

On Target

Informing Indiana About
Disability Issues

October/November | Volume 18 Number 10/11 | Informing Indiana About
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On Target On Target

is a monthly publication of the Indiana Governor's Council for People with Disabilities. Informing Indiana About Disability Issues
October/November 2005
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We welcome your suggestions for newsletter content and ideas concerning the actions of the Council. Order Disability Awareness Month materials now

March 2006 is the kickoff for Disability Awareness Month. The theme of this campaign is "Band together." This year's poster features a group of four children and a child's assistance dog marching as a band in an impromptu neighborhood parade.

Order your materials now by completing the order form included with this issue of On Target.

"This year's theme, 'Band together,' truly reflects what Disability Awareness Month is all about," said Council Executive Director Suellen Jackson-Boner. "It reminds us that people with disabilities are an important part of our present and future, and it reinforces the ideas and behaviors - such as respect, fairness and inclusion - that band us together."

Free campaign materials, including the poster, bookmark, sticker and print public service announcement, carry the theme. In addition, almost 30 information packets are available to aid advocates in conducting awareness activities in their communities. Topics range from special event planning to building awareness in classrooms. Theme-specific activity packets are also available.

Disability Awareness Month can serve as a catalyst to engage the community in countless activities to span the entire year. Awareness fairs, ADA training, essay contests and displays in

Boner
*Executive
Director*

schools, government agencies and businesses are just a few of the activities Disability Awareness Month has inspired.

Christine
Dahlberg
*Associate
Director*

In 2005, advocates and educators placed orders for more than 500,000 collateral materials. At least 28,000 people were reached through grassroots special events and education programs coordinated by advocates with the help of the activity and information packets. Overall, more than 1,100 people were involved in almost 5,000 hours of planning for these activities.

Paul
Shankland
*Grants
Manager*

To place an order or for more information, contact Kim Dennison at Borshoff Johnson Matthews, 47 S. Pennsylvania St., Suite 500, Indianapolis, IN 46204; (317) 631-6499 (fax); kdennison@bjmpr.com (e-mail); or (317) 631-6400 (voice).

Enrollment now underway for Medicare's new drug plans

Starting Nov. 15 and continuing through May 15, 2006, seniors and Americans with disabilities can enroll in Medicare's Part D new prescription drug plans to help better manage the cost of prescription medications. Plan providers serving Indiana's 900,000 Medicare participants were scheduled to send information about their specific plan offerings during October. All Medicare households should have received the official government handbook, "Medicare & You 2006," which further explains what prescription drug coverage means to participants.

Costs for the plans, which cover both brand-name and generic drugs at participating pharmacies, vary for both monthly premiums and out-of-pocket expenses. On average, premiums will be around \$37/month during 2006 with annual deductibles of about \$250.

According to the Centers for Medicare & Medicaid Services (CMS), everyone in Medicare, no matter what their income or current health care plan, can choose coverage that reflects the drug plan specifics most important to them, including lower cost, more complete coverage and convenient pharmacy access.

Coverage for those who enroll in a plan by Dec. 31, 2005, will begin Jan. 1, 2006. For those who enroll after Dec. 31, coverage will begin the month after sign-up. Those who do not enroll by May 15 will have to wait until Nov. 15, 2006, and will be subject to higher premiums. Note that those who don't enroll in a Part D plan will not lose their other Medicare coverage.

Those who have existing drug coverage will want to ensure their coverage is at least as good as standard Medicare drug coverage before deciding not to enroll in the new program. Insurers should notify participants this fall to let them know how their coverage compares to the new plans. For most people, joining one of these plans when first eligible means lower monthly premiums than waiting until later to join.

Note that enrollment in the new plans cannot begin before Nov. 15. The American Association of Retired Persons (AARP) reminds everyone to be wary of possible scams that suggest you can enroll before then - or that charge an application fee. Signing up for one of the plans is free.

Many people with limited income and resources can get extra help paying for their prescription drug coverage. Those eligible should have already received information from the Social Security Administration or Medicare telling them what to do.

