performed by CCA, revealed that a number of school districts in this state are making requests for information or requiring information in the registration process that does not comport with the Supreme Court's ruling in *Plyler*. For example, some schools in Connecticut require parents to declare their child's citizenship and immigration status and sometimes even to produce a passport if the child is a "new entry from a foreign country."

As a result of these findings, CCA has written a letter to the State Department of Education asking them to review Connecticut school districts' registration policies to ensure that they comport with *Plyler* and to disseminate guidance on *Plyler* to all districts.



Without an education . . undocumented children, already disadvantaged as a result of poverty, lack of English-speaking ability, and undeniable racial prejudices . . will become permanently locked into the lowest socio-economic class.

**(Footnotes)**

[1] Plyler v. Doe, 457 U.S.202 (1982).
[2] *Id.*at 207-08.
[3] *Id.*at 220.

## CCA AND NAACP FILE AMICI BRIEF IN CONNECTICUT SUPREME COURT CASE

## COALITION FOR JUSTICE IN EDUCATION FUNDING V. RELL

*Martha Stone, Esq.*

The Connecticut State Conference NAACP and the Center for Children's Advocacy have submitted an amici brief in the case of *Connecticut Coalition for Justice in Education Funding, et al. v. M. Jodi Rell, et al.* S.C. 18032 which is presently pending before the Connecticut Supreme Court. The plaintiffs had filed this action in December 2005, on behalf of themselves and their minor children, asserting that their children were not receiving suitable and substantial educational opportunities, a fundamental right under the Connecticut Constitution. The defendants filed a motion to strike three of the four counts of the plaintiffs' complaint on the grounds that the Connecticut Constitution does not establish a right to "suitable educational opportunities" as defined by the plaintiffs and that the issues raised by the plaintiffs could not be determined by a court of law. On September 17, 2007, the trial court granted the defendants' motion to strike based on its determination that the plaintiffs' complaint did not state a claim upon which relief could be granted. The plaintiffs appealed the trial court's decision.The amici brief was filed to assist the Court as it determines the scope of the fundamental right to education provided by Article Eighth, § 1 and Article First, §§ 1 and 20, of the Connecticut Constitution.

While the complaint outlines the facts and evidence of the disparate educational opportunities within Connecticut's school systems and the impact that disparity has on its students, the amici argues this is no substitute for the fully developed evidentiary record necessary for the trial court to conduct a full analysis. The brief argues that the trial court, by prematurely striking the plaintiffs' claims, improperly resolved an unsettled question of law without availing itself of the opportunity to review the evidence that would demonstrate the necessity of including the right to suitable educational opportunities within the fundamental right to education provided by the Connecticut state constitution.

First, amici demonstrate that the existing socioeconomic data reveals the unequal educational opportunities currently faced by Connecticut's poor and minority youth and the impact this disparity has on the students'fundamental right to an equal education. "For instance, while only 13 percent of poor fourth graders meet the State's proficiency standards in reading, 53 percent of wealthier children meet the State's goals. *See* Connecticut General Assembly Commission on Children, Child Poverty in Connecticut (2007), available at *www.cga.ct.gov/coc/PDFs/poverty/poverty_factsheet_100607.pdf*. The gap only increases as children progress in school. In middle school, the annual increases in students meeting Connecticut Mastery Test (CMT) goals for non-poor students are more than double the gains made by poor students. *See* ConnCAN, The State of Public Education 8 (2007), available at *www.conncan.org/matriarch/documents/ConnCAN_State_Of_CT_Public_Ed_2007.pdf*." Amici Brief p.5. The racial achievement gap is more dramatic when looking at scores from the national assessment test overseen by the U.S. Department of Education. National Assessment of Educational Progress (NAEP) scores indicate that "Black and Hispanic students remain well behind their white peers in reading achievement, with scores averaging 35 points lower in the fourth grade and 30 to 33 points lower in the eighth grade. In Connecticut, less than one-fifth of black and Hispanic fourth graders would be considered proficient under the Department of Education guidelines. This number improves somewhat for eighth graders, but nearly half of students eligible for the federal school lunch program and Hispanic students remain below basic reading achievement in eighth grade. In contrast, nearly 70 percent of white fourth graders are proficient or advanced readers, and over half of white eighth graders are at these levels." Amici Brief pp.6-7.

The gap between poor and non-poor students in Connecticut is the largest in the country when Connecticut's NAEP scores are compared to other states. *See* The State of Public Education (reporting a large gap between Connecticut and the forty-ninth state on the list). "Connecticut's poor students consistently rank below poor students from other parts of the country on NAEP testing (stating that poor students in Alabama outperform poor students in Connecticut)." Amici Brief p.5.

Despite the severity of this achievement gap, evidence shows that when students from low-performing, poorly funded schools are placed in high-achieving suburban schools rich in resources through programs such as Project Choice, they generally perform on state standardized tests at rates above average for their home districts and above average for black and Hispanic students across the country. *See* Erica Frankenburg, Improving and Expanding Hartford's Project Choice Plan 2 (Project Choice Campaign 2007), at *www.hfpg.org/matriarch/documents/ProjectChoiceCampaignExecutiveSummary.pdf*.

The second argument amici puts forth is that the future life chances of students in disadvantaged minority communities are highly correlated to the quality of educational opportunities they receive. For example, students attending school systems more likely to provide unsuitable educational opportunities are more likely to drop out of school. The wealthiest districts in Connecticut have a dropout rate under one percent; the poorest districts have a drop out rate of over 20 percent. Amici Brief p.8.

The amici brief is written by John C. Brittain, Chief Counsel, Lawyers' Committee for Civil Rights Under Law, Washington,D.C. along with Jennifer Mullen St. Hilaire and Emily A. Gianquinto of Dewey & LeBoeuf in Hartford.

# HUSKY UPDATE FROM DSS

## CHECK WITH DCF TO ASSURE CONTINUITY OF CARE FOR YOUR DCF CLIENT

*Jay Sicklick, Esq.*

Since January 1, 2008, Medicaid managed care organizations (MCOs) have been operating under non-risk administrative services contracts to provide member services, provider enrollment, claims processing, case management, and outreach and education.

