

Fiscal Year 2016 Post Compliance Monitoring Quarter Three Results

July 2016

INTRODUCTION

This report contains results of monitoring, and legal and lay advocacy activities completed by Quality Trust during the third quarter of Fiscal Year 2016. The report is organized into the following sections:

- Monitoring results (data from review of 55 class members from the sample of 177 class members), incidents and investigations
- Advocacy
- Involvement in DDS committees and stakeholder groups
- Presentations and other Activities

This report includes data from the third quarter of FY 2016. It reflects results from our work related to the plan we submitted to the Court in May of 2015. In that plan Quality Trust outlined the activities in which we would engage for the year beginning October 1, 2015. In addition to our on-going work, we agreed to complete individual monitoring for 177 class members (a statistically significant number) through a simple random sample. During the first quarter we completed monitoring reviews for 63 class members, provided advocacy services for both class and non class members, and followed up on Serious Reportable Incidents and admissions to Long Term Acute Care (LTAC) settings for class and non-class members. As the second quarter of FY'16 began three of our monitors and one nurse were involved in the joint monitoring process for the final two goal areas in the Evans case. The joint monitoring work was completed by the middle of March and the QT team completed 37 monitoring reviews for class members. With the joint monitoring work completed by middle of March 2016, we were again able to focus all of our team on the monitoring of the 177 class members, and as a consequence were able to complete 55 reviews bringing the total completed to 155, or (87%). We hope to complete the monitoring for the remaining 22 people before the end of August.

Before summarizing the data for this quarter, we note a couple of interesting demographic findings. Thirty six of the fifty five people (71%) were men. This continues a trend through three quarters of reviewing significantly more men than women. For the entire project thus far 101 of the 155 (65%) people have been men. The age ranges of 51-60 and 61-70 continue to dominate with fully 87% of those reviewed this quarter falling within those age groups. Finally, the number of people enrolled on the waiver continues to be high at 74.5%. This continues a trend where the number of people on the waiver is nearly 75% of those monitored.

The data this quarter indicates that for most of the questions the level of compliance continues to be strong. Through three quarters we see that areas of high compliance and areas needing improvement remain consistent. For instance through three quarters all 155 people or (100%) had a current ISP, and (94%) were receiving their personal needs allowance. Evidence that staff members in the residences have received all required training on the other hand registered a score of 69%. The score for staff training at day programs was 60%, a notable drop from last quarter's score of 78%. At 79%, scores were higher on the measure for updating and training on the Health Care Management Plan (HCMP), up from 62% in the second quarter. It is important not to draw too many conclusions from the findings in any one quarter. We will complete a comprehensive analysis of the results when the monitoring for all 177 people

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is completed. We will aggregate the data into a final report which will identify where performance is strong and where it needs improvement. As this is a statistically significant sample, the data reflected in the final results can be extrapolated to all 490 plus *Evans* class members with more certainty than a sample of 10% as has been the standard in the case.

In the review of Serious Reportable Incidents, while we continue to see a number of unplanned hospitalizations, however for the first time during this FY, the number was significantly lower than in previous quarters. These findings reflect incidents for both class and non-class members. Again, these are only findings from a single quarter, but a reduction in the number of unplanned hospitalizations would be a welcome trend. We are also encouraged that our recommendation at the Quality Improvement Committee (QIC) to engage in a serious, systematic analysis of unplanned hospitalizations has been undertaken, and the committee has begun to receive initial results. We will comment on that in more detail later in this report.

We continue to engage with the leadership team at DDS through our advocacy, reporting and involvement in DDS Committees and workgroups. We appreciate the dialogue and openness of both the interim Director at DDS and the DDA Deputy Director. Demonstrating that the progress made over the past several years is continuing is a high priority of the leadership team at DDS.

We continue to highlight the following areas as those where enhancements are recommended.

- Ensuring that all DSP, RN's & LPNs' have received required training, and that they are able to discuss their role in the provision of people's support needs
- Ensuring HCMP's reference all the person's health care needs, and that, when it is amended/updated, staff are trained in the changes so they articulate that information when queried
- Continuing to examine the root causes for unplanned hospital admissions-especially repeated hospitalizations (this issue is now being studied by the Quality Improvement Committee (QIC))
- Continuing to implement improvements to the processes of the Restrictive Control Review Committee (RCRC) and the Human Rights Advisory Committee (HRAC).

