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NATIONAL
DISABILITY RIGHTS
NETWORK
Protection & Advocacy for Individuals with Disabilities



2008 LEGISLATIVE AGENDA



Second Session 110th Congress

*Through training and technical assistance, legal support, and legislative advocacy, the **National Disability Rights Network** works to create a society in which people with disabilities are afforded equality of opportunity and are able to fully participate by exercising choice and self-determination.*

2008 LEGISLATIVE GOALS

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State List of P&As/CAPs is available at:

http://www.ndrn.org/aboutus/PA_CAP.htm

THE NATIONAL DISABILITY RIGHTS NETWORK AND THE PROTECTION & ADVOCACY SYSTEM / CLIENT ASSISTANCE PROGRAM

The National Disability Rights Network (NDRN) is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) Systems and Client Assistance Programs (CAP). In addition to the P&A/CAP network operating in every state, the District of Columbia, and territory – American Samoa; Guam; Northern Marianas Islands; Puerto Rico; and the U.S. Virgin Islands – there also is a Native American P&A System. Collectively, the P&A/CAP network is the largest provider of legally based advocacy services to people with disabilities in the United States.

NDRN members serve individuals with a wide range of disabilities – including, but not limited to, those with cognitive, mental, sensory, and physical disabilities – by guarding against abuse; advocating for basic rights; and ensuring accountability in health care, education, employment, housing, transportation, and within the juvenile and criminal justice systems. The statutory programs that guide this work are as follows:

- ♦ **Protection and Advocacy for Persons with Developmental Disabilities (PADD)** was established in 1975, its goal is to ensure the rights of children and adults with developmental disabilities in a wide range of settings. The PADD program currently is up for reauthorization.
- ♦ The **Client Assistance Program (CAP)** was established in 1984 to protect the rights of people with disabilities who are clients/applicants of projects funded under the Rehabilitation Act. The CAP program currently is up for reauthorization.
- ♦ **Protection and Advocacy for Individuals with Mental Illness (PAIMI)** was established in 1986. The program is designed to protect the rights of individuals with mental illness in all

settings. The PAIMI program currently is up for reauthorization.

- ♦ **Protection and Advocacy for Individual Rights (PAIR)** was established in 1993 to protect the rights of those individuals with disabilities who are ineligible for PADD or PAIMI. This is the program with the largest potential customer base. The PAIR program currently is up for reauthorization.
- ♦ **Protection and Advocacy for Assistive Technology (PAAT)** was established in 1993 to help ensure that children and adults with disabilities can get access to critically needed assistive technology in a variety of settings. The PAAT program was reauthorized in 2005.
- ♦ **Protection and Advocacy for Beneficiaries of Social Security (PABSS)** was established in 1999 to help Social Security beneficiaries with disabilities overcome the obstacles to finding and keeping a good job. The PABSS program was reauthorized in 2004.
- ♦ **Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)** was established in 2000 to address the advocacy needs of the ever-increasing population of individuals with traumatic brain injury (TBI). The PATBI program currently is up for reauthorization.
- ♦ **Protection and Advocacy for Voting Access (PAVA)** was established as part of the Help America Vote Act (HAVA) in 2002 to address the specific and unique obstacles that individuals with disabilities face when they want to vote.

NDRN also plays a leadership role in the Consortium for Citizens with Disabilities (CCD), a Washington-based coalition made up of over 100 national organizations addressing the needs of children and adults with disabilities and their families. Because people with disabilities have the same needs as other Americans, NDRN and individual P&As also participate in non-disability coalitions whose actions help further disability policy goals.

Shaping Public Policy

NDRN bases its public policy views on the firm belief that people with disabilities have the constitutional right to fully participate in our democratic society. The main objective of the P&A/CAP network is to protect and defend this constitutional right and the other rights that flow from it.

Development of Legislative Agenda

The foundation of the 2008 legislative agenda – the Second Session of the 110th Congress -- is built on the NDRN mission statement, principles, strategic plan, and current policies; guidance from the NDRN Legislative Committee; and input from P&A/CAP leaders across the country. These goals take into consideration political and policy trends; potential new initiatives, existing and expected proposals from the White House and Congress, as well as appropriation and authorizing legislation that should be addressed in the coming year. There will be times when NDRN will be required to address unexpected issues in a time-sensitive manner.

