



OMB Approval No.: 0980-0162

Expiration Date: pending

PAAT Project Performance Report

For Year 2017

Agency Information

* - Required input

Agency

Agency Name* Disability Rights New York

Main Office - Address* 725 Broadway, Ste. 450 Albany, NY 12207; 25 Chapel Street, Suite 1005 Brooklyn, New York 11201; 44 Exchange Blvd, Suite 110 Rochester, New York 14614

Satellite Office(s) - Address

Contract Office(s) - Address

Agency Telephone Number* 5184327861

Agency Toll Free Telephone Number* 8009938982

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Agency E-Mail Address* mail@drny.org

Agency Web Address* www.drny.org

Executive Director

Executive Director Name* Timothy A. Clune

Executive Director Email*

Staff Preparing Report

Staff Preparing Report Name* Christina Asbee

Staff Preparing Report Email*

Staff Preparing Report Office Location* Albany, NY

Non-Case Services

Information and Referral Services (I&R)

* - Required field

Information and Referral Services (I&R)

I&R	Total Number
Total Number of Individuals Receiving (I&R) Services during the Fiscal Year*	10
Total Number of Requests for (I&R) Services during the Fiscal Year*	10

Training Activities

* - Required field

Number of Training Sessions Presented by Staff* 7

Number of Individuals Who Attended These Training Sessions* 186

Describe the agency's outreach efforts to previously unserved or underserved individuals including minority communities *

DRNY provides targeted information in outreach events to specific populations regarding the activities of the P&A. DRNY also collects and reviews data about the people served by DRNY and targets outreach efforts towards those communities that are underserved by DRNY.

As part of the 2016-2017 data-driven strategic planning process, DRNY solicited input on the PAAT Program's Statement of Goals and Priorities by connecting with stakeholders and organizations across New York State. DRNY solicited comment from individuals, advocates and service providers including the Independent Living Centers, local and state chapters of the Learning Disabilities Association, Cerebral Palsy Association, the Commission for the Blind, Down Syndrome AIM High, NYSARC and Autism Society. DRNY also worked with colleges and universities, veterans groups, and parent advocacy organizations throughout the year to educate and inform of an individual's rights to AT.

Describe two training events presented by PAAT staff

Training Event #1

Topics Covered*

Assistive Technology for Veterans DRNY, in collaboration with the NY State Defenders Association and the NY State Division of Veteran's Affairs, trained defense attorneys and veteran advocates. DRNY educated attendees on how Veteran's Courts, NYS social programs, and Assistive Technology can help veterans live independently, get an education, and find and maintain employment.

The Purpose of the Training*

This fiscal year, New York implemented a number of programs and laws geared toward serving its unique and diverse veterans. The training provided veterans advocates with tools and information to better assist veterans with disabilities seeking supports and opportunities.

A Description of the Attendees*

Attorneys and non-attorney advocates from across NYS joined this training.

Training Event #2

Topics Covered*

Reasonable Accommodations and Modifications in Special Education. School districts are required to provide students with disabilities special education services and accommodations under Section 504 of the Rehabilitation Act. Attendees learned about laws and regulations designed to protect and accommodate students with disabilities, strategies to obtain approval and funding for AT, and best practices to ensure continued access to AT in the school setting and the community.

The Purpose of the Training*

Many children would benefit from AT in school but do not receive this technology because parents and educators are unaware of the benefits of AT. This training targeting these parents, educators and advocates. Participants were given a greater understanding of the laws and regulations that protect students with disabilities, and how to use those laws to obtain necessary AT supports and services.

A Description of the Attendees*

Parents of students with disabilities, child advocates, educators, and providers from the NYS Capital region attended this training.

Information Disseminated to the Public By Your Agency

* - Required field

Information Disseminated to the Public by Your Agency

Method of Dissemination	Total number of each method used by your agency during the reporting period to distribute information to the public
Radio and TV Appearances by Agency staff*	4
Newspaper/Magazine/Journal articles Prepared by Agency Staff*	0
PSAs/videos Aired by the Agency*	6
Website Hits*	183394
Publications/Booklets/Brochures Disseminated by the Agency*	3500
Other*	0

Information Disseminated about Your Agency by External Media Coverage

* - Required field

Radio/TV coverage

DRNY receives radio and television coverage across the State of New York. This coverage allows DRNY to expand knowledge of the P&A system. In this fiscal year, DRNY received radio and television coverage about its public reports and litigation. DRNY's reports exposing abuse and neglect in nursing homes and schools were highlighted in news segments. DRNY staff were also interviewed about one of these public reports. DRNY drew attention to the lack of ADA Coordinators in municipalities across New York State. DRNY staff were also interviewed about its lawsuit challenging the lack of text to 911 service in New York City.

Newspapers/Magazines/Journals

DRNY receives media coverage from newspapers, magazines and journals. This fiscal year, DRNY was highlighted by several newspapers, including the New York Times. The New York Times reported on DRNY's litigation on behalf of people with mental illness suck in adult homes in New York City. Also, DRNY received coverage on public reports exposing abuse and neglect in nursing homes, schools, prisons, jails, and hospitals. DRNY's litigation on behalf of people with disabilities were reported in newspapers across New York State. Finally, newspaper articles were written about DRNY's efforts to remedy accessibility problems in our communities including with sidewalks and in public buildings.