The Department of Social Services (DSS) plans to award new contracts for HUSKY and the Charter Oak Health Plan based on RFPs that were issued in early January (these plans must comply with Freedom of Information Act requirements for transparency in administration). July 1, 2008 is the target date for the "new" HUSKY program, with continued carve-outs for behavioral health (CT Behavioral Health Partnership since 1/06), pharmacy (since 1/08), dental (beginning 7/08) and future plans for implementation of primary care case management (PCCM) and disease management.

**HUSKY:** HealthNet and WellCare/Preferred One are leaving the program as of March 31, 2008. CHN of Connecticut will remain in the HUSKY program through June 30, 2008. Anthem Blue Care Family Plan has advised DSS that it will accept full Freedom of Information compliance, and will stay in the plan through June 30, 2008.

**Pharmacy:** HUSKY clients receive pharmacy benefits pursuant to fee-for-service policies, including use of DSS' preferred drug list (PDL). If prior authorization is required, a temporary supply (up to 30 days) of the prescribed drug will be provided.

All HUSKY members will receive notice of the exiting plans. People enrolled in plans not exiting will remain in their plans unless they opt for "fee for service" (traditional Medicaid). Those who are in one of the exiting plans have the option of joining one of the plans that remain (CHN or Blue Care) or may choose traditional Medicaid.

**For more information:**

DSS mailed approximately 51,000 letters in January and February. Their toll free number for clients with questions is 800-511-6874.
Provider outreach letters are at *www.huskyhealth.com*
Pharmacy info is at *www.CTDSSMAP.com*

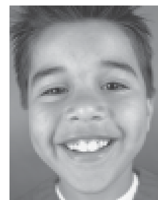
Attorneys who represent children in DCF care should check with DCF to ensure that continuity of care continues. Children should not experience significant changes in care due to this transition. For problems with DCF/HUSKY coverage for your client, contact James George, DCF's liaison to the Medicaid Managed Care Council (MMCC) at *james.george@ct.gov*.

# RWJ GRANT continued from page 1

extensive experience providing resettlement, case management and outreach services to refugees and immigrants. Hartford has a substantial and growing refugee and immigrant population. The city welcomes more refugees than any other city in Connecticut, and 8% of Hartford students have been in the U.S. for less than three years. Hartford has the highest percentage in the state (52%) of children who live in homes where English is not the primary language.

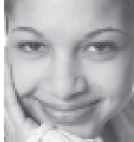
CCA will employ training, outreach and the collaborative partnerships with Catholic Charities and Jubilee House to identify children whose educational or health care rights are being violated, or who are experiencing environmental or social stressors with a legal component. After the children are identified, they will be referred to a CCA attorney who will use legal advocacy to increase the access of immigrant and refugee children to education and health services they are entitled to, and to reduce stressors that affect their health. The New Arrivals Project will also help parents and professionals increase their understanding of the rights of immigrant and refugee children, and help them understand how to advocate for those children.

The project builds upon the relationships between CCA's dynamic on-site projects such as the Medical-Legal Partnership Project and the Teen Legal Advocacy Project (TLAC), which are unique in that CCA attorneys partner with the region's pediatric and educational staff to improve health and educational outcomes for children at risk. The grant will allow CCA attorneys to work directly with pediatric providers from Connecticut Children's Medical Center, Saint Francis Hospital & Medical Center's pediatric and family medicine clinicians, Charter Oak Health Center, and Community Health Services.



52% of Hartford children live in homes where English is not the primary language.

CCA's on-site presence in the Hartford Public Schools through the Center's Teen Legal Advocacy Clinic and Truancy Court Prevention Project will provide access to locating and working with vulnerable families.



## CCA's TEEN LEGAL ADVOCACY CLINIC IN FAIRFIELD COUNTY TAKES ON EDUCATION AND HOUSING ISSUES

*Josh Michtom, Esq.*

In September of 2007, the Center for Children's Advocacy expanded its Teen Legal Advocacy Clinic (TLAC) to Fairfield County. Staff Attorney Josh Michtom set up a Teen Legal Clinic at Warren Harding High School in Bridgeport and began taking cases and referrals from schools, social service providers, and DCF placements around Fairfield County and in New Haven. As of January, the Fairfield County program had provided legal services and consultation to over forty young people and provided more than ten trainings to youth and service providers, including Harding High School students, children in DCF custody, and staff at DCF placements and Bridgeport school-based heath centers.

The Teen Legal Advocacy Clinic at Harding High School has seen referrals touching upon a wide variety of legal questions, from immigration to special education to involvement with the Department of Children and Families, and students frequently come to the Clinic office with questions about criminal law, family law, and financial aid for college, among other topics. One case that Josh Michtom is currently handling is profiled:

M., a fifteen-year-old girl, was referred to the Teen Legal Advocacy Project by social workers at Bridgeport Child Guidance and Boys and Girls Village of Milford. M. lives with her grandmother in Bridgeport, as she has since the age of seven, because both of her parents are in prison. She was committed to DCF custody two years ago and spent eighth grade in a residential program in Hartford. M. has been diagnosed with ADHD and is classified as a special education student because of severe emotional disturbance.

When M. was referred to the TLAC in November, she had not attended high school in over a month. DCF had returned M. to her grandmother over the summer, with a plan to provide family support and individual counseling, but M. was overwhelmed by her overcrowded neighborhood high school and her grandmother was overwhelmed with the task of caring for her. The grandmother and two social workers asked for help from the Teen Legal Advocacy Clinic to see what could be done to get M. back to school or in an educational placement where she could reliably attend school.

Upon meeting with M., it was clear that she wanted to be in school. She reported spending her days hanging out with friends around Bridgeport and being bored. She said that she had tried to go to school for almost a month at the beginning of the school year, but that she was constantly distracted, drawn into arguments with other students, and ultimately in trouble for talking out of turn or not paying attention. Eventually, she decided she would be better off not going to school at all. M.'s school records supported her account: in the residential program in Hartford, which had small, highly structured classes, she got decent grades and had only minor behavior problems. Her month in Bridgeport, however, was marked by frequent discipline, failure to engage in class activities, and no academic progress.