THE INFORMATION IN THIS SECTION INVOLVES EVANS CLASS MEMBERS ONLY

Monitoring

We began our review of 177 class members in October of 2015. During the first quarter of the fiscal year we completed 63 monitoring reviews. The QT team completed 37 monitoring reviews for class members in the second quarter in addition to participating on the joint monitoring team with Elizabeth Jones the Evans Court Monitor. During the third quarter we completed and sent to DDS monitoring reviews for 55 class members, or (31%) of the entire project. When added to the 100 reviews completed in quarters one and two, we have now completed 155 reviews, or (87%) of the total required for completion of a statistically significant sample.

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As we did in the first and second quarter reports, we have included the detailed results as an attachment to this report. Here are some selected highlights from the reviews completed this quarter:

Demographics:

- 41 people (74.5%) are supported through the HCBS waiver
- 14 people (25.5%) live in ICF's/IDD
- 24 people (44%) live in Supported Living arrangements; the least restrictive option available in the District
- 36 Men (65%) were reviewed
- 19 Women (35%) were reviewed
- 30 people (55%) were between the ages of 51-60
- 17 people (31%) were between 61-70
- These 47 people made up (86%) of this quarter's sample
- 58% (19) people required no assistance while walking
- 19 different day programs are represented
- 27 (49%) people participated in Day Habilitation
- 11 (20%) received IDS
- 6 (11%) did not participate in a day program or activity
- 10 (18%) people participated in Day Treatment
- 3 (5%) people participated in Supported Employment

ISP:

- ALL 55 people (100%) of the people reviewed had a current ISP
- 50 (91%) of the people we met were deemed to need assistance with decision-making
- Of that total 48 (96%) had the recommended assistance
- 48 of the 55 people (87%) use at least one piece of adaptive equipment
- 41 of the 48 people (85%) had the equipment, it was in working order, and was being used correctly

Personal Possessions

- 53 of 55 people (96%) had an IFP in their ISP
- 36 of 51 people (71%) had an IFP based on their preferences (two people did not have IFP's, and two people managed their own finances so the IFP only included benefits information)
- 49 of 55 people (89%) were receiving their personal needs allowance

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Staff Training (Combined residential & day program)

- In the residence we found evidence of required training for DSP's for 38 of the 55 people (69%), at the day program the number was 33 people, or (60%). This is a significant decline in the day program percentage, as last quarter the percentage was 91%.
- In the home, staff for 49 of 55 people or (89%) could describe the person's preferences and needs, while at day program 47 of 55 people's staff or (85%) could describe the preferences and needs. Both is these numbers continue encouraging results in this area from last quarter.
- At home, DSP's could describe their responsibilities for carrying out the person's HCMP for 36 of 50 people or (70%), while at day program staff for 31 of 42 people (74%) could describe their responsibilities.

Nursing (combined residential & day program)

- All 55 people (100%) had a current physical examination
- 52 of 54 people or (96%) had evidence of follow up on recommendations from their physicals
- 52 of 55 people (95%) had a current dental or a variance if appropriate
- 100% (50 of 50 people) had evidence of recommendations from medical specialists being implemented in a timely manner
- 38 of 51 people (75%) had a HCMP that referenced all of their health needs
- 79% (34 of 43 people's) HCMPs were updated according to DDS, H & W Standards within the required timeframe of identification of a new health concern
- We found evidence that staff for 43 of 50 (86%) people were trained when changes were made to the HCMP
- 92% of the nursing assessments met professional standards
- 80% of RN notes indicate they are coordinating healthcare services
- 89% of the nurses completed all four modules of DC's on-line competency program

Behavioral Healthcare (combined residential & day program)

- 25 people (45%) had a restricted control implemented for which a BSP is required
- All 25 people (100%) had evidence of consent or an approved opt out
- 12 of the 22 people (55%) for whom RCRC approval of the plan was required had evidence that the BSP's we reviewed and/or had been approved by DDS
- 95% BSP's were being reviewed quarterly by a Psychiatrist
- 95% of people supported by a BSP were being monitored for Tardive Dyskinesia
- 100% of the BSP's were being implemented at both the home and the day program

