Administration on Intellectual and Developmental Disabilities

Prevention, Protection and Advocacy

Administration for Community Living
U.S. Department of Health and Human Services
Jennifer Johnson
AIDD Organizational Chart

Office of the Commissioner

Sharon Lewis Commissioner

Aaron Bishop Deputy Commissioner

Office of Program Support
Jennifer Johnson Director

Office of Innovation
Ophelia McLain Director

President’s Committee for People with Intellectual Disabilities
Madjid “MJ” Karimi Team Lead
2013 Enacted DD Budget
[Enacted after Sequester and L/HHS Rescission]
[In millions]

- State Councils on Developmental Disabilities $70,555
- Protection and Advocacy $38,559
- Projects of National Significance $7,882
- University Centers on Excellence in Disabilities $36,602

- Subtotal, Developmental Disabilities.......................................................... $153,598
Key Definitions

Developmental Disability

- From the DD Act
- Has evolved over time through legislation
  - For example, raising the age of onset from 18 to 22; switching from a list of specific conditions to a more generalized approach focused on a functional definition

Intellectual Disability

- From the American Association on Intellectual and Developmental Disabilities (AAIDD), the oldest and largest interdisciplinary organization of professionals and citizens concerned about intellectual and developmental disabilities that represents developmental disability professionals worldwide
Developmental Disability (DD Act)

• A severe, chronic disability of an individual that:
  – Is attributable to a mental or physical impairment or combination of mental and physical impairments
  – Is manifested before the individual attains age 22
  – Is likely to continue indefinitely
  – Results in substantial functional limitations in 3 or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency
  – Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated
Intellectual Disability

**Intellectual disability** is a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior, which covers many everyday social and practical skills. This disability originates before the age of 18.

“**Intellectual functioning**” refers to general mental capacity, such as learning, reasoning, problem solving, and so on.
The DD Act

Purpose:

• To assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life
Principles of the DD Act

• Independence: To have control

• Productivity: To work or make other contributions to a household and community

• Integration: Right to the same opportunities, services, community resources as all other Americans

• Inclusion: Acceptance and encouragement of presence and participation in social, educational, work and community environments.
Disability Rights

• Full Participation
  – Legally protected civil rights, independence and control over one’s own life
    • Integration, inclusion
    • Prohibiting discrimination on the basis of disability
    • Eliminating barriers imposed unnecessarily by society based on negative attitudes and misdirected practices

• Self-Advocacy

• Evolution of terminology
  – People First language
Community Integration

“Most integrated setting”

• DD Act
  – Integration and inclusion in all facets of community life

• Americans with Disabilities Act
  – End isolation and segregation of individuals with disabilities

• Olmstead Decision
  – "institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life."
  – "confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."
Self-determination

Individuals with developmental disabilities have:

• Ability and opportunity to communicate and make personal decisions
• Choice and control over type and intensity of services
• Authority to control resources to get needed supports
• Opportunity to participate in community
• Support for self-advocacy, develop leadership skills, educate policymakers, develop public policy
The DD Act – Some Historical Milestones

- **1961**: President John F. Kennedy’s Panel on Mental Retardation published “A Proposed Program for National Action to Combat Mental Retardation”
- **1963** law established University Affiliated Facilities, which later became the University Centers for Excellence in Developmental Disabilities (UCEDDs)
- **1970** law required states to establish State Planning and Advisory Councils, known today as DD Councils
- **1975** law established State Protection and Advocacy Systems (P&As)
- **1994** law added the Projects of National Significance (PNS) initiative
- **2000**: DD Act reauthorized (through 2007)

STATE COUNCILS ON DEVELOPMENTAL DISABILITIES
State Councils on Developmental Disabilities (SCDD)

- Identify and address the most pressing needs of people with developmental disabilities in their State or Territory

- Engage in systems change and capacity building efforts that promote self-determination, integration and inclusion for people with developmental disabilities