After consultation with M., her grandmother, and the social workers, it was agreed that the TLAC would seek a different educational placement for her, and a PPT meeting was scheduled.

On the day before the PPT meeting, the TLAC attorney received a call from M. She was afraid that she and her grandmother might not make it to the meeting the next day because marshals had just shown up at their apartment, giving them only two days to vacate and find a new place to live.

CCA's TLAC attorney asked M.'s grandmother to fax over all paperwork she had concerning the eviction. After numerous calls to the local housing authority, it became clear that between a change in building ownership and some bureaucratic errors by the housing authority, the federal housing vouchers that were meant to cover M.'s rent had not been going to the landlord for nearly a year. To make matters worse, when the landlord had initiated eviction proceedings, the paperwork contained only the name of a previous tenant, and M.'s grandmother, who speaks only Spanish, had not responded or appeared in court.

The TLAC learned that M.'s rent was entirely covered by federal housing subsidies and payments had been stopped because the building's previous owner failed to make needed repairs (Federal law prohibits eviction in this situation). The building's current owner was apparently unaware of this, and when the owner's lawyer was contacted by the TLAC on the day of the PPT meeting, he agreed to postpone the eviction indefinitely until the matter could be sorted out.

At the PPT meeting, CCA's TLAC attorney and the two social workers successfully persuaded school administrators to recommend that M. be placed at one of several small, structured, therapeutic day schools in the area. Because M.s grandmother was certain that M. would not be persuaded to attend her neighborhood school under any circumstances, a home tutor was also recommended.

After the PPT, the TLAC attorney helped M.'s grandmother contact additional housing-related legal resources, and she and M. were able to remain in their home. Homebound tutoring was put in place for the few weeks prior to M.'s placement at a small, therapeutic day school in Bridgeport.

# ADMINISTRATIVE CASE REVIEWS NOW AVAILABLE FOR DCF-COMMITTED YOUTH OVER 18 YEARS OF AGE

*Stacey Violante Cote, Esq., MSW*

In the past, pursuant to federal law, the Department of Children and Families (DCF) limited its formal Administrative Case Review process to youth under 18 years old. This has been the practice despite the Connecticut legislature's 2006 amendment to Connecticut General Statutes §17a-11(g), which specifies a right to a treatment plan and review of such plan for DCF youth over18. The Center, with the support of advocates across the state, successfully advocated to change this practice for this vulnerable population.

In 2006, the legislature amended Connecticut General Statutes §17a-11, which addresses the "*Plan for care and treatment of persons eighteen years of age or older*." The amended language provides that "[a]ny person remaining voluntarily under the supervision of the commissioner … shall be entitled to a written plan for care and treatment, and review of such plan, in accordance with §17a-15."[1]

Connecticut General Statutes §17a-15 spells out the process for preparing and reviewing a treatment plan. The statute unambiguously provides that the treatment plan be written, and that it include a diagnosis of the youth's problems and a proposed plan of treatment and placement. The statute also expressly mandates that treatment plans must be reviewed at least every six months,[2] and that youth are entitled to a hearing if they disagree with any portion of the treatment plan. Accordingly, pursuant to state law, youth who stay with the Department after age 18 are entitled to a written treatment plan, review of that plan and the right to a hearing to challenge the contents of the plan-—the hallmarks of a formal review process.

However, young adults who remained with the Department past age 18 had not been receiving a copy of their written treatment plan, were not participating in the creation or review of the treatment plan, and were not being informed of their right to a hearing to review or challenge the contents of their treatment plans. Indeed, DCF Policy # 24-3 specifically states that Administrative Case Reviews are *not required* for "cases for youths who are 18 years old."

While DCF had been conducting supervisory reviews for these cases (a review of the case between the social worker and supervisor), CCA felt that the practice, which excluded the young adult, failed to ensure that the requirements of Connecticut General Statutes § 17a-15 were met, and failed to apprise the young adult of the contents of the plan and his right to a hearing—was insufficient to meet either the mandates of the statute or the treatment needs of youth who remained voluntarily with DCF after 18. Furthermore, CCA felt that in addition to the legal concerns, the vulnerability of this population necessitated a meaningful system of review.

In response, DCF has committed to changing its policy to provide Administrative Case Reviews for youth in its care who remain voluntarily after age 18. Commissioner Hamilton noted that the Department will be able to accommodate such reviews for this population and will pursue policy modifications to indicate such. She also noted that the process will take some time to implement. In the meantime, advocates for this population should request regular formal reviews from the area office on behalf of these clients. Look for more details as the formal administrative review process is finalized.

For questions, call Stacey Violante Cote at (860)570-5327 or e-mail *sviolant@kidscounsel.org*.

**(Footnotes)**

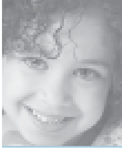
[1] See Public Act 06-102, Sec 2.

[2] See Con Gen Stat § 17a-15(a), (b).

## DID YOU KNOW?

For Your Clients Over 18:

- You can be compensated by the Child Protection Commission for your representation of clients after they turn 18.
- You can ask DCF for Administrative Case Review meetings.
- Your high school client is entitled to receive up to $500 for yearbook expenses, prom expenses, graduation expenses, etc. from DCF. (see DCF Policy # 42-20-19).
- You can advocate for your clients to be considered for DCF's independent living programs, including supervised apartment programs and scattered site apartments. (see DCF Policies 42-5-2 & 42-5-3).
- DCF will pay for college. (see DCF Policy # 42-20-20).
- If your client leaves DCF, s/he can re-enter if s/he was committed when s/he turned 18. (see DCF Policy # 42-20-50).



# PROVIDING ASSISTANCE TO FAMILIES WITH CATASTROPHIC ILLNESS

## LEGISLATIVE UPDATE FROM THE MEDICAL LEGAL PARTNERSHIP PROJECT

*Jay Sicklick, Esq.*

The Center's *Medical-Legal Partnership Project* (MLPP), in collaboration with advocates, state agencies and medical personnel throughout the state, is introducing legislation to create the state's first Catastrophic Illness in Children's Relief Fund, which is intended to provide financial assistance to families whose children have experienced an illness or condition not fully covered by insurance, state or federal programs, or any other resource. The fund will be designed to provide a financial safety net for families struggling with a previously incurred expense, or expenses which families may incur but cannot afford.

