
**OFFICE OF GOVERNOR RONNIE MUSGROVE
INTEROFFICE MEMORANDUM**

TO: GOVERNOR
FROM: RILEY
BUTTROSS
SUBJECT: PUBLIC COMMENTS RECEIVED ON THE PROPOSED REDESIGNATION OF THE CAP GRANT
DATE 8/11/00
CC: BOYD
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MADER
SIMMONS
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In accordance with Section 112 of the Rehabilitation Act of 1973, as amended in 1998, we received public comments on this office's proposed redesignation of the CAP grant from Easter Seals Mississippi to the Mississippi Society for Disabilities. We held two public hearings on July 27 and August 2 and accepted written comments until August 7, 2000. This memo will summarize the comments received.

Comments Received in Support of the Redesignation

- Jack Virden, Chair of the State Independent Living Council (letter dated July 13): "Mr. Posey is dedicated, committed and passionate in the execution of his duties and responsibilities. I do not believe the change in 'name' of the sponsoring organization will have any effect in his performance level."
- Lisa Avra, Executive Director/CEO of Easter Seals Mississippi/Mississippi Society for Disabilities (letter dated June 26): "We feel that leaving the CAP grant with us will ensure continued services without interruption as well as convenience for the clients. Easter Seals Mississippi and CAP have enjoyed a healthy long-term relationship since 1981. It is our desire to maintain that relationship and continue serving Mississippians with disabilities with CAP advocacy services."
- Butch McMillan, Executive Director of the Department of Rehabilitation Services (letter dated June 27): "Easter Seals Mississippi staff have administered this program for many years and they have always been fair and objective in their dealings with both this agency and its clients. Given that the same organization, formerly known as Easter Seals Mississippi, is going to operate the new Mississippi Society for Disabilities, I would like to recommend that the grant be designated to the Mississippi Society for Disabilities."

- Mark Smith, Executive Director of the Coalition for Citizens with Disabilities (letter dated August 4): “In regards to the proposition of changing the organizational structure and placement of the CAP, our Coalition contends that maintaining that structure as closely to the current setup as possible is in the best interest of the individuals with disabilities who have used or will use its valuable assistance and support.”

The above individuals also spoke favorably of the proposed redesignation at the public hearings. We also received the following comments from others at the hearings:

- Mike Duke, Radio Reading Services of Mississippi and President of the Mississippi Council for the Blind (July 27 public hearing): Mississippi’s CAP is very effective in referring clients to the services they need. Keeping the grant where it is would ensure a good flow of information between clients and the staff.
- Shirley Tipton, Living Independently for Everyone (LIFE) (August 2 public hearing): LIFE supports the placement of the CAP grant with the Mississippi Society for Disabilities. LIFE has had a very productive relationship with the CAP and exceptional experiences in working with the CAP staff in mediating problems with clients.

Comments Received Against the Redesignation

As discussed in Riley’s July 24 memo to you, Becky Floyd, Executive Director of Mississippi Protection and Advocacy System, Inc., wrote you on July 12 concerning the proposed redesignation. She also sent a second letter on July 31. Her concerns are presented below with our comments. Ms. Floyd is an attorney. She is also blind.

Easter Seals Mississippi/Mississippi Society for Disabilities is not independent of an agency that provides treatment, services or rehabilitation to disabled persons under the Act. Title 34, Section 370.2 of the Code of Federal Regulations provides that the Governor designate an agency that is independent of any agency that provides treatment, services or rehabilitation to individuals under the Act. Ms. Floyd alleged that Easter Seals’ providing of aids and appliances to blind clients with funds from the Mississippi Department of Rehabilitation Services violated this provision. Rehabilitation Services Administration (RSA) personnel initially said that this was not a problem. However, they later informed this office on July 27 that this arrangement did violate federal regulations.

Easter Seals Mississippi/Mississippi Society for Disabilities took immediate action on July 27 to close the organization’s Low Vision Aids and Appliances program due to this conflict. Lisa Avra went on record at the July 27 public hearing as to her organization’s commitment to the CAP and to its ceasing of operations which may violate federal regulations. It must be pointed out that Becky Floyd must have been aware of this violation prior to this period, yet never raised the issue, which she might have if she were concerned about our losing federal funding. Also, there is some question as to whether or not the providing of implements, under the prior designation, was a violation.

The CAP under Easter Seals Mississippi does not have access to an attorney so as to be able to provide legal remedies for clients. Ms. Floyd contends that Easter Seals/Mississippi Society for Disabilities cannot comply with federal regulations because the organization does not have an attorney on staff to provide legal services. Section 112 (a) of the Rehabilitation Act of 1973, as amended in 1998, provides for CAPs to “to assist and advocate for such clients or applicants in their relationship with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or appropriate remedies to ensure the protection of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy.” This section requires the CAP to advocate for and assist clients in pursuing legal services. It does not require the CAP administrator to have legal staff.

Easter Seal’s Annual CAP Report for fiscal year 1998-1999 reflects a line item in its budget of \$1,790 in 1998-99 and \$1,800 in 1999-2000 for legal services. Further, Lisa Avra addressed this concern at the August 2 public hearing and stated that, should these funds not be sufficient, several attorneys in the area offer their services pro bono to clients of Easter Seals Mississippi/Mississippi Society for Disabilities. Mark Smith addressed this concern in his August 4 correspondence and stated, “It is my understanding that the CAP’s experience over the past decade has been that only a handful of cases ever came close to needing legal counsel. In all of those cases, such legal assistance was acquired by the CAP staff through various means and at no cost to the project or the individual with disabilities.” It is important to note that Mississippi Protection and Advocacy rarely, if ever, files lawsuits.

Mississippi Society for Disabilities, without benefit of National Easter Seal’s name and reputation, may not be a financially viable organization. Ms. Floyd contends that the Mississippi Society for Disabilities may lose potential private funding from contributors due to the organization’s disassociation with National Easter Seals. Liva Avra addressed this concern at the August 2 public hearing and stated that Easter Seals Mississippi was actually having to expend \$60,000/year to associate with the national organization. These funds will now be available for new programs or to expand existing programs. Ms Avra also invited any concerned parties to review the organization’s audited financial report on file with the Secretary of State’s Office. Ms. Floyd’s comment is speculative.

Staff Recommendation

It is our recommendation that you proceed with the redesignation of the CAP grant to the Mississippi Society for Disabilities. 4 of the 6 written comments received by this officer were in favor of the redesignation, with the remaining 2 written by Becky Floyd. All comments recorded into the record at the two public hearings were favorable except for those of Becky Floyd. All of Becky Floyd’s concerns have been corrected and/or explained. Easter Seals has successfully administered the grant since 1981, having complied with all annual reporting procedures to the RSA. Additionally, Ms. Floyd’s professional relationship with agencies and with other advocacy groups is, at best,

strained. Her organization overwhelmingly chooses to devote itself to education issues, not vocational issues.

Title 34, Section 370.1 of the Code of Federal Regulations, provides that CAPs:

- (a) Advise and inform clients and client applicants of all services and benefits available to them through programs authorized under the Rehabilitation Act of 1973 (Act), as amended;
- (b) Assist and advocate for clients and client applicants in their relationships with projects, programs, and community rehabilitation programs providing services under the Act; and
- (c) Inform individuals with disabilities in the State, especially individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs, of the services and benefits available to them under the Act and under title I of the Americans with Disabilities Act of 1990.

No one has provided documented or anecdotal evidence to show why the Mississippi Society for Disabilities cannot carry out these provisions.