

June 30, 2014

To: The Texas Sunset Advisory Commission

Regarding DADS and DARS

Dear Commissioners,

As a Texan who was born congenitally blind in one eye, who suffered a disabling stroke 13 years ago ending self employment as a horticultural professional, and now, at age 65, facing the additional challenges of aging while living alone, my experiences with both DARS and DADS suggest that great changes are needed in the way much needed rehabilitation and support services are provided.

Overall, the most important change in providing services for persons with disabilities and aging persons is the coordination of available services and programs, the provision of well trained, professional counselors, the authority of counselor coordinators to advocate with other agencies on behalf of clients in need, and a one application process through which all programs, both government and n.g.o., can be accessed rather than filling out a new application for each different service and program.

Although there have been some counselors and caseworkers who have been dedicated to helping me, many others have refused help, have put obstacles in my way, and have done far more harm than good. A change is needed in the overall attitudes of DADS and DARS from one in which a narrow sighted and narrow minded bureaucratic attitude of finding ways not to help to one in which a holistic and helpful attitude assists persons in need.

A few days ago I asked my DADS in home care case worker to sign and certify an application for the Texas Talking Books program. Although the application clearly states that a case worker can sign such a simple certification, DADS managers and supervisors refused to sign even though they have adequate case records to show that I have challenges and difficulties reading. This refusal was a damaging trauma for one who has Mild Traumatic Brain Injury (MTBI) and derailed me from attending to other important life tasks. This type of abuse must stop.

The DADS assessment criteria to establish levels of in home or other assistance does not take into account the unique and special needs of persons with disabilities. Although I used to be able to keep up with paperwork and to keep it filed, since my stroke that has been impossible, yet my years of requests to get help with that have been for naught. Although I was forced out of my previous home, my repeated requests for help getting unpacked and reorganized have failed. Getting help with establishing platforms and routines which allow me to

better care for myself should be of importance to DADS. My repeated requests of DADS to help me get a regular Social Worker have also failed.

Currently I receive in home care services through the Client Directed Services (CDS) Program of DADS under Medicaid and have found it to be the most reliable way to find and keep the services of a good worker. Previously, relying on agencies who provide workers required more time and bureaucratic paperwork and could not provide a worker reliably or sustainably. I have found working with Disability Services of the Southwest for my CDS to be much more helpful and efficient. In the past, when agencies were not providing me with the level of help I was granted by DADS, my DADS case workers were not very responsive.

DADS in home care services would be substantially improved if a living wage was provided for service provider workers. Although my worker has been with me for three years, she is underpaid and there is no way for her to get a small raise regularly for such dedicated service. She receives \$8.50 per hour and is not eligible for transportation expense, although I live ten miles from town and she must not only commute out here, but also return to town to pick up my mail, get groceries, and do other needed tasks allowed under the in home care program. There is a great and growing need for good, well trained in home care workers. If Community Colleges offered such training and living wages were provided, it would benefit all.

There is also a great need for DADS to develop programs providing much needed respite services and counseling for family members who are often overwhelmed physically, emotionally, and financially in trying to care for an aging of disabled love one.

While I have had difficulties with DADS, the help provided has been sustained fairly reliably and has had a major beneficial effect on the quality of my life and my ability to cope with the overwhelming challenges I face. In general, DADS would be improved by providing more well trained case workers as the current case load is too great for a case worker to give adequate attention to the individuals they serve.

In contrast, my experiences with DARS have done as much, if not more, damage and harm than the help provided. The assistance I have received from DARS was paid for in blood and trauma almost every inch of the way and has left with with an incomplete rehab. The cumbersome bureaucratic attitude which pervades DARS must change to better fit the needs of persons with disabilities rather than requiring persons with disabilities to follow rules which their disabilities can make it impossible to comply with. The attitudes which are more likely to put obstacles in the way of rehab must be changed into more professional and assistive ones. For example, although I have problems reading, a new counselor brought a hundred pages of paperwork for me to a meeting with

an advocacy agency representing me, with copies for everyone.

A major problem with DARS is that a client is not provided with a counselor and managers who are adequately trained in the process of rehab associated with the particular disability of a client. At no time did I ever have a counselor or manager trained professionally in providing rehab for persons with MTBI. How can adequate service or guidance be provided when DARS counselors do not know what they are doing?

In addition, counselors trained in the particular vocational pursuits of a person in rehab are critical to success. Although I had been self employed in horticulture before my stroke and had an approved Independent Plan for Employment with DARS, my most recent counselor and manager had criticized my efforts even though they had no training in business or agriculture and could not say what steps I needed to take to make my efforts more effective.