- 56 Councils
State Councils

• Contribute to system that is consumer and family centered
• Consumer and family directed
• Coordinated and comprehensive
• Includes needed community services, individualized supports, other forms of assistance that promote self-determination
Council Membership

- Appointed by the Governor after soliciting recommendations
- Council may coordinate Council and public input to Governor
- Geographically representative of the State
- Membership must be rotated
- Serve on a volunteer basis
Representation of Individuals with Developmental Disabilities

- Not less than 60% are:
  - Individuals with developmental disabilities
  - Parents or guardians of children with developmental disabilities
  - Immediate relatives or guardians of adults with mentally impairing developmental disabilities
Representation of Individuals with Developmental Disabilities

- 1/3 individuals with developmental disabilities
- 1/3 parents or guardians
- 1/3 combination
- At least one resident or former resident of an institution
Representation of Agencies and Organizations

• Representatives of state entities that administer the Rehabilitation Act, IDEA, Older Americans Act of 1965, Titles V and XIX of the Social Security Act
• Centers in the state
• P&A system
• Local & nongovernmental agencies, and private nonprofit groups
<table>
<thead>
<tr>
<th>State</th>
<th>Agency/Department Name</th>
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</thead>
<tbody>
<tr>
<td>AK</td>
<td>Alaska Commission on Aging</td>
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<tr>
<td>AL</td>
<td>Alabama Department of Senior Services</td>
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<tr>
<td>AR</td>
<td>Division of Aging and Adult Services</td>
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<tr>
<td>AS</td>
<td>Territorial Administration on Aging</td>
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<tr>
<td>AZ</td>
<td>AZ Department of Economic Security/DDD</td>
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<tr>
<td>CA</td>
<td>CA Health and Human Services Agency</td>
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<tr>
<td>CO</td>
<td>Colorado Department of Human Services, Aging and Adult Services</td>
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<tr>
<td>CT</td>
<td>Department of Social Services</td>
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<tr>
<td>DE</td>
<td>Division of Services for Aging and Adults w/ Physical Disabilities, DHSS</td>
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<tr>
<td>FL</td>
<td>Department of Elder Affairs</td>
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<tr>
<td>GA</td>
<td>Department of Human Services</td>
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<tr>
<td>GU</td>
<td>Dept. of Public Health &amp; Social Services- Division of Senior Citizen</td>
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<tr>
<td>HI</td>
<td>Executive Office on Aging</td>
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<td>IA</td>
<td>Iowa Dept on Aging</td>
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<td>ID</td>
<td>ID Commission on Aging</td>
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<td>IL</td>
<td>Department on Aging</td>
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<td>IN</td>
<td>Family and Social Services Administration</td>
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<td>KS</td>
<td>Department on Aging</td>
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<td>KY</td>
<td>Department of Aging and Independent Living</td>
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<td>LA</td>
<td>Governor's Office of Elderly Affairs</td>
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<td>MA</td>
<td>Elder Affairs</td>
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<td>MD</td>
<td>Department of Aging</td>
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<td>ME</td>
<td>Elder Services, Maine Dept. of Health &amp; Human Services</td>
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<tr>
<td>MI</td>
<td>MN Board on Aging</td>
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<td>MN</td>
<td>Department of Health &amp; Senior Services</td>
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<td>MO</td>
<td>Office on Aging</td>
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<td>MT</td>
<td>Dept. Director, Public Health &amp; Human Services</td>
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<td>NC</td>
<td>Division of Aging and Adult Services</td>
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<td>NE</td>
<td>NH Department of Health and Human Services</td>
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<td>NJ</td>
<td>Department of Health &amp; Sr. Svs</td>
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<tr>
<td>NM</td>
<td>Aging &amp; Long Term Care Services Dept.</td>
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<tr>
<td>NY</td>
<td>NYS Office for the Aging</td>
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<tr>
<td>OH</td>
<td>Ohio Department of Aging</td>
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<td>OK</td>
<td>Dept. of Human Services, Aging Services Division</td>
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<td>PA</td>
<td>Department of Aging</td>
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<td>PR</td>
<td>Office of the Ombudsman on Elderly Affairs</td>
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<td>RI</td>
<td>RI Div of Elderly Affairs</td>
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<td>SC</td>
<td>Lt. Governor's Office on Aging</td>
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<td>SD</td>
<td>Department of Social Services</td>
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<td>TN</td>
<td>Commission on Aging and Disability</td>
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<td>TX</td>
<td>Department of Aging and Disability Services</td>
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<td>UT</td>
<td>Utah Division of Aging</td>
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<td>VT</td>
<td>AHS–Dept. Disabilities, Aging &amp; Independent Living</td>
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<tr>
<td>WA</td>
<td>Aging and Disability Services Administration</td>
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<td>WV</td>
<td>Bureau of Senior Services</td>
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<tr>
<td>WY</td>
<td>WDH - Division on Aging</td>
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State Plan