Monitoring Laws and Policies

NDRN also monitors and reacts to the implementation and enforcement of existing or new legislation that has an impact on the lives of individuals with disabilities. NDRN efforts include interacting with a variety of federal agencies and entities either in person or through the regulatory process.

FEDERAL FISCAL POLICY GOALS

Introduction

A number of presidential policy goals have a direct impact on the lives of children and adults with disabilities and their families. The ever-increasing human and fiscal impact of the war in Iraq and Afghanistan – including the large number of returning soldiers who now have disabilities – directly affects the nation's ability to address the unmet needs of children and adults with disabilities. If we add the long term effects of tax cuts and the direct cuts to critical domestic programs over the past several years, the domestic programs that are designed to help those with the greatest needs are the ones that

have experienced – and continue to experience -- the most negative effects.

While the result of the 2006 elections led to more of a balance of power between the Executive and Legislative branches, this balance did not accomplish what advocates hoped it would. In fact, the First Session of the 100th Congress ended up in gridlock on most issues – with few, if any, improvements in disability policy. Congress also was gripped by a very high level of partisanship.

The FY 2009 appropriations process has the potential to be just as bad for non-defense discretionary programs as the FY 2008 process. In addition, the Administration continues to propose entitlement “reform” efforts targeted directly at critical disability programs such as Medicaid. NDRN is concerned that, as the effort continues to find more funds for the war, so too will the parallel effort to finance these costs with cuts to programs and entitlements that benefit individuals with disabilities and their families.

Federal fiscal policy is the number one priority of NDRN for several reasons.

First, the P&A/CAP network is mandated by federal law to assist people with disabilities in obtaining the services and supports needed to live and work in their community. Along with this mandate comes federal funding for P&A/CAP work. Second, state funding for critical disability programs (such as Medicaid) is based on the amount of federal funds available. If federal funds are reduced, state funding likely will decrease, and supports and services for people with disabilities will be diminished. Third, the majority of important disability-specific and low-income programs are federally funded. Therefore, cuts at the federal level threaten the continued existence of these important programs and the ability of people with disabilities to find needed supports and services in the community.

Serial reductions in P&A/CAP funding have had an adverse impact on the Network’s ability to carry out its federal mandate at a time when advocacy needs are increasing both because of funding cuts at the state and local levels and increased requests for services by veterans with disabilities and an aging population. Therefore, NDRN will focus

much effort on ensuring the viability of a strong and adequately funded P&A/CAP network that can meet the needs of those for whom it was mandated.

NDRN recognizes the need for a strong economy and the importance of strengthening national security. However, NDRN will work to ensure that (1) rights, supports, services, and benefits critical to the well-being of people with disabilities and their families are protected, improved, and expanded; and (2) federal funding decisions do not result in a federal budget that is crafted at the expense of people with disabilities.

Appropriations

NDRN believes that the Second Session of the 110th Congress must address the significant – and growing – unmet needs of children and adults with disabilities and their families by increasing existing federal funding, including funding for the P&A/CAP network. NDRN and other advocates believed this would happen in the FY 2008 appropriations process. However, while the traditional appropriations process worked well for the network, it was the end-game -- in which Congress compromised with the Administration -- that put network programs in the red once more. The FY 2009 appropriations process could be even more difficult -- considering this is President Bush’s last budget and it is an election year. No matter what – these variables could lead to the “perfect storm” for the P&A/CAP network -- as the demand for advocacy services increases, the capacity of the Network decreases.

P&A/CAP programs have a consistent history of increased demand coupled with funding neglect. The Administration has proposed elimination of the PATBI program **four times in the last four years. The Administration consistently pushes for the** elimination of the PAAT program. Fortunately, Congress has shown bipartisan support for P&A/CAP programs and restored funding for PATBI and PAAT each year. While initially it looked like all P&A programs would receive some increases for FY 2008 – except CAP, in the long run more programs faced cuts than increases and those that received increases

received a tiny percentage of what is needed. When inflation is taken into account, the P&A/CAP network is currently funded at levels well below that of just a few years ago – and well below what is needed to meet the growing demand for services.

Lost funding falls especially hard on certain states because P&A/CAP programs are formula-funded, with appropriated dollars distributed according to population and certain other factors. This funding structure places additional pressure on P&A/CAP programs because population shifts lead to changes in the amount of each grant, even if appropriations remain the same. A decrease in funding is an especially devastating blow to states which are not only losing population, but also facing an increase in the number of people requiring services due to the aging of society and an increased level of disability and poverty.