Day/Vocational Program

- 47 of the 55 people (85%) had a job or some other type of planned day activity
- 43 of the 47 people (94%) had a current ISP at their day or vocational program
- Staff at the program was collecting data toward the goals and outcomes for 41 of the 47 people or (87%)

Service Coordination

- 98% of Service Coordinators had a caseload of 30 people

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- 98% of Service Coordinators had all required training
- 96% of Service Coordinators had documentation that they made all required visits
- 94% of Service Coordinators could identify the preferences of the people they support
- 96% of Service Coordinators were able to identify the person's health needs
- 84% of Service Coordinators were ensuring delivery of the services outlines in the ISP

Incidents & investigations

THE INFORMATION IN THIS SECTION OF THE REPORT INVOLVES CLASS AND NON CLASS MEMBERS

Incidents

Quality Trust received 308 Serious Reportable Incidents from DDS in the third quarter of FY 2016, bringing the total for the FY to 871. Of the 308 incidents, 89 (29%) involved unplanned hospitalizations. This is a significant reduction from past quarters where the share of total incidents has been closer to 40-43%. As mentioned earlier, the QIC is taking a serious look at unplanned hospitalizations. At the direction of the committee, researchers from Georgetown University's Health Initiative are systemically reviewing data available regarding hospitalizations for people receiving services through DDS, including rapid re-hospitalizations (those occurring within six months of a previous hospitalization) and comparing those results to the general Medicaid population in the District of Columbia. The committee received preliminary data from the researchers at the July meeting. The information presented generated a productive initial conversation, but much more data and analysis is needed before conclusions can be drawn. The researchers will make their next presentation at the September meeting. We will report on progress with this review in our fourth quarter report.

The second largest category of incidents was neglect at 79. There were 42 allegations of abuse reported.

There were 65 incidents reported involving serious physical injuries. We reported last quarter a significant rise in the number of incidents for serious physical injuries. Specifically, we found that for the entire FY 2015 there were 49 such incidents. During the first half of FY 2016 there were 111. We presented this issue as a concern at the QIC meeting in June. Following that meeting we received an email which stated that the Incident Management Enforcement Unit had audited serious physical injuries in the first quarter of FY 2016 and found that many were misclassified as physical injuries (a less serious Reportable Incident) because a medical professional said the injuries did not produce lasting concerns. In the wake of the audit the practice was changed which resulted in the increase. Together the four categories of unplanned hospitalization, neglect, abuse, and serious physical injury account for 282, or (92%) of the SRI's reported in the third quarter of the fiscal year.

Of the 308 incidents received, 78 (25%) involved class members. Of those 78 Serious Reportable Incidents, 25 (32%) involved unplanned trips to the hospital. This percentage is significantly lower than last quarter, where 46% of total incidents for class members involved unplanned trips to the hospital. In quarter one (49%) of total SRI's involving class members were unplanned trips to the hospital. This downward trend is a welcome development.

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Investigations

As we did in last quarter, we followed up on 33 investigations to determine the extent to which recommendations made in the reports were being implemented by the providers. This brings the total number investigations reviewed for implementation to 77. One key element we are attempting to determine through this work is if provider staff can demonstrate mastery of the skills for which retraining was recommended.

Below is a summary of the results of the review of 33 investigations during quarter three. Of the 33 investigations 25 or (76%) involved Unplanned Emergency Inpatient Hospitalizations.

- 12 (36%) involved class members
- 27 (82%) occurred in the person's home
- 2 (6%) were at day program
- 3 (9%) were in the community
- 32 (97%) contained at least one recommendation
- Of the 25 incidents investigations involving unplanned trips to the hospital 25 (100%) included follow up
- Of those 25 hospitalizations, 24 investigations (96%) contained evidence that the follow up appointment occurred on time
- Of the 32 investigations containing recommendations, 18 (56%) contained a recommendation involving retraining
- Of those 18 investigations involving a recommendation for retraining we were able to verify 18 (100%) had documentation of the required retraining
- Upon direct observation we were able to verify DSP's competency for 12 of the 18 people (66%)

Advocacy

Our advocacy efforts continued this quarter with numbers similar to last quarter. We actively supported 16 people and had 11 new referrals. 82% of those referrals were made by family members, the other 18% from outside agencies. Our goal is to help people achieve their desired outcomes within 30 days, yet individual situations may require considerably longer time periods. For example, assisting people through the intake process for obtaining DDA and RSA supports generally requires longer than 30 days.

