DISABILITY RIGHTS TEXAS
LAWSUITS AND ADMINISTRATIVE HEARINGS
FILED AND CONCLUDED
APRIL 1, 2019 – JUNE 30, 2019

COMMUNITY INTEGRATION – SUBJECT AREA 1 – ACCESS TO COMMUNITY SUPPORTS & SERVICES

Goal 1 – *"People with disabilities can move from institutions to the community with all supports and services they are entitled to (including Medicaid) that are: timely and available when needed, person-directed, meaningful, and well-planned and carried out."*

In re Chelsea I. Administrative hearing before the Texas Department of Health and Human Services Commission. SR#178152. Attorney: Cassandra Champion. DRTx assisted with the appeal of CI's DID. While CI was a patient at Terrell State Hospital (TSH), she was evaluated by Metrocare Services and found not to have IDD. The goal was to appeal that determination and have CI found to be an individual with IDD in order to allow CI to go home upon discharge from TSH and receive HCS services in the home. DRTx coordinated with CI's sister to determine whether she wanted CI to come home and live with her and confirmed she did not receive the denial of IDD by mail. We confirmed her new address and notified Metrocare that the denial was deficient in both form and substance, as it never reached the sister and her right to appeal the DID. We requested, on the sister's behalf, that notice be provided informing her of her right to an administrative hearing to contest the findings of the DID, or accept our notice as timely notice to request administrative hearing to contest the DID finding. DRTx requested and reviewed CI's DID and denial from Metrocare. DRTx also requested records from as many of CI's previous schools as possible, including Rockwall, Cumberland County, Fort Bragg, and Garland ISD. DRTx received records and reviewed them, paying special attention to her previous DIDs and psychological tests for special education purposes. DRTx participated in calls with staff at TSH and confirmed they all thought she was a person with IDD and was at her baseline as a person with schizophrenia. DRTx arranged to have an independent expert, Dr. Richard Peck, perform an addition DID. He did and found she did qualify as an individual with IDD. DRTx drafted a brief for the court in advance of the administrative hearing. Also requested to postpone case services appeal until the admin hearing was decided. DRTx won the hearing on behalf of CI. She has since been found HCS eligible and moved into an HCS home in the Dallas area. (Funding: VW_BCLS; Priority: CI1)

In the Interest of M.P., a Child. In the 407th Judicial District Court of Bexar County, Texas. Cause No. 2003-PA-00816. SR#181271. Attorneys: Kayla M. Puga and Lisa Snead. Client is a 21 year old adult residing at a State Supported Living Center (SSLC), who is still under CPS conservatorship. DRTx received a complaint that despite client being an adult and despite the SSLC's recommendation that client was ready for community placement, the CPS caseworker was denying the referral. DRTx filed a Plea to the Jurisdiction and Motion to Dismiss Conservatorship to be heard on January 28, 2019. Both the CPS caseworker and court-appointed guardian ad litem agreed to recommend a dismissal of the conservatorship with the understanding that client would consent to a supported decision making agreement with his uncle. DRTx participated in the hearing where the court dismissed CPS as conservator. (Funding: BCLS; Priority: CI1)

PROTECTION AND CIVIL RIGHTS – SUBJECT AREA 3 – CIVIL RIGHTS

Goal 1 – *"Claims of abuse, neglect, exploitation or other mistreatment by a caregiver or service provider are fully investigated in keeping with the law."*

Sally Hernandez, Travis County Sheriff v. Ken Paxton, Attorney General of Texas and Disability Rights Texas v. Sally Hernandez, in her official capacity as Travis County Sheriff, Cause No. D-1-GN-19-000295, In the 261st Judicial District of Travis County. SR#189233. Attorneys: Beth Mitchell, Lisa Snead, & Jennifer Reif. DRTx requested records from Travis County Correctional Complex, a jail run by the Travis County Sheriff's Office (TCSO), to investigate the death of N.C., a person dually diagnosed with mental illness and intellectual disability, who died while in the custody of TCSO. TCSO denied DRTx access to the records requested and requested an AG opinion. DRTx filed a letter brief detailing its special right of access to the information pursuant to the Developmental Disabilities Assistance and Bill of Rights Act (PADD), the Protection and Advocacy for Mentally Ill Individuals Act (PAIMI), and the Texas public Information Act (TPIA). The AG Opinion stated that DRTx should receive most of the records requested, but not all. TCSO still denied DRTx access and filed suit against the AG claiming that they should not have to produce most of the records required in the AG opinion. The AG filed a general denial. DRTx intervened and filed a cross claim and writ of mandamus explaining the AG opinion was correct in that it determined DRTx has a special right of access to most records requested, was incorrect in part that it determined DRTx did not have access to some additional records requested, and the TCSO was still withholding all records initially requested, including records they failed to raise claims about in their suit against the AG. At this time, the court has not set a hearing in the case. Attorney Reif is drafting a Motion for Summary Judgment and expects to file this motion sometime in August 2019. (Funding: PAIMI; Priority: AN1)

PROTECTION AND CIVIL RIGHTS – SUBJECT AREA 3 – CIVIL RIGHTS

Goal 3 – *"The rights of people with disabilities are protected in the law enforcement, criminal justice, and juvenile justice systems."*

In re Heydon D. Administrative hearing before the Texas Department of Health and Human Services Commission (HHSC) (Medicaid Fair Hearing). SR#182235. Attorneys: Cassandra Champion, Peter Hofer, and Edwin Marino. Advocate: Sherry Hartsfield. Prior to the need for a fair hearing, the IRCL and Community Integration & Healthcare teams were both involved in assisting the client's mother in applying for the Medicaid Waiver Program, Home and Community Based Services (HCS), which would allow the client to stay in the community at his mother's house. Advocate Hartsfield worked with the family and the Local Intellectual and Developmental Disability Authority to obtain a Preadmission Screening and Resident Review (PASRRR) diversion slot for the client, and to submit the completed application and create a detailed plan for allotment of Personal Attendant Services and Rehabilitation (PAS/HAB) hours for the client. The application was successful, the client was awarded a PASRRR diversion slot and obtained HCS services in September 2018. The requested number of PAS/HAB hours were assigned in November, 2018. On December 17, 2018, HHSC informed the client that his PAS/HAB hours were being reduced by nearly 600 per year for two reasons: 1) some of the time requested is the responsibility of a parent/guardian of a minor child; and 2) some of the requested time are duplication of services requested in other sections of the application form. Attorneys Champion and Hofer wrote to HHSC alerting them that their reasoning for the reduction of hours violates federal regulations. According to the regulations, HHSC may not reduce the level of services provided to an individual based

on the availability of natural, unpaid support unless these unpaid supports are provided voluntarily to the individual, and that the Utilization Review (UR) Department has repeatedly reduced CFC services on this unlawful basis. Meanwhile, the child's mother decided to proceed to fair hearing, which was set for April 9, 2019. Attorneys Champion and Hofer requested a continuance in order to wait for a response from HHSC, and the hearing was reset for May 9, 2019. On April 10, 2019, HHSC reinstated 234 of the hours that were reduced on the basis of natural supports. Attorney Hofer requested a more thorough explanation for the reasons of the remaining reductions, which HHSC provided. HHSC also noted that it is reevaluating its position on whether parents are responsible for providing natural supports under the CFC program. The client's mother decided to withdraw the appeal for the remaining hours, therefore, DRTx withdrew the appeal on behalf of Appellant. Case closed. (Funding: PAIMI; Priority: CR3)

