



# HAWAII DISABILITY RIGHTS CENTER



HAWAII'S PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES  
HAWAII'S CLIENT ASSISTANCE PROGRAM

CAP

**OUR  
CENTER  
OUR  
SERVICES**

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# HAWAII DISABILITY RIGHTS CENTER OUR CENTER OUR SERVICES

## I. INTRODUCTION

### A. HISTORY AND MISSION

The Hawaii Disability Rights Center (HDRC) is Hawaii's designated Protection and Advocacy (P&A) system for people with disabilities and designated Client Assistance Program (CAP). HDRC was established as a non-profit corporation, dba Protection and Advocacy Agency of Hawaii in 1977 to protect and advocate for the human, civil and legal rights of people with disabilities:

- **Human Rights** are those natural rights that are accorded to all human beings. They are clearly stated in the U.S. Constitution as the right to life, liberty and the pursuit of happiness.
- **Civil Rights** are an expansion of basic human rights and are specified in the U.S. Constitution, the Bill of Rights and the Hawaii State Constitution. They include the rights to: freedom of religion, speech, press, assembly, equal protection under the law, privacy and confidentiality.
- **Legal Rights** are an expansion of our human and civil rights as established by specific laws, such as those laws which authorize protection and advocacy for people with disabilities.

### B. FEDERAL MANDATES

**THE PROTECTION AND ADVOCACY (P&A) SYSTEM** for people with disabilities is mandated in seven separate federal laws:

- **Protection and Advocacy for Individuals with Developmental Disabilities (PADD)** is authorized in the Developmental Disabilities Assistance and Bill of Rights Act, 42 USC 15001.
- **Protection and Advocacy for Individuals with Mental Illness (PAIMI)** is authorized in the Protection and Advocacy for Mentally Ill Individuals Act, 42 USC 10801.
- **Protection and Advocacy for Individual Rights (PAIR)** is authorized in the Rehabilitation Act, 29 USC 794e.
- **Protection and Advocacy for [Individuals in Need of] Assistive Technology (PAAT)** is authorized in the Assistive Technology Act, 29 USC 3011, 3012.

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- **Protection and Advocacy for Beneficiaries with Representative Payees (PABRP)** is authorized by the Strengthening Protections for Social Security Beneficiaries Act of 2018 (SPSSB), 42 U.S.C. 405(j)(6).
- **Protection and Advocacy for Beneficiaries of Social Security (PABSS)** is authorized in the Ticket to Work and Work Incentives Improvement Act, 42 USC 1320b-20.
- **Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)** in the Children's Health Act of 2000, 42 USC 300d-53.
- **Protection and Advocacy for Voter Assistance (PAVA)** in the Help America Vote Act of 2002, 42 USC 15461-62.

**THE CLIENT ASSISTANCE PROGRAM (CAP)** is nationwide system authorized in the Rehabilitation Act, 29 USC 732 to:

- Inform and advise all applicants and recipients of all available services under the Rehabilitation Act and to help them obtain services;
- Investigate complaints, resolve problems, appeal decisions; or to represent applicants and clients of vocational rehabilitation in legal or other proceedings; and
- Provide information about Title I of the ADA.

### **C. STATE MANDATE**

Protection and Advocacy is also authorized in Hawaii Revised Statutes 333F-8.5, and HDRC is designated by Executive Orders 77-3, 82-4, 89-2 and 94-06 to provide its important protections for people with disabilities in the State of Hawaii.

### **D. COORDINATION AND PARTNERSHIPS**

The Hawaii Disability Rights Center assures that its programs are coordinated through centralized intake, case assignment and supervision, creation of priorities and objectives, public comments, client grievance procedures and a consolidated information system.

HDRC meets regularly with the State Planning Council on Developmental Disabilities (SPCDD) and the University Center for Excellence (UCE) to assure coordination of mandates and activities established in the federal DD Act. HDRC serves on the SPCDD Council and on the UCE Advisory Council. HDRC meets with the Office of the Long Term Care Ombudsman (LTCO) to assure coordination of services.

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### **E. CONSTITUENTS - PEOPLE WITH DISABILITIES**

HDRC serves people with disabilities. Disability is usually defined in terms of functional limitation in the following areas: Capacity for self-care, Mobility, Independent living, Economic self-sufficiency, Learning, Self-direction, or Receptive and expressive language.