PSAs/Videos

DRNY produces PSAs and videos to educate the public and policy makers about the importance of the work of the P&A System. This fiscal year, DRNY produced a video about the importance of voting. DRNY interviewed Congressman John Lewis. The video is located on DRNY's youtube channel at <https://www.youtube.com/watch?v=UrCeBBSxm3g>. DRNY also continued its series of PSAs on sidewalks. The video "Can't Get There From Here" exposes the barriers for people who use AT mobility devices in New York City. The video is also located on DRNY's youtube channel at <https://www.youtube.com/watch?v=MQhrbJDo46M>

Publications/Booklets/Brochures

DRNY produces yearly reports, newsletters, fact sheets and program brochures. These materials assist DRNY with expanding its outreach to the public. This fiscal year, DRNY published 48 new fact sheets which are available at DRNY.org. DRNY also published an annual report which was widely distributed. Finally, DRNY produced 6 public reports exposing abuse, neglect and rights violations of people with disabilities.

Case-Services

Individuals Served

* - Required field

Individuals Served

Individuals Served	Total Number
Individuals Served Receiving Advocacy at Start of Fiscal Year(carryover from prior)*	29
Additional Individuals Served During Fiscal Year(new for fiscal year)*	136
Total Number of Individuals Served During Fiscal Year	165
Total Number of Cases Closed During the Fiscal Year*	154
Total Number of Individuals with All Their Cases Closed During the Fiscal Year*	127
Total Individuals Still Being Served at the End of the Fiscal Year	38

Problem Areas/Complaints

* - Required field

Problem Areas/Complaints

Problem Areas/Complaints	Total Number
Architectural Accessibility*	43
Education*	14
Employment Discrimination*	8
SSI/SSDI Work Incentives*	0
Healthcare (total generated by the system from a-d below)	43
a. Medicaid*	28
b. Medicare*	3

Problem Areas/Complaints	Total Number
c. Private Medical Insurance*	5
d.Other* Specify Healthcare in detention, jail, or prison facility	7
Housing *	25
Post-Secondary Education*	0
Rehabilitation Services *	33
Transportation*	17
Voting	0
a. Accessible Polling Place/ Equipment*	0
b.Registration*	0
c. Other*	0
Other*	7
Total	190

Assistive Technology Devices/Services

* - Required field

1. Number of individuals that received one or more AT devices or services as a result of casework(unduplicated count)*

165

2. Type of AT device or AT service received as a result of casework

Device	Total Number
a. Devices for communication*	15
b. Devices for mobility*	71
c. Devices for hearing or seeing*	30
d.Devices for reading or writing*	17
e. Devices to assist with household activities*	42
f. Devices to assist with participation in play or recreation	14
g. Devices to assist with personal care*	30
h. Devices to aid in therapy or medical treatment*	34
i. Devices to assist with the use of public / private transportation*	24
j. Devices to assist with employment*	11
k. Devices to aid with school/learning*	18
l. AT services*	7
m. Other*	1
Explain Device in prison	
n. Total number of devices and services received as a result of casework	314

Primary Reason for Closing a Case File

* - Required field

Primary Reason for Closing a Case File

Primary Reason for Closing a Case File	Total Number
All Issues Resolved in Client's Favor*	61
Some Issues Resolved in Client's Favor*	25
Other Representation Obtained*	2
Individual Withdrew Complaint*	5
Services Not Needed Due to Death, Relocation, etc.*	5
Individual Not Responsive to Agency*	21
Case Lacked Legal Merit*	13
Conflict of Interest*	0
Lack of Resources*	0
Not Within Priorities*	18
Issue Not Resolved in Client's Favor*	1
Other*	3
Total	154

Intervention Strategies for Closed Cases

* - Required field

Intervention Strategies for Closed Cases

Intervention Strategies	Total Number
Short Term Assistance*	95
Systemic/Policy Activities*	0
Investigation/Monitoring*	11

Intervention Strategies	Total Number
Negotiation*	18
Mediation/Alternative Dispute Resolution*	22
Administrative Hearing*	7
Legal Remedy/Litigation*	1
Class Action Suits*	0
Total	154

Statistical Information on Individuals Served

Age of Individuals Served: (as of October 1)

* - Required field

Age of Individuals Served: (as of October 1)

Age Range	Age of Individuals Served
0 to 4*	2
5 to 13*	14
14 to 18*	7
19 to 21*	6
22 to 40*	40
41 to 64*	67
65 and over*	29
Age unknown*	0
Total	165

Gender of Individuals Served

* - Required field

Gender of Individuals Served

Gender	Number Served
Male*	70
Female*	95
Total	165

Race/Ethnicity of Individuals Served

* - Required field

For individuals who are Hispanic / Latino

Race/Ethnicity	Number Served
Hispanic /Latino of any race*	18

For individuals who are non - Hispanic / Latino only

Race/Ethnicity	Number Served
American Indian or Alaska Native*	0
Asian*	5
Black or African American*	25
Native Hawaiian or other Pacific Islander*	0
White*	100
Two or more races *	9
Race/ethnicity unknown*	8
Total	165