The Disability Policy Collaboration (DPC) has published "Ensuring Continuity of Care for Dual Eligibles: A Guide for Transitioning from Medicaid to Medicare's Prescription Drug Coverage" to help those who are dually eligible for drug plans through both Medicare and Medicaid. This guide is available at www.theDesk.info/PartD.

The DPC is a partnership of The Arc and United Cerebral Palsy. Note that full-benefit dual eligible beneficiaries will be auto-enrolled into plans at or below the benchmark premium so they will incur no premium.

The CMS also has a number of materials available to help caregivers share information about the new prescription drug coverage. The information is available at their Web site,

www.medicare.gov, or by calling 1-800-MEDICARE (voice).

The print version of the "Medicare & You 2006" handbook contains an error in the drug benefit comparison charts beginning on page 97-A. These charts answer the question: "If I qualify for extra help, will my full premium be covered?" The chart gives a "yes" answer for each scenario. However, the answer should be "no" if the plan's premium is above the regional benchmark. Approximately 60 percent of the plans compared in the chart should have a "no" in this column. The electronic version of the handbook is correct. It can be found on Medicare's Web site at www.medicare.gov.

ADA compliance agreements signed

Project Civic Access (PCA), a Department of Justice (DOJ) initiative to ensure that cities and counties comply with the ADA, returned to Indiana and departed with two new agreements.

Both Allen County and the city of Gary signed agreements with the DOJ in June 2005, after PCA finished its reviews of both entities' government facilities and services.

With more than 670 square miles, Allen County is the largest county in Indiana. More than 15 percent of the population of Allen County - the state's third most populous county - includes people with disabilities.*

Gary is Indiana's fifth largest city, and 26.9 percent of its residents are people with disabilities.*

Previous agreements signed for Indiana government entities include the cities of Jeffersonville and New Albany. As of July 2005, a total of 135 local governments have signed PCA agreements.

PCA offers information guides to help communities come into compliance with the ADA. To obtain the guides, visit www.ada.gov or call (800) 514-0301 (voice) or (800) 514-0383 (TT).

*Source: U.S. Census Bureau, Census 2000.

Study focuses on student transitions

New research shows students with disabilities now have brighter futures than ever before due to improved academic performance, increased school retention rates and stronger post-graduation employment prospects.

The National Longitudinal Transition Study-2 (NLTS2) makes it possible to see how students' academic and post-secondary achievements have improved over time.

As the follow-up to an earlier study spanning the years 1987 through 1993, NLTS2 will monitor 12,000 students nationwide who were between the ages of 13 and 16 in 2001. Parents, teachers and students will submit reports on the children's experiences for a 10-year period.

NLTS2 researchers have already observed that students with disabilities are experiencing greater success in the classroom than in the past. While grades of C used to be the trend for a majority of students, extra support from teachers and school programs has helped raise these grades to A's and B's.

One of the study's most impressive findings is that almost 20 percent more students with disabilities graduated from high school in 2003 than in 1987. Analysts believe this may be connected to an equally impressive improvement in the disparity between a student's age and his or her grade level in school.

Typically, children significantly older than their classmates are more likely to drop out of school than average-aged students because the age difference is often tough to handle. However, over the past 15 years, the number of students with disabilities registering at the traditional age for their respective grade levels jumped from one-third to one-half.

Those who graduated and sought employment also saw a rise in numbers. Seventy percent of graduates out of school for two years or less had paying jobs in 2003, whereas only 55 percent entered the workforce in 1987.

The Hoosier perspective

The national study is not the only one observing how well students with disabilities are making the transition from childhood to adulthood. The Indiana Department of Education's Division of Exceptional Learners first partnered with Indiana University in Bloomington in 1995 to create the Indiana Graduate Follow-up Study.

Students at participating schools throughout the state are interviewed upon the completion of their respective special education programs. They are contacted again four years later to discuss topics such as employment status, living situations and recreational activities. Data available from the 2003 exit survey shows that the majority of graduates felt their high school education prepared them for the road ahead, and roughly 75 percent look positively on their lives.

Students are also asked if they have pursued post-secondary education, something many expressed interest in when first surveyed. Only 13 percent of graduates were currently enrolled in a post-secondary program in 2000, but this population grew to nearly 16 percent as of 2003.