The Americans with Disabilities Act (ADA) definition of disability consists of three parts:

- A physical or mental impairment that substantially limits one or more major life activity;
- A record of such impairment(s); or
- The perception of having such impairment.

According to U.S. Census Bureau data the State of Hawaii has about 1,419,000 residents. Federal health and census data conservatively estimates that 15% of the population has a disability; therefore, it is estimated that 210,000 of Hawaii's citizens have a disability and are potential beneficiaries of HDRC.

### **F. RESOURCES**

HDRC has resources to serve one to two percent (2,100 to 4,200) of the State's citizens with disabilities a year. HDRC maintains a staff of approximately 20 employees to serve the entire State of Hawaii.

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### II. SCOPE OF SERVICES

#### A. RIGHTS ISSUES

HDRC has identified and organized the “*universe*” of *issues* in which the Center may protect and advocate for the human, civil and legal rights of people with disabilities, as follows:

1. **Care and Treatment** - the right to receive care and treatment in the most integrated setting appropriate; which is free from abuse and neglect; and which is provided with access to due process, informed consent, confidentiality and privacy.
2. **Citizenship** – the rights to accessible public facilities; to move about freely; to vote; serve on juries; to enter into contracts; to own and dispose of property; and to become naturalized citizens.
3. **Education** – the rights to individualized educational programs and related services; integration into regular classrooms; freedom from discriminatory arrest, suspension, expulsion from school.
4. **Employment** – the rights to freedom from discrimination in hiring, provision of reasonable accommodation, advancement, or termination in competitive, supported, or sheltered employment; the right to assistance resolving problems with VR services.
5. **Freedom of Association** – the rights to form and maintain relationships; to reproduce; to raise children.
6. **Housing** – the rights to freedom from discrimination in obtaining and maintaining housing and to keep companion/service animals in one's home.
7. **Justice** - the right to be considered competent and to conduct one's own affairs, unless determined by a court of law to lack such capacity. Protection of civil rights in commitment and release proceedings, and the right to humane treatment during confinement.
8. **Programs and Services** - the right to accessible programs and services; and to freedom from discrimination in obtaining and maintaining services for which one is legally qualified, such as Assistive Technology, Medicaid, SSI/SSDI, transportation, services for specific disabilities, etc.

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## **B. ADVOCACY OUTCOMES**

In all its work, HDRC strives to achieve one of the following broad outcomes to advance the human, civil and legal rights of all people with disabilities:

1. **Freedom from Abuse and Neglect** - People with disabilities are free from acts, or failures to act, which result in their physical, psychological or financial harm or death.
2. **Accessible Communities** - People with disabilities gain access to employment, public facilities, programs and services and transportation as established in the Americans with Disabilities Act.
3. **Freedom from Prejudice, Discrimination and Stigma** – People with disabilities have the right to enjoy the human, civil and legal rights bestowed upon all residents and citizens of the United States without prejudice (negative opinions solely because of their disability); discrimination (negative and unfair treatment solely because of their disability); and stigma (being solely identified on the basis of their disability).
4. **Self Determination** - People with disabilities advocate and make choices for themselves; select, control and evaluate the services they receive; and demonstrate their own competence.
5. **Provision of Information** - People who do not qualify for HDRC services are provided with information about and referral(s) to other sources of assistance so they may continue to pursue resolution of their problem(s).

**It is the policy of the  
HAWAII DISABILITY RIGHTS CENTER  
to advocate for as many people with disabilities in the State of Hawaii  
on as wide a range of disability issues as our resources allow;**

**and to:**

**Resolve rights violations with the lowest feasible level of intervention;**

**but, if necessary, to also:**

**Provide full legal representation to protect the rights of people with disabilities,  
consistent with authorizing statutes and Center priorities.**

## HDRC ADVOCACY GOALS

**HDRC Services are Provided to Protect these RIGHTS (1-8),  
Advocate for these OUTCOMES (A-E) and Achieve these GOALS (1.A – 8.E)**