It is critical, therefore, that the following P&A programs receive the specified funding increases for FY 2009:

- ♦ PATBI* currently is funded at \$2.9 million; NDRN recommends an increase to \$6 million.
- ♦ CAP* currently is funded at \$11.5 million; NDRN recommends an increase to \$16 million.
- ♦ PAAT* currently is funded at \$4.26 million; NDRN recommends an increase to \$6 million.
- ♦ PADD currently is funded at \$39 million; NDRN recommends an increase to \$43.5 million.
- ♦ PAIMI currently is funded at \$34.8 million; NDRN recommends an increase to \$40 million.
- ♦ PAIR* currently is funded at \$16.2 million; NDRN recommends an increase to \$22 million.
- ♦ PAVA currently is funded at \$ 5.3 million; NDRN recommends an increase to \$10 million.

*Programs with an * received less funding in FY 2008 than in FY 2007*

Revenue Policy

NDRN believes that the Second Session of the 110th Congress must:

- ♦ Address the unmet needs of children and adults with disabilities and their families before making further tax cuts or revising the tax code.
- ♦ Roll back certain recent tax cuts that have added to the deficit and placed existing disability and low-income assistance programs at risk.
- ♦ Assure that tax and other policies, such as Social Security reforms, represent a sound investment for all in the nation and do not have a negative impact on people with disabilities and their families by shifting long-term costs to the future.
- ♦ Ensure that critical disability programs are not the target of deficit-reduction measures.

PROGRAMMATIC GOALS

Introduction

NDRN recognizes the vital role the federal government plays in providing services, supports, and benefits, and protecting the rights of children and adults with disabilities and their families. Federal spending for individuals with disabilities in their communities is an investment that saves taxpayers money by lessening the need for inappropriate and costly long-term institutional care. With appropriate supports, individuals with disabilities can have access to a challenging and appropriate education; get a job; have a home and friends in their communities; and become taxpayers.

It is an unfortunate fact that most federal programs that help children and adults with disabilities and their families are under-funded, leaving thousands of people underserved or on a never-ending waiting list for services. Such short-sighted federal policy ends up costing the nation more due to the loss of independence and productivity of individuals with disabilities, as well as the expense of inappropriate institutionalization. For too many, the promise of the U.S.

Supreme Court *Olmstead* decision to open the doors of the community is not being realized.

The Following are the 2008 priority programmatic goals of NDRN and the P&A/CAP network

Constitutional and Civil Rights

The Second Session of the 110th Congress should:

- ♦ Protect and expand existing civil rights laws for people with disabilities, particularly the Americans with Disabilities Act (ADA); the Individual with Disabilities Education Improvement Act (commonly abbreviated as IDEA); the Fair Housing Act (FHA); the Civil Rights of Institutionalized Persons Act (CRIPA); Title V of the Rehabilitation Act; the Help America Vote Act (HAVA); and the Air Carriers Access Act.
- ♦ Promote and fund stronger enforcement of these important laws, assuring equal opportunity and protection for people with disabilities.
- ♦ Support the ADA Restoration Act of 2007 (H.R.3195/S.1881)
- ♦ Restore IDEA and Medicaid protections eroded by recent court decisions.
- ♦ Reject H.R. 3995 which would severely limit the ability of the P&A network to protect the health and safety of individuals with developmental disabilities living in congregate settings.
- ♦ Implement and monitor HAVA provisions and fully fund the PAVA program.
- ♦ Pass hate crimes legislation that includes individuals with disabilities as a protected class.
- ♦ Implement electoral reform to remedy systemic problems in the administration of elections and eliminate obstacles to full and equal political participation.
- ♦ Prohibit abuse, neglect, and inappropriate use of physical,

mechanical, and chemical restraint and seclusion in all settings, including schools.

- ♦ Prohibit genetic discrimination.