Goal 5 – *"People with disabilities are not placed under guardianship when they don't need it and unnecessary guardianships are removed. If a person is under guardianship, it is limited so that as few rights as possible are restricted."*

In re the Guardianship of L.H., Cause No. G12050, in the County Court of Tom Green County, Texas. SR#164730. Attorney: Kayla Puga. Client is an individual under guardianship whose guardian stopped performing her duties several years ago. Since that time, she has been making her own choices, with the support of the State Supported Living Center for several years. Four years ago, DRTx assisted client in initiating an investigation into her guardianship by the court. When the case did not progress, DRTx offered assistance to client's Guardian/Attorney Ad Litem. DRTx is co-counsel to client's ad litem for restoration purposes. DRTx assisted the guardian ad litem in drafting the application for restoration. Once the hearing was scheduled DRTx also obtained a witness to discuss HCS services in the community as an alternative to guardianship. Along with the guardian ad litem, attorney ad litem, and client, DRTx participated in the restoration hearing. Client was fully restored during her hearing in September 2018, and the court signed the order two months later. (Funding: BCLS; Priority: CR6)

HEALTH CARE PRIORITY – SUBJECT AREA 1 – HEALTH CARE ELIGIBILITY AND ACCESS

Goal 1 – *"People with disabilities who are eligible for public health benefits have timely access to the care and long-term supports they are entitled to including: health services, mental health services, assistive technology, durable medical equipment, and other disability-related services."*

In re Kaelyn C. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192764. Attorney: Hillary Garcia. Texas Medicaid and Healthcare Partnership (TMHP) denied Kaelyn's eligibility for the Medically Dependent Children Program (MDCP). Kaelyn was previous recipient of MDCP from 2009 to 2014. In 2014, Kaelyn's parents appealed her denial of eligibility, but were unsuccessful at fair hearing. She lost eligibility for MDCP and her access to Medicaid. Her parents added her name to the MDCP interest list and she was notified in April of 2019 her name was on the top. She was, however, denied eligibility. Kaelyn is an eleven year old female with numerous heart conditions. She has required two heart surgeries for repairs. TMHP cited in its denial it needed additional information concerning her heart conditions. Kaelyn's parents requested a continuance prior to contacting DRTx to obtain the necessary information. However, they grew concerned with the rescheduled hearing and reached out to DRTx for assistance. Kaelyn's fair hearing is pending a reschedule date. (Funding PADD; Priority HC1)

In re Christian C. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#181906. Attorney: Hillary Garcia. HHSC denied Christian's eligibility for the YES Waiver. Counsel for HHSC suggested a potential resolution. The options were discussed with client, HHSC, and Texana. After a few months and updates with the hearings officer on the status of the resolution, Christian's parents determined the best option was to proceed to fair hearing. We proceeded to fair hearing, and counsel provided all testimony. However, HHSC failed to meet its burden of proof. The hearings officer overturned the decision. Christian's eligibility for the YES Waiver continued. However, with the amount of time taken for the potential resolution, he required a new yearly assessment shortly after the decision was issued. His file was kept opened to monitor the next yearly assessment. He was denied eligibility again. Mom appealed, and we closed this file. Mom was instructed to complete a new intake. (Funding: VW_BCLS; Priority: HC1)

In re Jase H. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192429. Attorney: Hillary Garcia. Texas Medicaid and Healthcare Partnership (TMHP) denied Jase's eligibility for the Medically Dependent Children Program (MDCP). Jase is an eight year old boy with a great sense of humor. Jase has epilepsy, hydrocephalus, conversion disorder, autism, and cortical vision impairment. Jase's parents previously were unaware of his options to obtain Medicaid services. He was initially only on the MDCP interest list. As a young child, his epilepsy was not well controlled. His seizure activity was intense and required hospitalizations. He is still monitored closely, although he has not needed to be hospitalized for a few years. Jase's name came to the top of the MDCP interest list and he was assessed for eligibility. TMHP determined he did not meet criteria because there was not enough information on his seizures. Jase's fair hearing is scheduled for August 09, 2019. (Funding PADD; Priority HC1)

In re Dylan R. Administrative hearing before Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#187779. Attorney: Hillary Garcia. Community First Health Plan, a Medicaid Managed Care Organization, decided to reduce the amount of Dylan's medically necessary private duty nursing services. Fair Hearing is set for February 12, 2019. Mother of child had difficulty with the nursing agency and fired Dylan's nurse. She was subsequently discharged from services. She did not notify DRTx of the discharge. The family dynamic changed at the same time, and Mom determined that she no longer wanted private duty nursing services for Dylan. She contacted DRTx about two weeks after the discharge for the update and to discuss withdrawing from the fair hearing. We discussed her options, and she felt it was best for Dylan as she quit her job and could care for him. The fair hearing was withdrawn and final order received. Mother of child was sent a closure letter. (Funding: VW_BCLS; Priority: HC1)

In re William H. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). Attorney: Peter Hofer. TMHP denied William's continued eligibility for MDCP, despite winning his fair hearing last year. Following the hearing, the hearing officer reversed the denial and found William eligible for MDCP. (Funding: PADD; Priority: HC1)

Colten D. Pre-suit demand sent to HHSC for denial of coverage for ABA therapy. SR#192356 Attorneys: Peter Hofer and Terry Anstee. HHSC refuses to cover ABA as part of its Medicaid EPSDT benefit. Following the demand, HHSC agreed to settle the case by approving ABA for Colten. The case will be kept open to ensure compliance with the agreement. (Funding: PADD; Priority: HC1.)

