



Department of Human Resources
311 West Saratoga Street
Baltimore MD 21201

FIA ACTION TRANSMITTAL

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TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT
FAMILY INVESTMENT SUPERVISORS/ELIGIBILITY STAFF

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RE: ENSURING MEANINGFUL AND EQUAL ACCESS TO PROGRAMS BY
PEOPLE WITH DISABILITIES

PROGRAM AFFECTED: ALL PROGRAMS

ORIGINATING OFFICE: OFFICE OF POLICY, RESEARCH AND TRAINING

SUMMARY:

Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 require all state and local agencies administering a federal program to attempt to identify disabilities and provide reasonable accommodations or program modifications where applicable. ADA compliance is part of providing good customer service.

This Action Transmittal:

1. Explains the definition of "disability" under the ADA.
2. Provides clarity on how to identify a disability and provide a "reasonable accommodation."
3. Provides guidance on modifications made to program materials and handouts for customers.

ACTION REQUIRED:

A. ADA and Section 504 of the Rehabilitation Act outline three key requirements that protect the rights of customers with disabilities. They are:

1. **Ensure equal access to all programs.** The local department must offer appropriate services that allow people with disabilities to receive:

- **Individualized treatment –**

- Evaluate each customer on a case-by-case basis.
 - Avoid a “one size fits all” approach to work or other activity referrals.
 - Listen to each customer’s request for accommodation and respond appropriately.
 - Discover what the customer CAN do.
 - Decide on the steps necessary to assist the applicant/recipient meet program requirements.
- Assess potential based on facts and objective evidence instead of generalizations and stereotypes.
 - Complete a partial or full assessment as soon as possible to determine the customer’s skills, knowledge, abilities, support systems and potential barriers to employment.
 - Do not make road blocks or barriers the first thing we assess. Our goal is to help customers find alternate routes around barriers.
- Do not assume people with disabilities can only participate in the most rudimentary work activities. See examples below.
 - There are people with Downs Syndrome who work as banks tellers, as actors, waiters and waitresses and in other areas that were unthinkable 20 years ago.
 - Renowned physicist, Steven Hawking has been in a wheel chair for most of his life suffering from an incurable motor neuron illness called amyotrophic lateral sclerosis (ALS).
 - Nick Vujicic is a world known motivational speaker who was born with no arms or legs.
- **Effective and meaningful opportunity –**
 - Guarantee that customers with disabilities receive the same opportunity to fully benefit from every program aspect as customers without disabilities.
 - Provide “**meaningful access**” to all programs by offering reasonable accessibility, accommodations, auxiliary aids, communications and services.

2. Modify practices and procedures. Adjust, to the extent possible, the application process and procedures, training and education programs, work activities and other factors to ensure equal opportunities.

- Modifications do not have to be expensive and do not have to result in program alterations and administrative burdens.
 - A telephone interview instead of a face to face interview. (We encourage telephone interviews for everyone, disabled or not).
 - Home visits.
 - On site interpreters for speakers of other languages, including sign language.
 - Screen magnifiers for use with electronic devices and paper applications.

- Large print paper forms.
- Flashing lights in the office to identify an emergency situation.
- A reader or note taker for someone who has a learning disability or someone who cannot read or write.
- Much like a hospital triage, local departments can monitor their reception rooms and move people who self-identify with an illness or disability through faster.
- Post signs in the office that an application can be completed and left at the office, an application can be completed in SAIL or on the Health Benefit Exchange online applications and a phone interview can be completed.

3. Provide non-discriminatory program administration.

- Ensure that vendors and service providers are experienced and skilled in working with individuals who have disabilities.
- Assess the treatment that customers receive from employees, contractors and vendors.
- Protect customers from experiencing disability-based discrimination resulting from unlawful actions by contractors and vendors.
- Ensure contractors and vendors are providing reasonable accommodation such as:
 - Hearing amplification devices, speech, or visual impairment aids.
 - Readers and note-takers.
 - Materials in alternative formats.
 - TTY/TTD telephone access.
 - Interpreters and interpretation services for non-English speakers and for hearing and speech impaired customers.