Maintaining and Improving the P&A/CAP Network

The Second Session of the 110th Congress should take the following actions to enhance and expand P&A/CAP programs:

- ♦ Reauthorize the Rehabilitation Act, which includes the PAIR and CAP programs.
- ♦ Reauthorize the Developmental Disabilities (DD) Act, which includes the PADD program.
- ♦ Reauthorize the Substance Abuse and Mental Health Services Administration (SAMHSA) Act, including amendments in the PAIMI program to enhance the authority of P&As to investigate abuse and neglect of children and adults with mental illness in a variety of settings, including schools.
- ♦ Support enactment of the Expanding the Promise for Individuals with Autism Act of 2007 (S.937/H.R.1881), which would provide funds to the P&A network to increase services for individuals with autism.
- ♦ Establish and authorize funding for a P&A program specific to IDEA, to be administered through the Department of Education.
- ♦ Establish and authorize P&A/CAP program-specific funds as part of legislation governing emergency preparedness.
- ♦ Authorize funding for P&A services specific to the housing rights of individuals with disabilities
- ♦ Grant P&As the authority to conduct abuse and neglect investigations and monitoring activities in federally operated facilities, such as Department of Veterans Affairs hospitals and Bureau of Prisons facilities.

- ♦ Ensure that the investigative authority embodied in all P&A/CAP authorizing legislation supersedes federal privacy laws.
- ♦ Include P&A access exceptions in the reauthorizations of the Federal Educational Rights and Privacy Act (FERPA), Public Health Services Act, and the TBI Reauthorization Act.
- ♦ Require federal, state, and private providers of services and supports to individuals with disabilities to notify their clients (or their legal guardians) of services available through the P&A and CAP programs, as well as their general rights under federal and state laws.
- ♦ Enact legislation to provide loan forgiveness for attorneys working in the P&A/ CAP system (H.R. 4137 / S. 1642).

A large percentage of soldiers returning from combat have sustained permanent disabilities, including mobility impairments, traumatic brain injury, and mental health disabilities. Many of these individuals will require the assistance of the P&A/CAP network to rebuild their lives and reintegrate into family life and society. In addition, military families with a child with a disability face the same challenges as non-military families with children with disabilities. However, the military education, health, and legal advocacy systems often do not meet their needs. Families with a caregiver currently deployed to a war zone face particular difficulties. The Second Session of the 110th Congress should:

- ♦ Provide funding through the Department of Defense budget to the P&A/CAP network for disability-related advocacy services to returning veterans, as well as military families of active duty, National Guard, or Reserve personnel. Funded supports and services should include – but not be limited to – advocacy in the areas of access to health and mental health benefits; medical devices and assistive technology; veterans/military benefits and other income supports; education; employment; housing; as well as

respite care and other family supports.

Medicaid

As the largest funding source for health and long-term supports in the federal system, Medicaid continues to be a lifeline for millions of children and adults with disabilities and their families. While some important improvements are needed – such as removing the institutional bias – the Medicaid program has successfully provided health care and long-term supports to low-income individuals and people with disabilities for over 40 years. The passage of the Deficit Reduction Act in the 109th Congress, placed Medicaid services – and the health and welfare of individuals who depend on them – at risk.

For Medicaid reform to be responsive to the needs of beneficiaries with disabilities, the Second Session of the 110th Congress must take the following actions to restore protections and funding for Medicaid beneficiaries:

- ♦ Statutorily roll back changes made to the Medicaid program in the Deficit Reduction Act (DRA).
- ♦ Maintain the individual entitlement to a full range of Medicaid health and long-term supports and services for all children and adults with disabilities – no matter how they access Medicaid – by ensuring they are not limited to services in “benchmark” plans. This includes continued access to needed mandatory and optional Medicaid benefits.
- ♦ Restore the entitlement to seamless delivery of the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program, and reject the bifurcated system established by the budget reconciliation process.
- ♦ Repeal federal policy that increases recipient cost-sharing through co-payments and premiums.
- ♦ Repeal legislative language that prohibits individuals with disabilities who live in provider -owned or -operated housing from participating in

“Cash and Counseling” and other consumer-directed programs.

- ♦ Repeal federal policy that gives states the option of putting a capped program within a Medicaid State Plan, and pass legislation – such as the Medicaid Community-based Attendant Services and Support Act – to reduce institutionalization and increase home- and community-based long-term services and supports.
- ♦ Statutorily direct the Centers for Medicare and Medicaid Services (CMS) to permanently cease making regulatory and policy changes detrimental to individuals with disabilities, such as reduced access to rehabilitation, habilitation, targeted case management, and school-based services
- ♦ Strengthen the Medicaid Waiver and Medicaid State Plan processes by requiring states to establish public notification, opportunity for comment, and reporting mechanisms for applications for proposed waivers and state plan changes.
- ♦ Require CMS to hold states accountable for the quality of supports and services provided to individuals in all settings.
- ♦ Require CMS to issue guidance to states that leads to the expanded coverage of appropriate assistive technology for Medicaid beneficiaries.
- ♦ Ensure that any changes based upon the Medicaid Commission’s recommendations for long-term reform of the Medicaid program increase the quality of life of individuals with disabilities.
- ♦ Monitor implementation of recent federal policy changes to assure that individuals with disabilities are not negatively affected.
- ♦ Oppose Medicaid block grants, global or per-capita caps, or any other mechanisms that lead to reductions in eligibility, supports and services, and

protections for individuals with disabilities.