The impetus for this legislative initiative came from the MLPP's participation in the Children with Special Health Care Needs Collaborative (CSHCNC) a multidisciplinary task force that includes the MLPP, the Office of the Child Advocate, the Office of the Healthcare Advocate, the Commission on Children, the Family Support Council, pediatric primary care and specialty care providers, and other advocates who work with children with special needs.

The CSHCNC is an organization that began meeting informally during the 2007 legislative session to propose legislation and policy reform on behalf of children with special health care needs and their families. The Collaborative began as a more formal entity in July 2007, and developed the following mission statements and goal directive:

**Mission:** *To ensure that families with children diagnosed with complex medical conditions requiring ongoing medical services receive the resources and services necessary to achieve optimal health and development.*

**Goal:** *To establish a coordinated system of care and services to support families in their role as primary care coordinators for children diagnosed with complex medical conditions requiring intensive ongoing treatment and in-home services.*

### Proposed Legislation

The MLPP has drafted legislation modeled after similar statutes in both New Jersey and Massachusetts. Both New Jersey and Massachusetts established catastrophic illness relief funds for children for the purpose of providing financial assistance to families whose children have experienced an illness or condition not fully covered by insurance, state or federal programs, or any other resource. The funds are essentially safety nets for families who have excessive expenses related to a child's medical needs. Both the Massachusetts and New Jersey state funds are practical and appropriate models that will be helpful in guiding lawmakers as they seek to institute a comprehensive catastrophic illness fund in Connecticut.

The intent of the legislation is to establish a Catastrophic Illness in Children's Fund Commission, which will be responsible for the administration and operation of the relief fund. The fund is intended to authorize the payment or medical reimbursement of medical and related expenses of children with catastrophic illnesses. The Commission will consist of at least eleven members, appointed by the Governor and various legislative and executive branch leaders (such as the Attorney General). In addition, the proposed legislation requires that at least two members of the Commission be pediatric healthcare providers, and that one appointment be made by the state's largest labor union, the AFL-CIO.

### What is a Catastrophic Illness?

Under the language of the proposed statute, a catastrophic illness is any condition or illness treated at a hospital or outpatient clinic. The broad based definition of "catastrophic illness" is designed to render as many families as possible eligible for fund reimbursement (or payment) and to decrease employer costs for employees who are burdened by debt and absenteeism due to caring for a catastrophically ill child. The fund, while valuable to families with minimal or no insurance coverage, *is not designed to act as primary insurance coverage*. However, the Commission shall have the power to seek reimbursement, or payment, from an insurance carrier (Medicaid or commercial carrier) in order to offset costs charged to the fund.

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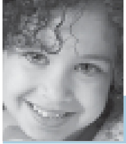

## CATASTROPHIC ILLNESS

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### Who Pays for the Fund?

As in Massachusetts and New Jersey, the statute is written so that the Connecticut Fund will be established through both public and private employer contributions through an annual contribution of one dollar for every employee who is counted for purposes of contributions to the state's Unemployment Insurance Compensation Fund. Thus, the statute seeks to create a true public-private partnership to compensate at-risk families and increase the possibility of family preservation.

### Success of the Existing Funds

The New Jersey fund was established in 1988 to address the financial impact of catastrophic illness in children on families with limited insurance or no insurance coverage. Since its inception, the New Jersey Commission has approved over $100 million in funds to assist over 4,100 families with health care and related expenses. Through its negotiation and bargaining power, the New Jersey Commission has realized over $12.5 million in savings through negotiated settlement, and as the proposed statute provides, it monitors legal actions by families in order to institute potential subrogation actions.

The Massachusetts fund was established in 2000, and like its New Jersey counterpart, is funded through the annual employer contribution of one dollar per employee qualified to participate in the state's unemployment compensation system. Since the inception of the fund, the Massachusetts Commission has paid out over $6 million to over 405 families with children beset by catastrophic illness and injury.

### Next Steps

The MLPP, through the CSHCNC, introduced this legislation through the General Assembly's Select Committee on Children. For more information on the Catastrophic Relief Fund and other issues surrounding children with special health care needs, contact Jay Sicklick at 860-714-1412 or *jsicklick@kidscounsel.org* or go to *www.kidscounsel.org* and click on "Legislative News" and "Significant Pending State Legislation."

## LETTER TO KIDSCOUNSEL EDITOR:
### Additional Legal Services Available to Help Disabled Children Obtain SSI Benefits

The last issue of KidsCounsel included an article about the rights of disabled children to SSI disability benefits, and the legal representation offered by the Center for Children's Advocacy's Medical Legal Partnership Project to address these issues.

In a letter to the editor, Steven Eppler-Epstein, Esq., Director of Connecticut Legal Services, writes:

"It is important to know that legal services programs in Connecticut will represent low-income disabled children to obtain SSI disability benefits. Connecticut Legal Services, New Haven Legal Assistance, and Greater Hartford Legal Aid have attorneys who represent children who have been denied Supplemental Security Income (SSI) disability benefits. Children who have a physical or mental impairment, or a combination of impairments that result in marked and severe functional limitations, are considered disabled and eligible for a monthly benefit up to $637.00 in 2008.

Legal services attorneys generally do not get involved in these cases until there has been an initial denial and a reconsideration denial of an application for disability benefits. If a child has been denied reconsideration (the second denial), the parent/guardian can request a hearing within 60 days of the denial notice. They can also seek legal representation by contacting Statewide Legal Services (SLS) at 1-800-453-3320 to have the case screened for eligibility.

After eligibility is certified, SLS refers the cases to a legal services attorney who has responsibility for your region. The attorney will contact you to make an appointment to discuss the nature and merit of the disability claim."