Living Arrangements of Individuals Served

* - Required field

Living Arrangements of Individuals Served

Living Arrangements	Number Served
Community Residential Home*	5
Foster Care*	0
Homeless/Shelter*	3
Legal Detention/Jail/Prison*	12
Nursing Facility *	5
Parental/Guardian or Other Family Home*	40
Independent*	98
Private Institutional Setting*	0
Public (State Operated) Institutional Setting*	0
Public Housing*	0
VA Hospital*	0
Other*	0
Other*	0
Unknown/Not Provided*	2
Total	165

Primary Disability of Individuals Served

* - Required field

Primary Disability of Individuals Served

Primary Disability	Number Served
1. ADD/ADHD*	0
2. AIDS/HIV Positive*	0
3. Absence of Extremities*	2
4. Auto-immune (non-AIDS/HIV)*	0
5. Autism*	8
6. Blindness (Both Eyes)*	6
7. Other Visual Impairments (Not Blind)*	4
8. Cancer*	0
9. Cerebral Palsy*	16
10. Deafness*	7
11. Hard of Hearing/ Hearing Impaired (Not Deaf)*	6
12. Deaf-Blind*	0
13. Diabetes*	1
14. Digestive Disorders*	0
15. Epilepsy*	2
16. Genitourinary Conditions*	0
17. Heart & Other Circulatory Conditions*	4
18. Mental Illness*	11
19. Mental Retardation*	6
20. Multiple Sclerosis*	4
21. Muscular Dystrophy*	2
22. Muscular/Skeletal Impairment*	28
23. Orthopedic Impairments*	35
24. Neurological Disorders / Impairment*	5

Primary Disability	Number Served
25. Respiratory Disorders/Impairment*	1
26. Skin Conditions*	0
27. Specific Learning Disabilities(SLD)*	6
28. Speech Impairments*	2
29. Spina bifida*	3
30. Substance Abuse (Alcohol or Drugs)*	0
31. Tourette Syndrome*	0
32. Traumatic Brain Injury (TBI)*	6
33. Other Disability*	0
34. Total	165

Geographic Locations of Individuals Served

* - Required field

Geographic Locations of Individuals Served

Geographical Locations	Number Served
Urban/Suburban (50K population)*	142
Rural (less than 50K population)*	19
Other*	2
Specify Out of NYS - 1 Not Selected - 1	
Unknown*	2
Total	165

Systemic Activities and Litigation

Non-Litigation Systemic Activities

* - Required field

1. Number of Policies/Practices Changed as a Result of Non - Litigation Systemic Activities*

2

2. Include information about (a) the policy or practice that was changed, as a result of your agency' s non - litigation systemic activity, along with a description of the negative impact upon individuals with disabilities, and (b) the manner in which this change benefited individuals with disabilities. If possible, (c) estimate the number of individuals potentially affected by the policy / practice change and (d) the method used to determine this estimate. [If you cannot provide an estimate, enter' N / A'.] Include (e) one case example of the agency' s systemic activity related to this policy / practice change.

Policy/Practice Changed 1 *

DRNY Advocates for Quicker Approval for AT For People Stuck in Nursing Homes

a. Medicaid enrollees in New York City experience unreasonable delays accessing Durable Medicaid Equipment (DME) from Medicaid-approved vendors. For those living in nursing homes or skilled care facilities, this DME is a necessary to return to the community. These delays result in people remaining in nursing homes or skilled care facilities even if they don't require skilled nursing. The vendor's schedule and not the needs of the person dictated the timeline for discharge from these facilities.

b. DRNY's advocacy assisted those that experienced long delays waiting for DME in New York City. DRNY worked with clinicians to develop comprehensive evaluations which demonstrate an immediate medical need for the DME. These evaluations prompted vendors to quickly process the request for the DME. DRNY also trained clinicians on how to best followup with vendors to dispense AT promptly. With this comprehensive effort, the DRNY saw faster turnaround times in vendors processing prior approval request and AT delivery.

Those people with disabilities waiting in nursing homes or skilled nursing facilities are no longer waiting in these facilities for DME. Instead, they have returned to their communities with the DME they needed to live independent lives.

c. During this fiscal year, DRNY worked with Independent Living Centers (ILCs) in the NYC area and other advocacy organizations to explore the number of people impacted by this problem. At this time, the estimate number of individuals potentially affected by this effort is unknown.

d. N/A

Policy/Practice Changed 2 *

DRNY Advocates for Accessible Buses

a. Yankee Trails, a regional bus company in the Capital District, failed to provide reasonable accommodations to its passengers with disabilities. The bus service was inaccessible to people who use wheelchairs and employees were unaware of their responsibilities to accommodate people with disabilities. The company has accessible buses but did not have a process for people to request accommodations until they were ready to get on the bus.