In re William H. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#182748. Attorney: Peter Hofer. Despite prevailing in two

consecutive hearings, TMHP—for third year in a row—has denied William continued eligibility for MDCP. The hearing on this denial will be held in September. (Funding: PADD; Priority: HC1.)

Goal 2 – "*People with disabilities understand and exercise their legal rights in receiving public health and/or mental health benefits, including their right: to be notified about changes to their benefits; to appeal (ask for a change) decisions that affect their health care or long-term supports; and to a fair hearing (a person's chance to explain their case to a judge).*"

In re Mina A. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#191547. Attorney: Hillary Garcia. Community First Health Plan (CFHP), a Medicaid Managed Care Organization decided to reduce the amount of medically necessary private duty nursing services for Mina. Mina is eighteen years old and recent high school grad. She has a rare Mitochondrial Disease, one of about 7 children with the condition in the United States. She is medically complex because of her condition, and her care is complicated by the multiple seizures she has per day. CFHP determined Mina no longer needed the 76 hours of private duty nursing, authorizing instead 56 hours per week. CFHP, however, erroneously utilized its own private duty nursing guideline to determine Mina's services were no longer medically necessary at 76 hours per week. The guideline does not abide by state and Federal Medicaid Law. An HPM complaint on the guideline had previously been submitted to HHSC. HHSC notified the appeals division they were working on the issue. However, after a few months and no determination the appeals division with HHSC advised to continue with fair hearings on a case by case basis. HHSC transferred the HPM complaint to the Office of the Ombudsman. The Office of the Ombudsman contacted DRTx to complete its investigation. However, no response was received prior to Mina's fair hearing. A letter brief was provided to Hearings Officer Oslick on CFHP's guideline and its unlawful use on Mina's request for PDN. The hearing was held on June 13, 2019. At fair hearing, CFHP stated Mina did not need any nursing services, despite authorizing 56 hours per week. CFHP claimed they look at clients holistically to provide coverage. They therefore are able to look at a parent's work schedule to authorize hours. HHSC was notified of Mina's case because of the CFHP's erroneous justification for PDN authorization. We are awaiting fair hearing decision. (Funding BCLS; Priority HC3)

In re Luke A. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#190661. Attorney: Hillary Garcia. United Healthplan, a Medicaid Managed Care Organization, decided to reduce Luke's physical therapy services to one visit per week. A pre-hearing conference was scheduled to discuss the Notice provided by Optum and United. The hearings officer agreed the notice was deficient and requested United to provide a new notice of action. Counsel for United and United's medical director were confused about what was needed. A long conversation was held to discuss what was requested, with the hearing officer advising counsel to check the federal and state guidelines on notice requirements. The hearing officer advised the hearing would be rescheduled when United provided a new updated Notice of Action. However, United did not provide Appellant or the Hearing Officer an updated notice timely. United did provide an updated Notice of Action for speech therapy services. Counsel was contacted to check on the status of the Notice for physical therapy services. Counsel believed the notice was sent and apologized. However, a notice was never sent. The hearing officer found United did not meet the burden of proof by providing a deficient notice and overturned the decision. The final order required United to provide physical therapy two times per week for 90 days. Mother of Child was notified. Physical therapy continued at two times per week, and therapy agency stated they received the necessary authorization so would provide him the services past his authorization period for an additional 90 days. Closure letter and survey sent. (Funding: PADD; Priority: HC3)

In re Marely C. Administrative hearing before Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#185511. Attorney: Hillary Garcia. Community First Health Plan, a Medicaid Managed Care Organization, decided to reduce the amount of Marely's medically necessary private duty nursing services. Fair Hearing is set for January 30, 2019. The fair hearing is to be continued due to the Community First Health Plan's private duty nursing guideline. The guideline does not abide by Federal and state Medicaid law and is currently under review by HHSC. Although HHSC counsel reviewed the issue, the complaint was sent to the Office of the Ombudsman. After a conversation with HHSC counsel and the appeals division, it was recommended the fair hearing proceed at the next setting. The fair hearings officer could make a determination on the CFHP policy. Hearings Officer Desiga overturned CFHP's decision. Marely was to receive 105 hours per week of PDN. The next authorization was monitored but approved by CFHP at 105 hours per week. Mom was notified, closure letter sent and the file closed. (Funding: BCLS; Priority: HC3)

In re Paul C. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#188969. Attorney: Terry Anstee. On or about January 3, 2019, the client's step-mother contacted our office requesting assistance with appealing Texas Medicaid & Healthcare Partnership's (TMHP) decision to deny Paul eligibility for the STAR+PLUS Waiver (SPW) Program. Paul's diagnoses include autism spectrum disorder, intellectual disabilities, ADHD, unspecified protein-calorie malnutrition, and seasonal allergic rhinitis. We investigated the client's case and agreed to represent him in a Medicaid Fair Hearing. At the start of the scheduled fair hearing TMHP resolved the case in the client's favor, and we withdrew the request for the fair hearing. Because the client has been deemed to have medical necessity for SPW, case closed. (Funding: VW_BCLS; HC3)

In re Daniel C. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#184843. Attorney: Hillary Garcia. Children's Medical Center Health Plan (CMCHP), a Medicaid Managed Care Organization decided to reduce the amount of medically necessary private duty nursing services for Daniel from 70 hours per week to 56 hours per week. He previously was receiving 168 hours per week. However, CMCHP partial approved/denied his request and approved 70 hours. Parents took it to fair hearing and lost, only authorized for 70 hours. Fair Hearing is scheduled for September 26, 2018. A change in the family dynamic caused CMCHP to overturn its decision. In its approval letter CMCHP noted it would approve the 70 hours per week to allow for Daniel's father as sole provider to presume the role his wife, Daniel's mother, previously provided. The fair hearing was withdrawn. However, despite the approval, the language of CMCHP's letter was a cause for concern. The case was kept open for monitoring. Father was notified of the need to contact DRTx with any issues. He contacted DRTx for assistance with a request for an increase in services. This file was closed, and a new file opened for assistance with an increase in PDN. (Funding VW_BCLS; Priority: HC3)

In re Daniel C. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192086. Attorney: Hillary Garcia. Children's Medical Center Health Plan (CMCHP), a Medicaid Managed Care Organization decided to deny Daniels request for an increase in private duty nursing (PDN) services. We previously assisted Daniel with a PDN reduction. Daniel is five years old, and has received private duty nursing since his release from the hospital a few months after birth. He has the following conditions/diagnoses: Down syndrome, gastroesophageal reflux disease, short gut syndrome, dysphagia, gastrostomy status, and asthma. He was previously authorized for 168 hours per week of private duty nursing services. He was slowly weaned down by CMCHP. CMCHP first reduced the 168 hours to 120 hours per week. The parents did not appeal the reduction and