Employment, Training, and Wages

Most people with disabilities of working age remain unemployed or under-employed. Thus, the Second Session of the 110th Congress should take the following actions:

- ♦ Reauthorize the Rehabilitation Act, taking the following actions to strengthen the collaboration of state and federal programs involving the employment of individuals with disabilities:
 - Strengthen the due process rights of individuals applying for or receiving VR services under Title I.
 - Ensure physical and programmatic accessibility to the workforce development system.
 - Adjust performance measures to accurately reflect and measure the provision of services to individuals with disabilities.
 - Prohibit state-level waivers of rules and restrictions regarding infrastructure funding.
 - Maintain – and ensure oversight and enforcement of – existing civil rights protections of Section 504 of the Rehabilitation Act as they relate to workforce development services.
 - Expand transition authority for students age 16 and above to better prepare them for meaningful and productive lives as adults.
 - Establish the authority for CAP to advocate on behalf of individuals with disabilities in non-VR congregate work settings, such as sheltered workshops and Javits-Wagner-O’Day (JWOD) and Randolph-Shepherd programs.
 - Establish the authority for CAP to advocate on behalf of veterans in the Veterans Administration’s Vocational Rehabilitation program.
 - Strengthen coordination of Ticket to Work program provisions within the Rehabilitation Act and other federal

programs. (Section 14(c) provision of the Fair Labor Standards Act (FLSA))

- Reauthorize the JWOD and Randolph-Shepherd Acts with a focus on developing integrated employment opportunities with adequate pay and benefits for individuals with a full range of disabilities.
- Require that JWOD facilities promote the advancement of individuals with disabilities, including advancement toward integrated competitive positions outside a JWOD employer. Allow the minimum percentage of individuals with disabilities to include management-level positions.
- Revise and enact the Employer Work Incentive Act for Individuals with Severe Disabilities so it focuses on increasing the integrated employment of individuals with severe disabilities, rather than on additional funding for providers.
- Eliminate segregated sheltered work environments.
- Require DOL to monitor the effect of the increase in the minimum wage on the number of sub-minimum wage certificates issued by that department.
- Eliminate the payment of sub-minimum wages by amending the section 14(c) provision of the FLSA.
- Assure that part-time, supported, or periodic employees are included in any proposal that expands or extends fringe benefit coverage.
- Maintain and increase funding for the Supported Employment State Grants program.
- Eliminate remaining work disincentives for people who depend on Social Security disability programs.
- Equalize the Substantial Gainful Activity (SGA) level for all individuals with disabilities with that used for people who are blind.

The following are additional programmatic goals (in alphabetical

order) of NDRN and the P&A/CAP network that will be addressed during the Second Session of the 110th Congress.

Assistive Technology

The Second Session of the 110th Congress should:

- ♦ Enact changes to copyright laws to ensure printed and other materials are accessible to individuals with disabilities.
- ♦ Ensure equal access to all emerging technologies for individuals with disabilities.

Criminal Justice & Juvenile Justice

The Second Session of the 110th Congress should:

- ♦ Enact the Second Chance Act of 2007 (S.1060/H.R.1593), which is designed to help adult and juvenile offenders re-enter the community.
- ♦ Enact legislation that addresses the inadequacy of mental-health services in prisons that results in prisoners with mental illness being inappropriately placed in segregation units for extended periods of time where they decompensate, are prone to commit suicide, and lose parole eligibility.
- ♦ Improve protections for juvenile offenders by:
 - Reauthorizing the Juvenile Justice and Delinquency Prevention Act
 - Increasing funding for juvenile justice and delinquency prevention legislation to address the inappropriate warehousing of children in detention centers because of the unavailability of community mental-health services; and
 - Require states receiving juvenile justice grants to track the number of children with disabilities in their juvenile correctional systems, including those placed in the system solely to obtain mental-health services in lieu of institutional care.

