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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS
LANSING

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DIRECTOR'S OFFICE MEMORANDUM 2019 - 34R

EFFECTIVE: Immediately

DATE: July 26, 2019

TO: Executive Policy Team
Administrative Management Team
Wardens

FROM: Heidi E. Washington, Director

SUBJECT: Accommodations for Deaf and/or Hard of Hearing Prisoners

SUPERSEDES DOM 2019 - 34 (effective 04/16/2019)

The Michigan Department of Corrections (MDOC) is actively working and implementing programs to ensure that deaf and/or hard of hearing prisoners have full and equal access to the same programs, activities, services and accommodations available to non-deaf and/or hard of hearing prisoners.

As programs go into effect, all correctional facilities housing deaf and/or hard of hearing prisoners will offer accommodations related to any prisoner identified by Health Care as having an "H-hearing impaired w/deficit" special accommodation notice (SAN). The Worksite Offender Americans with Disabilities Act (ADA) Coordinator shall address all non-medical aids and services needed for the deaf and/or hard of hearing prisoner to effectively communicate. FOA staff who do not work in a correctional facility shall follow Work Statement 03.00.115 "Use of Interpreters" when working with parolees and probationers who are deaf and/or hard of hearing.

HEARING ASSESSMENT

During initial intake and within seven days of entering the MDOC prison system, every prisoner with a perceived or reported (including self-reported) hearing deficit shall receive an initial hearing assessment consistent with medical standards. If there is indication of a potential hearing deficit, the prisoner shall be referred to a professionally accredited audiologist to perform a comprehensive hearing assessment. These prisoners shall be housed in a designated facility (barring any medical, security or programming needs requiring an alternative housing arrangement) pending this assessment. If Health Care staff determine that a prisoner is deaf and/or hard of hearing, they shall note the disability and comply with PD 04.06.160 "Medical Details and Special Accommodation Notices." Any deaf and/or hard of hearing prisoner who was not assessed according to the requirements of this paragraph at their initial intake, or who requires reassessment due to perceived or reported changes in hearing, shall be assessed according to the requirements of this paragraph at the prisoner's annual physical exam. Any prisoner provided a SAN as "H-hearing impaired w/deficit" after their initial

intake shall be referred, in writing, by Health Care staff to the Worksite Offender ADA Coordinator within one business day.

HOUSING DEAF AND/OR HARD OF HEARING PRISONERS

Unless there is safety or security issues, medical or programming need, or an unanticipated emergency, deaf and/or hard of hearing prisoners, as noted above, shall only be housed at the following designated facilities:

1. Carson City Correctional Facility (DRF)
2. Detroit Reentry Center (DRC)
3. G. Robert Cotton Correctional Facility (JCF)
4. Parnall Correctional Facility (SMT)
5. Saginaw Correctional Facility (SRF)
6. Thumb Correctional Facility (TCF)
7. Woodland Center Correctional Facility (WCC) – Not including prisoners housed in Level I general population.
8. Women's Huron Valley Correctional Facility (WHV)

Staff assigned to facilities that are designated to house deaf and/or hard of hearing prisoners shall receive training annually or as required on how to appropriately manage the deaf and/or hard of hearing population.

Approval of the CFA Deputy Director or designee is required before transferring any deaf and/or hard of hearing prisoner to a non-designated facility. Whenever a deaf and/or hard of hearing prisoner is requested for any transfer, the Health Unit Manager (HUM) or designee at the sending facility shall notify the transfer coordinator at the sending facility of the prisoner's H-accommodation. The transfer coordinator shall then notify the Worksite Offender ADA Coordinator at the receiving facility in writing of the prisoner's destination and scheduled arrival date (if possible). Documentation of the notification shall be added to the comments section of the Transfer Order (CSJ-134). If a prisoner is transferred to a facility that is not designated to house deaf and/or hard of hearing prisoners, the receiving facility Worksite Offender ADA Coordinator shall notify the Statewide Offender ADA Coordinator of the prisoner's arrival no later than the next business day.

Within two business days of a deaf and/or hard of hearing prisoner's transfer, the Worksite Offender ADA Coordinator shall meet with the prisoner to determine their accommodation needs and take all reasonable steps to ensure the prisoner is provided appropriate accommodations. The Worksite Offender ADA Coordinator shall also ensure the prisoner is provided substantially equal access to MDOC programs, activities, and services, and receives an intake/introduction to auxiliary aides and services. The prisoner's completion of the intake/introduction to auxiliary aides and services shall be documented by the Worksite Offender ADA Coordinator on the Checklist for Prisoner ADA Accommodations (CSJ-572).