### PLEASE SAVE THESE DATES!

**April 2, 2008: Video Premiere**
I Will Speak Up for Myself: Legal Rights of Youth in Shelters, Group Homes, STAR Homes or Residential Treatment Centers
*www.kidscounsel.org/videopremiere*

**April 6, 2008: CCA Bowling Fundraiser**
*www.kidscounsel.org/bowling*

**May 1, 2008: CCA's TENTH ANNIVERSARY!**
Plan to join us as we celebrate ten years!
*www.kidscounsel.org/tenthanniversary*

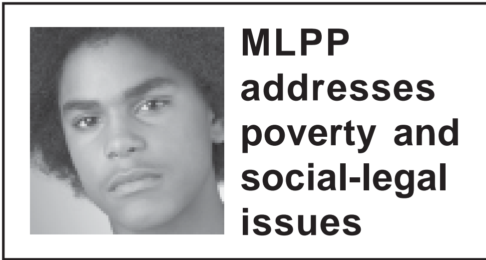
## MLPP EXPANDS: NEW LOCATION AT HOSPITAL OF CENTRAL CONNECTICUT

*Jay Sicklick, Esq.*

### Hospital of Central Connecticut Receives $25,000 Grant for Medical-Legal Partnership Program for Children in Greater New Britain

The Center for Children's Advocacy's new partnership with the Hospital of Central Connecticut (HCC) expands the Medical-Legal Partnership Project (MLPP) to the greater New Britain area.

With a $25,000 grant from American Savings Bank, The Hospital of Central Connecticut and the MLPP are initiating this program at HCC's New Britain campus. The new MLPP location combines CCA's legal expertise and HCC's pediatric medical care to help Greater New Britain's poor and at-risk children receive optimal medical care. Hospital of Central Connecticut pediatricians and MLPP attorneys will work together to improve children's health by increasing healthcare access; reducing detrimental social factors like substandard housing; and advocating for improved social conditions by educating families, for example, of the disability benefits process.



**MLPP addresses poverty and social-legal issues**

The Hospital of Central Connecticut is the fourth hospital in the state to initiate such a partnership, modeling a similar, highly successful program CCA began in 2000 and now on-site at four Hartford locations: Connecticut Children's Medical Center, Saint Francis Hospital and Medical Center, Community Health Services, and Charter Oak Health Center. CCA's Medical-Legal Partnership Program was only the second in the nation; the first began at Boston Medical Center.

The new partnership begins with immediate pediatric provider training by MLPP staff on detection of possible legal issues affecting children's health. This will be followed in the spring with legal consultative services to New Britain-affiliated pediatric providers. By September, on-site and hospital-based legal representation will be in place for patients and their families. Issues for the partnership may include housing, disability and other basic need benefits, Medicaid and HUSKY issues and access to appropriate health services, and educational rights.

American Savings Foundation has demonstrated continued support of children in need in the community. Antoinetta M. Capriglione, M.D., Chief of Pediatrics at HCC, said, "Many of our children's difficult-to-treat health problems, such as asthma, have their roots in social issues such as substandard housing and poverty. In addressing those types of issues, the MLPP at HCC will improve our ability to help these children thrive." The MLPP addresses poverty and social-legal issues which are often overwhelming for families and cannot be directly addressed by the providers themselves.

The grant covers the project through June 2009 and is targeted to uninsured and underinsured low-income children and their families who reside in Greater New Britain, including Bristol, Southington, Plainville, and Berlin. New Britain, with about 75,000 residents, has the highest unemployment rate in Connecticut and a high concentration of low-income families, including over 25% of the city's children who live below the federal poverty level..

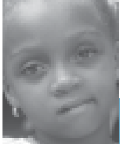
For more information about CCA's Medical-Legal Partnership Project, please contact Jay Sicklick at (860) 714-1412 or email *jsicklick@kidscounsel.org*.

### AETNA ATTORNEYS TO WORK WITH CCA'S MEDICAL LEGAL PARTNERHIP ON INNOVATIVE PRO-BONO INITIATIVE

The Center for Children's Advocacy and Aetna have launched an innovative pro-bono initiative that will pair CCA's Medical Legal Partnership Project (MLPP) with Aetna's in-house legal staff in an effort to improve children's health outcomes through collaborative legal intervention.

Recently, CCA's MLPP Director, Jay Sicklick, spoke at Aetna's annual pro-bono luncheon to introduce the MLPP to Aetna's legal staff and to provide a roadmap as to how Aetna's corporate lawyers can productively work with the MLPP's partner clinicians on legal issues that affect children's health. In particular, MLPP staff have agreed to conduct several training sessions with Aetna attorneys to enhance the pro-bono participants' knowledge in areas surrounding environmental health (housing conditions and landlord/tenant disputes in environmentally unsound conditions), and special education advocacy.

The partnership anticipates that Aetna attorneys will begin to handle MLPP cases by the summer of 2008.





*Sarah Healy Eagan, Esq.*

## SUPREME COURT REVERSES CONTEMPT FINDING AGAINST DCF

### "SPECIFIC STEP ORDERS" TOO AMBIGUOUS FOR FINDING OF CONTEMPT

### IN RE LEAH S.

**Abuse and Neglect**
Connecticut Supreme Court
December 18, 2007

The Supreme Court, reversing the judgment of the Appellate Court, held that the Department of Children and Families could not be held in contempt for violating the court-ordered Specific Steps which mandated that the Department "ensure the [child's] wellbeing" and "provide appropriate services." The Court determined, ironically, that the Specific Steps were too vague to support a finding of contempt.

In April 2003, the Department took custody of Leah S. via an Order of Temporary Custody, alleging that, despite Leah's extensive mental health history, her parents failed to cooperate with physicians' and the Department's recommendations for treatment. At the time of Leah's removal from her parents' home, she was diagnosed with bipolar disorder and had a long history of destructive behavior, violence toward animals, and previous psychiatric hospitalizations for suicidal ideation. Accordingly, when Leah was taken into DCF custody, the court issued Specific Steps requiring the Department to ensure Leah's wellbeing and provide appropriate case management and therapeutic services.

However, despite the severity of Leah's psychiatric needs and despite clinical recommendations for therapeutic placement in a specially licensed foster home or residential facility, Leah languished in a series of inappropriate, non-therapeutic foster placements. By September, 2003, she was living in her fourth foster placement and she still had yet to receive psychiatric treatment. .

