



# Exchange

*“Protecting the Rights of Persons With Disabilities”*

## On the Road to Independence

### *DRM Helps Client Begin New Phase in Life*

**R**yan Attema wants what every person in their early 20s wants: a good job, strong relationships, and independence. To help him achieve those goals, Ryan receives community-based Medicaid services through the MI Choice Waiver program. These services keep Ryan healthy so he can focus on applying for jobs, finding an apartment, and helping his younger siblings with homework.

Ryan contacted Disability Rights Michigan (DRM) because his MI Choice agency only authorized a fraction of the 154 hours of services he needs each week to meet his medical needs. His only service providers were his parents. To keep Ryan out of the hospital, they had to provide countless unpaid service hours. Ryan had graduated from college and received conditional job offers, but without the proper services, he couldn't leave home to pursue those opportunities.

Through advocacy and legal action, DRM helped Ryan get his service authorization increased to an amount that meets his medical needs. Now, Ryan hopes to find qualified caregivers so he can pursue his goals. “Having the right authorization is great, but it’s only the first step,” said Ryan. “I want my parents to be my parents, not my caregivers. Once I get



*Ryan Attema*

service providers in place, I’m excited to move into my own place, hopefully start a new job, and begin this new phase in my life.”

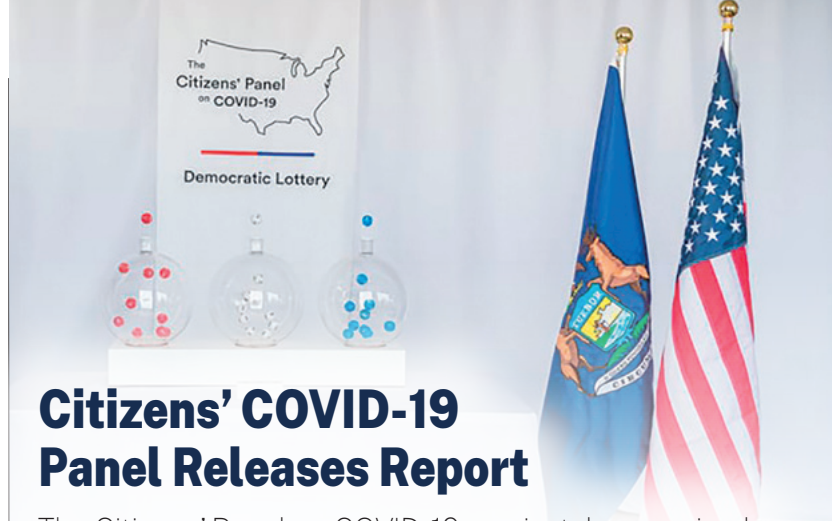
Getting Ryan’s service hours increased was essential to his health, but there is still work to do. DRM is committed to helping Ryan get over the hurdle of finding agency caregivers so he can pursue every opportunity he has earned.

## Sixth Circuit Reinstates Community Services Case

In a precedent-setting, published opinion, the U.S. Sixth Circuit Court of Appeals reinstated a case originally brought by Legal Services of South Central Michigan and the Michigan Poverty Law Program and joined by Disability Rights Michigan on behalf of over 130 individuals who had been denied community mental health services through changes in how their community living budgets were calculated. The Court found that individuals had a right to enforce Medicaid guarantees of “reasonable promptness” and “comparability” and access to services under Medicaid waiver programs. The Court also found that the plaintiffs could use the “integration mandate” in Title II of the Americans with Disabilities Act to challenge service cuts that isolate individuals in their own homes. The Court made several important procedural findings as well. DRM is grateful to appellate counsel National Center for Law and Economic Justice for successfully bringing the appeal in this case.

## NGRI Suit Settled

People deemed “not guilty by reason of insanity” (NGRI) will receive mental health treatment based on their needs rather than their status, according to a settlement reached between DRM and the state Department of Health and Human Services. A number of individuals brought private lawsuits against the state alleging a number of due process concerns, and DRM joined as an organizational plaintiff. The settlement requires MDHHS to create a new rights book, reorient treatment recommendations to fit identified needs, limit authorized leave status (ALS) contracts to one year, require ALS contracts to be individualized, remove mandatory hospitalization language from policies, and train staff. “We would like to thank Margolis, Gallagher & Cross for filing this suit and bringing it to our attention. This agreement will restore the due process rights and treatment options of people adjudicated NGRI,” said Simon Zagata, DRM attorney. “It’s important to remember that these individuals are not guilty, they are in need of treatment. This agreement puts the focus back on treating these individuals, for their benefit and the benefit of society.”