Yankee Trails agreed to train staff on issues of accessibility and discrimination based on disability. The bus company also added a question to their ticketing process that provides

an opportunity for the purchaser to request an accommodation, and agreed to train ticketing agents on this new process.

b. DRNY's advocacy resulted in Yankee Trails changing their ticketing system. People with disabilities needing accommodations can now request accommodations when they purchase the ticket. Yankee Trails also trained staff on how to effectively accommodate people with disabilities when on the bus trips.

c. This policy could affect up to 20,000 individuals.

d. The NYS Capital District has a population of roughly 1.1 million people. About 1 in 5 people report having a disability, on average in the United States.

e. DRNY negotiated on behalf of a client who used a wheelchair and who was injured while traveling on a Yankee Trails' bus. The company issued a written apology to client, refunded the cost of the ticket, and provided credit for future travel on the bus trips.

3. Number of On-going Non-Litigation Systemic Activities*

2

4. Describe the agency's on-going systemic activities. Include information about (a) how these activities may benefit individuals with disabilities. If possible, (b) estimate the number of individuals potentially affected by such activities and (c) the method used to determine this estimate. (d) Describe the potential policy / practice change that may result from this activity.

On-going Systemic activity 1 *

DRNY Spearheads a Statewide and Regional Special Education Task Force

a. Assistive Technology in schools is a vital component to special education services. DRNY spearheads the management and development of the New York State Special Education Task Force. The Task Force works to reduce special education conflicts and improve the educational outcomes and opportunities for students with disabilities. The Task Force is dedicated to (1) improving communication between diverse stakeholders; (2) educating stakeholders on critical issues impacting students with disabilities; and (3) reducing conflict between parents of students with disabilities and schools. The Task Force functions at both a statewide and regional level. Regional affiliates of the State Task Force provide multiple training and discussion forums each year.

Students need access to not only AT devices, but related services, updated evaluations, and consistent use of devices. Through the Task Force, DRNY promoted knowledge of the value of AT and effective communication strategies, thereby reducing the occurrence of special education conflicts requiring legal representation.

This fiscal year DRNY assisted with planning meetings with regional affiliate Task Forces and provided training on AT at Task Force events.

b. The estimate number of individuals potentially affected by this effort is 960 per year.

c. The method used to determine this estimate is based on calculating the number of participants attending each training in the eight regional Task Forces. On average, each regional Task Force offers four annual training with 30 attendees.

d. The Task Force improves understanding of a student's right to AT for students, parents, advocates and schools. This collaborative training model improves access to appropriate special education services with less dependence on resolution through litigation.

On-going Systemic activity 2 *

DRNY Combats Medicaid Denials of Motorized Wheelchairs with Toolkit

a. NYS Medicaid recipients are being denied funding for motorized wheelchairs and the components for these wheelchairs. Important components, such as the tilt in space and standing features, are being systematically denied as not medically necessary. For children, this is particularly problematic when a child outgrows a device or requires additional features in order to continue to progress.

This fiscal year DRNY developed a toolkit to help Medicaid enrollees more successfully submit for prior approval for a motorized wheelchair with complex components. This toolkit helps not only enrollees, but practitioners and vendors, to better understand the proof needed to obtain approval. As Medicaid requirements change, and as the technology develops, advocates and practitioners must stay up-to-date while explaining why the upgraded technology is necessary for an enrollee.

b. The estimate number of individuals potentially affected by this effort is 960 per year.

c. The method used to determine this estimate is based on calculating the average number of enrollees who reported denials of prior approval for motorized wheelchairs with

component features in various counties across NYS. Two individuals per county per year, on average, report denials of prior approvals for a motorized wheelchair or request additional information about the prior approval process.

d. A well packet which fully documents the need for the DME substantially increases the likelihood of Medicaid approval. DRNY's toolkit will help enrollees to submit a comprehensive packet and help avoid unnecessary legal intervention.

Litigation/Class Actions

* - Required field

1. Total Number of Non - Class Action Lawsuits, resulting in, or with the potential for, systemic change, pending during the fiscal year*

3

a. Number of Non - Class Action Lawsuits Newly Filed During Fiscal Year*2

b. Number of Non - Class Action Lawsuits That were Pending at Start of Fiscal Year*1

c. Number of Non - Class Action Lawsuits Closed During Fiscal Year*1

2. Describe the agency's on-going systemic non-class action litigation activities.

a*Paul Porter v. HOWARD A. ZUCKER, as Commissioner of the New York State Department of Health NYS. Paul Porter is an individual with multiple disabilities who uses a wheelchair. He needed a backup lightweight manual wheelchair and submitted a request for prior approval to Medicaid. The lightweight wheelchair is the only manual wheelchair he could independently maneuver. The NYS Department of Health denied him the wheelchair on the sole basis that he could rely on his parents and caregivers to push him in another manual wheelchair. DRNY appealed this administrative decision. M.C., et al. v. Nikifor, et al. - SDNY Index No: 7:17-cv-3596 (CS). DRNY filed a lawsuit against a landlord when the landlord denied our clients' access to their service animal in the rented apartment. The Fair Housing Act prohibits discrimination in the sale or rental of housing based on an individual's disability and requires a landlord to make "reasonable accommodations" that are necessary for a person to fully use and enjoy the housing. This includes allowing the person to have a service animal live with them, regardless of a "no pets" policy or a policy that requires those with pets to pay a fee. The equipment, such as the harness and leash, relied upon by a person with a disability who has a service animal is AT. Here, the landlord required our clients to pay a pet deposit as a condition to having a service animal. The landlords also threatened to evict our clients. DRNY attempted to educate the landlords about their responsibilities but ultimately was forced to file a lawsuit to protect our clients' rights.