Daniel received 120 hours per week for about two authorization periods. CMCHP, again attempted to reduce his hours this time from 120 hours per week to 70 hours. Daniel's parents appealed and went to fair hearing alone. They had an interpreter present at the fair hearing, but both parents expressed difficulty with comprehending the fair hearing process. The hearing officer sustained CMCHP's reduction. Daniel's parents contacted DRTx after CMCHP attempted to further reduce Daniel's from 70 hours per week to 56 hours. A change in the family dynamic caused CMCHP to overturn its decision. In its approval letter CMCHP noted it would approve the 70 hours per week to allow for Daniel's father as sole provider to presume the role his wife, Daniel's mother, previously provided. Daniel's mother passed away after a long fight with cancer. Even though Daniel's Mom had her own health concerns, she provided much of his daytime nursing to allow for a nurse to be present at night. However, as her health deteriorated Daniel's physicians and his nurses became worried about his care. The nursing agency and Daniel's physicians recommended an increase in nursing hours. Despite the approval, the language of CMCHP's letter was a cause for concern. The case was kept open for monitoring. However, a new case was opened when Daniel's father expressed concern with the nursing hours and Daniel's physician ordered 120 hours per week of PDN. CMCHP denied the request and authorized 70 hours per week. A fair hearing was held on July 3, 2019. Daniel's father and his nurse participated at fair hearing. We are awaiting a decision. (Funding BCLS; Priority HC3)

In re Christian C. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192076. Attorney: Hillary Garcia. Texas Health and Human Services Commission denied Christian's eligibility for YES Waiver services. DRTx previously assisted Christian remain on YES waiver. Christian was receiving YES Waiver services through Texana Center. At his yearly reassessment, Texana indicated he was no longer eligible for services. We proceeded to fair hearing, although counsel for HHSC suggested a resolution. The fair hearing was moved multiple times to allow for multiple conversations with DRTx, HHSC, and Texana Center. Ultimately, Christian's parents were not happy with the proposed resolution. We proceeded to fair hearing. The hearings officer overturned the decision. Due to the amount of time HHSC spent attempting a resolution, Texana was required to complete a new yearly assessment. Christian was again denied eligibility. Christian's mom, Mary C. again appealed the denial. Mary was concerned that without intensive services, Christian's behaviors would worsen. Even with YES Waiver services, Christian was suspended multiple times for threats to other students and his para professional. A fair hearing was held June 18, 2019. We are awaiting fair hearing decision. (Funding PADD; Priority HC3)

In re Cayhen E. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#188955. Attorney: Terry Anstee. On or about January 4, 2019 Cayhen's mother contacted our office requesting assistance with appealing denials made by STAR Kids managed care organization (MCO) Aetna in his (1) speech therapy (ST) services (Requested: 3 times per week for 4 weeks for VitalStim, and then 2 times per week thereafter; Approved: 1 time per week for length of authorization), and (2) private duty nursing (PDN) services (60 to 56 hours per week). Cayhen was 16 years old at the time of the denial, and diagnosed with multiple, significant disabilities and chronic health conditions, including: Pulmonary Hypertension, Down syndrome, dysphagia, hearing impairment, gastrostomy tube, and O2 dependence. Cayhen is also non-ambulatory, nonverbal, and unable to perform ADLs. Cayhen has been receiving ST and PDN services for many years to correct or ameliorate his conditions. We investigated Cayhen's case and agreed to represent him at a Medicaid fair hearing. As to the PDN case, Aetna resolved the case in Cayhen's favor on January 24, 2019, and the mother canceled the fair hearing. His PDN was approved at 60 hours per week through June 12, 2019. As to the ST case, Aetna offered to authorize ST services at 2 times per week through the contested authorization period

and in a new authorization period through September 4, 2019. Cayhen's mother accepted this offer and his pending fair hearing was canceled. Case closed. (Funding: PADD; Priority: HC3)

In re Brittan F. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192467. Attorney: Hillary Garcia. Texas Medicaid and Healthcare Partnership (TMHP) denied Brittan's eligibility for the Medically Dependent Children Program (MDCP). Brittan was determined eligible for MDPC in 2011. She is twelve years old and is a middle school cheerleader. She VACTERL (stands for vertebral defects, anal atresia, cardiac defects, tracheo-esophageal fistula, renal anomalies, and limb abnormalities) Processing Issue, Dyslexia, malformed sacrum, three spinal de-tethers and double laminectomy removing spinal cord bone at L5. Her condition and needs have not changed drastically. She continues to have issues with chronic constipation and UTI's requiring catheterizations. TMHP requested additional information about her constipation and need for growth hormone injections. Her physicians submitted the requested information per TMHP's request. However, TMHP determined the information was insufficient. Brittan's fair hearing is scheduled for August 22, 2019. (Funding PAIR; Priority HC3)

In re Ethan J. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#191303. Attorney: Terry Anstee. On or about March 15, 2019 Ethan's mother contacted our office requesting assistance with appealing a reduction (from 56 hours to 40 hours per week) in Ethan's private duty nursing (PDN) services made by STAR Kids managed care organization (MCO) Texas Children's Health Plan (TCHP). Ethan is currently 2 years-old and is diagnosed with multiple, significant disabilities and chronic health conditions, including: Down syndrome, S/P complete AV canal repair, S/P mitral valve replacement with mechanical valve, pulmonary hypertension, obstructive sleep apnea, hypothyroidism, gastrostomy tube, GERD, hypotonia, and developmental delays. We investigated Ethan's case and agreed to represent him at a Medicaid fair hearing. Two days before the fair hearing TCHP approved Ethan's PDN at 56 hours per week through August 1, 2019. With the mother's permission we canceled Ethan's pending fair hearing. Case closed. Funding: PADD; Priority: HC3)