In October, 2003, Leah was adjudicated neglected, and the court supplemented the Specific Steps by ordering the Department to facilitate counseling between Leah and her sibling. Meanwhile, records indicated that Leah continued to deteriorate in her foster placement. She suffered from possible overmedication, and she was increasingly estranged from her biological family.

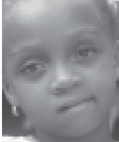
In November 2003, Leah's mother filed a contempt motion against the Department, alleging that the Department's failure to provide Leah appropriate services was harming her and delaying the family's reunification. The Superior Court found the Department in contempt of the court-ordered Specific Steps. The court ordered the Department to pay $500 to Leah's mother to assist with her attorney's fees.

On appeal, the Department contended that the relevant orders contained in the Specific Steps were too "ambiguous" to serve as the basis for a contempt finding. The Department looked to past case law holding that in order to be found in contempt of a court order, the contemnor must have had adequate notice of the court's expectations. The Appellate Court rejected this argument, holding that the Specific Steps provided "ample direction" to the Department regarding its obligation to provide appropriate care for Leah. The Appellate Court also determined that, to the extent the Department did not understand its obligations, it was the Department's responsibility to "seek clarification" of the court orders.

The Supreme Court reversed the Appellate Court's judgment, holding that the orders were indeed too ambiguous to support a finding of contempt. The Court also took the opportunity to clarify the standard of review for contempt decisions. The threshold question is whether the underlying court order is sufficient clear to support a contempt finding. Secondly, the reviewing court must determine whether the trial court abused its discretion in issuing, or refusing to issue, a contempt judgment.

The Court held that in this case the first requirement was not satisfied. The underlying order must require the person to do or refrain from doing an act or series of acts using "specific and definite language". Here, the "imprecise wording" of the Specific Steps afforded the Department great discretion regarding the services it provided. Nothing in the Steps clarified or defined the meaning of "necessary measures" or "appropriate services." The Steps did not specify whether Leah should have been placed in a therapeutic foster home or residential treatment facility. The Court also held that it was not, as the Appellate Court held, the Department's obligation to "clarify" the Steps. Previous case law held that where a party was bound by a court order and circumstances relative to the court order changed, the party was not permitted to resort to "self help" and independently determine whether its obligations continued. Rather, the party must return to the court to clarify or modify the order. Here, the Department did not impermissibly resort to "self help" measures. The Specific Steps were ambiguous from the outset. Accordingly, there was no basis for a contempt finding.

Although the Court reversed the contempt finding, it did confirm that trial courts enjoy broad authority to issue Specific Steps and augment those Steps with supplemental orders to facilitate family wellbeing and reunification. The Court stated that such "concomitant reunification efforts on the part of the parents and the department help to preserve the integrity





of the family and are based on the well settled notion that the right of a parent to raise his or her children is recognized as a basic constitutional right." The Court also noted that both the mother and the Department agreed that the Specific Steps constitute court orders and that failure to comply with such an order may result in a contempt finding.

Finally, the Court concluded that though it was compelled to reverse the Appellate Court judgment, it did not condone the Department's treatment of Leah S or the fact that it took a contempt motion to get the Department to provide appropriate and timely services.

## APPELLATE COURT UPHOLDS DENIAL OF FATHER'S MOTION TO REOPEN TERMINATION JUDGMENT

### FATHER CANNOT MEET STANDARD OF SHOWING "GOOD DEFENSE" AT TIME OF TRIAL

### IN RE ILYSSA G.

Abuse and Neglect: Termination of Parental Rights
Connecticut Appellate Court
December 18, 2007

The threshold for opening a default judgment in a termination of parental rights case is a steep one which requires the satisfaction of a two part test. Not only does the movant need to show that (1) a good defense existed at the time the judgment was rendered, but also (2) that the movant was prevented from making that defense because of "mistake, accident, or other reasonable cause." Unfortunately for the petitioning father in Ilyssa G., he was unable to meet either prong of the two-part test, and the appellate court thus affirmed the termination of his parental rights in this short case.

The crux of this case emanated from the Department of Children Families' ("Department") removal of Ilyssa (then six) and her three siblings from her mother's care in October 2003. She and her sisters resided in foster care until May 2006 when the Department placed her and her sisters in a preadoptive foster home. After an unsuccessful attempt to reunify the child with her mother, the Department sought termination of parental rights - and the respondent father was served by certified mail at his last known address in Georgia, as well as by publication. At the plea hearing in April 2006, the trial court defaulted the father, and on May 30, 2006, the court granted the Department's petition to terminate his parental rights. In August 2006, the father sent a letter to the court requesting an opportunity to regain his parental rights. Acting on that letter, the court directed his

see page 13

### COMMENTARY ON CONTEMPT

The Supreme Court's decision in Leah S. leaves open the possibility that DCF, just like any other party, may be held in contempt for violation of a clear and unambiguous court order. As the Supreme Court clarified, a party may be held in contempt for violating a court order that "require[s] the person to do or refrain from doing an act or series of acts using 'specific and definite language'." In *Leah S.*, the orders were deemed too vague to support a later finding of contempt. However, a child's or parent's attorney may at any time, pursuant to Conn. Gen. Stat. § 46b-121 and Practice Book sections 34a-1, et. seq., request that the court issue specific orders advancing the case or furthering the child's welfare. If DCF then violates these specific orders, the agency could conceivably be held in contempt. For example, an order requiring DCF to identify a therapeutic foster home for a specific child within 45 days would be sufficient clear to serve as the basis for a contempt finding in the event that the DCF failed to comply with that order.

Note that for a party to be held in contempt, the violation of the court order must be deemed "willful" and not merely negligent. Whether a party's failure to comply was willful will be determined after a review of the party's actions and inactions. *Kennedy v. Kennedy*, 88 Conn. App. 442, 443 *cert denied* 275 Conn. 902 (2005). Inexcusable neglect, unexplained or unreasonable incompetency may be deemed willful at the court's discretion.