B. Rights issues may arise during customers' initial contacts with a local department office or during activities that engage clients over a period of time, such as Temporary Cash Assistance (TCA) work programs, but accommodations for those with disabilities could occur during any phase of applying for or receiving assistance.

1. Application for assistance

- A customer may need help filling out an application because he or she cannot read or write or the customer may be partially or fully blind. The customer could be deaf and need an interpreter or TTY to be able to complete the process.
- A deaf person will not be able to do a telephone interview without assistance.
- A learning disabled customer may not understand what the questions mean.
- Customers with mobility issues, who can't travel without assistance, can file an application through SAIL, mail or fax it in or drop it off. All interviews including Child Support can be completed by phone.

2. Assessment for Temporary Cash Assistance (TCA)

Begin assessment of customers applying for TCA **during the application process and before you assign the customer to a work activity**. This process helps you identify individuals with disabilities that may either exempt them from work activity requirements or identify work mandatory individuals that need some accommodation.

- The On-line Work Readiness (OWRA) is an effective assessment tool located in WORKS. Questions in OWRA help case managers and work program staff identify disabilities that may be undiagnosed or that the customer is reluctant to disclose.
- Use OWRA to identify potential barriers including disabilities and to help customers who are not disabled under TCA requirements be more successful in becoming self-sufficient. Identifying potential barriers and addressing them may help reduce the number of TCA work related sanctions.
- Remember that we cannot delay a reasonable accommodation decision because a DHR/FIA 500 disability form is not in the program participant's case record.

ADA covers TCA requirements (work or otherwise) for protecting the customer. Do not sanction a customer if the non-cooperation results from a covered disability.

3. Job Training/Education

- Are training or educational program opportunities accessible for customers with disabilities? Specifically, are they accessible for people with mobility impairments, communication impairments, developmental impairments and mental or emotional impairments?
- Are your case managers and vendors trained to secure placements for customers with disabilities in job training and education programs operated by other agencies or entities?
- Does your contract with work program vendors include information about their obligations, under the ADA and Section 504, to modify policies and procedures that ensure equal benefit opportunities?
- What method are you using to monitor the ability of an individual with disabilities to function in training programs? Do you have a tracking method in place that checks on their progress and ensures that accommodation needs are being met?

Job Placements

- Are job developers working to ensure that employers are aware of their ADA obligations regarding reasonable accommodations for customers with disabilities?
- Are you taking steps to prevent customers with disabilities from being steered into dead-end jobs?
- How are you monitoring the ability of individuals with disabilities to handle the job placement? Is there follow up to determine if individual accommodation needs are being met?
- Are you addressing any potential obstacles to sustaining employment for people with disabilities?

Specific Examples:

- A customer with HIV may be able to participate in a work activity, but due to the nature of the illness, may not be able to participate every day.
- A customer with cancer may be able to participate in work activities except when having treatment or suffering the side effects of treatment.
- A customer with a covered illness or disability may miss appointments at the last minute or not go to an activity and not call because he or she is sick and can't get to the phone. Encourage the customer to contact you or the activity vendor as soon as they are able.
- A customer with epilepsy is not "disabled" for work requirements, but does require reasonable accommodations.
 - The case manager needs to know if the customer's seizures are frequent.
 - What triggers them? (In some instances, sudden light like a camera flash or a bright light coming on in the dark may trigger a seizure.)
 - Keep work activities local. Avoid asking the customer to travel long distances, especially on public transportation.
- A vendor asks a learning disabled customer to provide a medical disability form that verifies his disability and exempt status from work activity.
 - The participant does not have a physical disability that prevents the individual from participating in a work activity, but his reading test score was at a third grade level.
 - ADA covers the individual as disabled.
 - The local department must identify the individual's needs and provide accommodation to ensure the customer is in the appropriate work activity.