The number of respondents who have received college or vocational degrees also rose from 8 percent in 2000 to 11.5 percent in 2002. This increase fell slightly to 10.2 percent in 2003's exit survey, but the difference is not dramatic enough to cause worry for the educational futures of Indiana's students with disabilities.

Ultimately, the combined results of NLTS2 and the Indiana Graduate Follow-up Study illustrate that with the right support and encouragement, students with disabilities can succeed.

Courts can't enforce rights to Medicaid benefits

Recent rulings by federal judges are limiting the use of courts for those seeking restitution for unpaid Medicaid benefits. In the past, Medicaid recipients would often use the courts to enforce provisions in the law that said they should have the same access to health care services as "the general

population."

As recently as this August, the United States Court of Appeals for the Ninth Circuit in San Francisco said Medicaid recipients could not enforce that provision of the law. Medicaid recipients must show that Congress clearly intended to allow individuals to go to court to enforce the law, rather than merely showing a violation of federal law or denial of a benefit. The court found no evidence of such intent in this California case, *Sanchez v. Johnson*.

This trend goes as high as the Supreme Court. Their latest pronouncement in 2002 came from then-Chief Justice William H. Rehnquist, who said a federal law cannot be enforced through a private lawsuit "unless Congress speaks with a clear voice and manifests an unambiguous intent to confer individual rights."

Newly appointed Chief Justice John G. Roberts Jr. has been supportive of this view since 1982, which means change is unlikely any time soon.

Faith in Social Security retirement benefits rises

Americans across the country are feeling more comfortable with Social Security than ever before in the program's 70-year history, according to new data from the American Association of Retired Persons.

Sixty percent of the 1,200 adults surveyed nationwide believe Social Security provides top-quality financial security for its recipients, an increase in approval of 7 percent since 1995.

Social Security is the second most popular financial source individuals anticipate relying on in retirement. Personal savings still rank at the top of the list, yet roughly one-third of all respondents either depend most on Social Security at present or plan to turn to it in the future.

The survey also reveals that 75 percent of Americans who have yet to retire would actually refuse to give up Social Security if presented with other choices. Instead, they would

elect to "stay in and support the system."

SSA revises disability benefits procedures

For those who have ever spent numerous hours shuffling through the Social Security Administration's (SSA) bureaucracy in order to receive disability benefits, a light at the end of the tunnel this summer.

On July 26, 2005, Social Security Commissioner Jo Anne Barnhart announced that starting next spring, Americans with disabilities will only have to wait about three weeks to learn the status of their applications and appeals, a significant improvement compared to the potential wait time under today's system. Currently, an individual with disabilities whose request is turned down at each step throughout the application and appeals procedures might go as many as 1,153 days - more than three years - without receiving an answer.

People with clear disabilities stand to benefit the most from this latest program revision. Claims applications from these individuals, whether they have physical or cognitive disabilities, will be handled by a specially assigned division so claimants can begin receiving benefits as quickly as possible.

Other applicants will also see a decrease in wait time on both application and appeals results. Previously, when a state rejected an applicant's claim, the file stayed within the state but was transferred to a secondary organization. This agency then reviewed the request to determine why it was denied and whether or not it could be sent back to the original agency for approval. Commissioner Barnhart's proposed changes place responsibility for reviewing these denied claims on the federal government, rather than individual states, thereby improving service time.

An additional time-saving change is a turn from the paper world to the electronic one. This new system will cut the amount of mail the SSA sends back and forth across the U.S. by roughly 25 percent to provide maximum efficiency.

While the creative process is underway on the SSA's

renovation of disability benefit disbursement, the approximately 2 million men and women who apply for disability benefits every year will have to wait just a little longer for the changes to take effect. Officials in the SSA predict the program upgrade will ultimately take about two years to complete.

Council focus groups reveal employment concerns

Recently, the Governor's Council sponsored several focus groups to guide planning for the 2007-2011 State Disability Plan. The focus groups revealed the most pressing concerns of the disability community regarding several issues, including employment.

