

The requirements of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) apply to all DHS programs services and activities: from the process of screening and assessment through the education, training and work requirements, as well as redeterminations and the appeal of negative actions. These equal opportunity, civil rights laws require state and local government agencies, as well as their contractors, subcontractors or vendors, to ensure equal access and opportunity to participate in DHS programs for qualified individuals with a disability.

To ensure equal access and opportunity to benefits, DHS must provide appropriate services; policies, practices and procedures, which may include making reasonable accommodations. Federal law requires DHS to make all programs and services available and fully accessible to persons with disabilities. DHS may not use policies or procedures for operating programs that have the effect of excluding or discriminating against persons with disabilities. This protection from discrimination ensures individuals with disabilities will benefit from all aspects of DHS programs, including access to proper support services that enable such individuals to work and keep their families healthy, safe and intact.

Title VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title I and II of the Americans with Disabilities Act of 1990, as amended; Michigan Per-sons with Disabilities Civil Rights Act of 1976 (MCL 37.1106); amendments to the Americans with Disabilities Act of 2008.

There are two key principles underlying the ban on discrimination against people with disabilities.

1. Individuals with disabilities must be treated on a case-by-case basis consistent with facts and objective evidence of their particular circumstance. Individuals with disabilities must not be treated on the basis of stereotypes.
2. Individuals with disabilities must be afforded meaningful access to all DHS-administered programs to the same extent as individuals who do not have disabilities. In order to provide meaningful opportunity, a program may be required to make an accommodation in its typical program and procedures.

PROTECTED PERSONS

Federal definitions govern who is considered an individual with a disability for purposes of compliance with the ADA and Section 504. The federal definition of disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such impairment, or a person who is regarded as having such impairment. Examples of major life activities include functions such as caring for one 's self, performing manual task, walking, seeing, hearing, speaking, breathing, learning, and working. This is not an exhaustive list. The act also now explicitly includes major bodily functions and impairments that are episodic or in

remission in the definition of disability if they would substantially limit a major life activity when active.

Once known or disclosed, the individual may request reasonable accommodations in order to allow for participation in the DHS programs.

Many physical and mental disabilities that may interfere with an individual's ability to participate in programs administered by DHS may not be readily apparent without an individual assessment, such as seizure conditions, HIV and depression.

The ADA and Section 504 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 the necessary caretaking needs for a child with a disability.

MODIFICATIONS IN PROGRAMS, REMOVAL OF BARRIERS, AND AUXILIARY AIDS AND SERVICES

DHS must furnish reasonable accommodations if necessary to afford a qualified individual with a disability an equal opportunity to participate in, and receive the benefits of available services, programs, or activities. Reasonable accommodations or reasonable modifications in this context mean:

- Modification (when possible) of deadlines, rules, policies and practices.
- Removal of architectural, communication or transportation barriers.
- Provision of auxiliary aids and services necessary for a person with a disability to obtain public services.

All disability-related barriers or limitations and all reasonable and necessary accommodations must be prominently noted in the case file in a location where they will be immediately obvious to any DHS staff that accesses the file, to ensure that accommodations will be provided in all instances, including when cases are transferred or the regular caseworker is unavailable. This information also must be disclosed prominently when the client or case is referred to another DHS entity or staff person, including the Office of Child Support, Recoupment Specialist, Administrative Hearings, etc.

With the client's written permission, information about disabilities and reasonable accommodations also must be disclosed when a referral is made to another agency or entity and accommodations will be needed to ensure that the client can access services from that agency or entity.

Reasonable Accommodation Examples

The lists below are examples illustrating the concept of reasonable accommodation. The lists are not all-inclusive.

General examples of reasonable accommodations may include:

- Giving a person more time to meet deadlines or requirements, or to engage in time limited activities.
- 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 a person to do an activity.
- Allowing a person to not engage in an activity if the person is obviously unable to do so.

Specific examples of reasonable accommodations include:

- Assisting a person in filling out an application.
- Assisting a person in getting documentation.
- Allowing for home visits or telephone contacts rather than in-office meetings.
- Rescheduling appointments for documented disability related reasons.
- Allowing a relative to accompany the person to an appointment, with client authorization.
- Allowing relatives to receive copies of 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 cannot assist the individual to engage in the work activities.
- Providing support services to assist a person in participating in work, education or training activities.
- Allowing for settings that are accessible to persons with mobility impairments.

DHS has the obligation to ensure effective communication with individuals who have hearing, speech, or visual impairments. DHS must advise individuals with disabilities, or their representatives, that they may be provided with auxiliary aids and services to afford effective communication with other DHS employees. 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 (including Braille, large print, audio tape, CD, email, etc.) and TTY numbers for persons who are deaf/hearing impaired.

