

DFD Program Instruction on Providing Services to Individuals with Disabilities

Director

Tel (609) 588-2000

June 1, 2005

TO: COUNTY WELFARE AGENCY DIRECTORS

COUNTY WFNJ DIRECTORS

COUNTY INCOME MAINTENANCE ADMINISTRATIVE SUPERVISORS

COUNTY CASE MANAGEMENT SUPERVISORS

COUNTY FOOD STAMP SUPERVISORS

COUNTY SOCIAL SERVICE ADMINISTRATIVE SUPERVISORS

COUNTY WELFARE TRAINERS

COUNTY FAIR HEARING LIAISONS

COUNTY HEA COORDINATORS

COUNTY CHILD SUPPORT SUPERVISORS

SAI CARE COORDINATORS

SERVICE DELIVERY AREA DIRECTORS

COUNTY WFNJ/GA ADMINISTRATIVE SUPERVISORS

MUNICIPAL WELFARE DIRECTORS

UNIFIED CHILD CARE AGENCY DIRECTORS

CONTRACTED CHILD CARE CENTERS

One Stop Career Centers

Last DFDI ISSUED: 05-5-8

DFD Instruction No. 05-6-1

Last GAPI ISSUED: 05-5-4

General Assistance Program Instruction No. 05-6-1

SUBJECT: Providing Services to Individuals with Disabilities

Regulatory

Reference: N.J.A.C. 10:90-1.7

N.J.S.A. 10:5

WFNJ/TANF

WFNJ/GA

FS

FSPA

EA

Child Care

NJCKTCCCSPEBTHEA

PROGRAM

Purpose

The Division of Family Development (DFD) is issuing policy guidance principally on the application of the ADA and Section 504 of the Rehabilitation Act to assistance programs supervised and administered by DFD. The purpose of this instruction is threefold:

1. to assist the CWA/MWA/OSCC local agency, and other covered entities with obligations in understanding their roles in prohibiting discrimination on the basis of disability;
2. to ensure training is available to agency personnel to optimize assistance to disabled clients seeking or receiving services; and
3. to ensure the development of local agency grievance procedures that are consistent with State and Federal procedures, so that disabled clients receive timely and appropriate services.

A. Application of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act to assistance programs

Statutory Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) specifically incorporates Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (ADA) of 1990 to prohibit discrimination on the basis of disability in the application for, and implementation of, social services programs by States and other public and private agencies. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability and specifically covers all entities that receive Federal financial assistance from Health and Human Services (HHS) directly, or indirectly through a grant, contract, or subcontract. The ADA prohibits discrimination on the basis of disability by both public and private entities, whether or not they receive Federal financial assistance.

In addition to Section 504 and Title II of the ADA, the New Jersey Law Against Discrimination, P.L. 1945, c. 169 (C.10:5-1 et seq.) prohibits any unlawful discrimination against any person because such person is or has been at any time handicapped. Section 504, the ADA, and the New Jersey Law Against Discrimination apply to all state, county and local governments administering all or part of a DFD's social service programs, by requiring non-discriminatory methods of administering such programs, services or activities. Covered entities include, but are not limited to, all state, county and local welfare agencies; programs for families, youth and children; job training and welfare-to-work agencies and their contractors, subcontractors and vendors, whether public or private, for-profit or nonprofit. The requirements of the ADA and Section 504 are applicable to all DFD programs services and activities: from the application process, to screening and assessment, through the education, training and work requirements, as well as the appeal of any adverse action.

Thus, the ADA and Section 504 require state and local government agencies, as well as their contractors, subcontractors or vendors, to ensure equal access and equal opportunities to participate in DFD programs for qualified disabled individuals. This is accomplished through the provision of appropriate services, modified policies, practices and procedures, and non-discriminatory methods of administration, unless it would require a fundamental alteration in the nature of the program or result in undue financial or administrative burdens to the agency. This protection from discrimination for individuals with disabilities ensures they will benefit from all aspects of welfare reform, including access to proper support services to enable such individuals to work and keep their families healthy, safe and intact.

Individuals protected under Disability Rights Laws

Section 504 of the Rehabilitation Act and Title II of the ADA define disability more broadly than does the Social Security Administration and many DFD social service programs. Federal definitions govern who is considered an individual with a disability for purposes of compliance with the ADA and Section 504. A "disability" with respect to an individual means a physical or mental impairment that substantially limits one or more of the major life activities of that individual, a record of such impairment, or a person who is regarded as having such impairment. Examples of major life activities including thinking, learning, taking care of oneself, maintaining social relationships, and sleeping.

