

CommunicAbility



A QUARTERLY NEWSLETTER FOR THE DISABILITY COMMUNITY

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"No pessimist ever discovered the secret of the stars,
or sailed to an uncharted land, or opened a new
doorway for the human spirit."

~Helen Keller~

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New Horizons Un-Limited Inc. (NHU) is a non-profit organization based in Milwaukee with a mission to make information and life experiences accessible to people with life-long disabilities, their families and caregivers. To learn more about our mission and activities, please visit the New Horizons Un-Limited website at: www.new-horizons.org.

Legislative Happenings

National Council on Disability proposes ADA Restoration Act of 2004

When passed in 1990, the Americans with Disabilities Act (ADA) was intended "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." With its passage, Americans with disabilities would finally shed themselves of the barriers that had, for so many years, prevented access to full participation, inclusion, and equality of opportunity in their communities.

Like many good intentions however, it has fallen short. Over the last several years, the Supreme Court, with a number of rulings, has severely narrowed the scope of opportunities and protections as intended by those involved in the creation and passage of the ADA.

It is this action by the Supreme Court, the National Council on Disability contends, that has reduced the status of Americans with disabilities "to that of second-class citizens." A status that the ADA promised to remedy. In an effort to restore the ADA's original intentions, the NCD has proposed the ADA Restoration Act of 2004, which recommends Amendments to the ADA of 1990.

The proposed amendments follow:

Subsection (a) revises references in the ADA to discrimination "against an individual with a disability" to refer instead to discrimination "on the basis of disability." Thereby rejecting the notion of a rigidly restrictive protected class.

Subsection (b) revises certain congressional findings in the ADA:

- (1) The rough estimate of the number of people having actual disabilities, a figure that the Supreme Court has used as evidence that Congress intended the coverage of the ADA to be narrowly circumscribed.
- (2) The wording of the ADA finding regarding the history of purposeful unequal treatment suffered by people with certain types or categories of disabilities.

Subsection (c) revises some of the definitions used in the ADA. Specifically, it will amend the definition of the term "disability" to clarify that it shall not be construed narrowly and legalistically by drawing fine technical distinctions based on relative differences in degrees of impairment, but will instead focus on how the person is perceived and treated.

Subsection (d) clarifies that the ADA's "direct-threat" defense applies to customers, clients, passersby, and other people who may be put at risk by workplace activities, not to the worker with a disability.

ADA Restoration Act of 2004 (continued)

Subsection (e) restores the carefully crafted standard of undue hardship as the sole criterion for determining the reasonableness of an otherwise effective accommodation.

Subsection (f) clarifies that ADA employment rights of individuals with disabilities, including the opportunity to be reassigned to a vacant position as a reasonable accommodation, are not to take a backseat to rights of other employees under a seniority system or collective bargaining agreement.

Subsection (g) adds new subsections to the Remedies provision of Title II of the ADA, restoring the possibility of recovering punitive and non-punitive damages. Also under this subsection, refusal of accommodation under the ADA and the Rehabilitation Act constitutes engaging in unlawful intentional discrimination.

Subsection (h) provides that the provisions of the Act are to be liberally construed to advance its remedial purposes.

Subsection (i) corrects the ruling of the Supreme Court in *Buckhannon Board and Care Home, Inc. v. West Virginia Department of Health and Human Resources*, which rejected the catalyst theory in determining eligibility of ADA plaintiffs to attorney's fees, by reinstating the catalyst theory.

To learn more about this proposed legislation, read the NCD report *Righting the ADA* online at www.ncd.gov/newsroom/publications/2004/righting_ada.htm.

Assistive Technology Act of 2004

On October 27, 2004 President Bush signed the Assistive Technology Act of 2004, thus ensuring that you, as an American with a disability will continue to have access to the assistive technology that you need to maintain your independence.

Every state and US territory has an Assistive Technology Project (AT Project) funded under the provisions of the Technology-Related Assistance Act of 1988. The AT Act of 2004 reauthorizes this important federal system for another 5 years and thus supports the continuance of State AT Projects.

Each state project provides information on selecting, funding, installing and using assistive technology. Assistive Technology may include such items as wheelchairs, modified vehicles, computers with modifications, environmental controls, alternative communication devices, ramps and home accessibility modifications.

If you believe your life could be improved by technology, contact your local State Assistive Technology Project today. To locate the AT program that serves your area, visit the following NHU resource page:

www.new-horizons.org/adpcen.html

National News

ADA Accommodation Survey measures compliance - Share your experience today

Have you ever requested an accommodation under the Americans with Disabilities Act (ADA)? If so, Ragged Edge Online wants to hear your story. In an effort to report on the effectiveness of the ADA, they are seeking participants for their brief online survey.

If you would like to share your story of accommodation, or lack thereof, please complete the Ragged Edge ADA Accommodation Survey online at www.raggededgemagazine.com/adasurvey.shtml.

On-line game teaches ADA basics

As an American with a disability you must visit the ADA Game on-line. It is a unique and interesting way for you to learn more about the most important disability law: The Americans with Disabilities Act. The game, which is free and available to play on-line, simulates how advocacy can promote positive change in communities across the United States. Players, as advocates for disability rights, earn points by answering a series of questions on the ADA. Your points can then be used to improve accessibility in your virtual community. To play, visit www.adagame.org.