One of the biggest problems with DARS is that the client is expected to access assistance from other programs in conjunction with DARS assistance, yet DARS does nothing to facilitate or coordinate such assistance nor does it advocate or intervene when the help mandated of other agencies is not adequately provided. Although some services to assist with my visual reading problems are needed, DARS was ineffective in coordinating services from agencies for the visually impaired in Texas.

There are two glaring examples of DARS doing nothing when others were either not providing mandated support services or violating my basic rights as a Texan with disabilities, and when such actions were undermining the assistance which DARS was providing.

The first was when HSBC USA tried to foreclose on my home by disrespecting my Property Tax Deferral as A Texan With Disabilities when my mortgage which had been flipped to them was a non-escrow mortgage, giving me the responsibility of taking care of property taxes. Texas Rio Grande Legal Aid took me on as a client and then dropped me when I said I could not afford the settlement they had made with HSBC, and when I asserted that I had rights as a person with disabilities under Texas Statutes which were not being respected.

Although Legal Aid said that my rights arguments were not based on law, my assertions were later respected by the Travis County Attorney who admitted that he, like Legal Aid, was basing his opinion on the practice of the law rather than what the law stipulated. This was a major step in a 13 month battle with HSBC which I finally won on my own, though it damaged my rehab and left me with PTSD. Despite numerous pleas to DARS, they did nothing even though their efforts to help were being drastically undermined by this adversity.

The second was when the City of Austin (Austin Housing Finance Corp.) used one excuse after another for four years to deny me a federally funded low income

housing rehab loan to provide a safe, sustainable place in which to live and work from home per my Independent Plan for Employment (IPE). The City of Austin even had the audacity to tell me, within weeks after having gotten HSBC to respect my rights, that I had to pay my deferred property taxes before I could get the federally funded loan. This long lived adversity also had a very damaging effect on my rehab plan as well as on my condition, yet DARS repeatedly refused to intervene or advocate in any way.

Subsequently, I was forced to choose to move due to the violative attitude of the City of Austin. I relocated to rural Llano County as a place where I could use my professional agricultural skills and licenses to pursue my rehab, yet DARS blamed me for the disruptions in my rehab plan rather than accepting that others had made my plan unmanageable in Austin. Although my IPE would not substantially change due to the move, DARS required me to write a new business plan before it would provide completed services. Previously it had been a very difficult to get such a plan approved by DARS. So at this point, though I have invested much financially and an incredible amount of work on my rehab, I have been abandoned with an incomplete rehab and with broken promises and violations of my rights by DARS.

After I moved to Llano County, DARS promised my representatives from Advocacy Inc. (now Disability Rights of Texas) that a specialist in writing self employment plans for persons with MTBI would be provide for me to assist in the DARS demand for a new business plan. DARS also stated to an official investigator for the Texas HHSC Civil Rights Office, where I had filed a complaint against DARS, that such a specialist would be provided for me. However , after making those promises and statements, DARS refused to provide the promised services of the specialist.

DARS also agreed to a mediation with me and Advocacy Inc. in the mater, which was under Administrative Appeal, yet refused my Americans With Disability Act Accommodation and Accessibility request to hold the mediation in Llano. Former Texas Supreme Court Judge, the late Bob Gammage was actively engaged providing mediation services at the time, and lived in Llano. DARS also refused to allow me to attend a mediation in Austin by telephone though the mediation agency involved allowed for such. The Administrative Appeals Officer was also allowing me to attend hearings by telephone. There are no special transportation services which would provide for taking me to Austin and back for a mediation. DARS has violated the ADA by refusing me accessibility to that mediation.

The Administrative Appeals Officer refused tot sanction DARS for failing to provide disclosure on time. The Officer also removed my long time Advocacy Inc. counselor from the Administrative Appeals hearing even though she was my personal representative there and was assisting my newly appointed Advocacy attorney. The attorney for DARS named her as a witness and despite objections, she was removed, though never called by the DARS attorney. I find it curious

that a City of Austin attorney with whom I had problems is married to the DARS attorney who treated me with great disrespect and derision. The Officer ultimately decided against my Administrative Appeal. Advocacy Inc. refused to take it to court, with the claim that the expense and energy involved with such would not be justified even with a positive outcome in my case. I told Advocacy Inc. that it was not just about me, for if they did not stand up against DARS broken promises and denial of accessibility that DARS would run over any of their clients they chose to knowing no legal response would be forthcoming.

Several times when I was still living in Austin and struggling with DARS, former State Senator Chet Brooks who was then with the Ombudsman's Office at HHSC came to my home in Austin to meet with DARS officials. Senator Brooks was very critical of DARS not allowing me to develop and run my business plan the way I saw best and suggested that if DARS wanted to run it, they should pay me as an employee.