• Establishment and maintenance of Council
• Public input
• Comprehensive review and analysis
  – Services and supports through state programs
  – Interagency initiatives
  – Service availability to individuals with developmental disabilities
  – Collaboration
  – Rationale for goals
Plan Goals

• 5-year goals—derived from unmet needs of individuals with developmental disabilities
  – Self-advocacy goal
    • Establish or strengthen a program for the direct funding of a state self-advocacy organization led by individuals
    • Individuals with developmental disabilities who are considered leaders to provide leadership training to others
    • Participation on leadership coalitions
State Plan Activities Responsibilities

- Outreach
- Training
- Technical assistance
- Supporting and educating communities
- Interagency collaboration and coordination
- Coordination with related councils, committees, and programs

- Barrier elimination
- Systems design and redesign
- Coalition development and citizen participation
- Informing policymakers
- Demonstration of new approaches to services and supports
Website Links

• AIDD State Councils page:

• National Association of Councils on Developmental Disabilities (membership organization):
  – http://nacdd.org/site/home.aspx
NATIONAL NETWORK OF UNIVERSITY CENTERS FOR EXCELLENCE IN DEVELOPMENTAL DISABILITIES EDUCATION, RESEARCH & SERVICE (UCEDDS)
National Network of University Centers for Excellence in Developmental Disabilities Education, Research & Service (UCEDDs)

• Funded to carry out four core functions:
  – Interdisciplinary training
  – Community services (training, technical assistance, direct and/or model demonstration services)
  – Research
  – Dissemination

• Collaborate with persons with developmental disabilities, families, and others to conduct research and training and to achieve positive outcomes

• 67 UCEDD grants
The Core Functions are the Building Blocks of the UCEDD

- Training
- Research
- Dissemination
- Impact on People with DD
- Community Service
UCEDDs: Connecting Research to Practice

- Serve as the knowledge and resource broker between the University and community
  - Brings know-how and expertise to real world problems
  - Practical application of strategies for achieving long-term goals for people with developmental disabilities
  - Offer real world experiences for trainees
  - Provides opportunity for community to have an impact on the preparation of professionals
  - Work is innovative (interdisciplinary training, model demonstrations)
UCEDD Contributions in National Disability Initiatives

- Early intervention
- Preschool and child care
- Inclusive education
- Self-advocacy and self determination
- Assistive technology
- Family-centered care
- Community-based services
- Child abuse and neglect
- School to work transition
- Supported living and employment
- Interdisciplinary training
- Justice system
- Aging
UCEDDs

- Develop a 5-year plan
- Based on data-driven strategic planning and public input
- Based on the areas of emphasis
- Compliments the DD Council State Plan and the P&A Statement of Goals and Priorities
UCEDDs Consumer Advisory Committee

- Each UCEDD has a Consumer Advisory Committee (CAC)
- Majority of members must be people with disabilities and family members
- Must also include a representative from the state self-advocacy organization, the DD Council, and P&A
- Can include other organizations such as the Parent and Training Information Center
UCEDD National Training Initiatives