- ♦ Amend the Gun-Free Schools Act of 1994 to reverse expansion by the states of zero-tolerance policies that result in the unnecessary expulsion of some students with disabilities.

Education

The IDEA guarantees eligible children with disabilities the right to a free appropriate public education (FAPE) in the least restrictive environment (LRE). However, this vital law is not fully implemented, enforced, or funded. Investing in a successful educational experience is the major route for individuals with disabilities to become independent, productive, and contributing members of their communities. Many changes made to IDEA when it was reauthorized in 2004 have a direct impact on children and families. In 2002, Congress passed amendments to the Elementary and Secondary Education Act, which is commonly known as the No Child Left Behind (NCLB) Act. NCLB promises to improve education for all students – including students with disabilities – by increasing accountability of teachers and schools. NCLB is on the agenda to be reauthorized in 2008, and the rights and needs of children with disabilities must be taken into account when Congress re-authorizes the law.

The Second Session of the 110th Congress must:

- ♦ Include full funding for IDEA in the FY 2009 Labor, Health and Human Services, and Education appropriations to ensure that its provisions and protections can be effectively implemented, monitored, and enforced.
- ♦ Maintain the key role of the nation's public schools in providing education to students with disabilities and the protections that accompany education in these schools.
- ♦ Ensure compliance with the LRE requirement and prevent any erosion of this requirement in legislation through:
 - Prohibiting the use of restraints and seclusion in school settings;
 - Requesting Government Accountability Office (GAO)

studies on the regulation and use of restraint and seclusion in public and nonpublic schools, and state oversight and monitoring of students with disabilities placed in out-of-state placements, including schools, public and private "boot camps.

- Requiring school districts to provide appropriate reporting to P&As of seclusion and restraints in public schools or schools that receive federal funds.
- ♦ Ensure that children with disabilities are included – with accommodations and modifications approved by their IEP teams – in all testing/assessments required by NCLB.
- ♦ Ensure the accountability of local schools and school districts for the meaningful education of children with disabilities.
- ♦ Ensure that the United States Department of Education appropriately monitors State Education Agencies (SEAs) with regard to IDEA, NCLB, and the intersection of these laws.
- ♦ Ensure the availability of funding for pre-service and in-service training of general and special educators to increase the number of highly qualified teachers, as well as the academic outcomes of students with disabilities and the goal of inclusive education.
- ♦ Ensure that Local Education Agencies (LEAs) and SEAs report on Annual Yearly Progress (AYP) and monitor the implementation and consequences of any new regulations, including those that allow a further 2 percent of students (total 3 percent) with disabilities to take alternate assessments.
- ♦ Provide funding to the P&As for parent training on the options for their children under NCLB.
- ♦ Ensure schools obtain Supplemental Education Service (SES) providers with the ability to meet the unique needs of students with disabilities.

- ♦ Ensure that education and employment legislation taken up by Congress addresses the needs of students with disabilities transitioning from education systems to employment and adult service systems and holds those systems accountable for successful outcomes.
- ♦ Pass legislation to correct recent Supreme Court rulings that place the burden of proof on families of children with disabilities when parents file due process administrative claims and disallow payment for expert fees when families prevail.

Emergency Preparedness and Response

The Second Session of the 110th Congress should:

- ♦ Amend the Red Cross Charter and Stafford Act to require that the needs of individuals with disabilities be addressed in emergencies.
- ♦ Ensure that any disaster/emergency preparedness legislation enforces the *Olmstead* requirement of community integration.
- ♦ Ensure that federal disaster funding is used to address the specific needs of individuals with disabilities, such as accessible housing and transportation.

Family & Individual Supports

The Second Session of the 110th Congress should:

- ♦ Reauthorize and adequately fund the Family Support title of the DD Act with a focus on supports based on individual and family needs.
- ♦ Authorize a Consumer-Advocacy Title in the reauthorization of the DD Act. Funds authorized must be new funds and not re-directed from other Titles of the Act.
- ♦ Authorize a Consumer-Advocacy Title in the reauthorization of the SAMHSA Act.
- ♦ Direct CMS to release guidance/regulations related to the implementation of the Family Opportunity Act, as authorized in the DRA.

- ♦ Direct the GAO to do a study of the various federal funding streams for family support and how these streams can best complement each other.