At one point, DARS refused to provide the computer equipment promised until a small greenhouse they provided was completed. The greenhouse had arrived late for the spring season and as the heat of summer was approaching, I needed to do indoor work on my plan rather than work outside much in the heat. Before me stroke, I had worked all day outside, but was far from capable of doing much work in the heat afterwards. So I complied with the DARS requirement and suffered a serious relapse which could have cost me my life.

DARS has provided the wrong equipment, has not taken action when service providers they were paying did their work incorrectly, has not been trust worthy, has required me to apply for services from others which I am not eligible for, and has left me with an incomplete and not really functional rehab which both DARS and I have put considerable resources into. At one point when I asked for more Cognitive Therapy, which really helps, DARS refused (Cognitive Therapy accepts the problems presented by brain damage rather than denying them, and assists a person with developing strategies and new approaches to reinventing a life). DARS sent me to a psychologist instead, who spent half of the fifteen sessions determining that my basic problems did not come from depression as he had assumed, but rather that accepting that the depression was collateral damage to my MTBI and the abusive treatment I had encountered. I can not tell you how degrading it was to be subjected to that kind of professional incompetence. The neuro-psychological tests which DARS provided were not complete tests in that they were 4 hour, not 8 hour exams which are the Neuropsychological standard and the tests for eye hand coordination were excluded because the physician recognized I was not capable of performing well at all on these, yet this was not evidenced in his report. I could go on and on.

DARS really erred when it demanded that I submit a full business plan from the get go because neither they, nor I, nor physicians could determine just how much my capabilities would return and how long that would take. Rehab from

brain damage requires at least seven or eight years. DARS also insisted that I implement a business plan in less than a year, when those in business know this is a three year process. In essence DARS was asking me to do more than I could do in a shorter time than it could be done in, a very abusive approach. Had they offered me the simple help of a greenhouse and computer instead of requiring a plan filled with all potential needs, they would have saved the taxpayer and me much money and provided me with a better rehab and process less traumatic and damaging. Although DARS has provided me with equipment, a computer and applications, the support and training to put those into effective use has not been provided. I have PTSD from my mistreatment by DARS.

Two years ago, a member of the National Council on Disability, one of the highest ranking government officials concerning disabilities told me that "equality for people with disabilities will not happen in our lifetimes." I thoroughly agree because the pervasive ignorance in our society must be eliminated through education, broadening awareness, and with a respect for the needs and rights of people with disabilities, rights which are now inadequately enforced.

Although I consider myself to be intelligent, compassionate, creative, imaginative, and aware, I was totally unaware of what life as a person with disabilities really is until I became disabled. I could not have imagined what it is like to try to live with brain damage, having to relearn to read, walk, and perform many simple tasks again while keeping the wolves away from the door. Without the sheer luck and some help at the most critical moments which I have gotten, I would be homeless or worse. So I devote considerable energies to advocating not just for myself, but for all with disabilities, especially those who have no voice.

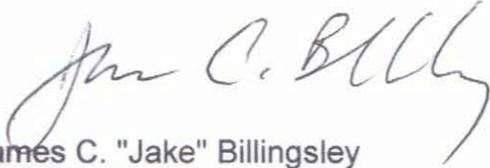
Luck and an exceptional friend have provided me with the financial resources to fund a small Special Needs Trust, through which I now fund my own rehab.

Although I have let my Irrigators License lapse due to lack of support and much adversity, I still maintain a Nursery and Floral License and the basics of a small business, though it is hamstrung still. Last year I managed to have 70 peach, apple, and pecan trees planted, with more to go in this fall, along with blackberries, to establish a small u-pick farm. Deer fencing was also put up and pipe and parts for irrigation are on hand though still awaiting installation. It would be great to get help through the Agri-Ability Program if they did not operate under DARS. Some have suggested that I ask DARS again for help, but I feel that would be like returning to a relationship with an abusive spouse and do not feel it is worth the risk.

In summary what is most required is the consolidation and coordination of services by well trained personnel, adequately funded, and with more effective advocacy and legal representation to bring that day when equality for persons with disabilities and aging persons is a reality.

Many who worked for and with DARS during the 1990's are appalled at its current condition. I hope this commission will make recommendations for bringing DARS to a better day again. As the number of aging persons is increasing it is also a must to improve the way that DARS operates.

Respectfully and always with my best,

A handwritten signature in black ink, appearing to read "James C. Billingsley". The signature is fluid and cursive, with the first name "James" being the most prominent.

James C. "Jake" Billingsley