In re Jeremy K. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#185802. Attorney: Terry Anstee. On or about October 23, 2018, Jeremy's father contacted our office requesting assistance with appealing a reduction in Jeremy's nursing services in the Home and Community-Based Services (HCS) program (from 70 hours to 40 hours per week) made by Texas Health and Human Services Commission (HHSC) utilization review (UR). Jeremy is 27 years old and diagnosed with multiple, significant disabilities and chronic health conditions, including: cerebral palsy with spastic quadriplegia, epilepsy, chronic lung disease, history of aspiration pneumonia, dysphagia, gastrostomy tube dependence, GERD, chronic constipation, scoliosis, and intellectual and global developmental delays. Jeremy has received nursing services at 70 hours per week in HCS since aging out of children's Medicaid in 2012. We investigated Jeremy's case and agreed to represent him at a Medicaid fair hearing. Before we became involved in the case, Jeremy's father secured an in-person hearing, a rare occurrence in Medicaid fair hearings. On December 19, 2019 we represented Jeremy in a pre-hearing conference via telephone and successfully argued that the denial notice issued by HHSC UR was legally inadequate. HHSC UR produced a revised denial notice on December 21, 2018. On January 9, 2019, we represented the client in an in-person hearing in front of HHSC hearings officer Cynthia Benavides. A favorable hearings decision was received on April 8, 2019. On April 17, 2019 we requested evidence from the hearings officer that HHSC UR had complied with the hearings officer's orders within the 10-day deadline set by the hearings officer. On April 18, 2019 HHSC UR

issued a letter approving Jeremy's nursing services in HCS at 70 hours per week through October 2019 as a result of the hearings officer's decision and order. Case closed. (Funding: VW_BCLS; Priority: HC3)

In re James M. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192675. Attorney: Hillary Garcia. Texas Medicaid and Healthcare Partnership (TMHP) denied James' eligibility for the Medically Dependent Children Program (MDCP). James has been a MDCP recipient since 2015. He has Prader-Willi syndrome, autism, obstructive sleep apnea, and scoliosis. He exhibits food seeking behavior, which can lead to serious issues for James. TMHP's TIERs notes have justified prior approvals. However, he has been pending denial almost every year since initiating services. His parents have fought and advocated for his continued access to MDCP. Unfortunately, the information previously submitted, which lead to an overturned decision and approval, appears to no longer be sufficient. The parents, therefore, contacted DRTx for assistance. TMHP has determined he no longer meets eligibility despite same conditions and need. HHSC previously expressed interest in MDCP cases with repeat denials. His case will be brought to HHSC's attention. James' fair hearing is scheduled for August 28, 2019. (Funding PADD; Priority HC3)

In re Kyle O. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#189042. Attorney: Hillary Garcia. Cook Children's Health Plan, a Medicaid Managed Care Organization, decided to reduce the amount of occupational therapy services for Kyle. He was partially approved for one visit per week. The fair hearing was held and hearings officer overturned the decision. He was authorized for 90 days of services. A closure letter was sent to Mom and the file closed. (Funding: PADD; Priority: HC3)

In re Malak R. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192334. Attorney: Hillary Garcia. Superior Health Plan, a Medicaid Managed Care Organization decided to deny Malak's request for 60 hours per week of private duty nursing (PDN) services. Malak is a four year old boy with cerebral palsy, growth hormone deficiency, cortical vision impairment, hypoglycemia, chronic lung disease, obstructive sleep apnea, osteopenia, short bowel syndrome and chronic constipation. He enjoys the outdoors and loves being strolled around his neighborhood. Malak was previously authorized for over 100 hours per week of private duty nursing. His mother, Naomi, was not certain the exact amount he previous received. Malak's mother stopped services after a few unfortunate incidents with his previous nursing agency. Naomi primarily care for Malak and was providing all of his nursing care. As Malak's needs and conditions changed, his physicians recommended PDN services. Naomi found a new nursing agency, and spoke with his many specialists in San Antonio. When she received a denial, her nursing agency advised she contact DRTx for assistance. Superior provided a 14-day authorization to allow time to generate nursing notes. Unfortunately, Malak lives in a rural area and a nurse was only able to provide two nursing shifts in a two-week period. Superior was not satisfied with the nursing notes and denied his request for PDN. Malak's physicians support the need for 60 hours per week. We will advocate for continued access to 60 hours per week of PDN as it will correct or ameliorate his condition. Malak's fair hearing is scheduled for August 08, 2019. (Funding BCLS; Priority HC3)

In re Jonathan R. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#182559. Attorney: Hillary Garcia. HHSC utilization review (UR) reduced the amount of PAS/HAB requested. Jonathan also known as Jono is a 33 year old male with cerebral palsy, quadriplegia, vision impairment and gastrostomy status. The notice provided by HHSC was inadequate and a letter brief was provided to the hearings officer requesting a pre-hearing conference. At the pre-hearing conference the hearings officer agreed the notice was inadequate and

ordered a new notice be issued. HHSC provided a new notice with a different determination of authorized PAS/HAB hours. Therefore, new appeal rights attached to the new notice. A new fair hearing was requested. However, although a different number of PAS/HAB hours, HHSC did not detail the service that was reduced or the reason for the reduction. Another pre-hearing conference was requested. The new fair hearings officer ordered a new notice be issued. HHSC again provided a new notice with a different PAS/HAB hour determination. The new notice again provided new appeal rights, and a new fair hearing request and hearings officer was assigned. The new notice provided a bit more explanation but its explanation erroneously reduced an amount of services based on missing information that was previously provided by the CLASS case manager. Therefore, at yet another pre-hearing conference the issue was discussed, and a correction was ordered by the fair hearings officer. The corrected notice did not require a new appeal. Finally proceeding to fair hearing, the CLASS case manager and Mom provided testimony on Jonathan's needs. The hearings officer overturned the denial but ordered that HHSC request the CLASS case manager to submit a corrected Nursing Addendum and PAS/HAB plan. Due to the numerous fair hearing and appeals, Jonathan's next plan year submission was due. The file was kept open to monitor his next ISP. The CLASS case manager received a remand concerning the PAS/HAB plan. However, after a correction was sent in HHSC approved all of his requested PAS/HAB hours. A closure letter was provided and the case closed. (Funding: VW_BCLS; Priority: HC3)

In re Amanda R. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192002. Attorney: Terry Anstee On or about April 24, 2019, the client's parents contacted our office requesting assistance with appealing Texas Medicaid & Healthcare Partnership's (TMHP) decision to deny their daughter Amanda eligibility for the Medically Dependent Children Program (MDCP). Amanda's diagnoses include Prader-Willi syndrome, growth hormone deficiency, obstructive sleep apnea, constipation, hypotonia, recurrent fractures, and scoliosis. We investigated the client's case and agreed to represent her in a Medicaid Fair Hearing. Prior to the scheduled fair hearing TMHP resolved the case in Amanda's favor, and we canceled the fair hearing with the parent's permission. Because Amanda will continue to receive MDCP services, and there are no other legal issues to address, we closed her case file. (Funding: PADD; Priority: HC3)