b*Paul Porter v. HOWARD A. ZUCKER, as Commissioner of the New York State Department of Health NYS. This decision, if it stands, would allow the NYS Department of Health to deny others devices if it decides that a client should rely on the informal supports of family members. The hearing officer failed to take into consideration the client's right to independence. An appeal was important to avoid similar justifications for denying Medicaid enrollees medically-necessary devices. M.C., et al. v. Nikifor, et al. - SDNY Index No: 7:17-cv-3596 (CS). Landlords misunderstand the laws and regulations that protect individuals with disabilities and often establish and maintain discriminatory policies and lease agreements. DRNY filed this lawsuit when education and

negotiation efforts with the landlord failed. This lawsuit was filed to highlight a tenant's right to a service animal in all housing regulated by the FHA.

c*Paul Porter v. HOWARD A. ZUCKER, as Commissioner of the New York State Department of Health NYS. A successful appeal will reverse the NYS Department of Health adverse administrative determination and will remove the unfavorable administrative decision from the DOH decisions archive publically available online. The court can order that the Department of Health issue prior approval for the prescribed wheelchair. M.C., et al. v. Nikifor, et al. - SDNY Index No: 7:17-cv-3596 (CS). The case filings are public records. When DRNY or other agencies represent clients facing eviction or housing discrimination because a tenant has a service animal, this case is representative of a tenant's right to his or her service animal. A landlord who is presented with a potential federal lawsuit in NYS may recognize a tenant's right to a service animal before the issues becomes a lawsuit.

d*Paul Porter v. HOWARD A. ZUCKER, as Commissioner of the New York State Department of Health NYS. Up to 1.2 million people could be affected by reversing this public administrative decision. M.C., et al. v. Nikifor, et al. - SDNY Index No: 7:17-cv-3596 (CS). DRNY is unable to estimate the number of people impacted by this litigation because there is no data collected on the number of people who use emotional support or service animals. However, in NYC alone over 1200 people have applied for a service animal license.

e*Paul Porter v. HOWARD A. ZUCKER, as Commissioner of the New York State Department of Health NYS. e. 6.4 million people are enrolled in the NYS Medicaid program. About twenty percent of enrollees have disabilities. Each person with a disability requesting a device to manage their disability could be affected by this policy. M.C., et al. v. Nikifor, et al. - SDNY Index No: 7:17-cv-3596 (CS). N/A

3. Describe the agency's completed systemic non-class action litigation activities.

a*Child with Disability, et al, v. Sachem Central School Dist., et al (EDNY 15-cv 2903). For nearly five years, Sachem Central School District refused a student's access to his service dog while at school. DRNY sued the school district for discrimination under Title II of the ADA and Section 504 of the Rehabilitation Act. The Department of Justice also filed a Statement of Interest in support of our client's right to a service animal in school. This case was highlighted in an amicus brief to the Supreme Court on October 31, 2016. This fiscal year, DRNY was able to successfully settle the litigation. The student is now in school with his service dog.

b*School districts violate the ADA and Section 504 of the Rehabilitation Act when they denied our client's access to school with his service animal. Through this case, DRNY demonstrated that children in schools are entitled to use AT to handle or benefit from a service animal.

c*This litigation reinforces the responsibility that school districts have towards students who want access to a service animal at school. Since the case resolved, DRNY has more effectively educated school districts in NYS that the special education regulations do not supersede their responsibilities under the ADA to accommodate students with disabilities.

d*The estimated number of children impacted by this litigation is 728 children.

e*NYS operates 728 school districts. DRNY estimates that one child per school district in NYS may use a service animal to help manage a disability.

4. Total Number of Class Action Lawsuits Filed and / or Pending(during fiscal year)*0

a. Number of Class Action Lawsuits Newly Filed During Fiscal Year*0

b. Number of Class Action Lawsuits Pending at Start of Fiscal Year*0

c. Number of Class Action Lawsuits Closed During Fiscal Year.*0

5. Describe the agency's on-going systemic class action litigation activities.

a*

b*

c*

d*

e*

6. Describe the agency's completed systemic class action activities.

a*

b*

c*

d*

e*

Litigation-Related Monitoring

* - Required field

Did the agency conduct any litigation - related monitoring under the PAAT program during the fiscal year?*

No

Priorities

Program Priorities

* - Required field

1. Represent individuals to obtain durable medical AT to maximize independent living prioritize AT routinely denied without individual consideration or due to a lack of prior approval for an item.

Describe the Priority

Represent individuals to obtain durable medical AT to maximize independent living prioritize AT routinely denied without individual consideration or due to a lack of prior approval for an item.