In addition, the New Jersey Law Against Discrimination provides an even broader definition of "disability" or "handicap," which does not require that the disability substantially limit one or more of the major life activities of the individual. Many physical and mental disabilities that may interfere with an individual's ability to participate in DFD's social service programs may not be readily apparent without an individual assessment, such as seizure conditions, HIV, and depression. These laws also protect family members or others associated with a person with a disability. For example, an adult "able-bodied" parent caring for a child with a disability must be accommodated so that he or she is not sanctioned for engaging in caretaking needs for a child with a disability. Please note that many people who have not applied for or, who do not qualify for SSI/SSD may be protected under the ADA/Section 504 or the New Jersey law Against Disability.

Thus, a "qualified" individual with a disability can neither be denied benefits or services, nor be provided lesser benefits or services, than those available to individuals without disabilities under Section 504 and the ADA. A "qualified" individual with a disability is a person who meets the essential eligibility requirements for receipt of services or participation in a program or activity, with or without reasonable accommodations or modifications to the rules, policies or practices.

B. CWA/MWA/OSCC Agency Implementation of the ADA/Section 504 Policy

Local Agency Written Guidelines

In order to implement the key principals of individualized treatment, and equal access and opportunity to assistance benefits, the CWA/MWA/OSCC agencies must ensure their written guidelines incorporate the following:

1) Local agencies must ensure equal access to programs through the provision of appropriate services to people with disabilities. Appropriate services shall be afforded qualified individuals with disabilities so that an equal opportunity to participate in and benefit from the programs (cash assistance, food stamps, training or other social services) is available. Qualified individuals with disabilities shall receive an assessment, which provides an individualized analysis of each person's ability to meet the program requirements, rather than making assumptions about the individual's limitations based on disability. Program providers must ensure effective communication with individuals who have speech, hearing or visual impairments. Auxiliary aids must be provided if necessary to ensure effective communication unless to do so would fundamentally alter the nature of the program, or result in an undue financial or administrative burden. Individuals with disabilities may not be excluded from applying for or receiving benefits of a program because the building is an inaccessible structure. Changes to existing facilities are not required if other methods of achieving equal access are available, or if changes would result in substantial modification to the program or an undue financial or administrative burden.

2) Local agencies must modify policy, practice, and procedures when necessary to ensure equal opportunity for people with disabilities unless doing so would result in a fundamental alteration to the program. The agency shall undertake a comprehensive examination of its policies, practices and procedures to determine if changes are necessary to ensure that participants with disabilities have the same opportunity as participants without disabilities, to benefit from a program by providing appropriate accommodations as necessary. Programs and services must be provided in the least restrictive environment, unless separate or different measures are necessary to ensure equal opportunity for individuals with disabilities. Programs providing separate benefits are permitted, but individuals with disabilities can not be compelled to participate, and may choose a regular program with reasonable modifications. A disclosure of disability by an individual is voluntary, however, initial screenings should indicate potential disabilities so that individual may be able to complete an application and benefit from programs.

3) Local agencies must adopt non-discriminatory methods of administration. The agency shall operate in such a way as to ensure the methods of administration of the programs, that is, written policies and actual practices, do not have the effect of subjecting qualified individuals with disabilities to discrimination. This requirement governs both activities administered directly by the agency and activities carried out by contractors or vendors. In order to ensure that the agency does not subject individuals to disability-based discrimination, the agency must:

- train its staff to provide equal access to programs for individuals with disabilities;
- ensure that training occurs for staff of service provider agencies who have contractual or vendor relationships with the agency;
- establish clear written policy to ensure access for persons with disabilities;
- conduct oversight of programs and services to ensure that people with disabilities have equal access, and

- otherwise ensure that it does not subject individuals with disabilities to discrimination by ensuring procedural safeguards are in place to address disability related problems and complaints prior imposition of sanctions, and process ADA complaints.

All CWA/MWA/OSCC agencies shall provide clear written guidelines, incorporating as necessary DFD trainings and instructions, that address an agency's policy and practice with regard to applicants for or recipients of benefits who are individuals with a disability. These agency guidelines shall be provided to all agency staff that have contact with individuals with disabilities, and shall be incorporated into an agency's manual, handbook, or directive that sets out agency policy with respect to the DFD social service program.

Modifications in programs, removal of barriers, and auxiliary aids and services

All CWA/MWA/OSCC agencies are required to furnish reasonable accommodations if necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of available services, programs, or activities unless it would fundamentally change the nature of the program, or impose an undue financial or administrative burden on the agency. Reasonable accommodations or reasonable modifications in this context mean:

- modification of rules, policies and practices;
- removal of architectural, communicative or transportation barriers; or
- provision of auxiliary aids and services if needed for a person with a disability to obtain public services.