All deaf and/or hard of hearing prisoners shall be housed in housing units in accordance with the facilities fire/evacuation operating procedure.

IDENTIFICATION CARDS FOR DEAF AND/OR HARD OF HEARING PRISONERS

When a prisoner is identified as being deaf and/or hard of hearing, the MDOC shall take appropriate steps to ensure their identification card indicates that they are deaf and/or hard of hearing. Staff who have regular contact with deaf and/or hard of hearing prisoners shall be shown where to find the deaf and/or hard of hearing identifier on the identification card. It is the responsibility of the prisoner to present the identification card to staff as necessary.

Housing Unit Count Boards shall have the names and numbers highlighted (blue highlighter recommended) of all prisoners in that housing unit with a SAN of "H-hearing impaired w/deficit." Additionally, these prisoners shall have a door card on or near their living area with, at minimum, their name, number, and a blue dot (roughly the size of a quarter) placed on the card.

POSTINGS

Facilities housing deaf and/or hard of hearing prisoners shall post in a prominent location (e.g., front desk) a notice clearly stating that the facility houses deaf and/or hard of hearing prisoners and that the deaf and/or hard of hearing prisoner's identification card notes that they are deaf and/or hard of hearing. The notice shall include a picture of the identification card. The notice shall also be posted in each housing unit where deaf and/or hard of hearing prisoners are housed.

The contact information for the Worksite Offender ADA Coordinator shall also be prominently posted in a secure area in the housing unit in which deaf and/or hard of hearing prisoners are housed.

AUXILIARY AIDS AND SERVICES ASSESSMENT

After a determination is made that a prisoner is deaf and/or hard of hearing, Health Care staff, which may include a professionally accredited audiologist, shall determine if auxiliary aids and services are medically necessary and facilitate ordering those aids and services as provided in PD 04.06.160 "Medical Details and Special Accommodation Notices." The Worksite Offender ADA Coordinator shall address all non-medical aids and services needed for the deaf and/or hard of hearing prisoner to effectively communicate.

If a deaf and/or hard of hearing prisoner indicates that they do not require auxiliary aids and services, they shall sign a waiver refusing the aids and services and the waiver shall be documented in the prisoner's health record. No prisoner may be coerced, pressured, or compelled to sign a waiver.

If a prisoner is found to have a hearing impairment at intake or a later hearing assessment, and refuses or does not request auxiliary aids and services, but later believes that auxiliary aids and services are necessary to ensure effective communication, they may submit a request for auxiliary aids and services. The MDOC shall provide a prisoner who was initially not found to have a hearing impairment with a hearing assessment if ordered by Health Care staff.

EFFECTIVE COMMUNICATION

Any person to person communication noted in numbers 1 - 14 in the Qualified Sign Language Interpreters section with a prisoner who has a H-accommodation shall be documented as set forth in that section. The documentation shall note what steps were taken to ensure communication with the deaf and/or hard of hearing prisoner was effective. Documentation shall include the means of communication (VRI, in person interpreter, written communication, etc) and if the prisoner acknowledged if the communication was effective.

QUALIFIED SIGN LANGUAGE INTERPRETERS

The MDOC shall provide deaf and/or hard of hearing prisoners with access to qualified interpreters either in person or via a Video Remote Interpreter (VRI) in the following circumstances:

1. Communications to, and interviews with, prisoners regarding their healthcare, including dental, vision, audiological, and mental healthcare (effective communication documentation noted in the prisoner health record);
2. Communications to, and interviews with, prisoners for Parole Board hearings, Parole Eligibility Report (PER) preparations, Parole Board interviews, parole violation hearings, and Institutional Parole Agents/transitional programming (effective communication documentation noted in OMNI case notes or other reports as appropriate);
3. Disciplinary hearings, investigative interviews, and any other communications with deaf and/or hard of hearing prisoners as part of the MDOC's investigatory or disciplinary processes for alleged misconduct or violations of law, policy, or other requirements. This includes communications with deaf and/or hard of hearing prisoners who are suspected of, charged with, or witness to, disciplinary misconduct or violations (effective communication documentation placed on the misconduct reports during the review process, the hearing report, appeal forms (if interviewed), or other reports as appropriate);
4. During Core programming as defined in Attachment A of PD 05.01.100 "Prisoner Program Classification (effective communication documentation placed on progress or completion reports if the prisoner is interviewed or other reports as appropriate);
5. For administrative hearing proceedings, including required notices (e.g. Notice of Intent to Conduct an Administrative Hearing) (effective communication documentation placed on the Notice of Intent to Conduct an Administrative Hearing (CSJ-282) or other reports as appropriate);
6. Communications to, and interviews with, prisoners during the grievance process (effective communication documentation placed on all forms associated with the grievance process, PREA complaints, State Administrative Board claims, etc or other reports as necessary);
7. Communications with the legal writer if approved to receive services from the Legal Writer Program (If effective communication is not obtained, the prisoner shall report the issue(s) to the Worksite Offender ADA Coordinator);