• Post-secondary education
  – The goal of the project is to conduct research, provide training and technical assistance, and disseminate information on promising practices that support individuals with developmental disabilities to increase their independence, productivity, and inclusion through access to postsecondary education, resulting in improved long-term independent living and employment outcomes.
  – http://www.thinkcollege.net/
UCEDD National Training Initiatives

• National Gateway to Self-Determination:
  – The overall goal of this project is to establish a sustainable, evidence-based training system that enhances self-determination training programs that lead to quality of life outcomes for individuals with developmental disabilities throughout the lifespan.
  – http://www.aucd.org/NGSD/template/index.cfm
# Example of UCEDD Projects

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<thead>
<tr>
<th>UCEDD</th>
<th>Project</th>
<th>Description</th>
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<tbody>
<tr>
<td>AK-Center for Human</td>
<td>ASPEN Replication</td>
<td>The Alaska Safety Planning and Empowerment Network (ASPEN) is a partnership of the Governor's Council on Disabilities and Special Education with Alaska Network on Domestic Violence and Sexual Assault, Alaska Native Justice Center, Alaska State Independent Living Council, Alaska Mental Health Board, Advisory Board on Alcoholism and Drug Abuse, and UAA/Center for Human Development. ASPEN aspires to build capacity of the service delivery systems (e.g., disability, victim advocacy, and others) by creating systems change designed to enhance the provision of collaborative, effective person-centered services for survivors with disabilities in a targeted Alaskan community.</td>
</tr>
<tr>
<td>CA-USC, Children’s Hospital</td>
<td>Project ABC (About Building Connections for</td>
<td>Project ABC is a collaboration between Los Angeles County Department of Mental Health, Los Angeles County Department of Child and Family Service, Children’s Institute, USC-UCEDD at Children’s Hospital Los Angeles, and USC School of Social Work. Our goal is an integrated service system for infants, preschoolers, and families providing comprehensive, family-centered, culturally sensitive services to young children birth to five and their families. The targeted geographic area receives over 5600 child abuse and neglect referrals of children ages birth to five each year. Training, social marketing, evaluation, and policy development are also incorporated into the scope of this project.</td>
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<td></td>
<td>Young Children &amp; Families)</td>
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## Example of UCEDD Projects

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<tbody>
<tr>
<td>DC-Georgetown University Center for Child &amp; Human Development</td>
<td>National Technical Assistance Center for Children's Mental Health</td>
<td>Dedicated to helping states and communities discover, apply, and sustain innovative and collaborative solutions that improve the social, emotional, and behavioral well being of children and families.</td>
</tr>
<tr>
<td>MT-University of Montana Rural Institute</td>
<td>Field Test of Internet-Based Safer and Stronger Program for Women with Disabilities</td>
<td>A randomized, controlled trial to test the efficacy of the internet-based Safer and Stronger Program (SSP) with 390 women with diverse disabilities to be recruited by centers for independent living in Montana, Arkansas, and Arizona. The single-session SSP provides information about interpersonal violence, risk factors, and safety-promoting strategies while integrating survivor stories and affirming narration. It is expected that results from this study will have significant policy implications for the safety and well-being of women with disabilities and Deaf women.</td>
</tr>
<tr>
<td>ND-North Dakota Center for Persons with Disabilities</td>
<td>ND Senior Medicare Patrol</td>
<td>This project assists all ND seniors, including those in our most rural counties and those with disabilities review their medicare bills to assure that no errors, fraudulent charges or abuses have occurred by using local volunteers, regional volunteer coordinators, and disability adapted curricula to educate beneficiaries.</td>
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</table>
## Example of UCEDD Projects