In re Karina S. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192903. Attorney: Hillary Garcia. Community First Health Plan (CFHP), a Medicaid Managed Care Organization decided to deny Karina's request for 40 hours per week of private duty nursing services. Karina is an eight month old infant with kidney failure. She was in the NICU for 3 months. Upon her release from the hospital she quickly obtained private duty nursing services. She needs daily dialysis, which is administered at home by her mother. Mom stated that the kidney clinic did not want her nurses to assist with the dialysis. However, Karina is dependent on her gastrostomy tube for nutrition and medication administrations. CFHP is viewing her nursing needs as Health Maintenance Activities (HMA's), not requiring a nurse. CFHP's nursing guidelines played a role in its decision and will need to be discussed at fair hearing. Its guidelines do not abide by state and Federal Medicaid Law. An HPM complaint on the guideline had previously been submitted to HHSC. Karina's fair hearing is scheduled for August 14, 2019. (Funding: BCLS; Priority HC3)

In re Maya T. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#190742. Attorney: Terry Anstee. On or about February 12, 2019, the client's father contacted our office requesting assistance with appealing Texas Medicaid & Healthcare Partnership's (TMHP) decision to deny their daughter Maya eligibility for the Medically Dependent Children Program (MDCP). Maya's diagnoses include left hemimegalencephaly, encephalopathy, epilepsy, essential tremor, early-onset cerebellar ataxia, and developmental delays. We

investigated the client's case and agreed to represent her in a Medicaid Fair Hearing. Prior to the scheduled fair hearing TMHP resolved the case in Maya's favor, and we canceled the fair hearing with the parent's permission. Because Maya will continue to receive MDCP services, and there are no other legal issues to address, we closed her case file. (Funding: PADD; Priority: HC3)

In re Josue T. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#194036. Attorney: Hillary Garcia. Texas Medicaid and Healthcare Partnership (TMHP) denied Josue's eligibility for STAR Plus Waiver. Josue is a 25 year old male diagnosed with autism, IDD, Gilbert syndrome, GERD, anxiety disorder, depression, OCD, and dermatitis. He loves the weather and graphic design. Although he struggles with communication if you get him started on the topic he loves he will definitely open up. Josue has received STAR Plus Waiver services since 2015. He has previously been denied eligibility, but with help from Molina was able to resolve the matter prior to fair hearing. He still has Molina as his managed care organization, and they assisted during the pending denial. However, TMHP did not overturn the decision this time. Therefore, Josue's mom reached out to DRTx for assistance. Mom maintains a durable power of attorney for Josue. His fair hearing is scheduled for August 13, 2019. (Funding PADD; Priority HC3)

In re Christopher V. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#182447. Attorney: Terry Anstee. On or around June 13, 2018 client contacted our office regarding a denial of various portions of his requested power wheelchair (anchor bands, tray, and power seat elevation system). Client has limb-girdle muscular dystrophy and has utilized power mobility most of his life. We investigated client's case and agreed to represent him only on the denied anchor bands and tray. However, as the fair hearing approached we decided to argue for the power seat elevation system despite the rigid rules in the Texas Medicaid Provider Procedures Manual (TMPPM) regarding the need to independently transfer in order to receive a power seat elevation system. We represented client in a Medicaid fair hearing on October 26, 2018. At the start of the fair hearing United Healthcare (UHC) approved the tray and anchor bands, but not the power seat elevation system. We argued, among other things, that denying the power seat elevation system, which he had on his current dilapidated power wheelchair, would result in unsafe transfers, falls, and potential costs to UHC for extra equipment and attendant care hours. Additionally, we argued that the power seat elevation system assisted the client in performing mobility-related activities of daily living (MRADLs), and client has a history of losing function if he stops certain activities. On December 3, 2018 the hearing officer issued a favorable decision requesting UHC to re-evaluate client's request for the power seat elevation system using 42 C.F.R. 440.70. Two days later UHC approved the power seat elevation system for the client. A new power wheelchair was delivered to the client on or around January 9, 2019. Case closed. (Funding: PAAT; Priority: HC3)

In re Sheryl W. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#192489. Attorney: Hillary Garcia. Texas Medicaid and Healthcare Partnership (TMHP) denied Sheryl's eligibility for STAR Plus Waiver. Sheryl is a 30 year old female diagnosed with severe IDD, autistic disorder, insomnia, hyperlipidemia, obesity and vitamin D deficiency. Sheryl lives in a group home, but maintains a close relationship with her guardian, her grandmother. She is non-verbal and non-ambulatory. TMHP believes Sheryl's needs are primarily behavioral. Her doctor has ordered skilled nursing services, which in the past caused her to remain eligible for STAR Plus Waiver. However, TMHP has determined this no longer establishes a skilled nursing need. Sheryl has received STAR Plus Waiver services since 2012. Sheryl's group home manager contacted DRTx for assistance after the documentation she and Molina submitted to TMHP was

determined insufficient. Sheryl's condition and needs remain unchanged. Her fair hearing is scheduled for August 08, 2019. (Funding BCLS; Priority HC3)

EDUCATION PRIORITY – SUBJECT AREA 1 – DISCIPLINE

Goal 1 – *"Students with disabilities in public schools are given positive, trauma-informed behavior direction and supports. Students in all alternative settings get a free appropriate public education (FAPE)."*

C.C. v. Pine Tree Independent School District. Special Education Due Process Complaint. SR#184912. Attorney: Kym Rogers, Advocate: Kendra Hollingsworth. Our client is 17 years old, and has an intellectual disability and speech impairment as well as outside diagnosis of bipolar disorder. For over two years PTISD failed to do a psychological evaluation despite knowledge of his outside diagnosis. The district failed to provide him with the academic and behavioral support he needed, and denied grandparent the opportunity to participate fully in the ARD process. DRTx filed a due process complaint and obtained a beneficial confidential settlement agreement. (Funding: PADD; Priority: ED1)

S.E. v. Medina Independent School District. Special Education Due Process Complaint. SR#147978. Attorney: Julia Longoria. Parent wants appropriate behavioral supports and services and avoid repeated disciplinary assignments. Student wants credit recovery in the form of vocational program or some other make-up. Also wants additional compensatory education services. Parents wants student returned from DAEP into regular placement or to have proper behavioral supports in place at DAEP. DPH filed to return student to placement and receive proper behavioral supports. Settlement reached during mediation and complaint dismissed. Implementation of settlement agreement began. Lost contact with client. Case closed. (Funding: PAIR; Priority: ED1)