Health & Mental Health

The Second Session of the 110th Congress should:

- ♦ Enact legislation requiring public and private health plans to cover treatment for mental illness on the same terms and conditions as all other medical diagnoses (mental health parity).
- ♦ Enact the Community Living Assistance Services and Supports (CLASS) Act, which would establish a new nationwide, long-term care insurance program financed through voluntary payroll deductions. This legislation offers people the option of access to affordable long-term services and supports in the community and outside of Medicaid.
- ♦ Enact legislation to establish a high-quality universal health care system that meets the specific needs of individuals with disabilities. This system must:
 - Be affordable, non-discriminatory, and comprehensive;
 - Allow choice of well-trained and experienced providers;
 - Be fair, efficient, and include strong consumer protections;
 - Promote primary and secondary prevention; and
 - Protect existing health care entitlements, such as Medicaid and Medicare.
- ♦ Fully fund and implement the recommendations of the President's New Freedom Initiative Commission on Mental Health.
- ♦ Reject initiatives – such as Health Savings Accounts – that would further segment the insurance market and proposals – such as Association Health Plans – that would weaken existing state insurance mandates.
- ♦ Ensure that private long-term care insurance – including policies offered

through the Long-Term Care Partnership Program – are affordable and nondiscriminatory to people with disabilities.

- ♦ Ensure that people have access to affordable prescription drugs by enacting legislation that permits the re-importation of FDA-approved drugs from other countries.
- ♦ Ensure that legislation and federal initiatives aimed at increasing the use of Health Information Technology are inclusive of persons with disabilities and improve individuals' with disabilities health, quality of life, and independence.

Housing

In order to increase affordable housing options that are integrated in the community – including home ownership and rental housing – to meet the growing unmet needs of individuals with disabilities and their families, the Second Session of the 110th Congress should:

- ♦ Significantly increase funding for – and protect the integrity of – generic and disability-specific housing programs, including the Section 811 Supportive Housing for Persons with Disabilities program.
- ♦ Ensure that non-profit disability organizations can administer tenant-based rental assistance.
- ♦ Reject efforts to block grant or cut funding for the Section 8 tenant-based rental assistance program.
- ♦ Enact National Housing Affordable Housing Trust Fund (H.R. 2895)/legislation – with funding targeted at those with the lowest incomes – in order to increase the availability of affordable and accessible housing for people with disabilities.
- ♦ Require that projects developed through the Low Income Housing Tax Credit comply with design standards identical to those required by Section 504 of the Rehabilitation Act.

- ♦ Oppose efforts to limit housing options, including efforts to weaken fair housing and other critical civil rights protections such as Section 504.
- ♦ Remove barriers that prevent people from renting or buying homes through program simplification, ensuring adequate fair-market rents, eliminating discrimination based on source of income, and permitting people to acquire and maintain assets.
- ♦ Enact legislation requiring newly constructed, federally assisted housing to incorporate “visitability” standards (elements that afford accessibility to a dwelling’s first floor).

Immigration and Naturalization

The Second Session of the 110th Congress should:

- ♦ Ensure that non-citizens with disabilities have an equal opportunity to enter and reside legally in the United States and to become citizens without unnecessary or discriminatory restrictions.
- ♦ Ensure that people with disabilities who are legal residents have access to essential supports and services, such as SSI, food stamps, and Medicaid.
- ♦ Remove financial and procedural barriers that make it difficult for individuals with disabilities to gain identification and citizenship documentation requirements.

Medicare

In order to ensure that the Medicare program provides eligible individuals with disabilities of all ages access to the health care services they need, the Second Session of the 110th Congress should:

- ♦ Enact legislation to ensure that drug plans participating in the Medicare prescription drug program are required to have drug formularies that meet the needs of individuals with disabilities. This should include formulary exceptions, emergency dosing, and expedited appeals.

- ♦ Amend the Medicare Modernization Act to ensure that individuals with disabilities can easily appeal decisions and access hearings in their communities.
- ♦ Enact legislation that removes the two-year Medicare waiting period for individuals with disabilities, and revise the “in-the-home” definition to ensure access to needed durable medical equipment and assistive technology in the least-restrictive setting.