	<b>1. CARE &amp; TREATMENT</b> ↓	<b>2. CITIZENSHIP</b> ↓	<b>3. EDUCATION</b> ↓	<b>4. EMPLOYMENT</b> ↓	<b>5. FREEDOM OF ASSOCIATION</b> ↓	<b>6. HOUSING</b> ↓	<b>7. JUSTICE</b> ↓	<b>8. PROGRAMS &amp; SERVICES</b> ↓
<b>A. FREEDOM FROM ABUSE AND NEGLECT</b>	<b>1.A - Goal</b>	<b>2.A - Goal</b>	<b>3.A - Goal</b>	<b>4.A - Goal</b>	<b>5.A - Goal</b>	<b>6.A - Goal</b>	<b>7.A - Goal</b>	<b>8.A - Goal</b>
	People with disabilities who live in 24-hour care and treatment facilities are free from abuse and neglect.	People with disabilities are not abused or neglected while performing their duties as citizens.	Children with disabilities are not unlawfully disciplined, suspended or expelled from school.	People with disabilities are not abused or neglected in the workplace.	People with disabilities are not subject to involuntary sterilization.	People with disabilities are not abused or neglected in their homes.	People with disabilities are not abused or neglected during detention, nor denied lawful release.	People with disabilities are not abused or neglected by their service providers.
<b>B. ACCESSIBLE COMMUNITIES</b>	<b>1.B - Goal</b>	<b>2.B - Goal</b>	<b>3.B - Goal</b>	<b>4.B - Goal</b>	<b>5.B - Goal</b>	<b>6.B - Goal</b>	<b>7.B - Goal</b>	<b>8.B - Goal</b>
	Care & treatment facilities are accessible to people with disabilities.	Public facilities are accessible to people with disabilities.	Schools are accessible to children with disabilities	Vocational preparation sites and workplaces are accessible to people with disabilities.	Freedom of Association is not limited by inaccessible facilities.	People with disabilities have accessible homes.	Judicial and detention facilities are accessible to people with disabilities.	Programs and services are accessible to people with disabilities.
<b>C. FREEDOM FROM PREJUDICE, DISCRIMINATION AND STIGMA</b>	<b>1.C - Goal</b>	<b>2.C - Goal</b>	<b>3.C - Goal</b>	<b>4.C - Goal</b>	<b>5.C - Goal</b>	<b>6.C - Goal</b>	<b>7.C - Goal</b>	<b>8.C - Goal</b>
	People with disabilities receive care and treatment that is appropriate and provided in the least restrictive environment.	People with disabilities can vote, serve on juries, and become naturalized citizens.	Children with disabilities are identified, evaluated, and receive a free and appropriate public education and related services.	People with disabilities receive training and are accommodated in hiring, employment and advancement.	People with disabilities enjoy freedom of movement and choice of activities.	People with disabilities live in the community; and keep service or companion animals at home.	People with disabilities have competent and timely legal representation	People with disabilities have the finances, services, technology and transportation they need to live independently
<b>D. SELF DETERMINATION</b>	<b>1.D - Goal</b>	<b>2.D - Goal</b>	<b>3.D - Goal</b>	<b>4.D - Goal</b>	<b>5.D - Goal</b>	<b>6.D - Goal</b>	<b>7.D - Goal</b>	<b>8.D - Goal</b>
	People with disabilities make their own decisions about their care and treatment.	People with disabilities can own property, enter contracts, make wills and travel freely.	Parents and children make decisions about their education.	People with disabilities make decisions about their vocational training goals and employment.	People with disabilities make decisions about relationships, marriage, and parenthood.	People with disabilities own homes, make decisions about their housing.	People with disabilities with capacity are their own guardians.	People with disabilities make decisions about their programs and services.
<b>E. PROVISION OF INFORMATION</b>	<b>1.E - Goal</b>	<b>2.E - Goal</b>	<b>3.E - Goal</b>	<b>4.E - Goal</b>	<b>5.E - Goal</b>	<b>6.E - Goal</b>	<b>7.E - Goal</b>	<b>8.E - Goal</b>
	People with disabilities have information about and appropriate referrals for care and treatment issues not addressed by HDRC.	People with disabilities have information about and appropriate referrals for citizenship issues not addressed by HDRC.	People with disabilities have information about and appropriate referrals for education issues not addressed by HDRC.	People with disabilities have information about and appropriate referrals for employment issues not addressed by HDRC.	People with disabilities have information about and appropriate referrals for family issues not addressed by HDRC.	People with disabilities have information about and appropriate referrals for housing issues not addressed by HDRC.	People with disabilities have information about and appropriate referrals for justice issues not addressed by HDRC.	People with disabilities have information about and appropriate referrals for services issues not addressed by HDRC.