EDUCATION PRIORITY – SUBJECT AREA 2 – INCLUSION

Goal 1 – *"Students with disabilities are included with students without disabilities in their age group in classrooms and lessons, to the greatest extent possible."*

D.G. v. Flour Bluff Independent School District. Texas Education Agency Special Education Complaint. SR#186101. Attorneys: Constance Wanamaker and Brittany Whittle. Unilaterally withdrawing a student without reason is a failure to provide a free and appropriate public education. DG is a 16 year old junior with high functioning autism. DG attended FBISD. Last year he and his mother moved into a relative's house who also lives in the district. Parent travels often for work and stays with another relative. The entire family helps out watching DG so there are times where he stays at multiple residences during the week but he is named on the lease and spends the most time with his relative in FBISD. FBISD withdrew him in November, kept him out of school for 8 days and reenrolled him after parent threatened to work with us. Then FBISD withdrew him again in early December, failed to provide parent with any withdraw paperwork or even his medications and gym shoes still inside the school. We sent two demand letters and received no response from FBISD. We filed TEA complaint on January 2018. TEA ruled in our favor finding that the school violated the IDEA requirement to provide prior written notice before a change of placement. Unilaterally withdrawing a student was a change in placement. School district sought to have TEA reconsider, on a theory that withdrawal is not a change of placement but just a change of location. TEA denied reconsideration. We negotiated for compensatory

summer services to ensure that student received credit for all of his classes that he was unable finish out due to the withdrawal. (Funding: BCLS; Priority; IN1)

State of Texas v. E.M., In the Justice Court Precinct 2 of Harris County, Texas. SR#186461. Attorney: Shiloh Carter. Client is an 11-year-old student with autism and mood disorder and history of psychiatric hospitalization. He receives special education services under the eligibility category of emotional disturbance and is placed in a self-contained behavior classroom. His special education teacher failed to follow his BIP and his behavior escalated. The school resource officer referred him for a Class C misdemeanor assault charge in JP court. DRTx represented the student in JP court and successfully negotiated with the prosecuting attorney to have the charge dismissed. Additionally, DRTx sent letter and engaged in follow up advocacy to the district attorney along with Texas Appleseed and Earl Carl Institute expressing concerns about systemic failure to comply with Class C reforms. Harris County is reforming the review of Class C charges before filing as a result of this advocacy. (Funding: PAIMI; Priority: IN1)

E.M. v. Friendswood Independent School District. Texas Education Agency Special Education Mediation. SR#189003. Attorney: Shiloh Carter. Client is a 14 year old student with Anxiety Disorder, Visual Impairment, Epilepsy, Learning Disabilities, ADD, and Dysautonomia with 504 accommodations plan. After being sexually assaulted at school by another student and suffering sexually harassment and bullying by peers after the assault, her mental health declined rapidly and she was diagnosed with PTSD. She went on homebound for the PTSD for over 3 months, but school district failed to initiate special education evaluation or offer any counseling services. School failed to bring in the Title IX coordinator and failed to investigate the sexual assault and harassment. School took no actions to remediate the harm caused or prevent a hostile educational environment. On December 21, 2018, school district sent a disciplinary letter to victim for being sexually assaulted at school that threatened her with expulsion to DAEP, gave her 3 days out of school suspension and 10 hours of community service. DRTx represented client at 504 meeting and mediation. At 504 meeting, school district agreed to expedite initial special education evaluation and provide weekly counseling through 504 plan. In mediation, obtained settlement agreement that included $75,000 for client & systemic relief (school district will hire 3rd party independent consultant with Title IX expertise to train all district and campus administrators by December 1, 2019.) (Funding: PAIR; Priority: IN1)

EDUCATION PRIORITY – TRANSITION SERVICES

Goal 1 – *"Students with disabilities age 14 and older get transition evaluations, planning, and services that meet state and federal laws and include: supported decision making, self-advocacy skills and rights training, information about community supports and Social Security work benefits, and pre-employment training."*

J.M. v. Houston Independent School District. Texas Education Agency Ethics Complaint. SR#191557. Attorney: Sarah Beebe. Youth is a 15 year old 9th grade special education student who attended Worthing High School in Houston ISD. Within 20 days of enrolling at Worthing High School in January 2019, the youth had already been suspended twice. Following the second incident resulting in suspension, youth's juvenile probation officer (JPO) met with school administration to address concerns about the lack of services being provided to properly support youth's behavior. While the JPO was meeting with the assistant principal, she witnessed the lead principal, Dr. Campbell-Rhone, verbally threaten the youth. The incident was so egregious that Houston ISD transferred the youth to Austin High School within 2

days of the JPO submitting a written witness statement. Supervising Attorney, Sarah Beebe, filed an ethics complaint against the principal on May 17, 2019, and obtained permission from Harris County Juvenile Probation Department to include the JPO's witness statement. (Funding: HCJPD; Priority; TN1)

EDUCATION PRIORITY – SUBJECT AREA 5 – FREE APPROPRIATE PUBLIC EDUCATION (FAPE) FOR STUDENTS WITH DISABILITIES

Goal 7 - *"All public school identity, refer, evaluate and serve students who likely need special education services."*

M.A. v. KIPP Houston. Texas Education Agency Special Education Complaint. SR#178805. Attorney: Shiloh Carter. Filed child find TEA complaint against charter school KIPP Houston. TEA found in student's favor ordering compensatory services & systemic changes to district child find policies and district wide staff training. Obtained settlement agreement with KIPP that included $1,500 for private counseling and $3,149 for private tutoring/ADHD interventions. (Funding: VW_BCLS; Priority: CF1)

HOUSING, EMPLOYMENT, ACCESSIBILITY AND TRANSPORTATION PRIORITY – SUBJECT AREA 1 – HOUSING

Goal 1 – *"Through enforcement of fair housing and other laws, people with disabilities are protected from discrimination in living where they choose."*