The employment issues of most concern were:

- People without disabilities do not recognize the capabilities of people with disabilities.
- The lack of appropriate and accessible transportation in urban and rural areas.
- The need to develop public awareness programs focusing on the abilities of people with disabilities.
- The lack of vision for the next five years about employment for people with disabilities.

Look to future issues of On Target for more information on the results of the focus groups.

Employment laws protect people with disabilities

October was Disability Employment Awareness Month, which is a great time for people with disabilities to familiarize themselves with federal employment-related laws.

Following are descriptions of the five most important laws affecting people with disabilities: the Americans with Disabilities Act, the Rehabilitation Act, the Workforce Investment Act, the Vietnam Era Veterans' Readjustment Assistance Act and the Civil Service Reform Act.

The Americans with Disabilities Act (ADA)

The ADA prohibits private employers, state and local

governments, educational institutions, employment agencies, labor unions, and state and local government entities from discriminating against people with disabilities in job application procedures, hiring, firing, advancement, compensation, job training and other terms of employment. The ADA also protects people with disabilities from discrimination in state and local government services, programs and activities. It is enforced by the U.S. Equal Employment Opportunity Commission (EEOC).

The Rehabilitation Act

This law authorizes grant programs for vocational rehabilitation, supported employment, independent living and client assistance. It allows a variety of training and service grants to be administered by the Rehabilitation Services Administration. The law more specifically prohibits discrimination against people with disabilities by federal agencies, employers contracting with federal agencies and programs receiving federal financial assistance. This law is also enforced by the EEOC.

The Workforce Investment Act (WIA)

The WIA provides consolidated federal job training and employment programs, offering a comprehensive range of workforce development activities through a nationwide system of One-Stop Career Centers. The law also prohibits discrimination against individuals with disabilities by organizations that receive federal financial assistance under the WIA or that provide programs as part of One-Stop Career Center services. This law is enforced by the Department of Labor's Civil Rights Center.

The Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)

This law requires that companies with federal contracts of a certain amount provide employment opportunities to certain veterans with disabilities. It also prohibits discrimination against these veterans in the full range of employment activities. The Office of Federal Contract Compliance

Programs enforces the VEVRAA.

The Civil Service Reform Act (CSRA)

The CSRA, which applies to most federal agencies, contains several rules that promote fairness in federal personnel actions and prohibit discrimination against applicants and employees with disabilities. It is enforced by the U.S. Office of Special Counsel and the Merit Systems Protection Board.

Division sheds light on Medicaid in schools

The Indiana Department of Education's Division of Exceptional Learners is working to help parents and schools understand school-based Medicaid.

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) allows some services used for Individual Education Programs (IEPs) to be covered by Medicaid. For the best use of financial resources, schools are encouraged to bill Medicaid.

School-based Medicaid started in 1988 when Congress made changes to allow schools to receive Medicaid reimbursement for some school-based, health-related services. Out of 293 traditional public school corporations in Indiana, 285 are enrolled as school-based Medicaid providers as of June 2005.

The Family and Educational Rights and Privacy Act requires that schools must have permission from a parent before disclosing information about a student with a disability, and this consent helps to compensate for the cost of the services provided to that student. Regardless of the ability to bill Medicaid, schools are required to provide IEP services to students.

Money that is received from Medicaid by the school districts is put into the general fund, and the school can determine how it is used. John Hill, the Department of Education Medicaid liaison, said that Indiana is behind many other states in the amount of money that is reimbursed.

"Many school administrators are confused by the rules and

regulations, and they do not always participate in the reimbursement process," said Hill. "Because schools must provide these services regardless, it is our hope that as they learn more about school-based Medicaid, they will choose to participate."

Because services received outside of school are separate from those provided to the student in school, there should be no effect on what Medicaid provides to the student. If you have a concern about these services, contact Hill at (317) 232-0570 (voice). For more information, call the Division of Exceptional Learners at (317) 232-0570 (voice) or visit their Web site at <http://ideanet.doe.state.in.us/exceptional/speced/medicaid.html>.