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<th>Project</th>
<th>Description</th>
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<tbody>
<tr>
<td>NM-Center for Development &amp; Disability</td>
<td>FOCUS Program</td>
<td>The FOCUS Program provides supports and services for families of children aged birth through three years considered to be at medical or biological risk, or environmental risk for developmental delay. The program provides a continuum of interdisciplinary services that integrates primary health care with an array of services that include: home visiting, case management/service coordination, developmental assessment and infant mental health intervention, parenting skills and support groups, legal representation from UNM Law Clinic community referrals and support. The FOCUS service model helps to support families with children at the very highest risk for abuse and neglect because of family substance abuse, mental illness, family violence or unsupported teen parenting in Bernalillo, Sandoval, Valencia and Torrance Counties.</td>
</tr>
<tr>
<td>NY-Westchester Institute for Human Development</td>
<td>Child Welfare Services: Children's Advocacy Center</td>
<td>Child abuse investigations involve representatives from many disciplines - law enforcement, child protection, prosecution, mental health, medical and victim advocacy. Best practice encourages all disciplines to work together to minimize the number of investigative interviews a child experiences by conducting a forensic interview that is observed by members of the investigative team and to make team decisions about the investigation, treatment, management and prosecution of child abuse cases. The Children's Advocacy Center model is a child-focused, facility-based program in which representatives from many disciplines work together with the goal of reducing trauma to child victims of abuse, protecting children, families and communities and promoting the prosecution of perpetrators.</td>
</tr>
</tbody>
</table>
Website Links

• AIDD UCEDDs page:

• Association of University Centers on Disabilities (membership organization):
  – http://www.aucd.org/template/index.cfm
PROTECTION AND ADVOCACY SYSTEMS (P&AS)
Protection and Advocacy Systems (P&As)

- Provide services to individuals with developmental disabilities based on the identification of goals and priorities based on public input.

- Activities of the P&As include:
  - The protection and advocacy of legal and human rights
  - Information and referral
  - Investigation of complaints of violations of rights of individuals with developmental disabilities
  - Working to resolve complaints through mediation, alternative dispute resolution and litigation
P&As

- There are 57 P&As
- There is a Native American P&A
Purpose of the P&A

- P&As help individuals with developmental disabilities secure their human and civil rights.
- P&As help people with developmental disabilities who:
  - Have been neglected or abused
  - Have been denied access to a service
  - Have been denied control or choice of a service to which they have a right
  - Have been denied the opportunity to participate in an activity
Authority & Independence

• The P&A system must have independence to pursue legal and other appropriate measures on behalf of clients with developmental disabilities without state or other interference.
  – Access to people, access to records, access to institutions for monitoring
  – Authority to pursue legal remedies

• The system must have the ability to investigate incidents of abuse and neglect of individuals with developmental disabilities.
Designated by the Governor

- The Protection and Advocacy for Individuals with Developmental Disabilities (PADD) program funded under Part C of the DD Act is designated by the Governor to be the P&A system for the state.
Other Federal P&A Programs

- **PAIMI**: Protection and Advocacy for Individuals with Mental Illness (Substance Abuse and Mental Health Services Administration, HHS)
- **PAIR**: Protection and Advocacy of Individual Rights (Rehabilitation Services Administration, ED)
- **PAAT**: Protection and Advocacy for Assistive Technology (Rehabilitation Services Administration, ED)
- **PABSS**: Protection and Advocacy for Beneficiaries of Social Security (Social Security Administration)
- **PATBI**: Protection and Advocacy for Traumatic Brain Injury (Health Resources and Services Administration, HHS)
- **PAVA**: Protection and Advocacy for Voters Access (AIDD, HHS)

Some P&As also administer the Client Assistance Program (CAP)

PADD is the cornerstone of the P&A
Planning Responsibilities

• Goals and priorities setting
  – The goals and priorities of each P&A are based on data-driven strategic planning... multi-year cycle with annual updates.
  – The P&A provides an annual opportunity for the public to comment on goals and priorities and activities of the system, including comments by the Council and UCEDDs.
  – Goals and priorities are submitted to AIDD annually.
Priority Setting

• P&As choose priorities in the following areas of emphasis (in law):
  – Employment, housing, early intervention and education, safety, health, child care, recreation, transportation, quality assurance, and formal and informal community supports