Quality of Supports & Services

Rather than delegate to states more of its important role in quality assurance, the federal government must fulfill its role in the monitoring and enforcement of the quality of services to children and adults with disabilities. In order to do so, the Second Session of the 110th Congress must:

- ♦ Assure high-quality services, supports, and access in all programs serving individuals with disabilities in which federal funds are used.
- ♦ Maintain, strengthen, and, where appropriate, modernize federal monitoring and oversight and the enforcement roles of state and local government and entities.
- ♦ Strengthen federal enforcement mechanisms to include criminal, civil, and/or financial sanctions for states, communities, and other entities that violate federal requirements.
- ♦ Promote enforceable standards that improve inclusion and self-determination for individuals with disabilities and their families.
- ♦ Ensure the civil rights of individuals with disabilities by passing legislation reducing the use of full guardianship and encouraging less restrictive forms (i.e. partial guardianship).
- ♦ Assure a well-trained, well-compensated, and stable workforce to support individuals with disabilities and their families by enacting legislation and increasing financial support to provide pre-service and in-service training of

professionals and other workers to meet the diverse needs of individuals with disabilities.

Social Security/Income Maintenance

The Second Session of the 110th Congress should:

- ♦ Reject any proposal to privatize or otherwise threaten Social Security trust fund investments or the availability of benefits to individuals with disabilities.
- ♦ Reject any proposal that would inappropriately limit the definition of disability and lead to the loss of critical supports and services for children and adults with disabilities.
- ♦ Protect and expand the effectiveness of income support programs and their related health coverage programs in the Social Security Act – including the Old Age, Survivors, and Disability Insurance (Title II); Supplemental Security Income (Title XVI); Medicare (Title XVIII); and Medicaid (Title XIX) programs.
- ♦ Substantially increase the resource limit for Supplemental Security Income (SSI) to the level it would have been if indexed for inflation since its inception, and annually index the SSI resource limit for inflation.
- ♦ Support improvements in the process for determining disability, and ensure the protection of claimants’ due process rights, including the right to a full and fair administrative hearing by an independent decision maker who provides impartial fact-finding and adjudication.
- ♦ Improve protections for beneficiaries with Representative Payees.
- ♦ Ensure that people who work in sheltered or other subsidized settings have FICA taxes paid on their behalf and receive appropriate work credits for Title II and Medicare eligibility.
- ♦ Enact laws to provide benefits and services to those individuals who inappropriately lost them when Temporary Assistance for Needy Families (TANF) was enacted -- particularly

children affected by SSI eligibility changes.

- ♦ Eliminate any marriage penalties that exist in current Social Security disability policy.
- ♦ Enact an earnings offset work incentive for Title II beneficiaries that parallels work incentives for SSI.
- ♦ Enact a program allowing SSI beneficiaries to maintain resources dedicated for housing purposes.
- ♦ Ensure that SSI beneficiaries can participate in appropriate Individual Development Accounts without jeopardizing their eligibility for SSI.

Temporary Assistance for Needy Families (TANF)

The Second Session of the 110th Congress should amend the TANF program to provide appropriate flexibility to states to address the unique needs of the many recipients with disabilities and their families who live in poverty.

- This should be addressed through:
 - ♦ Requirements for appropriate screening and assessment for disability and access to appropriate supports and services with reasonable accommodations, as necessary;
 - ♦ Access to extended rehabilitation services for individuals with disabilities, without penalty;
 - ♦ Access to housing, transportation, child care and other supports necessary to obtain and retain employment; and
 - ♦ Access to care for families with a child or adult family member with a disability who fulfill work requirements and receive TANF benefits.

Transportation

The Second Session of the 110th Congress should:

- ♦ Increase funding for mass transit (including paratransit) to expand affordable, accessible, and available transportation for people with disabilities.

- ♦ Increase funding for transportation programs to assist individuals with disabilities in getting to work and fully participating in their communities, such as those programs developed under the New Freedom Initiative.
- ♦ Amend the Air Carrier Access Act to explicitly allow passengers with disabilities to pursue legal remedies against airlines that violate their civil rights.

Voting

In order to ensure that individuals with disabilities continue to have improved access to their right to vote, the 110th Congress should:

- Provide increased and continued support to the P&As to carry out their directive under HAVA of ensuring full participation in the electoral process for individuals with disabilities.
- Provide legislative oversight regarding the Department of Justice's enforcement of HAVA's accessibility provisions and the Election Assistance Commission's administration of federal elections under the act.
- Ensure that any election-related legislation adequately addresses the accessibility needs of all individuals with disabilities and does not create new—or validate existing—barriers to voting for individuals with disabilities.