If you do not have access to the Internet, please contact us at (414) 299-0124 to receive a paper copy of the resources provided in this newsletter.

Help save Medicaid with your personal stories

An invitation from Families USA

Do you know a senior, adult or child with a disability or a working family in your state that has Medicaid coverage? If so, we would love to hear from you and them!

We are embarking on a campaign to protect the Medicaid program from federal cuts. To communicate our message clearly and in a way that resonates with a broader audience we need to humanize this debate. And the best way to do that is by enlisting the help of those who depend on Medicaid.

Seniors, children, people with disabilities, and working families in your state can speak on behalf of the thousands of Medicaid beneficiaries across the country who are so vulnerable to program cutbacks. Their voices can and should be heard in Washington, DC by Senators who can put a stop to any attempt to cut Medicaid funds.

We are looking for people who believe that Medicaid is a vital health care lifeline. We are looking for people who can agree to speak to reporters in person and have their pictures taken to better illustrate our message. We are looking for those who can help spread the word that the federal government wants to cut their one and only source of health coverage and that this is not only unfair, it is morally wrong. We are looking for those who can talk about their fears of becoming uninsured and having to choose between paying for rent and food and paying for health insurance. We are looking for hardworking Americans who play by the rules and depend on Medicaid for their health care. We are looking for children, who do not choose to become sick, and seniors, who cannot be blamed for living a long life. We are looking for the faces of Americans across the country.

If you can help, or if you know others who can connect us with people on Medicaid in your state, please contact us. You can reach Families USA through Alexandra Zavala, Communications Outreach Coordinator, at (800) 593-5041 ext. 3614 or via e-mail at azavala@familiesusa.org.

Wisconsin News

Milwaukee Idea home offers transitional living to adults with disabilities

UW-Milwaukee, along with nine community partners, has developed an innovative energy efficient home using economical and environmentally sustainable elements. According to Project Director, Stan Wrzeski, "the prototype home, located at 726 W. Bruce Street in Milwaukee, will be healthier, more durable, and cheaper to operate and maintain than the current housing stock. It also will be a model for accessibility and inexpensive to adapt for people with disabilities."

The home will be owned and operated by Independence First, a Milwaukee-based Center for Independent Living. The home is designed to benefit those that are either moving back into the community from nursing homes or those that have sustained traumatic illnesses or injuries and are waiting for long-term accessible housing. To learn more about this innovative home, contact Independence First at (414) 291-7520.

Wisconsin to expand community options for those in institutions

The Wisconsin Bureau of Developmental Disabilities is implementing a new "money follows the person" initiative aimed at giving individuals with developmental disabilities living in privately operated institutions expanded access to community living arrangements. The initiative is designed to implement revisions in state law that require persons with Developmental Disabilities be placed in the least restrictive settings.

Starting on January 1, 2005, institutions and nursing homes must notify the county of residence of the application for admission within 5 days. The county will then have 120 days to develop a community placement plan for that individual. This initiative will provide a big boost to Wisconsin's community reintegration movement. For more information, visit the ICF-MR Initiative Home Page at <http://dhfs.wisconsin.gov/bdds/icfmr/>.

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Fully accessible playground encourages fun and tolerance

Thanks to the efforts of many energetic Fox Cities residents, children and parents with disabilities can now fully enjoy and participate in playground activities on the Fox Cities' first of its kind, fully accessible community playground.

The Universal Playground Project, first inspired by Appleton, Wisconsin resident Amy Perry, who dreamed of the day she could use a playground with her daughters from her wheelchair, resulted in the construction of a fully accessible playground in Appleton's Memorial Park. The playground features rubberized surfacing, wide ramps, and specially designed play units to ensure safety and accessibility for all. While the playground undoubtedly offers a wonderful place for children with disabilities to play without barriers, it also offers a place for children with and without disabilities to play with and learn from one another.

For more information, or to learn how to duplicate this effort in your city, visit www.universalplayground.org/.

NHU seeking feedback on new Community Discussion Forum

New Horizons Un-Limited is currently developing a new online discussion area for our website. This area is for you to come and share your thoughts, experiences and ideas.

We are hoping to launch our new discussion board shortly. Before we do so however, we need your feedback. We are looking for volunteers to use our discussion board and then offer comments and suggestions for improvement. We are also interested in hearing from those of you who use adaptive hardware and software to ensure our new discussion board performs well with your adaptive devices.

The more feedback we receive, the better the discussion experience for you. If you are interested in helping us develop the best board possible, please contact us today via phone at (414) 299-0124 or via e-mail at horizons@new-horizons.org.

Introductory Internet Classes

New Horizons Un-Limited, in partnership with the United Methodist Church of Whitefish Bay will be offering a six-week Introduction to the Internet class beginning on Thursday, January 20, 2005. Classes will begin at 6:30 p.m. and last one hour, until 7:30 p.m.

The class will teach you what you need to get your home computer connected to the Internet and will also teach you how to find information quickly and easily using a web browser.

Classes will be held at the UMC of Whitefish Bay, located at 819 E. Silver Spring Drive in Whitefish Bay. For more information, or to request a registration form, please call (414) 299-0124.