• Emphasis on outcomes/impact

• Requires collaboration with DD Network and community organizations
P&A Governing Board

• Membership
  – Majority must be individuals with disabilities, including individuals with developmental disabilities
  – Family members and guardians
  – Advocates or authorized representatives
  – May include a representative from the State Council, UCEDD and self-advocacy organizations
How P&As Do Their Jobs

• Train people about their legal and human rights
• Educate others about the rights of individuals with developmental disabilities
• Investigate complaints of violations of rights
• Information and referral
• Work to resolve complaints through discussion, mediation, alternative dispute resolution, and litigation
• Referrals to other agencies (state, Federal, local)
FY 2012 *Preliminary* Results

- **1,524,293:** Number of persons with disabilities (or family members) who received education or training about their rights.

- **18,189:** Total clients
  - FY 2011 total clients: 21,374
  - Variance: -3,185
P&A Preliminary Results (cont.)

24,637: Total of all cases/complaints remedied
Reasons For Closing Case Files

FY 2012

- Issues resolved in Individual's favor: 77%
- PADD withdrew because of Individual would not cooperate: 2%
- Appeals were unsuccessful: 4%
- PADD services not needed because of Individual's death, relocation: 1%
- PADD unable to take care because of lack of resources: 2%
- Individual withdrew complaints: 3%

FY 2011

- Issues resolved in Individual's favor: 76%
- PADD withdrew because of Individual would not cooperate: 2%
- Appeals were unsuccessful: 4%
- PADD services not needed because of Individual's death, relocation: 1%
- PADD unable to take care because of lack of resources: 2%
- Individual withdrew complaints: 3%
Living Conditions

FY 2012

- Independent: 9%
- Parental or family Home: 0%
- Community Residential Homes: 5%
- Foster Care: 2%
- Nursing Home: 1%
- Public- State Operated: 0%
- Private Institutes: 0%
- Legal detention/Jail/Prison: 1%

FY 2011

- Independent: 66%
- Parental or family Home: 5%
- Community Residential Homes: 8%
- Foster Care: 0%
- Nursing Home: 1%
- Public- State Operated: 0%
- Private Institutes: 0%
- Legal detention/Jail/Prison: 9%
Intervention Strategies

FY 2012

- Technical Assistance in Self-advocacy: 23%
- Short-term Assistance: 3%
- Investigation/Monitoring: 4%
- Negotiation: 3%
- Mediation/Alternate dispute Resolution: 3%
- Administrative Hearing: 17%
- Litigation: 13%

FY 2011

- Technical Assistance in Self-advocacy: 39%
- Short-term Assistance: 5%
- Investigation/Monitoring: 3%
- Negotiation: 3%
- Mediation/Alternate dispute Resolution: 4%
- Administrative Hearing: 23%
- Litigation: 39%
Abuse and Neglect Work: Seclusion and restraint

• **Michigan Autism Society v. Fuller** – Complaint filed by Michigan Protection and Advocacy, Inc. on behalf of Michigan Autism Society (May 2, 2005) (declaratory and injunctive relief to prevent inappropriate restraint and seclusion in Michigan school district)

Henry’s Turkey Farm

- First discovered by the Iowa P&A


- Hill Country Farms Inc., doing business as Henry's Turkey Service, violated the Americans with Disabilities Act (ADA) by paying 32 workers with intellectual disabilities severely substandard wages,
• The EEOC alleged in its lawsuit that Henry's Turkey exploited a class of disabled workers because their intellectual impairments made them vulnerable and unaware of the extent to which their legal rights were being violated.

• The court ordered the company to pay its former employees lawful wages totaling $1.3 million for jobs they performed under contract at a turkey processing plant in West Liberty, Iowa between 2007 and 2009.