C.D. v. Hulen Park Apartments. Texas Workforce Commission Complaint. SR#180383. Attorney: Denette Vaughn. Client contacted DRTx with issues about not being able to pay her rent in person instead of online. She also had difficulty getting a reserved accessible parking space. She did not have connection to pay online and the landlord would not fully set up the second option that was available to pay at a grocery store payment location which only accepted case. With her disabilities she also had concerns about having to go to the store with the cash payment for her full monthly rent. The landlord would not initially cooperate so a housing discrimination complaint was filed with the Texas Workforce Commission. While the complaint was pending DRTx was able to resolve the rent payment issue with the new manager. Parking issue remained with TWC. A third manager came in and was refusing to replace or adequately repair the clients air conditioning unit. She went most of the summer in Ft. Worth without air conditioning before mentioning it to DRTx. The heat was affecting her medical condition. Contact was made with the third manager and he was given about 3 days, until Friday of that week, to replace the air conditioning unit before the complaint was to be updated to add a retaliation charge. He did replace the unit by that Friday. The landlord did mark a parking space as reserved for the client but the issues of appropriate accessible markings were still pending with TWC when the client determined she was going to move to a different complex. This file was closed at this point but she had received an accommodation for payment, a reserved space, and her air conditioning replaced. (Funding: PAIR; Priority: HS1)

HOUSING, EMPLOYMENT, ACCESSIBILITY AND TRANSPORTATION PRIORITY – SUBJECT AREA 2 – EMPLOYMENT

Goal 2 – *"Federal and state employment and discrimination and civil rights laws are enforced so that individuals with disabilities are not discriminated against while at work or while trying to access employment, and workers with disabilities are paid fair and legal wage."*

Sheryl M. v. Blue Cross Blue Shield. Equal Employment Opportunity Commission Complaint. SR#149058. Attorneys: Brian East & Lia Davis. Client contacted Disability Rights Texas regarding an employment issue. She is an individual who is deaf. She had attempted to apply to a job at BCBS of Texas, but there was an audio component on the application that prevented her from successfully completing the application. She reached out to BCBS for an accommodation on the application, but they refused to offer her an accommodation. She contacted us for assistance with resolving her claim. We assisted her in filing an EEOC complaint. Eventually, the EEOC issued a cause finding and filed litigation in this case. We intervened as Plaintiff Intervenor. We conducted discovery in the case, including BCBS taking client's deposition. We ultimately agreed to mediate the case and had a successful mediation. We are closing her case after having successfully obtained a confidential settlement. The EEOC has a public press release on its website about the case. (Funding: PAIR; Priority: EM4)

HOUSING, EMPLOYMENT, ACCESSIBILITY AND TRANSPORTATION PRIORITY – SUBJECT AREA 3 – ACCESS TO GOVERNMENT, PUBLIC SERVICES & PUBLIC ACCOMMODATIONS

Goal 1 – *"Federal and state laws and policies are enforced so that governmental agencies, schools, other organizations receiving government funds, and private businesses do not discriminate against people with disabilities."*

W.C. v. Texas Department of State Health Services Medical Advisory Board. Medical Advisory Board (MAB) SR#183082. Appeal. Attorney: Denette Vaughn. Client contacted DRTx regarding a revocation notice sent to client some time earlier. He had sent a letter to MAB but had not provided the releases and other information so it was unknown if MAB had already sent revocation information to DPS. DRTx staff contacted DPS and followed up with the appeal process. DRTx staff assisted W.C. with getting release documents and medical information to MAB. A hearing was scheduled on the revocation on May 3, 2019. By agreement, the hearing was postponed, but not reset, to allow for time for current medical providers to send their reports to MAB. DRTx received a notice from MAB that they had recommended revocation. One doctor has not sent us a copy of the document she provided MAB and other doctor indicated he could drive. DRTx requested a copy of the MAB file to prepare for the hearing rescheduling. MAB upheld request for revocation of license. No further contact from court or DPS regarding resetting hearing that was continued. Unclear if the MAB reviewed the records prior to receipt of both new medical reports. Contacted MAB for information. Still not clear if the board reviewed both so requested copy of the MAB file. MAB representative said we could submit the medical records and he will resubmit application to restore to MAB. Currently gathering doctors reports to MAB as well as other medical in file to determine what documents to submit with request for another review. (Funding: PAIMI; Priority: AC2)

DISASTER PLANNING AND RECOVERY (HARVEY) – P&A

In re Judy F. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#182904. Attorney: Taft Robinson. Client is a 54 year old female with bipolar, schizophrenia, hypertension, sleep apnea, asthma, congestive heart failure, depression, shingles, kidney failure, and prior knee replacement. Client was denied for Star+PLUS Waiver (SPW) as not needing the services of a licensed nurse on a regular basis. Initial fair hearing was scheduled for March 5, 2019. The hearing was rescheduled to allow time to prepare. Participated in fair hearing scheduled April 4, 2019, but rescheduled because DRTx submission not reviewed by the TMHP medical director. Fair hearing rescheduled to May 15, 2019. Supplemental submission by DRTx prior to hearing. Based on submitted information medical necessity for SPW approved. Fair hearing request withdrawn. Client is now able to get needed dentures and emergency response through SPW services. (Funding: Harvey; Priority: P&A)

M.A. v. SER Niños Charter School, Texas Education Agency Special Education Complaint. SR#183440. Attorney: Stephanie Duke. M.A. is a 9 year old boy with ADHD who had been denied referral to special education. After flooding in Hurricane Harvey his educational performance suffered and school still refused evaluation. DRTx Harvey project filed TEA complaint for failure to fulfill Child Find obligations. TEA ruled for parent providing individual and systemic relief. DRTx negotiated significant compensatory education services valued at $16,000 and is monitoring district compliance with reform efforts. (Funding: Harvey; Priority: P&A)

In re Barbara K. U.S. Department of Justice Complaint. SR#182639. Attorney: Dustin Rynders. Client with autoimmune disability was evacuated from her rental home and denied FEMA assistance because it was determined her flooded home was "safe to occupy" even though it had three feet of water, mold, and buckling flooring. DRTx attorney assisted in making a request for reasonable accommodation to FEMA's habitability standards to provide impartial and equitable disaster relief because the mold was even more hazardous to her because of her autoimmune disability. FEMA denied the request for accommodation, and DRTx filed a Department of Justice Complaint for 504 discrimination which is being investigated. (Funding: Harvey; Priority: P&A)

In re Zoe T. Administrative hearing before the Texas Department of Health and Human Services Commission (Medicaid Fair Hearing). SR#181858. Attorney: Taft Robinson. Client is a thirteen year old child with Cerebral Palsy was impacted by Hurricane Harvey and denied continued MDCP. DRTx Harvey attorney appealed the denial and is representing the family in a fair hearing. Fair hearing conducted on September 21, 2019 with Patti Cabe. Decision sustained. Submitted an Administrative Review and additional/new information. Hearing Officer reopened the hearing. A new hearing was schedule, but TMHP request a new assessment to address new information. Assessment done January 2019, decision not received. Client met medical necessity for MDCP. Decision in client's favor. (Funding: Harvey; Priority: HC3)