General examples of reasonable accommodations

- giving a person more time
- allowing a person to do an activity in another place, manner or timeframe
- assisting a person in an activity
- allowing a relative or companion to assist a person in an activity
- allowing a person to get treatment or services before requiring them to do an activity
- allowing a person to not engage in an activity if they are obviously unable to do so

Specific examples of reasonable accommodations

- assisting a person in filling out an application
- assisting a person in getting documentation
- allowing for home visits
- rescheduling appointments for documented disability related reasons
- allowing for shorter appointment waits
- providing different explanations of program rules
- providing alternative notices if the disability affects their ability to read
- allowing a relative to accompany the person to an appointment, with client authorization
- allowing relatives to receive important notices, with client authorization
- allowing additional time to get documents or attend training
- adjusting work activities if a disability interferes with the performance of the activity
- delaying or allowing time off from work activities for mental health or disability related treatment
- allowing for time off from work activities related to a child's disability
- deferring a person from work activities if reasonable accommodations can not make the work activities possible to do
- providing or modifying equipment to participate in work, training or education activities

- providing support services to assist a person in participating in work, education or training activities
- allowing for specialized instruction in reading and writing, or job mentoring on site
- allowing for settings that are accessible to persons with mobility impairments

Communication Assistance

CWA/MWA/OSCC agencies have the obligation to ensure effective communication with individuals who have hearing, speech, or visual impairments. All CWA/MWA/OSCC agencies must ensure that individuals with disabilities, or their representatives, are provided with auxiliary aids and services that afford effective communication with agency employees or other persons authorized to carry out the responsibilities of the agency. Agencies that employ less than 15 people may refer individuals with disabilities to another agency if unable to make an accommodation. Auxiliary aids and services include, but are not limited to, qualified language or sign language interpreters, written material, translated material, note pad and pen, note-takers, materials in alternative formats and TTY numbers for persons who are deaf/hearing impaired.

C. CWA/MWA/OSCC Responsibilities

Identifying Individuals Who Might Have Disabilities

Self-reporting

All CWA/MWA/OSCC agencies offices shall prominently feature posters or other signage encouraging individuals with disabilities to report their disabilities and obtain assistance if they need it. (See Attachment A, Local Agency Notice). In addition, staff shall ask applicants whether assistance will be necessary due to a disability during the application process. The staff shall inform the applicant that disclosure of disability information is voluntary and the information may be shared pursuant to administration of the program. If an individual chooses not to disclose a disability, which is not otherwise obvious, the agency is not responsible for provision of accommodation.

Agency Screening and Assessment

Although disclosure of a disability is voluntary, all applicants and participants shall be screened for disabilities and anyone with a possible disability shall be offered an in-depth assessment to identify the nature and severity of the disability, and need for an accommodation. Workers shall be provided training to identify common signs indicating that individuals might have a disability, such as signs of psychiatric or learning disabilities.

All WFNJ applicants are screened for disabilities using the Employability Plan Development Tool (EPDT). The individual may be referred for a more in-depth assessment related to the specific problem such as a mental health or substance abuse assessment, or the individual may be referred to a case manager for completion of the Comprehensive Social Assessment (CSA), a detailed social and employability assessment. After a WFNJ recipient has received 12 months of cash assistance, the case manager shall schedule the individual for a CSA if one has not already been completed. In addition to the EPDT and the CSA, there are other tools that may be used including family violence and educational assessments. Detailed information regarding the EPDT and the CSA is available under separate instructions (See DFDI No. 04-9-5 for information regarding the CSA, and DFDI No. 05-1-3 on the EPDT Tool.)

Any time an obvious barrier to successful program participation exists, the agency shall provide additional assistance, even if a disability has not been diagnosed. If documentation of a disability is required, the agency should assist the individual in obtaining that documentation when possible by scheduling an appointment or providing additional reminders to attend if needed.

Because many individuals with disabilities face multiple barriers and require interventions by a multiplicity of agencies and programs, the agency shall also provide comprehensive case management and service coordination. Available community resources for clients with disabilities should be identified, including a community mental health center and a Vocational Rehabilitation program. The agency should establish and maintain a formalized referral process with these local resources. Workers should be aware of what services are provided by these resources, as well as when and how to refer an individual. Each agency is responsible for identifying local available resources and ensuring that all staff is provided with a written list of available services that may be offered to an individual with disabilities.

Correlation between Disabilities and Adverse Actions

There is a close relationship between disabilities and sanctions, case closures, or other adverse actions. CWA/MWA/OSCC agencies must establish procedural safeguards for identifying disability-related problems prior to any imposition of sanction. Each agency has an obligation to have a compliance-oriented approach to

sanctions: i.e., the agency should perform a pre-sanction review to determine if the individual has a disability-related reason for the non-compliance. If a disability is identified, the sanction should not be imposed and the disability should be accommodated to facilitate future compliance. Individuals with disabilities shall have an equal and meaningful opportunity to challenge sanctions, case closures or other adverse actions. The process for challenging sanctions shall be flexible to accommodate people with disabilities. No adverse action should be taken while a complaint, grievance, or hearing on a discrimination complaint is pending.