Describe the Need, Issue, or Barrier Addressed

Many individuals with disabilities rely on assistive technology to remain in integrated community settings and may face difficulty navigating available health insurance systems to obtain funding for prescribed devices. Medicaid is one of the largest funding sources for expensive Durable Medical Equipment (DME) and individuals with disabilities are frequently denied prior-approval for devices that can and should be approved. When denied prior approval for a DME, legal representation against the Department of Health (DOH) or managed care organization is often necessary to prevail in an appeal. Medicaid managed care coverage is expanding across New York State, resulting in managed care organizations applying policies that are inconsistent with Medicaid coverage criteria for assistive technology. These policies are more restrictive than permissible under state and federal regulations. Individuals receiving managed care coverage may not be aware that they are entitled to the same services that are available under the Medicaid fee-for-service program and may not be aware of the appeal process for adverse determinations. DRNY assisted individuals by: a. Educating individuals with disabilities receiving Medicaid and on managed care plans of how to most effectively obtain Assistive Technology (AT). b. Representing individuals with disabilities in court litigation appealing decisions from the Department of Health (DOH) and Medicaid Fair Hearings or to address systemic problems requiring a plenary action. c. Representing individuals with disabilities who are Medicaid recipients through negotiations with the DOH and managed care organizations and at administrative fair hearings when the Medicaid Agency denies prior approval for an item of durable medical equipment.

Indicate the Outcome of the priority

Met

Total Number of Cases Handled Related to the Priority

83

2. Advocate for individuals with disabilities to have access to AT necessary to maintain or obtain competitive employment.

Describe the Priority

Advocate for individuals with disabilities to have access to AT necessary to maintain or obtain competitive employment.

Describe the Need, Issue, or Barrier Addressed

Employment for individuals with disabilities is essential to achieve independence and meet lifetime goals and milestones. Many adults with disabilities are either unemployed or underemployed, despite their ability, desire, and dedication to participate in the workforce. The inability to access AT in the work place is a contributing factor to unemployment or underemployment. Disability Rights New York assisted these individuals by: 1. Advocating for individuals with disabilities to obtain assistive technology to access or maintain competitive employment. 2. Advocating for individuals in segregated employment settings to have access to assistive technology to obtain or maintain competitive employment.

Indicate the Outcome of the priority

Met

Total Number of Cases Handled Related to the Priority

29

3. Advocate for individuals with disabilities to receive AT while in school or while transitioning from school to ensure independent living, post-secondary schooling or competitive employment.

Describe the Priority

Advocate for individuals with disabilities to receive AT while in school or while transitioning from school to ensure independent living, post-secondary schooling or competitive employment.

Describe the Need, Issue, or Barrier Addressed

Access to assistive technology in education is often vital for individuals with disabilities to reach full developmental potential, meet transitional milestones, and gain independence. The number of assistive technology tools has drastically increased in recent years. Schools are challenged with staying current on available AT devices and services. Student-focused advocacy and collaboration are key components to ensuring those eligible for assistive technology are afforded access to relevant devices to improve their likelihood of graduating high school, securing employment, and living independently. Disability Rights New York addressed these barriers by: 1. Advocating for students with disabilities to have access to assistive technology in school. 2. Ensuring that for school-age students assistive technology is considered as a component of a post-secondary transition plan. 3. Educating individuals with disabilities, families, and school personnel about the use of assistive technology to improve access to school and post-secondary learning or employment and the process to obtaining AT in schools and through transition.

Indicate the Outcome of the priority

Met

Total Number of Cases Handled Related to the Priority

52

4. Conduct outreach and provide education and technical assistance to ensure that individuals with disabilities, families, advocacy groups, providers and policy makers, including underserved communities, throughout New York State know about DRNY, the P&A system, the PAAT program, and the rights of individuals with disabilities to access AT.

Describe the Priority

Conduct outreach and provide education and technical assistance to ensure that individuals with disabilities, families, advocacy groups, providers and policy makers, including underserved communities, throughout New York State know about DRNY, the P&A system, the PAAT program, and the rights of individuals with disabilities to access AT.

Describe the Need, Issue, or Barrier Addressed

By its very nature, assistive technology is evolving and coverage requirements often lag behind. A uniform understanding of coverage requirements and how requirements can adapt to cover advancements in AT is vital when accessing devices through insurance, employers, school districts, and other funding sources. Stakeholders, such as individuals with disabilities, funding agencies, vendors, and providers benefit from understanding coverage criteria. Without this uniform understanding individuals with disabilities will face challenges when requesting devices or considering the benefits of assistive technology. Disability Rights New York addressed this barrier by: 1. Educating through formalized trainings of clients, consumer groups, and providers on the Medicaid Prior Approval process, consumer empowerment, and other AT funding issues. 2. Provide technical assistance to equipment vendors on various legal issues affecting individuals with disabilities.

Indicate the Outcome of the priority

Met

Total Number of Cases Handled Related to the Priority

70

Priorities for the Current Fiscal Year

* - Required field

Priorities for the Current Fiscal Year

Fiscal Year Priority #1

Describe the Priority*

Represent individuals with disabilities to obtain durable medical Assistive Technology (AT) to maximize independent living with priority given to equipment routinely denied without individual consideration or due to a lack of prior approval for an item.