Supreme Court hears case on IDEA burden of proof

On Oct. 5, 2005, the Supreme Court heard arguments in *Schaffer v. Weast*, a case concerning the burden of proof in special education litigation. In a civil case such as this, burden of proof refers to the amount of evidence or testimony that makes something more likely true than not.

The Individuals with Disabilities Education Improvement Act (IDEA) does not specify whether parents or school districts have the burden of proof in these cases. If parents think a school is falling short in providing the required services to their child, and the school disagrees, who must prove their case?

Lower courts that have heard similar cases have been split in their decision, which led to the Supreme Court hearing.

If an Individualized Education Program (IEP) is being disputed, the courts agree that the parent must bring the issue to the court. However, the courts are split as to whether the parent has the burden of proving whether services provided are inappropriate, or if the school district has to prove otherwise. The Supreme Court has not yet announced its decision in *Schaffer v. Weast*. Check with news outlets for updates on this case.

Making the Braille "Harry Potter and the Half-Blood Prince"

For the first time in the history of the "Harry Potter" book series, people who are blind did not have to wait months longer than their sighted friends to read the adventures of Harry and his wizard friends.

A Braille edition of the sixth book was released just three days after the book's launch - much earlier than with previous "Harry Potter" books - thanks to a new arrangement between the publisher, Scholastic Inc., and the National Braille Press (NBP).

Scholastic agreed to give NBP the "Harry Potter and the Half-Blood Prince" text early to complete a Braille edition in a timelier manner.

Producing the "Half-Blood Prince" in Braille was a massive, labor-intensive task that resulted in a nine-volume edition that spans 13.5 inches and weighs approximately 11 pounds.

First, the text was transcribed into Braille and printed on special paper. After being proofread twice, it was collated by hand to protect the delicate script.

Most Braille publications can take months or years to go from a print edition into a Braille edition. However, it only took three weeks to transcribe, proof, emboss, collate and ship the Braille edition because NBP allocated sufficient resources to meet Braille readers' requests for timely access. NBP had all 51 of their staff members and 23 volunteers working round the clock to meet their deadline.

To the NBP, the work is worth it.

According to Diane Croft, NBP's vice president of publications, only 20 percent of children who are blind can read Braille by the fourth grade, and a cultural phenomenon like "Harry Potter" can go a long way to improve literacy among those children. "If you tell a good story, the readers will come - and that goes for children who are blind, too," she says.

They also learn to read faster due to the length of the

"Potter" books. Because Braille text is large, it takes four pages of Braille to cover the same material as one page of print.

Printing a single Braille version of the "Half-Blood Prince" costs \$62, but it is being sold for the standard retail price of \$29.99. The reduced price comes courtesy of business donations. The largest donor, Lumber Liquidators, a hardwood-flooring retailer, donated \$100,000 to fund the Braille "Harry Potter" series earlier this year.

"This isn't about charity, it's about parity," says NBP's Tanya Holton. "It's our job to make up that difference."

A person who is blind has limited options when it comes to reading, however. Only 500 to 600 new Braille titles are published each year - only about 1 percent of all books published, according to Kim Charlson, the library director at the Perkins School for the Blind in Massachusetts. NBP produced the Braille edition of all previous "Harry Potter" books starting in the spring of 1999, a few months after the first print release of "Harry Potter and the Sorcerer's Stone." Since then, nearly 10,000 Braille copies of "Potter" books have been purchased by children and adults nationwide.

NBP produces books and periodicals for both children and adults and actively promotes Braille literacy. The organization was founded in 1927 to ensure that people who are blind have the same access to information as people with sight in a medium that they can read.

Broadband access for people with disabilities gaining momentum

Months of lobbying have led to success for disability advocates asking for updates to the 1996 Telecommunications Act. In September 2005, the U.S. House of Representatives Energy and Commerce committee released a staff draft of updates to the 1996 law.

Prior to the draft's release, disability advocates argued that Congress should expand the law's provision on telecom access for people with disabilities to include high-speed

Internet access so that people who are deaf or hard-of-hearing can communicate via broadband video. The 1996 law only gives people with disabilities access via telephone.

In June 2005, advocates collaborated to urge Congress to make these updates and issued a report, "Two-Way Technologies: A History of the Struggle to Communicate," to assist with their efforts.