The local agency shall systematically and routinely assess which participants are being sanctioned and the reason for the sanction, in order to determine if a disability substantially contributed to the participant's noncompliance. The agency's ADA/Section 504 notice shall include information regarding the right to have a disability considered and accommodated, if the disability is a basis of non-compliance.

CWA/MWA/OSCC Obligations to Provide Reasonable Accommodations

Employees of CWA/MWA/OSCC and their contractor/vendor agencies for TANF, GA and Food Stamp to-work resources, are responsible for deciding when and what accommodation is needed and arranging for the accommodation to be provided when needed. If the employee is unable to accommodate an individual's disability, the employee shall request the assistance of the local ADA Coordinator, who in turn may request assistance from the DFD ADA Coordinator. Reasonable accommodation requests must be decided upon and accommodations provided as soon as possible, and in time to prevent an individual from being denied an equal and meaningful opportunity to participate in and benefit from the DFD programs. In all but exceptional cases, requests for a reasonable accommodation at the CWA/MWA/OSCC must be answered within 5 days.

Case File Documentation

All identified disabilities shall be recorded in writing in the individual's case file and followed up by the employee and the local ADA Coordinator to ensure reasonable accommodations are provided as needed. Employees must record any requests made by or on behalf of an individual, along with the agency's decision on whether to provide the accommodation or an alternate accommodation or, if the request is denied, the reason for denial. The employee must also record whether an accommodation that was approved was provided to the individual, and when it was provided. All recorded requests shall be reviewed by the local ADA coordinator, and remain available in the individual's case file.

Participant/Applicant Requests for Accommodations/Modifications

The employee's obligation to record a request for a reasonable accommodation, consider the request, and provide the accommodation, shall be triggered by anything that a reasonable person would consider as a request for some type of help in the context of a disability. Terms such as "reasonable accommodations," "ADA", or "disability" are not required to prompt the employee's and agency's obligation to record, consider, and provide a reasonable accommodation. If an individual tells an employee that a proposed work activity is not compatible with his or her disability, the agency shall have a written procedure in place that permits the individual's claim to be fully considered before placement is made.

In some instances, individuals may lack documentation of a disability at the time they request an accommodation, or at the time it becomes apparent to the employee that an accommodation is needed. If this occurs, the worker should record the request or need for the accommodation and, if the worker determines that the accommodation is reasonable, provide the accommodation. The employee shall give the individual a reasonable period of time in which to obtain and provide documentation and, if necessary, offer assistance in obtaining the documentation. For some individuals, this reasonable period of time may coincide with the completion of the disability screening and assessment process.

Individuals with obvious disabilities, such as deaf or blind individuals, shall not be required to provide documentation of a disability and need for an accommodation unless the individual is requesting a deferral from the work requirement. The individual's DFD service plan shall reflect and incorporate the need for reasonable accommodations, and any change in the individual's abilities, disabilities, or needs. Individual Responsibility Plans completed by the county or municipal welfare agency shall address not only the suitability of job opportunities, but also the need for disability-related services and supports.

ADA/Section 504 Notice

The CWA/MWA/OSCC employee, contractor or vendor shall inform each applicant or recipient about the ADA and how it applies to the particular program, service, or activity. Each agency shall provide written consumer education materials on the ADA and Section 504. Written materials may include wall posters or flyer handouts available in the agency foyer, waiting room, and offices. The agency shall provide workers with written guidelines regarding the distribution of these materials, including when the materials are to be distributed, and to whom.

Designated Local ADA Coordinator

Each CWA/MWA/OSCC agency shall establish a designated local ADA coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Although each employee is responsible to address client requests for accommodations, the local ADA Coordinator shall review all recorded requests for accommodations to ensure that the accommodations have been provided. In addition, the local ADA coordinator's duty shall include the investigation of any grievance filed with the agency. The local ADA coordinator shall maintain the files and records of the agency regarding requests for reasonable accommodations and final determinations by the agency.

Each CWA/MWA/OSCC agency shall appoint a trained backup local ADA coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA in the absence of the designated ADA coordinator. If a local agency's ADA coordinator is unavailable, the agency shall consult another local agency ADA coordinator or the DHS ADA coordinator.

Monitoring

Each CWA/MWA/OSCC agency shall complete a self-evaluation to identify ADA/Section 504 problems that need to be addressed. (See Attachment B Quick Reference). The agency shall send the findings from the self-evaluation, along with a plan of correction, to DFD Office of Program Support.