Describe the Need, Issue, or Barrier to be Addressed

Many individuals with disabilities rely on assistive technology to remain in integrated community settings and may face difficulty navigating available health insurance systems to obtain funding for prescribed devices. Medicaid is one of the largest funding sources for expensive Durable Medical Equipment (DME) and individuals with disabilities are frequently denied prior-approval for devices that can and should be approved. When denied prior approval for a DME, legal representation against the Department of Health (DOH) or managed care organization is often necessary to prevail in an appeal. Medicaid managed care coverage is expanding across New York State, resulting in managed care organizations applying policies that are inconsistent with Medicaid coverage criteria for assistive technology. These policies are more restrictive than permissible under state and federal regulations. Individuals receiving managed care coverage may not be aware that they are entitled to the same services that are available under the Medicaid fee-for-service program and may not be aware of the appeal process for adverse determinations. Disability Rights New York assists individuals by: a. Educating individuals with disabilities receiving Medicaid and on managed care plans of how to most effectively obtain Assistive Technology (AT). b. Representing individuals with disabilities in court litigation appealing decisions from the Department of Health (DOH) and Medicaid Fair Hearings or to address systemic problems requiring a plenary action. c. Representing individuals with disabilities who are Medicaid recipients through negotiations with the DOH and managed care organizations and at administrative fair hearings when the Medicaid Agency denies prior approval for an item of durable medical equipment.

Fiscal Year Priority #2

Describe the Priority*

Advocate for individuals with disabilities to have access to AT necessary to maintain or obtain competitive employment.

Describe the Need, Issue, or Barrier to be Addressed

Employment for individuals with disabilities is essential to achieve independence and meet lifetime goals and milestones. Many adults with disabilities are either unemployed or underemployed, despite their ability, desire, and dedication to participate in the workforce. The inability to access assistive technology in the work place is a contributing factor to unemployment or underemployment. Disability Rights New York assists these individuals by: 1. Advocating for individuals with disabilities to obtain assistive technology to access or maintain competitive employment. 2. Advocating for individuals in segregated employment settings to have access to assistive technology to obtain or maintain competitive employment.

Fiscal Year Priority #3

Describe the Priority*

Advocate for individuals with disabilities to receive AT while in school or while transitioning from school to ensure independent living, post-secondary schooling or competitive employment.

Describe the Need, Issue, or Barrier to be Addressed

Access to assistive technology in education is often vital for individuals with disabilities to reach full developmental potential, meet transitional milestones, and gain independence. The number of assistive technology tools has drastically increased in recent years. Schools are challenged with staying current on available AT devices and services. Student-focused advocacy and collaboration are key components to ensuring those eligible for assistive technology are afforded access to relevant devices to improve their likelihood of graduating high school, securing employment, and living independently. Disability Rights New York addresses these barriers by: 1. Advocating for students with disabilities to have access to assistive technology in school. 2. Ensuring that for school-age students' assistive technology is considered as a component of a post-secondary transition plan. 3. Educating individuals with

disabilities, families, and school personnel about the use of assistive technology to improve access to school and post-secondary learning or employment and the process to obtaining AT in schools and through transition.

Fiscal Year Priority #4

Describe the Priority*

Conduct outreach and provide education and technical assistance to ensure that individuals with disabilities, families, advocacy groups, providers and policy makers, including underserved communities, throughout New York State know about DRNY, the P&A system, the PAAT program, and the rights of individuals with disabilities to access AT.

Describe the Need, Issue, or Barrier to be Addressed

By its very nature, assistive technology is evolving and coverage requirements often lag behind. A uniform understanding of coverage requirements and how requirements can adapt to cover advancements in AT is vital when accessing devices through insurance, employers, school districts, and other funding sources. Stakeholders, such as individuals with disabilities, funding agencies, vendors, and providers benefit from understanding coverage criteria. Without this uniform understanding individuals with disabilities will face challenges when requesting devices or considering the benefits of assistive technology. Disability Rights New York addresses this barrier by: 1. Educating through formalized trainings of clients, consumer groups, and providers on the Medicaid Prior Approval process, consumer empowerment, and other AT funding issues. 2. Provide technical assistance to equipment vendors on various legal issues affecting individuals with disabilities.

Agency Accomplishments

* - Required field

Describe the most significant accomplishments of the agency during the fiscal year.*

DRNY prevailed in an appeal against NYS Department of Health.

DRNY filed an appeal after the NYS Department of Health (DOH) improperly denied a 13 year-old child prior approval for a motorized wheelchair with tilt and elevation components, Bluetooth, and swing-away hardware components. The DOH determined that the chair was not medically necessary. DRNY appealed the decision at a fair hearing and created a packet of support from practitioners and school staff demonstrating the child's need for the wheelchair. The ALJ reversed the DOH's denial, and ordered that the DOH approve the prescribed wheelchair and all component features. The favorable decision can be found online and used to help future children and adults in need of a sophisticated motorized wheelchair system. Decision found here: http://otda.ny.gov/fair%20hearing%20images/2016-12/Redacted_7391719M.pdf.

Child with Disability, et al, v. Sachem Central School Dist., et al (EDNY 15-cv 2903)

For nearly five years, Sachem Central School District refused a student's access to his service dog while at school. Represented by DRNY, Child's parents sued the school district for discrimination under Title II of the ADA and Section 504 of the Rehabilitation Act after fully exhausting all available administrative remedies. The case ended through settlement, and the student is now in school with his service dog. The Department of Justice filed a Statement of Interest in support of the Child's right to a service animal in school. DRNY highlighted this case in the National Disability Rights Network's amicus brief supporting the petitioner in Fry v. Napoleon Community School District, a Sixth Circuit case heard by the U.S. Supreme Court on October 31, 2016.