It is also true that the court may not hold a party in contempt if the party is unable to comply with a court order. However, it is the contemnor's burden to establish that it cannot comply with the order and that its inability to comply was due to no fault of its own. *Rocque v. Design Land Developers of Milford, Inc.*, 82 Conn. App. 361, 370 (2004). An example of such excusable non-compliance would be where a party bound to pay a marital or child support obligation was rendered unemployed or unable to work. *Blackwell v. Nowakowski,* 2005 WL 1805414 (Conn. Super. Ct., May 27, 2005). A contemnor should not be free from a contempt finding unless its failure was truly out of its control.

Finally, if the circumstances giving rise to the court order change, a party may not resort to self help and simply decide not to comply with the order. Instead, the party must return to court and seek clarification of its obligations given the change in circumstance. For example if a child is placed in a residential treatment center and there is an order that he be placed in a therapeutic foster home, and then the child regresses at the treatment center, DCF may not cease efforts to locate a foster home. Rather, DCF would have to return to court and seek clarification of its ongoing obligation to comply with the court order.

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counsel to file a motion to open the judgment, which was heard and denied on October 17, 2006.

The appellate court, reviewing the aforementioned two-part test used to open a default judgment elicited from Pantlin & Chananie Development Corp. v. Hartford Cement & Building Supply Co, 196 Conn. 233, 235 (1985), determined that the respondent father met neither prong. The two grounds stated for termination - abandonment and the lack of ongoing parent-child relationship, were not challenged by the respondent at the hearing in October 2006, and furthermore, he did not present a legitimate reason for his failure to appear at either the plea hearing or the termination trial. The evidence indicated that the father had not seen his child (who was nine at the time of the hearing) since she was one year old and that it was his fault for being absent from her life for eight years. He only visited her one time after her removal from her mother's home, that occurring in 2004, along with calling a residential care facility where Ilyssa for a time while in the Department's custody. His argument that he was never notified for the termination trial was rebuffed by the fact that he never notified the court, the department, or his attorney that he moved, and, as a result notice, was sent to his last known address. Regardless of whether it was intentional or negligent, the father's failure to keep the court, the department or his attorney informed of his whereabouts was not enough to satisfy the second prong of the test. Thus, the court affirmed the trial court's denial of the motion to open the default judgment.

## APPELLATE COURT REVERSES TRIAL COURT'S DENIAL OF TERMINATION

### AMPLE EVIDENCE SUPPORTED STATE'S ALLEGATION THAT MOTHER FAILED TO REHABILITATE

### IN RE SELENA O.

Abuse and Neglect: Termination of Parental Rights
Connecticut Appellate Court
December 4, 2007

In this unusual case, the appellate court reversed the trial court's denial of the state's Termination of Parental Rights (TPR) petition. The appellate court held that the trial court's decision that the state failed to make its "failure to rehabilitate" case was clearly erroneous. The appellate court remanded for further proceedings.

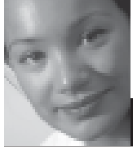
In this case, the respondent mother had a long history with DCF, and she struggled with substance abuse and domestic violence issues before and after DCF took her children away in 2004. In early 2005, DCF filed a motion to terminate the mother's parental rights, and trial started in December, 2005, with additional dates in January, March and May, 2006.

In January, 2006, the mother, now in the early stages of pregnancy, began a drug rehabilitation program at ADRC in Hartford. Twenty-eight days later, the mother entered a residential mother/child substance-abuse treatment program. During the March trial dates, the court heard testimony that the mother was engaged in services at Coventry House, and that the residential program typically lasted between 9 and 12 months.

Testimony in the trial continued in May. In June, 2006, DCF made a motion to "open the evidence," which was objected to by the mother's attorney. DCF withdrew its motion in July. In September, the trial court orally issued its decision to deny the TPR petition. The court observed that the mother had made substantial strides with her sobriety since the beginning of the TPR trial, and that she had been compliant with the Coventry House program for nine months. On the basis of these facts, the court ruled that the mother may achieve personal rehabilitation within the statutory timeframe. Accordingly, the court denied the state's TPR petition and this appeal followed.

The appellate court ruled that the key fact that the trial court relied on, i.e. that the mother was in Coventry House for 9 months, was not a fact in evidence, because the only evidence that judge had that the mother was in Coventry House was offered during the March trial date, at which time she had only been in the treatment program for about two months. So, the key fact in the court's decision was speculative. Further, the appellate court took judicial notice of the fact that DCF was granted emergency custody of the mother's newborn baby in early September, 2006, weeks prior to the trial court's denial of the TPR petition. The appellate decision footnotes reveal that the mother was discharged from Coventry House by the end of June, 2006 due to her noncompliance with program requirements, and that when she gave birth to her new baby, the child's meconium tested positive for cocaine. Accordingly, the key fact that the trial court relied on was not only speculative, but erroneous. It is unclear why the trial court was unaware of the mother's relapse, her eviction from Coventry House or the state's recent removal of the mother's newborn baby.

In sum, the appellate court held that because trial court's decision rested on speculative and erroneous facts, the decision must be reversed.



# IMPORTANCE OF EDUCATIONAL STABILITY FOR FOSTER CHILDREN

## NEW BILL INTRODUCED IN CHILDREN'S COMMITTEE

### RAISED BILL 159 AN ACT CONCERNING FOSTER PLACEMENT AND EDUCATION

*Sarah Healy Eagan, Esq.*

Raised Bill 159, co-sponsored by the Center for Children's Advocacy, The Office of the Child Advocate and Connecticut Voices for Children, ensures that children in foster care have the right to remain in their school of origin through the highest grade level in that school, even if they are moved by DCF to a placement in another school district.

Children and youth in foster care suffer the trauma of removal from their homes. They often move from one foster placement to another, and therefore frequently change schools. Research indicates that it takes a child four to six months to recover academically from each school transfer.

Children and youth who are frequently moved suffer academically, psychologically, and socially. They often find it difficult to make new friends and are more likely to experience alienation, withdrawal or discipline problems. A 2004 Illinois study of the educational performance of abused and neglected children placed in out-of-home care revealed that almost half of the third to eighth grade students in foster care scored in the bottom quartile of the state's standardized test. School mobility arising from changes in out-of-home placement often contributed to academic failure.

Experts throughout the country agree that improving educational outcomes for foster youth must be one of the child welfare system's highest priorities. Like other students, foster youth are more likely to succeed if they learn to read well, take college preparatory courses, and graduate from high school. Their educational success depends on prompt enrollment and school stability.