The author of the report, Hofstra University professor Frank Bowe, is pleased with Congress' response in September. Speaking on behalf of the National Association of the Deaf (NAD), Bowe said, "The NAD is simply ecstatic at the staff draft. The House staff listened to us and heard us!"

Section 404 is entitled "Access by Persons with Disabilities." The section calls for broadband, Voice over Internet Protocol (VoIP), and other IP-based communications equipment manufacturers and service providers to ensure that their products and services are accessible to and usable by persons with disabilities.

Companies making products or offering services do not have to provide access if they can prove that doing so would cause their business an undue burden.

In the event an undue burden is claimed, manufacturers and providers must find alternative ways to make products and services compatible with adaptive equipment and software that is specifically designed for use by people with disabilities.

Section 208 of the staff draft, entitled "Provision of Relay Service," calls for VoIP service providers to offer relay services for individuals with hearing, speech or other communication-related disabilities.

Current relay provisions do not require VoIP service providers to do so. Relay services enable individuals with speech or hearing impairments to engage in text, voice or video communication with other individuals through a third party called a communications assistant (CA). Various types of relay services facilitate communication in text, voice, sign

language and captions.

The staff draft has not yet been introduced as a bill. To view it, visit http://energycommerce.house.gov/108/News/09152005_staff_disc.pdf.

Of Note

Council satisfaction survey now available

The Governor's Council is now conducting a consumer satisfaction survey. The online survey will help the Council understand how people with disabilities and their families feel about the current status of disability-related issues in Indiana. Survey results will be used by the Council in shaping a five-year plan for 2007-2011. Results will identify the critical issues and areas that need to be improved. Once the survey is complete, results will be published in On Target and will be disseminated statewide.

In the last edition of On Target, it was stated that the survey would be available online in mid-September. Because of unforeseen delays, that did not occur. However, the survey is now available on the Council Web site (www.in.gov/gpcpd). It is also available in printed form, including alternative formats, by request. For more information, contact the Council at (317) 232-7770 (voice).

Reminder: Send in Conference registration form

Register now for the 2005 Indiana Conference for People with Disabilities, to be held Dec. 5-6 at the Westin Hotel in Indianapolis. The registration deadline is Nov. 21. For a registration form, visit www.in.gov/gpcpd or contact the Council at (317) 232-7770 (voice).

President Bush nominates Samuel Alito to the Supreme Court

On Oct. 31, President Bush announced his choice for the Supreme Court seat to be vacated once Justice Sandra Day O'Connor retires. Bush revealed the new nominee after Harriet Miers, the president's first choice, withdrew her

nomination. Alito, a former U.S. attorney who has been a judge for 15 years, currently serves as a judge for the 3rd Circuit Appeals Court. Look for more information about Alito and the nomination's effect on the disability community in the next On Target.

Web site available for information on IDEA regulations

The Office of Special Education and Rehabilitative Services has published a series of topic briefs regarding the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004). These briefs on high-interest subjects can be found at

www.ed.gov/policy/speced/guid/idea/idea2004.html. Also, visitors to the site can view new information concerning proposed regulations, public meetings, consideration of comments and suggestions, laws and policies, and technical assistance related to the reauthorized law.

Internships available to college students with disabilities

The American Association of People with Disabilities (AAPD) has announced two internship opportunities available to college students with disabilities for the summer of 2006. Students interested in a career in information technology can apply for the first opportunity, in which students will work in various agencies of the executive branch of the federal government. Students interested in working on Capitol Hill can apply for the second opportunity, in which accepted students work in congressional offices in Washington, D.C. Both internships offer roundtrip air travel and provided housing, as well as a stipend. Interested students should apply at www.AAPD.com by Dec. 12, 2005.

Register now!

The Annual Conference for People with Disabilities, "Building Your Net Worth," will be held Dec. 5-6, 2005.

on target is a monthly publication of the Indiana Governor's Council for People with Disabilities. We welcome your suggestions for newsletter content and ideas concerning the actions of the Council. on target is made available in

accessible formats upon request.

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