This litigation reinforces the responsibility that school districts have towards students who want access to a service animal at school. Since the case resolved, DRNY has more effectively educated school districts in NYS that the special education regulations do not supersede their responsibilities under the ADA to accommodate students with disabilities. As stated above, a service animal is permitted in schools and public programs pursuant to the ADA and Section 504. As important, the equipment, such as the harness and leash, relied upon by a person with a disability who has a service animal is AT. Through these cases, DRNY reinforces that service animal cases are AT cases when a client relies on AT to handle or benefit from a service animal.

DRNY settled a case before the NYS Division of Human Rights involving discrimination against a person with a disability denied access to her service animal.

DRNY assumed representation after a client, diagnosed with PTSD for childhood trauma, anxiety, and depression, filed a complaint with the NYS Division of Human Rights (DHR). The

client received therapy services in Painted Post, NY. After receiving a service animal as treatment for her PTSD and anxiety, client's therapist denied her access to treatment with her service animal and fired the client as patient.

One day prior to the hearing, DRNY and opposing counsel reached a favorable settlement agreement to resolve the DHR case. Client received all that she requested, including a letter of apology, the therapist to take online training and pass a test covering the ADA, the counseling office to put up a "Service Animals Welcome" sign in the office entrance, and damages paid to client.

Agency Administration

Agency Funding

* - Required field

Agency Funding

PAAT funding sources	Amount Received
Federal P&A (AT Act funds):*	322174
Program income*	0
Other*	0
Other*	0
Other*	0
Total*	322174

Description of PAAT Program Staff

* - Required field

Provide a brief description of the agency's staffing plan for carrying out PAAT activities.

For the Fiscal Year 2017, DRNY staffed two attorneys and one advocate. The program director oversaw the management and direction of the PAAT program. The PAAT program director implements the direction of the program by strategically overseeing and directing cases and projects. To carry out project and case management, the staff attorney and advocate provides direct representation, project management, and support on PAAT cases and projects.

PAAT Staff

For the Fiscal Year 2017, DRNY staffed the PAAT program with two attorneys and one advocate. One attorney managed the PAAT program with 0.6 FTE and another staff attorney accounts for 1 FTE PAAT attorney. The advocate operated with 0.5 FTE.

Report on the number of persons and the number of full time equivalent (FTE) staff performing PAAT activities. As applicable, include (a) staff supported in full or in part by PAAT grant funds during the current reporting year, (b) subcontractor staff supported by PAAT funds and (c) P&A management staff to the extent that their duties included oversight of the PAAT program (and salaries were paid out of PAAT funds). Do not include P&A staff who did not work on PAAT cases during the fiscal year. Report actual, not budgeted, FTE totals.

PAAT Staff

Type of Position	Number of Persons	Number of FTEs
Professional Full - time*	14	3.91
Professional Part - Time*	0	0
Administrative Full - time*	12	1.09
Administrative Part - time*	0	0
Totals	26	5

Consumer Involvement

* - Required field

Briefly describe any consumer-responsive activities not reported elsewhere in this report (e.g., PAAT Advisory Board, forums to obtain input into planning and priorities). If 'not applicable, 'enter' N / A.' *

<p>n/a</p>

Consumer Involvement in P&A Agency Staff and Board *

<p>n/a</p>

Consumer Involvement in P&A Agency Staff and Board

Type	Agency Staff	Agency Board
Person with a disability*	16	6
Family members of a person with a disability*	0	3
Total	16	9

Agency Administration

Grievances Filed

* - Required field

Number of PAAT grievances filed against the agency during the fiscal year*

2

Collaborative Efforts

* - Required field

1. Collaboration with Other P&A Programs and Activities

Briefly describe your work on AT issues funded by other P&A programs (do not include activities carried out with PAAT funds). *

DRNY used PAAT and PADD funding to litigate Child with Disability, et al, v. Sachem Central School Dist., et al (EDNY 15-cv 2903) (described above).

2. All Other Collaboration

Describe any coordination with programs that are not part of the agency (e.g.state Tech Act projects, state long - term care programs, etc.). *

DRNY collaborates with NYS TRAIID groups to access Assistive Technology for clients.

DRNY works on a regular basis to find clients AT through NYS's TRAIID network. In Fiscal Year 2017, DRNY routinely contacted TRAIID organizations across the state to obtain necessary AT devices and related services. Clients need devices more timely than requests for prior approval through Medicaid are process. For those clients, DRNY provided referrals and guidance to obtaining AT on loan through the TRAIID network while they wait to receive their device through Medicaid.

DRNY Collaborates with NYC Veterans Task Force.

DRNY participates in the NYC Veterans Task Force, a collaboration of pro bono and private bar law firms that serve the greater NYC veterans community. In Fiscal Year 2017, DRNY helped organize a TBI CLE program and joined regular meetings to discuss veteran-specific areas of advocacy.