This new bill provides for a child to stay in his/her school of origin as long as it is in the child's best interest to do so. In adopting this bill, Connecticut would follow the lead of several other states (California, Delaware, New Hampshire, Florida, Arkansas, Washington and Oregon) that have passed new laws and regulations to promote educational stability for youth in foster care.

For more information on Raised Bill 159, An Act Concerning Foster Placement and Education, contact Sarah Eagan at 860-570-5327 or *seagan@kidscounsel.org*, or go to *www.kidscounsel.org* and click on "Legislative News" and "Significant Pending State Legislation."

### REPORT RELEASED BY THE OFFICE OF THE CHILD ADVOCATE SUPPORTS EDUCATIONAL STABILITY BILL

*Jeanne Milstein, Connecticut Child Advocate*
*From remarks shared at CCA Seminar February 14, 2008*

The Office of the Child Advocate released a report on Educational Stability which explores the school mobility of Connecticut's foster children, and the degree to which public policies (McKinney-Vento Homeless Assistance Act) and casework practices influence their educational experience. Some of the report's findings include:

1. The quality and efficiency of delivery of services, both in the education and child protection systems, varies by individual caseworker. Each group of professionals reports variability in the quality and efficiency of work. This finding suggests a serious need for agencies to reevaluate and reinforce recruitment, training, and quality assurance procedures.

2. DCF and SDE must clarify technical policies and practices, and improve inter-professional training and communication regarding goals, needs, and priorities. Educators and child protection workers must work together on establishing plans for school stability, management of foster children in school, and data sharing.

3. The lack of foster homes results in children being placed far from their schools of origin. This practice exacerbates the already contentious issue of transportation. Findings strongly support renewed efforts at foster parent recruitment and retention, which will decrease mobility and the likelihood that a child will have to change schools upon entering care.

4. A commitment to foster children's education must be a priority in DCF and SDE policies and practices. Education issues, including school mobility, are marginalized when a child enters foster care. DCF workers focus, rightly, on child safety, and are unable to simultaneously address education needs with the same energy and resources. This issue must pervade all levels of foster care service delivery.

Finding a safe home for a child is paramount. However, there must be an appropriate needs assessment, and good matching with the right home. When a child does have to move, it is imperative to try to keep the child in the same school. DCF needs to commit to school stability as an important issue.

*Sarah Healy Eagan, Esq.*

## HOW TO ACCESS DENTAL CARE FOR YOUTH IN DCF CARE OR CUSTODY

**My client needs dental work. How do I ensure that s/he receives appropriate care in a timely manner?**

DCF has an obligation to assess treatment needs, including dental care, of children in their care.

• Connecticut Statute § 17a-101d(f) provides that even during the initial 96 hour old, DCF has an obligation to provide the child or youth with "all necessary care" even without the consent of the child's parent or guardian (provided DCF made reasonable attempts to obtain consent).

• Additionally, DCF Policy § 44-4-3 provides that a child placed in an out-of-home setting (except when placed from a hospital) shall, "within five days of placement, receive an initial health screening evaluation. The screening must include the following:

- review of the child's medical history

- complete physical examination, specifically encompassing all skin surfaces and external genitalia

- child's diagnosis relative to "Well Child," or a list of any problems or illnesses

- proposed treatment, encompassing plans for further care, written prescriptions or immunizations given

If an acute condition is observed, the clinician must make appropriate referrals and arrangement.

• After the child is placed in DCF custody, DCF policy provides that the child must undergo a Multi-Disciplinary Evaluation (MDE) within 30 days of placement. *See* DCF Policy §44-1.The evaluation will be performed by a community-based assessment team. The MDE is intended as a comprehensive physical that will assess the child's medical, emotional and developmental status and offer recommendations for appropriate treatment. The MDE will assess dental needs and indicate whether a child is in need of immediate dental care.

• Additionally, foster parents and other placement providers should work with DCF staff to assess a child's ongoing needs for medical and dental care. DCF must give foster parents (or appropriate placement staff) the date and findings of the child's last physical, dental or other examinations and plan with foster parents for required follow-up on recommendations, shots, subsequent examinations, etc. *See* DCF Policy § 44-4-1.

**How does DCF pay for medical care for a child?**

Payment for medical care is made through the Title XIX medical program administered by the Department of Social Services. *See* DCF Policy § 44-4-1.

**Where will DCF document the child's medical and dental needs?**

The child's MDE will contain a list of all diagnoses and recommendations. Lawyers may obtain a copy of the MDE by making a written request for DCF records pursuant to Conn. Gen. Stat. § 17a-28. DCF will also identify the child's diagnoses and treatment recommendations in the child's Treatment Plan. *See* Conn. Gen. Stat. § 17a-15; DCF Policy § 44-4-1. Each child and youth in DCF custody is entitled to a treatment plan which, among other things, documents the child's need for medical care and appropriate treatment.

**Whose responsibility is it to make appointments for the child and transport the child to those appointments?**

It is DCF's responsibility to work with foster parents and placement staff to ensure that a child's needs are met through appropriate appointments. DCF policy indicates that foster parents are generally responsible for arranging transportation for appointments, although DCF is ultimately responsibility for ensuring the health and welfare of children in state care.

**What can I do to ensure that my client gets timely dental care?**

Ask for a copy of the child's MDE about 40 days after the child is placed in care. The MDE should indicate what follow-up care the child needs. You can then follow up with DCF staff, foster parents and your client to ensure that your client has been scheduled for appropriate follow up care. Additionally, participate in your client's treatment plan reviews, or ask for a copy of the treatment plan. The plan should address all necessary appointments. If a client is not receiving the care identified in their treatment plan, you can bring the issue before an administrative hearing officer of a judge. Conn. Gen. Stat. §§ 17a-15; 17a-16.

For Hartford area resources for dental care for children and youth, *www.infoline.org/referweb* and type "dental" into the "search by service name" box.

Recent settlement of a class action seeking better access to dental care for kids on HUSKY A/Medicaid requires that DSS actively help with locating, scheduling and, if necessary, transportation to regular dental care appointments.

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