8. During prisoner orientation, at both intake and receiving facilities, including any forms, multi-media, or educational information provided regarding the Prison Rape Elimination Act (PREA) (effective communication documentation placed on the verification of orientation attendance or other reports as appropriate);
9. Program classification and Security Classification Committee interviews (effective communication documentation placed on the Program Classification Report (CSX-175), Security Reclassification Notice (CSJ-423), Segregation Behavior Review (CSJ-283) or other reports as appropriate.
10. Any prison work/job-assignment related training for matters that are outside the routine day-to-day schedule (effective communication documentation placed on the Prisoner Worker Safety Training Record (CAJ-900), Prisoner Program and Work Assignment Evaluation (CSJ-363), or other reports as appropriate);
11. Formal meetings with facility administration or housing unit staff (effective communication documentation placed on reports as appropriate if FA form is completed as a result of the communication);
12. Group religious services, whether organized by MDOC or by volunteers (If effective communication is not obtained, the prisoner shall report the issue(s) to the Worksite Offender ADA Coordinator);
13. Individual (one-on-one) religious programs with clergy if requested by the prisoner and agreed to/approved by the qualified clergy that is to conduct the religious program, provided that the program is scheduled and coordinated by the facility chaplain or designee (effective communication documentation placed on reports as appropriate if FA form is completed as a result of the communication); and
14. Any significant communications that are not discussed in 1 - 13 above that would otherwise be communicated to a prisoner that is not deaf or hard of hearing. A significant communication includes any communication for which the risks of miscommunication or misunderstanding are significant, and the consequences of miscommunication/misunderstanding would have significant negative repercussions for the deaf and/or hard of hearing prisoner (effective communication documentation placed on reports as appropriate if FA form is completed as a result of the communication).

When a deaf and/or hard of hearing prisoner requests to attend a service or program, they may contact the Worksite Offender ADA Coordinator or designee to request a qualified interpreter assist him/her or request auxiliary aides and services.

The MDOC shall be responsible for scheduling and overseeing the provision of qualified interpreters. Every effort shall be made to utilize VRI. An in-person qualified interpreter shall be provided by the MDOC if requested by a prisoner and a Qualified Health Professional (QHP) or Worksite Offender ADA Coordinator, in consultation with the prisoner, determines that the prisoner is unable to effectively communicate via VRI.

OFF-SITE MEDICAL CARE

When scheduling off-site medical care, MDOC staff shall inform all off-site medical providers that a deaf and/or hard of hearing prisoner requiring a qualified interpreter or other auxiliary aids or services shall be seeking medical care at a particular date and time.

In the case of an emergency, MDOC staff shall, as soon as possible, inform an off-site medical provider that a deaf and/or hard of hearing prisoner requiring a qualified interpreter or other auxiliary aid or service is being transported to the off-site medical provider. Notification shall include the deaf and/or hard of hearing prisoner's estimated time of arrival. MDOC staff shall request that the off-site medical provider make available to the deaf and/or hard of hearing prisoner a qualified interpreter and/or other reasonable auxiliary aids or services.

WORK ASSIGNMENTS

The MDOC shall provide opportunities for institutional work assignments that are consistent with the opportunities for the same assignment given to non-deaf and/or hard of hearing prisoners.

RELIGIOUS SERVICES

No deaf and/or hard of hearing prisoner shall be required to attend a religious service where an interpreter is not provided in order to receive any religious meal, diet, or otherwise offered religious accommodation.

RELAYING INFORMATION

The MDOC shall provide an effective non-auditory alert system that shall notify deaf and/or hard of hearing prisoners of events (including but not limited to announcements and visitations). The non-auditory alert system must effectively alert deaf and/or hard of hearing prisoners of such events in real time.