# DISABILITY RIGHTS VIOLATIONS

**HDRC Works to Protect these RIGHTS (1-8), Advocate for these OUTCOMES (A-E)  
and Resolve these RIGHTS VIOLATIONS (1.A - 8.E)**

	<b>1. CARE &amp; TREATMENT ↓</b>	<b>2. CITIZENSHIP ↓</b>	<b>3. EDUCATION ↓</b>	<b>4. EMPLOYMENT ↓</b>	<b>5. FREEDOM OF ASSOCIATION ↓</b>	<b>6. HOUSING ↓</b>	<b>7. JUSTICE ↓</b>	<b>8. PROGRAMS &amp; SERVICES ↓</b>
	<b>1.A - Violations</b>	<b>2.A - Violations</b>	<b>3.A - Violations</b>	<b>4.A - Violations</b>	<b>5.A - Violations</b>	<b>6.A - Violations</b>	<b>7.A - Violations</b>	<b>8.A - Violations</b>
<b>A. FREEDOM FROM ABUSE AND NEGLECT</b>	01 Death <b>Abuse</b> 02 Financial 03 Physical 04 Psychological 05 Sexual 06 Medications 07 Medical 08 MH Treatment 09 MH Aversive Therapy 10 MH ECT  <u>Inappropriate or excessive:</u> 19 Physical restraint 20 Chemical restraint 21 Mechanical restraint 22 Seclusion	12 Facility Condition 13 Failure to Discharge 14 Personal Care 15 Personal Safety 16 Medications 17 Mental Health 18 Medical  <b>Neglect</b>	01 Abuse at School 02 Arrest, Suspension, Expulsion	01 Abuse in the Workplace 02 Neglect in Vocational Rehabilitation Programming	01 Involuntary Sterilization	01 Unlawful Eviction 02 Other Abuse in Housing	01 Denial of Rights in Pre-Sentencing 02 Inhumane Treatment during Detention 03 Delayed Release after Civil Commitment 04 Delayed Release after Criminal Commitment 05 Denial of Rights During Probation or Parole	01 Abuse in Provision of Programs & Services
<b>B. ACCESSIBLE COMMUNITIES</b>	<b>1.B - Violations</b>	<b>2.B - Violations</b>	<b>3.B - Violations</b>	<b>4.B - Violations</b>	<b>5.B - Violations</b>	<b>6.B - Violations</b>	<b>7.B - Violations</b>	<b>8.B - Violations</b>
	01 Accessible Care & Treatment Facilities	01 Accessible Public Facilities 02 Accessible Voting 03 AT – Architectural Accessibility 04 AT – Accessible Polling Places	01 Accessible Schools  05 AT – Accessible Voter Registration 06 Accessible Emergency Shelters	01 Accessible Workplaces		01 Accessible Housing 02 AT – Accessible Housing	01 Accessible Judicial & Detention Facilities	01 Accessible Programs and Services 02 Accessible Public Transportation
<b>C. FREEDOM FROM PREJUDICE, DISCRIMINATION AND STIGMA</b>	<b>1.C - Violations</b>	<b>2.C - Violations</b>	<b>3.C - Violations</b>	<b>4.C - Violations</b>	<b>5.C - Violations</b>	<b>6.C - Violations</b>	<b>7.C - Violations</b>	<b>8.C - Violations</b>