• Judge found that, rather than the total of $65 dollars per month Henry's Turkey paid to the disabled workers while contracted to work on an evisceration line at the plant, the employees should have been compensated at the average wage of $11-12 per hour, reflecting pay typically earned by non-disabled workers who performed the same or similar work.
• The EEOC's suit also alleges that the company subjected the disabled workers to abusive verbal and physical harassment, unnecessarily restricted their freedom, and imposed harsh punishments and other adverse terms and conditions of employment such as requiring them to live collectively in substandard living conditions and failing to provide proper health care.
• The "bunkhouse"-- from which the men were later evacuated -- was closed down by the state fire marshal as unsafe, its heating was inadequate, the bug-infested building had rodent problems, and the roof was in such disrepair that buckets were put out to catch water pouring in.
Community Monitoring

- AIDD funded a community monitoring pilot project with the AL and NC P&As to monitor at least 20 community settings (6 or less residents with ID/DD) and provide advocacy to at least 10 individuals identified through the monitoring process.
• Alabama monitored people moving from an institutional setting to a community based setting
• North Carolina did a mix
• Found that people were generally happier in their new/community-based setting and enjoyed greater independence and freedom of choice
• Concerns
  – Environmental hazards
  – Medical issues
  – Communication
  – Education
  – Employment

• Report available at
Website Links

• AIDD P&As page:

• National Disability Rights Network (membership organization):
Questions?
Combatting elder financial exploitation: The role of CFPB’s Office for Older Americans

Naomi Karp, Consumer Financial Protection Bureau

Presentation at the Home and Community-Based Services Conference

September 9, 2013, Arlington, VA
Overview of session

- Elder financial exploitation basics
- Consumer Financial Protection Bureau
- Office of Financial Protection for Older Americans (OA)
- OA initiatives to address elder financial exploitation
Elder financial exploitation

- Illegal or improper use of an older adult’s funds, property, or assets
- Most common form of elder abuse
- Only a small fraction of incidents are reported
- Spectrum of perpetrators
- Factors that may contribute to vulnerability
Common signs of financial exploitation

- Missing money or property
- Changes in spending or savings
  - Unexplained withdrawals
  - Wiring large amounts of money
  - Unusual ATM use
  - Inability to pay bills that are usually paid
  - Unexplained changes of names on accounts or beneficiary designations—or new power of attorney or trust documents
- Fear of relative, caregiver or friend
- Someone isolates older person or seems to control decisions
What to do if you suspect exploitation

- Immediate danger? Call 911
- Call adult protective services (APS), police, sheriff, and/or ombudsman
- Alert bank or credit card company
- Call a lawyer in some cases
Scams

- Always changing!

- Some common scams:
  - Relative in need
  - Lottery or sweepstakes
  - Home improvement
  - Drug plans
  - ID theft
  - Fake “official” mail
What to do if you suspect a scam

- Contact local, state or federal agency, depending on type of scam
  - Local: APS, ombudsman, police, sheriff, Better Business Bureau
  - State: office of attorney general or other consumer protection agency
  - Federal: Consumer Financial Protection Bureau
  - Federal Bureau of Investigations
  - Federal Trade Commission
  - US Postal Inspection Service (depending on facts)
Consumer Financial Protection Bureau (CFPB)

- Created by Dodd-Frank Wall Street Reform and Consumer Protection Act; launched July 2011
- Mission: make markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products
- Core functions: educate, enforce and study
CFPB Tools/Services for Consumers of All Ages

- Ask CFPB
  - Interactive online tool with answers to many questions regarding financial services and products
  - Can browse by topics, e.g. “fees” or “closing,” or by populations, like servicemembers, students, and older Americans
  - Under “older Americans” tag, find answers to questions about financial products and services, powers of attorney, accepting assistance with bill-paying and banking, and tips to avoid financial harm
CFPB Tools and Services, cont’d

- **Consumer complaints**
  - Bureau accepts consumer complaints by phone, mail, fax, and through website
  - Currently handles complaints about credit cards, credit reporting, debt collection, money transfers, mortgages, bank accounts and services, car loans and other consumer loans, and private student loans
  - CFPB forwards complaint to the company and works to get a response from them
  - If another government agency would be better able to assist, CFPB refers the complaint and lets the consumer know
  - [consumerfinance.gov/complaint/](http://consumerfinance.gov/complaint/) or (855) 411-CFPB (2372)