Agencies shall ensure that they do not subject individuals to disability-based discrimination by conducting regular oversight of programs and services to ensure that people with disabilities are being served. It may be appropriate to include a random sampling of files in a self-assessment. Agencies should also monitor all programs they administer. Such monitoring should evaluate the current needs of participants with disabilities, and determine whether existing screening and assessment tools and procedures are adequate, whether assistance provided is meeting the needs of such individuals, whether staff is knowledgeable about ADA requirements and how to implement them, and whether sources of and arrangements for assistance are current and viable.

Further, the CWA/MWA/OSCC agency shall also establish procedures to monitor periodically all aspects of compliance with Section 504 and the ADA by service provider agencies and other entities with whom it has entered into contractual or other arrangements. The agency shall monitor staff, contractors, and sub-contractors to ensure implementation of programs, projects, and activities in a nondiscriminatory manner by analyzing data and records and conducting reviews. In addition, DFD shall monitor agencies as needed. The monitoring agency shall impose penalties on and require corrective action of contractors and sub-contractors for violations noted during a review.

Training

CWA/MWA/OSCC agencies must train staff to provide to ensure that there is no gap between an agency's written guidelines, and the actual practice of employees in the front line interacting with persons with disabilities. Effective training also ensures that employees are knowledgeable and aware of policies relating to persons with disabilities, and are trained to work effectively with persons with disabilities. The CWA/MWA/OSCC agency must also ensure, through contractual oversight, that similar training is provided to staff of service provider agencies. Effective training must include training on the requirements presented in this policy, as well as the requirements of the local agency's comprehensive written policy guidelines.

All CWA/MWA/OSCC agency employees who have contact with the public as a part of their job duties shall be trained on their responsibilities and duties under the ADA. To assist local agencies, DFD shall provide "train the trainers" sessions on ADA compliance. DFD shall also provide agencies with a uniform outline of topics to be covered in trainings that may be individualized for each agency. Agencies must submit local training material and a training schedule to DFD. Agencies are to include any local written guidelines addressing ADA compliance with the training materials. Training materials and local guidelines shall be submitted to:

Dennis Ingdal

Office of Program Support

Division of Family Development

PO Box 716

Trenton, NJ 08625-0716

Agencies are responsible for developing a specific ADA training curriculum, however, the agency shall ensure staff will:

- (1) look for and recognize the possibility that an applicant or beneficiary has a disability;
- (2) treat beneficiaries with disabilities as individuals, and not based on disability-based stereotypes;
- (3) understand disability issues and services (including reasonable accommodations, reasonable modifications, auxiliary aids, and services), referral arrangements, and the use of screening instruments;
- (4) work with agencies with specialized expertise in addressing the needs of persons with disabilities such as vocational rehabilitation agencies;
- (5) become knowledgeable about State policy regarding provision of services to persons exempt from work participation requirements; and
- (6) become knowledgeable about disability benefit programs such as SSI, SSDI, Medicaid, and Medicare, as well as other benefit programs.

Generally

As the basis for a complaint may constitute violations of more than one Federal or State law prohibiting discrimination, individuals should be made aware that they may utilize one or more of the available grievance or complaint procedures, depending on the circumstances. If the alleged discrimination occurred in a DFD social service program, individuals have various options including local and state grievance processes, as well as State and Federal discrimination complaint processes. Additionally, if an agency's administrative action resulted in an adverse action against the individual based on a disability issue, the individual may request a fair hearing on the issue.

Local Agency Grievance Procedure

Each CWA/MWA/OSCC agency shall have a written procedure for individuals who wish to grieve the denial of reasonable accommodations or if they believe they have been discriminated against based on their disability. The written procedure shall identify the local and DHS ADA coordinators. It shall instruct the worker on the local grievance process, the worker's obligation to inform clients of their right to file for a fair hearing, grievance or complaint, and the worker's obligation to provide the information or form to help them file, if necessary.

A grievance shall include the following information:

1. The name of the grievant and/or any alternate contact person designated by the grievant to receive communication or provide information for the grievant.
2. The address and telephone number of the grievant or alternate contact person; and
3. A description of the manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses, if appropriate.

All grievances received by the CWA/MWA/OSCC agency alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the local ADA coordinator. An immediate action shall be taken at the local agency level, which shall include an expedited review of the grievance by the local agency. It is anticipated that in most instances, the complaint will be resolved by the local agency. Local complaint investigations shall be conducted by the local agency ADA coordinator or the backup local ADA coordinator for the agency. If the local ADA coordinator was involved in the initial decision to deny the accommodation, then the applicant/recipient shall be informed of this, and shall have the option to request a local backup coordinator.