- Review procedures that you use to work with customers who have an on-going illness or one that may be in remission because of medication.

Document Requests for Accommodation. Always include in CARES Narrative (or the case notes screens in other systems) disabled or impaired customers' requests for accommodation. Also note our responses to those requests.

COMPLAINT REQUIREMENTS

Please remember that denying a reasonable accommodation to a disabled customer is not only a violation of the policy and procedures at local departments but more seriously a violation of Civil Rights law. Customers who believe they have been discriminated against or have had their civil rights violated have the right to contact the Office of Civil Rights (OCR) and file a complaint.

The complaint must be filed in writing, either on paper or electronically via the OCR Complaint Portal or by mail, fax, or e-mail; it must:

1. Name the health care or social service provider involved, and describe the acts or omissions, believed to have violated the civil rights laws or regulations; and
2. Be filed within 180 days of when it was known that the act or omission complained of occurred. OCR may extend the 180-day period if there is "good cause."

OCR recommends that individuals use the Civil Rights Discrimination Complaint Form Package to submit a written complaint. Individuals can request a copy of this form from an OCR regional office or download it from the website:

<http://www.hhs.gov/ocr/civilrights/complaints/discrimhowtofile.pdf>.

There are also program specific requirements for filing complaints that are covered in each program policy manual. Manuals are located on FIPNET under Manuals and on the DHR website under DOCUMENTS/Manuals. We updated application forms DHR/FIA CARES 9701, 9702, 9707 and 9711-A with language suggested by the federal civil rights offices for TCA, Food Supplement Program (FSP) and Medical Assistance (MA).

INQUIRIES

For program specific information please contact the following:

TCA and TDAP-Fatmata Khella at 410-767-7956 or fatmata.khella@maryland.gov.

FSP-Rick McClendon at 410-767-7307 or rick.mcclendon@maryland.gov.

Child Care Subsidy (CCS)- Myra White-Gray at 410-767-7863 or myra.white-gray@msde.state.md.us.

Direct CCATS system inquiries to the MSDE CCATS Help Desk at 410-767-7816 or MSDECCATS@msde.state.md.us.

MA/MCHP-DHMH Division of Eligibility Policy and MCHP at 410-767-1463 or 1-800-492-5231 (select option 2 and request extension 1463).

ATTACHMENT A

The Law

The Federal Office of Civil Rights (OCR) has informed DHR that it must take action to clearly communicate, and provide accommodations to disabled customers that ensure equal access to program services and activities. OCR sent the instructions in response to verified complaints from customers who did not receive accommodations they were entitled to under law at local DSS offices.

We have updated printed materials and Basic Training to clearly communicate the availability of reasonable accommodations for individuals with disabilities. We also must emphasize important actions your office must take in order to be compliant with federal standards.

The Americans with Disabilities Act (ADA) provides a broad definition of disability. Under ADA there are three definitions of disability:

- (1) Impairments that substantially limit major life activities. This disability definition applies to what most people think of when they think about a disability, such as: **seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working.**

Individuals with epilepsy, paralysis, HIV infection, AIDS, a substantial hearing or visual impairment, mental retardation and other specific learning disabilities are covered.

- (2) The second definition includes people who have a record of disability such as but not limited to those who are recovered from cancer or a mental illness or other such illness or disease. This also covers people in remission from a disease or those who have flare ups of diseases but otherwise can usually function well on a day to day basis.

This coverage includes people with illnesses such as cancer, multiple sclerosis or diabetes who may be recovered, in remission or currently undergoing treatment.

- (3) The third definition protects individuals who are regarded as having a substantially limiting impairment even though they may not have impairment.

This third definition covers many people. An individual may have suffered a severe facial disfigurement in an accident or in combat. Employers may not deny employment to an individual qualified to perform a job because the employer fears the "negative reactions" of customers or co-workers who see the disfigurement.