- “Tell your story”
Office for Older Americans (OA)

- Mission: help consumers 62+ to get the financial education they need to:
  - Protect themselves from unfair, deceptive and abusive practices
  - Make sound financial decisions as they age.
- The only office in the federal government specifically dedicated to the financial health of seniors
Office for Older Americans, cont’d

- OA is:
  - developing education initiatives;
  - researching the best practices for helping older investors understand the different senior certifications and designations that many financial planners and advisers use when selling investment and other financial products;
  - coordinating efforts with federal and state regulatory agencies, and law enforcement; and
  - collaborating with community leaders and local organizations.
OA Initiatives: Money Smart for Older Adults

- **PROBLEM:**
  - Many older Americans, their caregivers, and others in the community don’t know how to spot and avoid frauds and scams.

- **CFPB INITIATIVE:**
  - The Office developed an awareness program called *Money Smart for Older Adults* in collaboration with the FDIC.
  - Content on common issues facing seniors, including how to identify a potential scam or fraud.
  - Training materials focus on preventing, recognizing, and reporting elder financial exploitation.
OA Initiatives: “Managing Someone Else’s Money”

- **PROBLEM:**
  - Declining capacity to handle finances can make older adults vulnerable
  - Even mild cognitive impairment (MCI) disastrously reduces an older adult’s ability to detect fraud or a scam; 22 percent of Americans over 70 have MCI*
  - People with diminished capacity often need a surrogate to handle their money
  - “Lay fiduciaries” – critical source of help; often have no training; some even commit fraud

* Plassman et al., “Prevalence of Cognitive Impairment without Dementia in the United States,” *Archives of Internal Medicine* 148, no. 6: 427-34
Managing Someone Else’s Money, cont’d

- CFPB INITIATIVE:
  - Developing a set of *guides for “lay fiduciaries.”*
  - User-friendly “how-to” guides for
    - agents under powers of attorney
    - guardians of property
    - trustees
    - Social Security representative payees and VA fiduciaries.
  - National guides; six sets of state-specific guides; and a replication manual for other states.
Managing Someone Else’s Money, cont’d

- What is a fiduciary? Anyone named to manage money or property for someone else

- Four main duties:
  - Act only in the person’s interest – avoid conflicts
  - Manage the money and property carefully
  - Keep the person’s money and property separate from yours
  - Keep good records

- Guides will teach “lay” fiduciaries i.e. non-professionals to spot financial exploitation and protect assets from scams and frauds by third parties.
OA Initiatives: Financial Institution Role in Reporting Exploitation

### PROBLEM:

- Financial institution personnel observe signs that an older account holder may be the victim of financial abuse, but may be unsure whether federal privacy laws permit them to share their suspicions with government agencies.

### CFPB INITIATIVE

- CFPB is developing strategies for communicating to financial institutions that the **Gramm-Leach-Bliley Act** generally does not prohibit them from reporting suspected abuse to law enforcement, adult protective services agencies, and other relevant entities.
OA Initiatives: Congregate Care Facilities

- **PROBLEM:**
  - Residents of assisted living and nursing facilities can become victims of fraud and financial abuse.
  - Operators of facilities may see that bills are going unpaid and residents are threatened with eviction, but they don’t know how to intervene in cases of financial exploitation.

- **CFPB INITIATIVE:**
  - Producing a national **guide for operators of congregate facilities**.
  - Provide them with skills to identify and intervene in exploitation cases further upstream and to have protocols for doing so.
Your Ideas and Questions

- What are you seeing out in the field?
- What public education materials could help older adults and adults with disabilities? Caregivers? Service providers? Gaps in existing resources?
- How can we collaborate to distribute the Managing Someone Else’s Money guides and other CFPB OA tools?
Contact me

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