There was one legal referral concerning an RSA appeal and two referrals involving children were made to our internal Resource Specialist.

Two outcomes were met; one involving needed behavioral supports, and another helping to locate funds for a vacation.

Advocates continue to work on a variety of outcomes. We are currently supporting people to; access speech/language services, support with finding employment through RSA, assisting someone as they in think through a living situation, appealing denial of DDS services, support in applying for DDS services,

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support in finding documentation to prove disability, requests for help with appointing a court appointed advocate, guardianship concerns and family concerns about a specific residential program.

Supports for two people were closed out this quarter with no outcomes met. One was due to a person changing his mind about moving, one was a family member who thought the process to verify documentation for DDA intake was too difficult. Advocacy was also ended for another person who had her outcomes met the previous quarter and requested to remain open with us even though she had no desired outcome.

Fiscal Year: 2016

Quarter: 3

People in active advocacy: 16

People referred to legal: 1

People's outcomes met or closed: 5

Advocacy requests referred Resource Specialist: 2

People Supported Through Advocacy

April Ongoing	April Closed	May Ongoing	May Closed	June Ongoing	June Closed
14	2	9	1	16	2

Outcomes Met This Quarter

Therapy appointments/referrals	Vacation funded	Closed without outcome
1 BSP in place	1	2

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Referral Sources

April	May	June	Totals
DDS 0	DDS 0	DDS 0	DDS 0
LTAC F/U 0	LTAC/FU 0	LTAC/FU 0	LTAC F/U 0
SRI F/U 0	SRI F/U 0	SRI F/U 0	SRI F/U 0
Outside Agency 1 DC Safe	Outside Agency 1 Contemporary Family Services	Outside Agency 0	Outside Agency 2
Family 3	Family 5	Family 1	Family 9
Provider 0	Provider 0	Provider 0	Provider 0
Guardian 0	Guardian 0	Guardian 0	Guardian 0
APS 0	APS 0	APS 0	APS 0
QT Legal 0	QT Legal 0	QT Legal 1, (referred back to legal)	QT Legal 1
Georgetown 0	Georgetown 0	Georgetown 0	Georgetown 0

Advocacy Referrals by Month

April	May	June
4 (1 to Resource Coordinator)	6	2 (1 referred to legal)

RCRC Review:

Quality Trust's legal team reviews and analyzes the data from the meeting minutes of the Restrictive Control Review Committee ("RCRC"). These minutes are provided by DDS on a monthly basis. Based on that review, during the third quarter of FY 2016:

- The RCRC reviewed 174 Behavioral Support Plans ("BSPs") for 170 people.
 - This represents a 10% increase in the number of BSPs the RCRC reviewed compared to last quarter (174 versus 158).
 - The majority of reviews was non-emergency reviews of new BSPs (154; 89%) and updated BSPs (14; 8%). 5 reviews (3%) were on an emergency basis, and 1 was an RCRC follow-up from an emergency review.
- 165 (95%) of the BSPs were approved.
 - 35 BSPs (24%) were approved until the end of the person's current or next ISP year; even though the RCRC minutes also indicate that the BSPs should be revised and re-submitted for an updated review prior to that time.

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- 2 BSPs were approved without the RCRC minutes including answers to the 8 required criteria listed in DDS' RCRC Procedure (Section 3(D) (3), Procedure No. 2013-DDA-PR014).
- 1 BSP was approved even though the RCRC concluded the BSP did not meet 3 of the 8 required criteria listed in DDS' RCRC Procedure.

- 6 (3%) of the BSPs were deferred.
 - 4 BSPs were deferred even though the RCRC answered "No" to one or more of the 8 criteria listed in DDS' RCRC Procedure.

- 3 (2%) of the BSPs were rejected.

