



## Summer 2019 EJA Fellow:



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**Fellowship:** Atlanta Legal Aid Society

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### Entry 1: June 4, 2019

On May 20, 2019 I started working with Atlanta Legal Aid's (ALA) Disability Integration Project (DIP). This project is based off the United States Supreme Court's Olmstead Decision, which requires that states eliminate unnecessary segregation of individuals with disabilities and mandates that they receive treatment in the most integrated settings appropriate to their needs. Each of DIP's cases relates in some way to the Olmstead decision; most of the current cases are focused on Medicaid and Developmental Disabilities.

On my first day, I was asked to draft a Demand Letter. This required that I investigate case law regarding notice requirements for denial of Prior Authorizations to Medicaid recipients who applied for such services through their physicians. The DIP office has seen many cases where only the physician, if anyone, is notified of the denial of Prior Authorization. Although the physician has their own right under federal law to appeal the denial as a healthcare provider for Medicaid, the Medicaid recipient should also be notified of the denial.

Under 42 C.F.R. §431.220(a)(1), recipients of Medicaid have the right to appeal a denial of prior authorization and have an opportunity to be heard. The Supreme Court established that due process requires that the hearing is done in a meaningful time and in a meaningful matter in *Goldberg v. Kelly*, 397 U.S. 254 (1970). Accordingly, under § 431.206, DCH is required to provide notice to Medicaid recipients at the time of *any action* affecting their claim to ensure that they retain their right to assert an appeal regarding the denial of their Prior Authorization. Actions include suspending, terminating or reducing services in addition to any denial of applications for coverage. On the rare occasion that the clients are informed of a denial, it is through a delayed chain of correspondence by the doctor who has no legal obligation to transmit the information in a timely manner to the client, and, consequently, their time to assert an appeal is tolled. Given that an assertion of an appeal regarding a denial is contingent upon receiving notice that such a claim exists, and our clients are not afforded that notification, their constitutional due process rights are violated as a result of the inadequacy of the



Georgia Department of Community Health (DCH). What is especially unfathomable is that the DCH, who is supposed to be providing them with such notice, is the same department denying them of their ability to appeal.

I was not blind by any means to the glaring injustice in America before entering law school. In fact, it is what drove me to pursue a law degree despite spending most of my childhood and college experience believing I would enroll in a doctorate program in Psychology. In many of my experiences working with underprivileged individuals as a Psychology major, I came to recognize the circumstantial factors aggravating their psychological conditions. I went to law school so that I could enact change on a larger scale by working to mitigate these external factors (lofty dream, I know).

While I recognized failures in policy, I did not understand the extent to which extant policies are blatantly ignored at all levels of the government. I knew that “big-time” governmental actors, did not adhere to all federal policies/laws/regulations. But I was naive in thinking they were the only ones who could get away with it, or even wanted to. Starting my work here just two weeks ago, I did not think that all government actors strictly adhere to all federal and state procedures by any means, but I did think that they generally sought to properly enforce them. I was wrong. I am always shocked by my own ignorance, even when I strive so hard to be anything but complacent towards what is happening around me.

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## **Entry 2: July 1, 2019**

Since the last update, I had a huge family emergency that required I take a few days off a week to fly home for three weeks straight. ALAS was so wonderful throughout it all, sending me motivational emails and providing me with an abundance of understanding and sympathy.

Since my last post, I have had several eye-opening experiences. One of these experiences occurred when my supervising attorney needed to locate one of her clients. The client is 21 years old but functions at the level of a toddler. He moves from home to home due to his behavioral issues which are an issue when he is bored. Given that he is in a rundown home and has no programming or anyone taking ownership of him because he is not a minor, these behavioral issues happen a lot. Under GA law, the home must be approved to send an individual there. Walking into the home was seriously devastating. It was disgusting, and I have no idea how this home was approved as a host home, if it even was. It just goes to show how people with developmental disabilities and mental health issues can be lost in the system, and have no one fighting for them.

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## **Entry 3: July 15**

Since my last update, I have spent more time working on the case for the individual I spoke about in my last update. We have run into issues with him because a lack of documentation exists for his behavioral issues displayed at a young age. The issue is that his family abandoned him and those documents are nowhere to be



found. I understand the checks in place required by the government, but it really does raise issues in rare situations like this. It is really heartbreaking to see.

I am currently working on a family supports application for the client. This will allow him additional money which his attorneys and case managers can use to set up his services. The only issue is that he does not actually have a family, and money is meant to help him family secure these services. However, the state seems to think this will potentially be acceptable given his situation. Unfortunately, he really is his family. So, it could work.

We are also having trouble speaking to the client because his landlord is convinced that ALAS is working against the client. He is adamant that the client has no issues and “is really smart” and that he needs no help. While the client is able to understand things and orchestrate some situations for himself, he is by no means able to live on his own and without a day program. It is really hard to see these issues arise, but I am grateful I have the opportunity to help.

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#### **Entry 4: August 5, 2019**

Over the summer I have conducted a lot of legal research regarding school resource officers in public schools. Issues arise frequently with excessive force, but qualified immunity is often present in these cases. Circuits seem to approach qualified immunity slightly differently in terms of when it does not apply to an officer. I have conducted a lot of research on the Eleventh Circuit, which is the circuit ALAS would be in if they filed a federal claim.

There have been some major developments on the case we are considering, which I cannot disclose. However, the gist of the case is that an individual with known behavioral issues was tackled to the floor and handcuffed by three officers while walking down the hall for failing to follow directional instructions after an altercation between the student and teacher was diffused. In watching the video footage, there are clear issues with the approach.

This has been a very rewarding summer, and I am excited to stay a part of ALAS in the coming months through volunteering. I am very grateful to Equal Justice America for helping me fund my summer.