	01 Care and Treatment in Most Integrated Setting 02 ADA Integration Mandate	01 Jury Service 02 Naturalization 03 Voting Education & Registration 04 Voting Complaints	01 Early ID & Intervention 02 Evaluation 03 IEPs 04 504 Plans 05 Placement - Integration 06 School to Work Transition 07 Related Services 08 AT – SPED 09 AT – Post Secondary	01 VR Services 02 Discrimination in Hiring/Discharge 03 Reasonable Accommodation 04 Advance toward Competitive Employment 05 Return to Gainful Employment 06 Supported Employment Benefits 07 AT – Employment 08 AT – SSI/SSDI 09 AT – VR Services	01 Freedom of Movement 02 Choice of Activities	01 Eligibility 02 Zoning/NIMBY 03 Companion or Service Animal at Home	01 Access to Timely Legal Representation   16 SSI 17 SSDI 18 Independent Living 19 AT – Medicaid 20 AT – Medicare 21 AT – Private Insurance 22 AT – Transport 23 Emergency Preparedness Plans 24 POA – Ed 25 POA – Health 26 Substandard Programs & Services	Access to: 01 Assistive Technology 02 DD Services 03 Financial Entitlements 04 Habilitation/Rehabilitation 05 HIV/AIDS 06 Insurance 07 Legal Services 08 Medical/Med-QUEST 09 Mental Health 10 P&A 11 Recreation 12 Transportation 13 ACD 14 DME 15 Vehicle Mod
<b>D. SELF DETERMINATION</b>	<b>1.D - Violations</b>	<b>2.D - Violations</b>	<b>3.D - Violations</b>	<b>4.D - Violations</b>	<b>5.D - Violations</b>	<b>6.D - Violations</b>	<b>7.D - Violations</b>	<b>8.D - Violations</b>
	01 Admission, Commitment 02 Advance Directives 03 Right to/Choice of Treatment - (ISP) 04 Informed Consent 05 Records - Access 06 Records - Confidential 07 Right to Privacy 08 Failure to Follow Advance Directives 09 Consumer Finances	01 Contracts & Property Ownership 02 Wills and Estates 03 Right to Travel from State to State  10 Personal Assistance 11 Discharge w Appropriate Services 12 Maintain Services - Recidivism Prevention			01 Reproductive Rights 02 Parental Rights to Raise Children 03 Rights to Form and/or End Personal/Sexual Relationships	01 Home Ownership	01 Guardian ad litem 02 Termination of Guardianship 03 I&R on Guardianship 04 Civil Commitment for Treatment of Mental Illness 05 Criminal Commitment for Treatment of Mental Illness 06 Criminal Justice Issues	Decision-Making About: See 01 – 23 in Box 8.C
<b>E. PROVISION OF INFORMATION</b>	<b>1.E - Violations</b>	<b>2.E - Violations</b>	<b>3.E - Violations</b>	<b>4.E - Violations</b>	<b>5.E - Violations</b>	<b>6.E - Violations</b>	<b>7.E - Violations</b>	<b>8.E - Violations</b>
	01 Medical Malpractice 02 Other Malpractice	01 Bankruptcy 02 Estate Planning 03 Tax Issues 04 Tort Defense	01 Student Loans	01 ERISA Issues 02 Workers Compensation	01 Adoption 02 Child Support 03 Custody Issues 04 Divorce 05 TROs 06 Other Family Law Matters	01 Landlord/Tenant Disputes 02 Real Estate Issues 03 Other Property Issues	01 Criminal Defense	01 Consumer Protection 02 Products Liability