- The BSPs reviewed included:
 - 172 (99%) requests for the use of psychotropic medication;
 - 51 (30%) requests for the use of behavioral one-to-one aides;¹
 - 16 (9%) requests for the use of physical restraint;
 - 8 (5%) requests for the use of sharps restrictions;
 - 6 (3%) requests for individualized housing or individualized housing with staffing 24 hours, 7 days;
 - 3 (2%) requests for other environmental modifications;
 - 2 (1%) requests for the use of medical sedation;
 - 1 (less than 1%) request for the use of behavioral two-to-one aides;
 - 1 (less than 1%) request for the use of a behavioral three-to-one aides;
 - 1 (less than 1%) request for the use of an aerosol restriction; and
 - 1 (less than 1%) request for a restriction requiring the person to wear long sleeve shirts to prevent skin picking.²

- The RCRC reviewed 7 requests for exemption from the requirement of having a BSP. All were approved.
 - One BSP exemption request was approved, even though the RCRC minutes noted that the person's BSP exemption did not include an answer to all the review questions required by Section 6(D) of the DDS BSP Policy (Policy No. 2013-DDA-POL008).

During the last quarter, Quality Trust's legal team and the DDS Rights and Advocacy Specialists ("RAS") had a productive dialogue about our past findings this fiscal year, and the RCRC began implementing some of our recommendations. For example, it began using a "Yes, with recommendations" designation, when the RCRC determines a BSP meets the 8 criteria in the DDS RCRC Procedure, but the RCRC has further recommendations for improvements that should be made to the BSP. The DDS RAS also changed its RCRC review template to, among other things, clearly identify the living arrangement that a person is in (e.g., Supported Living, Residential Habilitation, Intermediate Care Facility, etc.), so the RCRC clearly includes that factor in its analysis as to whether a restrictive control, such as a behavioral one-to-one aide, is justified. For reviews of BSP exemption requests, the RCRC minutes have begun to

¹ Note that 9 BSP reviews included reference to medical one-to-one "aides." Per DDS Procedure No. 2013-DDA-PR08, such requests are generally reviewed by the DDA Health and Wellness Unit, rather than the RCRC.

² Note that 1 BSP review included reference to a protective/safety helmet and a gait belt, but the RCRC referred those restriction reviews to the DDA Health and Wellness Unit.

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expressly include answers to the list of criteria required to be met for exemptions to be granted under Section 6(D) of the DDS BSP Policy.

During this dialogue, we also received clarification as to the DDS RAS interpretation of the BSP review requirements within the RCRC Procedure (Procedure No. 2013-DDA-PR014). We were told that the DDS RAS position is that, if the RCRC answers “No” to one of the 8 review criteria, it is not required to reject the BSP, but can either reject or defer it. While we could argue that this interpretation appears to run contrary to the technical letter of Section 3(D)(4)(c) of the RCRC Procedure, the practical reality is that, regardless of whether the RCRC rejects or defers a BSP, the outcome for the person is the same – *i.e.*, the BSP cannot be implemented as written. However, we note that, even under the DDS RAS interpretation, the RCRC should not be able to approve a plan while answering “No” to any of the review criteria, or without reflecting any answers to the review questions in its minutes – both of which occurred last quarter, as reflected in the above data review.

During the last quarter, the RCRC deferred or rejected only a very small percentage of BSPs – a total of 9 or 5% – which is a data point we will be continuing to discuss with the DDS RAS team. Based on our review, relevant questions include: How can the RCRC approve a BSP as written through the end of the current or next ISP year, when: (1) the BSP includes a restrictive control that the RCRC expressly does not approve (7 cases this past quarter) or for which it requires further justification (15 cases this past quarter); or (2) the RCRC simultaneously requires the BSP to be revised and submitted for an updated RCRC review before the end of the ISP year (35 cases this past quarter)? In these cases, why did the RCRC not reject or defer the BSP, to ensure that that the person’s team did not implement the unrevised BSP that contained elements the RCRC found problematic and/or unjustified?

HRAC Review:

Quality Trust’s legal team reviews and analyzes the data from the DDS meeting minutes of the Human Rights Advisory Committee (“HRAC”). Since our last report, DDS provided us with HRAC meeting minutes for March, April, and June 2016. We were informed that there were no HRAC meetings held in May 2016.