If the agency determines that the grievance cannot be resolved, the local ADA coordinator shall inform the DFD ADA coordinator immediately. The DFD ADA coordinator shall review the request and grievance, and resolve the matter within 14 days, absent extenuating circumstances. If the grievance has been resolved, the solution should be recorded and filed with the local ADA coordinator. Except in exceptional circumstances, the local ADA coordinator shall notify the individual of the final determination within 30 days of receipt of the grievance by the agency.

To file a Grievance at the State Level:

CWA/MWA/OSCC or DFD

Grievances may be directed to the CWA/MWA/OSCC agency or to:

ADA Coordinator

Office of Human Resources

Division of Family Development

P.O.Box 716

Trenton, New Jersey 08625

DHS

DHS has adopted an internal grievance procedure providing for prompt and equitable resolution of grievances. (See Attachment C, DHS Notice of ADA Procedures). Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 10:4. As those rules indicate, grievances may be addressed to the DHS designated ADA Coordinator, who has been designated to coordinate ADA compliance efforts, at the following address:

ADA Coordinator

New Jersey Department of Human Services

CN 700

Trenton, New Jersey 09725

Division on Civil Rights

An aggrieved individual may also file a complaint with the Division on Civil Rights, New Jersey Department of Law & Public Safety, 140 East Front Street, P.O.Box 090, Trenton, New Jersey 08625-0090.

To file a Complaint at the Federal Level:

USDA or USDHHS

If an individual believes that he or she has been discriminated against because of disability by a DFD social service agency, he or she may also file a complaint with the Office for Civil Rights (OCR) in the U.S. Department of Agriculture (USDA) for complaints related to the Food Stamp program, or the OCR in the U.S. Department of Health and Human Services (DHHS) for complaints related to health and human service programs. (See, Attachment D, USDHHS Complaint Procedure)

FISCAL

N/A

SYSTEMS

N/A

Please bring this information to the attention of appropriate staff. Questions should be directed to your field representative.

Sincerely,

Signed

Jeanette Page-Hawkins

Director

JPH:LTD:nb/ec

Attachments

C:

James W. Smith, Deputy Commissioner

Department of Human Services

Edward E. Cotton, Assistant Commissioner

Division of Youth and Family Services

Ann C. Kohler, Director

Division of Medical Assistance and Health Services

Tamara Thomas, Deputy Assistant Commissioner

Department of Labor and Work Force Development

Division of One-Stop-Programs and Services

Attachment A

Local Agency Notice

DO YOU NEED HELP WITH OUR SERVICES?

Please tell us now

If you have a physical or mental condition that makes it harder for you to do what we ask, you may have rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

These laws protect people with many different conditions, including diabetes, heart disease, HIV/AIDS, mental health problems, learning disabilities, a history of drug or alcohol addition, depression, and difficulty walking, seeing, or hearing. You can tell us if you have, or think you have, a disability.

If you cannot do something we ask you to do, we can help you do it. We can also change what you have to do. Here are some ways we can help:

- We can give you more services to help you get and keep your benefits.
- We can call or visit you if you cannot come to our office.
- We can tell you what this notice means.
- If you are on Work First New Jersey, we can help if you cannot do something in your Individual Responsibility Plan.
- We can help you see a doctor to find out if you have a disability.
- We can help you appeal any action in your case.
- We can give you other help. Ask your caseworker for help or services.

If you ask for help and you don't get it, you can file a complaint with any of the following:

This agency's ADA Coordinator, tel. _____

New Jersey Department of Human Services, ADA Coordinator

P.O. Box 700

Trenton, NJ 09725

United States Department of Health and Human Services (complaints about Work First New Jersey and Medicaid)

Office for Civil Rights 26 Federal Plaza

New York, NY 10278

(212) 264-3313

(212) 264-2355 (TDD)

(212) 264-3039 (FAX)

United States Department of Agriculture (complaints about Food Stamps)

Office for Civil Rights

300 7th St. S. W., Suite 400

Stop Code 9430

Washington, D.C. 20250

(866) 632-9992 (Toll free)

(202) 720-5964

(202) 401-0216 (TDD)

Attachment

BADA and Section 504 Guide

A Quick Reference For Identifying Problems In Welfare Programs

PROCEDURAL ISSUES

I. Self-Evaluation(28 CFR 35.105)

- Did the Agency conduct a self-evaluation of its services, policies and practices to see whether they complied with the ADA?

- Is that evaluation complete? Did it evaluate whether:

Programs are provided in the most integrated setting?

Eligibility requirements screen out people with disabilities?

The application process creates an equal opportunity to participate in and benefit from the program?

Private organizations under contract with the agency comply with the ADA and Section 504?

Communication with people with disabilities, including those with cognitive impairments and learning disabilities, is effective?

There is a procedure for making reasonable modifications?