NON-AUDITORY ALARMS AND EMERGENCY EVACUATION

The non-auditory alert system shall advise deaf and/or hard of hearing prisoners of an emergency evacuation or other emergency situation. The non-auditory alert system may include in-person contact/communication between staff and the deaf and/or hard of hearing prisoner to notify them of emergencies in real-time. The non-auditory alert system shall include electronic messages through the Page Alert Broadcast System (PABS) and/or flashing strobe lights. Facilities utilizing the PABS shall document each day that the date and time are set appropriately. Any discrepancies noted shall be reported and corrected as soon as possible. Additionally, facilities shall add to their preventative maintenance plan to ensure that the continuous battery back-up attached to the PABS is operating as intended or is replaced as needed. These facilities are also responsible to ensure that there are enough pagers to be issued to the prisoner population and that the system is operating as intended. If the system is not operating as intended, a maintenance request shall be entered immediately as well as a written communication to the Worksite Offender ADA Coordinator.

TELECOMMUNICATIONS

Teletypewriter (TTY) and telecommunications device for the deaf (TDD) shall be available at all correctional facilities housing deaf and/or hard of hearing prisoners. Additionally, Video Relay Services (VRS) shall be available at facilities designated to house deaf and/or hard of hearing prisoners.

The MDOC shall provide deaf and/or hard of hearing prisoners with access to telecommunication devices that enable them to communicate with people outside of the MDOC in a manner that is substantially equivalent in terms of the amount and quality of the information conveyed, as well as the expense incurred by the prisoner to the communications that non-deaf and/or hard of hearing prisoners have with people outside of the MDOC using traditional telecommunication devices such as telephones. This provision does not apply to charges incurred by prisoners' family and friends for use of third-party telecommunications providers. Prisoners eligible to utilize VRS must complete a Telephone Agreement and Number List (CAJ-370) to have numbers added to their Personal Access Numbers listing prior to the calls being made. All VRS, TTY, and TDD systems shall be tested by the prisoner telephone vendor at least monthly. If any of these systems are not operating as intended, the prisoner telephone vendor shall be notified immediately.

MONITORING COMMUNICATIONS

Telephone and videophone calls between deaf and/or hard of hearing prisoners and individuals outside of the MDOC shall be monitored as provided in this DOM, DOM 2019-5 Prisoner Telephone Use, and PD 05.03.130 "Prisoner Telephone Use." The MDOC shall monitor such calls in the same manner and to the same extent as any other prisoner call under PD 05.03.130 and shall not increase such monitoring solely because the call involves a deaf and/or hard of hearing prisoner. Any recorded audio phone call, recorded VRS session, TTY call, or recorded person-to-person video-phone call, including any related video feed or transcript shall be monitored. Prisoners using the VRS system are subject to restrictions set forth in PD 05.03.130. Additionally, "Person to Person" video calls are subject to telephone restrictions for any conduct that would terminate an in-person prisoner visit (e.g., nudity, obscene actions, etc).

ADDITIONAL TIME FOR COMMUNICATION

The MDOC shall allow deaf and/or hard of hearing prisoners at least twice as many minutes to complete a TTY/TDD call or videophone call relying on VRS services as the number of minutes afforded to non-deaf and/or hard of hearing prisoners to make calls using traditional telecommunication devices such as telephones.

MEDIA

All audio-visual media purchased by the MDOC, or the Prisoner Benefit Fund (PBF), for prisoner use in facilities housing deaf and/or hard of hearing prisoners shall include open and closed-captioning. Captioning shall be turned on, and remain on, at any deaf and/or hard of hearing prisoner's request.

HAND RESTRAINTS

Whenever possible, and subject to safety and security considerations, deaf and/or hard of hearing prisoners shall be permitted to use their hands for effective communication.

REQUEST FOR ACCOMMODATION

Prisoners can make requests for deaf and hard of hearing accommodations in accordance with PD 04.06.155 "Offenders With Disabilities." The Statewide Offender ADA Coordinator shall forward any request for a deaf and hard of hearing accommodation to the Office of Legal Affairs Administrator and to the Administrative Assistant for the Assistant Deputy Director (ADD) of the Jackson area within five business days from the date of receiving the request. The Office of Legal Affairs Administrator shall consult with the Administrative Assistant for the Assistant Deputy Director (ADD) and provide a recommendation to the Statewide Offender ADA Coordinator on whether the request should be granted or denied.