Based on the HRAC minutes provided since our last report:

- HRAC conducted 36 human rights reviews for 28 people.
 - 3 (8%) of the 36 reviews were on an emergency basis.
 - 14 (39%) of these reviews were about Long Term Acute Care (“LTAC”) placements; 11 (31%) were about out-of-state placements, 4 (11%) were about institutional placements, 3 (8%) were about nursing home placements; 2 (less than 6%) were about refusals of medications and food and frequent requests for changes in residential provider; 1 (less than 3%) was about medication and treatment refusal; and 1 (less than 3%) was about a guest protocol.
 - Of the 32 placements reviewed, 29 (91%) were approved and 3 (9%) were deferred.

Following Quality Trust’s dialogue with the DDS RAS team, the HRAC has implemented some of the recommendations we have made in past reports, including clearly documenting, within its minutes, whether it is approving, disapproving, or deferring a placement, including those that are considered “out-of-state.” We also understand that the HRAC has received clarification from DDS as to the impact

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intravenous antibiotics treatment has on the ability of a person to live in the community, and it has worked with the DDS RAS to develop a separate DDS form that would require out-of-state providers to supply more relevant information about the life of the person they support, so that it can inform the HRAC review of whether the placement is the most appropriate and least restrictive placement for the person. We look forward to receiving a copy of that form, once it is finalized, so that we see what kind of information is being collected and provided to the HRAC.

Our main additional recommendation this quarter is to ask that DDS direct the HRAC, when it reviews an LTAC placement, to include a summary of the committee members' discussion in the minutes, rather than only referring the reader to "the information provided in the LTAC memo." Doing so will allow for a more meaningful review by Quality Trust.

Participation on Committees and Stakeholder groups:

Quality Trust agreed to resume participation in a number of activities with DDS/DDA as part of the proposed monitoring plan for FY 2016.

The Deputy Director of Programs continued to attend meetings of the QIC Committee in the third quarter of FY 2016. As noted earlier the committee is taking a systemic look at unplanned hospitalizations. The committee is also reviewing the District's transition plan regarding HCBS rule setting, due to take effect in 2019, National Core Indicator data and a new Fall Protocol which is accompanied by revamped training for PT/OT's. The Chair of the Committee continues to offer strong leadership on these issues.

Quality Trust continues to participate with DDS/DDA as a core team member of the Supporting Families Community of Practice.

Quality Trust continues to participate in the DDS Mortality Review Committee to review death investigations.

Quality Trust remains a member of the D.C. Olmstead Working Group, the Center for Court Excellence's D.C. Adult Guardianship and Alternatives Project, and the D.C. Consortium of Legal Service Providers.

Quality Trust, through its work with the National Resource Center for Supported Decision-Making, collaborated with the American Bar Association in developing its PRACTICAL guide for attorneys. PRACTICAL is a reference/practice tool designed to educate attorneys regarding alternatives to guardianship, including Supported Decision-Making.

During the past quarter, Quality Trust testified at the DDS budget hearing before the D.C. Council's Committee on Health and Human Services in April 2016.

Presentations and other Activities:

Quality Trust also conducted a number of presentations and trainings on topics impacting people with developmental disabilities in D.C. Specifically, this past quarter, we:

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- Presented on District alternatives to adult guardianship, including Supported Decision-Making, to mediators at the D.C. Superior Court.
- Presented during the first-ever “federal conversation” about adult guardianship and less restrictive decision-making options, at the request of the U.S. Department of Health and Human Services Administration on Community Living.
- Presented on “What Happens When Students with IEPs Turn 18?: Decision-Making Supports for Adults with Disabilities in D.C.” to D.C. charter schools through the D.C. Special Education Cooperative, to transition-aged students at the Special Education Center at River Terrace, and at the D.C. Office of the State Superintendent of Education annual Local Education Agency conference.
- Presented “Moving Supported Decision-Making into Policy & Practice: A Story from D.C. Schools” for the National Resource Center for Supported Decision-Making’s spring 2016 Webinar Series on SDM in Education.
- Staffed a QT outreach table at the Mental Health & Habilitation Fair at the D.C. Superior Court.
- Participated in the Project ACTION! Roundtable Discussion on D.C. Bill 21-0385, the Citizens with Intellectual Disabilities Rights Restoration Act.