Staff are trained about: disabilities ____ the ADA and Section 504 ____ the agency's reasonable modification procedure ____ other programs and services available to people with disabilities ____

- Did the evaluation have public input?

- What was the evaluation of work programs?

II. Notice

(28 CFR 35.106 & 35.160)

- Does the agency give TANF recipients notice of their rights and protections under the ADA?

- Is this notice in forms that are accessible to people with disabilities?

- Does the agency use several different methods of notice? Do they have: Brochures ____ waiting room signs ____ notices in the application ____ notice in written notices of application denials, sanctions, other adverse action ____ verbal review with client ____ video in waiting room ____ audiotape ____ ASL Interpreters ____

- Are written notices (explaining rules, opportunities, denials, etc.) designed to be understood by people with cognitive impairments, learning disabilities, so that individuals are not denied effective notice because of a disability?

III ADA Compliance Officer

(28 CFR 35.107(a), 35.160 & 45 CFR 84.52(b))

-Does the agency have at least one designated staff person who monitors compliance with the ADA and investigates complaints?

- Has the compliance officer received adequate training and have a good understanding of the ADA?

- How are people told about the existence of the compliance officer and how to contact the compliance officer? Do they have: signs ____ brochures ____ notices in the application ____ notice in written of the application denials, sanctions, other adverse actions ____ verbal review with client ____ captioned video in waiting room ____ audiotape ____ ASL Interpreters ____

IV. Grievance Procedure

(28 CFR 35.107(b))

- Has the agency adopted and published a grievance procedure for fast and fair resolution of any complaints under the ADA? Is that procedure accessible to people with disabilities?

- Does the agency use several different methods of notice? Do they have: Signs ____ brochures ____ notices in the application ____ notice in written notices of application denials, sanctions, other adverse actions ____ verbal review with client ____ captioned video in waiting room ____ audiotape ____ ASL Interpreters ____

ACCESS TO PROGRAMS AND BENEFITS

V. Access to Programs

(28 CFR 35.130)

- Are people with disabilities who want to participate in work, education or training programs given the opportunity to participate, whether or not they are exempt from work requirements or time limits?

- Are people with disabilities given an equal and meaningful opportunity to participate in and benefit from all programs?

- Do programs have eligibility criteria that do not tend to screen out people with disabilities?

- Are people screened to see if they may have a disability?

- Are people with disabilities/possible disabilities given an in-depth assessment to determine: Whether they have a disability ____ the type of disability they have ____ whether they can work at the present time ____ an appropriate placement ____ reasonable modifications ____ supportive services needed ____

- Are people with disabilities given work placements that are appropriate, given their disabilities? In what ways are people with disabilities provided reasonable modifications in the policies, practices and procedures of the program? For example, are provisions available for people with disabilities to be:

Exempted from work requirements?

Given extra time to complete education and training programs?

Given extensions of time limits?

Given modifications of program requirements such as the number of required job contacts?

Given supportive services?

Given reasonable modifications at the education and training programs or work sites?

Provided assistance in the application process, getting verification, childcare, and transportation?

Given flexible schedules that make it possible to go to medical and mental health appointments?

VI. Denials and Termination of Benefits

(28 CFR 35.130(b)(7), 35.160 & 45 CFR 84.52(b))

- Was notice of the adverse action provided in a manner that was understandable given the person's disability?

- Should the person have been exempted from activities the person could not perform?

Did the person meet an exemption recognized by the agency?

Should such an exemption be established as a reasonable modification?

- If the person is not exempt, was there good cause connected with the person's disability for any specific failure to participate? (e.g. missed classes, failure to provide verification)?

Did the person meet a good cause exception recognized by the agency?

Should such an exception be established as a reasonable modification?

- If an individual did not comply with work requirements, appointments or other program requirements, did the agency

Do an adequate screening and assessment prior to placement?

Make an appropriate placement in a work placement or education and training program?

Provide assistance, such as help with verification and arranging supportive services, such as child care and transportation?

Reasonable modifications of program requirements?

Supportive services and accommodations needed on the work site or education and training program, such as job coaches, tutors, flexible schedules, extra assistance, equipment, breaks?

Contact clients with known/likely disabilities before benefits are terminated to find out the reason for noncompliance, see if a disability was the reason and whether an accommodation can address the problem?