# HAWAII DISABILITY RIGHTS CENTER OUR CENTER OUR SERVICES

## C. SERVICE PRIORITIES

Priorities are those issues that are given preference in the case screening and selection process. Once each year HDRC holds a public comment period to solicit comments and recommendations from its constituency and the community on those issues which should be priorities for the Center. HDRC client services priorities should be:

- Compatible with our mission and values
- Compatible with our areas of expertise (i.e. problems have legal implications)
- Compatible with our eligibility requirements
- Unmet by other organizations
- Of probable significant impact (Individual and systemic)
- Feasible - cost is within HDRC resources; and
- Consistent with funding requirements

## III. ELEMENTS OF ADVOCACY

### A. ADVOCACY ACTIVITIES

HDRC engages in the following activities to accomplish its objectives:

1. **Outreach** - Identification of and outreach to un-served and under-served (racial, ethnic, geographic) groups. Service on councils, groups, task forces concerned with disability issues.
2. **Provision of Information** - Provision of information, and referral to other sources of assistance when HDRC is not able to help an applicant.
3. **Education and Training** - Education and training activities for people with disabilities, families, communities, legal professionals and service providers.
4. **Individual Casework** - Provision of advocacy to resolve issues or problems for individuals with disabilities. Individual advocacy includes: Technical Assistance for Self-Advocacy, Short-Term Assistance and Comprehensive Advocacy.
5. **Systemic Casework** - Activities undertaken to implement changes in policies and practices of systems that impact people with disabilities. Systemic advocacy may include planned collaborative activities with other organizations to effect change; advocacy to change legislation and regulations that affect people with disabilities; and legal remedies, such as class action litigation, which effects changes for many people with disabilities.

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## B. ADVOCACY INTERVENTIONS

HDRC always tries to resolve problems with the lowest feasible level of intervention, such as **counseling/professional assistance, investigation, monitoring, mediation, negotiation, arbitration, administrative reviews; and administrative appeals.**

However, Congress has directed that protection and advocacy systems should have the capacity to provide full **legal representation** for its clients, **including litigation**, if necessary.

## C. ADVOCACY PRINCIPLES

HDRC strives to provide services that are:

- Sensitive to the personal dignity, choice and cultural/ethnic diversity of each client;
- Offered with appropriate accommodations;
- Distributed based on the needs of people with disabilities; and
- Consumer driven and consumer responsive.

## IV. ADVOCACY ELIGIBILITY AND ASSISTANCE

### A. BASIC ELIGIBILITY REQUIREMENTS

1. The individual has a **disability**, as defined in our CAP or one of our P&A programs; and
2. The individual meets the **eligibility criteria** as defined in our CAP or P&A programs; and
3. The individual has a **problem** that has resulted from or is related to the disability; and
4. The individual's problem is within HDRC's current Client Services **priorities.**

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### **B. HDRC DOES NOT PROVIDE ASSISTANCE WHEN:**

1. The individual does not have a disability, or does not have a disability-related problem.
2. The individual is represented by another attorney or agency.
3. The individual's problem is one commonly accepted by the private bar or by local legal services programs, or the legal expertise is available elsewhere.
4. The individual's problem involves a statutory right to appointed counsel.
5. The problem concerns the interests of service providers or families, guardians, or conservators of persons with disabilities, unless that interest is consistent with the interest of the person with a disability.

### **C. HDRC ONLY ASSISTS WITH THESE ISSUES IN COMPELLING AND UNIQUE CIRCUMSTANCES:**

- |  |   |
|--|---|
| 1. Bankruptcy  | 6. Family law - adoption, child support, custody, divorce |
| 2. Consumer protection or products liability                 | 7. Malpractice  |
| 3. Conservatorship or guardianship of the person or property | 8. Private insurance issues                               |
| 4. Criminal proceedings                                      | 9. Property disputes                                      |
| 5. Estate planning and wills                                 | 10. Tax issues  |
|  | 11. Tort-Personal Injury – Money Damages                  |
|  | 12. Workers compensation or ERISA                         |

### **D. THESE QUESTIONS HELP HDRC EVALUATE REQUESTS FOR ASSISTANCE:**

1. Is the individual able to advocate for the resolution of his/her own problem?
2. Are there other advocacy resources available to this individual?
3. How immediate, severe and long-lasting are the effects of the problem on the individual?
4. How complex is the individual's problem or the bureaucracy or service delivery system causing the problem?
5. Does the individual have a claim backed up with strong legal grounds or other evidence?
6. Does this claim have the potential to impact the legal rights of other people with disabilities?
7. Does this claim have a good possibility of satisfactory resolution through HDRC intervention?
8. Does HDRC staff have the expertise necessary to resolve this problem?
9. Does HDRC have adequate staff and resources to accept this case without negatively affecting existing clients?



## HAWAII DISABILITY RIGHTS CENTER



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HAWAII'S CLIENT ASSISTANCE PROGRAM

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### HDRC SERVICES:

- No Income Requirements
- No Forms to Complete
- Always Free

### TO REQUEST ASSISTANCE:

Visit Our Office ■ Call Us ■ Visit Our Website

Please contact us for copies of this publication in alternate formats.  
This publication may be downloaded from our website.

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