## Citizens' COVID-19 Panel Releases Report

The Citizens' Panel on COVID-19, a privately-organized representative group of Michigan citizens, issued its recommendations in November. The Panel was organized and funded by a grassroots, non-profit, non-partisan organization, “of by for.” The 30 panelists were selected by lottery to reflect Michigan demographics. DRM Executive Director Michelle Roberts was one of 15 speakers who shared expert information about health care and other issues with the panel. The policy recommendations addressed both health impacts and economic impacts to Michiganders from the COVID-19 pandemic. The health impact policy recommendations include equitable access to treatment and testing, mask-wearing practices, mental health, and others. The economic issues impacting Michigan citizens focused on childcare, housing and utility aid, the unemployment process, and economic opportunity. The complete report can be found at <https://citizenspanel.us>.

## DRM Welcomes New Director of Advocacy

Rebecca Kasen has joined Disability Rights Michigan as Director of Advocacy this month. The Director of Advocacy oversees DRM’s Community and Institutional Rights Team, with responsibility for abuse/neglect investigations, facility monitoring, access to community services and discharge planning, and more. Rebecca comes from Community Access Unlimited, one of New Jersey’s largest non-profit providers of housing and services for people with disabilities, and from four years’ experience with Disability Rights New Jersey. She brings with her a variety of advocacy and management experiences, and a strong drive for justice and equity for all people. She is very excited to come back into the P&A network and is looking forward to her new role with DRM. Welcome Rebecca!

## Nondiscrimination Policy At Risk

Allied organizations led by Detroit Disability Power and including Disability Rights Michigan have called upon the state to reaffirm state protections against disability-based discrimination in the provision of lifesaving COVID-19 treatment.

In April, Governor Whitmer issued Executive Order 2020-64 affirming antidiscrimination policies and requiring certain health care providers to develop equitable access to care protocols. This order came in response to public demand, including a letter from dozens of disability rights organizations, to address potentially lethal and discriminatory decision-making by health care providers in excluding people with disabilities from consideration for life-saving treatment. Last fall, however, the state Supreme Court invalidated part of the Governor's executive power. Now that COVID-19 cases and hospitalizations are at an all-time high, people with disabilities are once again at risk.

"COVID continues to hit Michigan hard and it's showing a real strain on our healthcare system. We need to ensure that everyone can be taken care of and that's especially true for the disability community, who are

already underserved and often overlooked," said Dessa Cosma, executive director of Detroit Disability Power. "Several times now, we've made strong recommendations to state officials on how to improve care and the response to this pandemic for our community and we urge our state's leaders to implement them without delay."

To continue the state's strong stance against discriminatory health care rationing, Detroit Disability Power and allied organizations have asked the Michigan Department of Health and Human Services to issue an emergency rule containing the provisions of Executive Order 2020-64. DDP also asked the state to track the disability status of COVID patients, as it does race, gender and age, and asked for the COVID-19 response to be comprehensive, proactive and disability-conscious, complete with mitigation actions tailored for people with disabilities, their households, elected officials, healthcare workers, disability service providers, and the community at large.

"Without tracking the disability status of COVID patients, the state does not even have a baseline from which to measure how we are doing as a community," Cosma continued.



## New Flint Special Education Fund Created

On August 20, the parties reached a settlement in a lawsuit involving Flint Community Schools, brought on behalf of students impacted by the Flint water crisis. The settlement, pending court approval, will provide at least \$9 million in state funding for a new Flint Water Crisis Special Education Fund that will be used to improve services and supports to students with disabilities. The settlement also calls for a \$1 million investment in countywide transportation and an additional \$1 million in staff and service costs for the current school year.

"The schools were not identifying the children of Flint who were harmed by lead, and those schools were not providing the programs and services the children so desperately needed," said Gregory G. Little, chief trial counsel for the Education Law Center, which represented

the plaintiffs, along with the ACLU of Michigan and White & Case LLP. "This groundbreaking settlement addresses each of these concerns and will lay the foundation for an overhaul of the special education system."

Although DRM was not a party to this litigation, DRM staff referred parents we had worked with—especially those for whom we had obtained findings of noncompliance in state complaints—to the ACLU. DRM also provided a declaration, using the data from the numerous times MDE had determined the district violated special education law through the state administrative complaint process. The informal partnership with the ACLU and ELC provided an exchange of information, on-going source of potential new named plaintiffs, and data regarding MDE's prior failure to provide special education oversight that assisted them in pursuing the case to completion.



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Michelle Roberts  
*Executive Director*

Disability Rights Michigan is mandated by federal and state law to protect the legal rights of individuals with disabilities in Michigan. DRM receives part of its funding from the Administration for Community Living, the Center for Mental Health Services-Substance Abuse and Mental Health Services Administration (SAMHSA), the Rehabilitation Services Administration, and the Social Security Administration. This publication is made possible by support from these federal funders. The contents are solely the responsibility of DRM and do not necessarily represent the official views of the federal agencies listed above. The Exchange is funded by the federal appropriations and grants, 94%; State of Michigan appropriations and grants, 5%; Other, 1%. Total copies 0,000. Total Cost: \$0,000.00. Cost per issue: .000¢.