Developed by:

Russ Overby

Tennessee Justice Center

211 Union Street, Suite 916

Nashville, TN 37201

(615) 255-0331

roverby@TNJustice.org

Susan Mizner

Assistant Director

Mayor's Office on Disability

401 Van Ness, Room 300

San Francisco, CA 94102

(415) 554-6787

Susan_Mizner@ci.sf.ca.us

Ruth Bourquin

Massachusetts Law Reform Institute

99 Chauncy Street, 5th Floor

Boston, MA 02111

(617) 357-0700

rbourquin@gbls.org

Cary LaCheen

Welfare Law Center

275 Seventh Avenue, Suite 1205

New Your, NY 10001-6708

(212) 633-6967

lacheen@welfarelaw.org

Attachment C

Agency Notice of ADA Procedure

The agency has adopted an internal grievance procedure providing for prompt and equitable resolution of grievances alleging any action prohibited by the U.S. Department of Justice regulations implementing Title 11 states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 10:4. As those rules indicate, grievances should be addressed to the agency's designated ADA Coordinator, who has been designated to coordinate ADA compliance efforts, at the following address:

ADA Coordinator

New Jersey Department of Human Services

CN 700

Trenton, New Jersey 09725

1. A grievance may be filed in writing or orally, but should contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator.
2. A grievance should be filed promptly within 30 days after the grievant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)
3. An investigation, as may be appropriate, will follow the filing of a grievance. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a grievance.
4. In most cases a written determination as to the validity of the grievance and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the grievant no later than 45 days after its filing.
5. The ADA coordinator will maintain the files and records of the agency relating to the grievances filed.
6. The right of a person to a prompt and equitable resolution of the grievance filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA grievance with the responsible Federal department or agency or the New Jersey Division of Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

Americans with Disabilities Act Grievance Form

Date: _____

Name of grievant: _____

Address of grievant: _____

Telephone number of grievant: _____

Name, address, and telephone number of alternate contact person: _____

Agency alleged to have denied access:

Department: _____

Division: _____

Bureau or office: _____

Location: _____

Incident or barrier: _____

Please describe the particular way in which you believe you have been denied the benefits of any service. Program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

Attachment D

U.S. Department of Health and Human Services • Office for Civil Rights

HOW TO FILE A DISCRIMINATION COMPLAINT WITH THE OFFICE FOR CIVIL RIGHTS

The Department of Health and Human Services (HHS) Office for Civil Rights (OCR) enforces certain Federal civil rights laws that protect the rights of all persons in the United States to receive health and human services without discrimination based on race, color, national origin, disability, age, and in some cases, sex and religion.

If you believe that you have been discriminated against because of your race, color, national origin, disability, age, sex or religion by a health care or human services provider (such as a hospital, nursing home, social service agency, etc.) or by a State or local government health or human services agency, you may file a complaint with the Office for Civil Rights (OCR). Complaints alleging discrimination based on disability by programs directly operated by HHS may also be filed with OCR. You may file a complaint for yourself or for someone else.

Complaints to the Office for Civil Rights should be filed in writing, either on paper or electronically. You can use OCR's Discrimination Complaint Form which can be found on our web site or at an OCR Regional office. If you do not use OCR's form, your complaint should include the following information:

1. Your name, address and telephone number.
2. If you are filing a complaint for someone else, include that person's name, address and telephone number.
3. The name and address of the organization or person you believe discriminated against you.
4. How, why and when you believe you (or the person on whose behalf you are filing the complaint) were discriminated against.
5. Any other information that would help OCR understand your complaint.

You must file your complaint within 180 days of the date when the discrimination happened. OCR may extend the 180-day period if you can show "good cause."

You can file your complaint by email at OCRcomplaint@hhs.gov, or you can mail or fax your complaint to the OCR Regional Office that is responsible for the state in which you allege the discrimination took place. To find out where to file your complaint, use the OCR Regions list at the end of this Fact Sheet or you can look at the regional office map to help you determine where to send your complaint.

MORE INFORMATION ABOUT HOW TO GET A COPY OF OCR'S DISCRIMINATION COMPLAINT FORM

Option 1: Open and print out the Discrimination Complaint Form in PDF format (you will need Adobe Reader software) and fill it out. Return the completed complaint to the appropriate OCR Regional Office by mail or fax.

Option 2: Download the Discrimination Complaint Form in Microsoft Word format to your own computer, fill out and save the form using Microsoft Word. Use the Tab and Shift/Tab on your keyboard to move from field to field in the form. Then, you can either: (a) print the completed form and mail or fax it to the appropriate OCR Regional Office; or (b) email the form to OCR at OCRComplaint@hhs.gov.

If you have any questions, or need help to file your complaint, call OCR (toll-free) at 1-800-368-1019 (voice) or 1-800-537-7697 (TDD). You may also send an email to OCRMail@hhs.gov.

Website: <http://www.hhs.gov/ocr>

OCR Regional Address

Region II - NJ, NY, PR, VI

Office for Civil Rights U.S. Department of Health & Human Services

26 Federal Plaza - Suite 3313

New York, NY 10278

(212) 264-3313; (212) 264-2355 (TDD)