In selecting the appropriate auxiliary aid or service involving an individual who is deaf or hard of hearing, MDHS will give the individual who is deaf or hard of hearing the opportunity to request the auxiliary aid or service. Primary consideration will be given to the expressed choice of the individual unless it can be shown that another equally

effective means of communications is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in undue financial and administrative hardship.

Workers receiving a request for material in an alternative format must forward the request and the document to the department ADA coordinator. Address requests to:
ADA Coordinator
Office of Equal Opportunity and Diversity Programs
Suite 1412, Grand Tower Building
PO Box 30037
Lansing MI 48909
Requests may also be faxed to (517) 335-6453.

The ADA coordinator will complete the required DHS-104, Forms and Mail Management (FMM) Requisition, and pay the cost of producing the requested material. Requests will be forwarded to Forms and Mail Management within two working days of receipt. Forms and Mail Management will inform the ADA coordinator of the proposed time frame for the request to be completed. The ADA coordinator notifies the case worker of the proposed completion time frame. Upon completion of the material the ADA coordinator will forward the requested material to the worker. No negative action will be taken on the client until the reasonable accommodation is considered and approved or denied.

NOTIFICATION OF RIGHT TO REQUEST REASONABLE ACCOMMODATIONS

If the client discloses a disability, or if the worker feels an accommodation is necessary for participation, the worker will inform the client that it is the client's right to request a reasonable accommodation.

Workers will provide the client with form DHS-4428-A, Client Reasonable Accommodation Request.

All DHS workers are expected to inform the client that disclosure of disability information is voluntary and that the information may be shared pursuant to the administration of the program. DHS cannot provide extra help or services, or modify procedures to accommodate a disability of any household member, unless the disability is disclosed. Workers must explain that information about disabilities will be used to make sure all eligible individuals are able to receive benefits available through programs administered by DHS, but that disclosure of a disability is not an automatic approval of Medicaid.

All DHS offices must have posters that effectively communicate the rights of people with disabilities and invite people with disabilities to voluntarily report their disabilities and obtain assistance if they need it. The poster must be displayed in clearly visible areas. In addition, workers must ask clients during the application and review process whether they need assistance due to a disability. If an individual chooses not to disclose a

disability that is not other-wise obvious, DHS is not responsible for providing an accommodation.

Disclosure of a disability always is voluntary. Applicants and participants must be offered screening for disabilities that may affect their ability to understand and comply with program requirements. The screening may be completed using the Family Automated Screening Tool (FAST) and form DHS-619, Jobs and Self-Sufficiency Survey. See BEM 228 and BEM 230A for more information.

When voluntary screening identifies a potential disability, the client must be offered an in-depth assessment by an appropriate professional to identify the nature and severity of the disability, and need for an accommodation. DHS will provide assistance with scheduling appointments and will pay for the assessment when necessary (for example, client does not have Medicaid or other coverage that will pay for the assessment). Payment will come from local office funds or any specified funding available. Clients who choose not to be screened or assessed cannot be penalized for that choice. However, DHS does not have to accommodate a disability unless the disability is disclosed and, if necessary, verified.

Any time an obvious barrier to successful program participation exists, provide additional assistance, even if a disability has not been diagnosed. If documentation of a disability is required, 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 and/or their caregivers face multiple barriers and require interventions by a multiplicity of agencies and programs, DHS will take necessary steps to ensure that their disability is not a barrier to service delivery and coordination.

Each DHS office is responsible for identifying local available resources and ensuring that all staff that has client contact is aware of the resources available that may be offered to an individual with disabilities, together with local referral protocols and procedures. The lists, protocols, and procedures must be reviewed and updated at least annually. The date, time, and specifics of all referrals and assistance provided by DHS must be recorded in the client's case file.

MEETING OBLIGATIONS TO PROVIDE REASONABLE ACCOMMODATIONS

DHS caseworkers, in consultation with the central office ADA coordinator if necessary, are responsible for arranging for the accommodation to be provided, when needed. If the caseworker is unable to accommodate an individual's disability, the caseworker must request the assistance of the ADA coordinator in DHS central office. 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 DHS-administered programs.

The caseworker must not deny a request for accommodation or provide an accommodation that is different than the accommodation requested by the client without consulting the central office ADA coordinator. If a client's request for accommodation is denied or a different accommodation is approved other than the one requested, the caseworker shall inform the client in writing (orally as needed) about the action taken on the request for accommodation, the reasons for the action taken, and of their rights to file a complaint in accordance with the ADA. The notice shall include contact information (name, phone number, fax, address, and email address) for the central office ADA coordinator. The caseworker shall include the following with the written notice:

- DHS PUB-259, Americans with Disabilities Act (ADA) -- Knowing Your Rights (available on the DHS public web site), which explains the department's ADA complaint process.
- Copy of form DHS-4428-A, Client Reasonable Accommodation Request, from the client's file.

CASE FILE DOCUMENTATION

All identified disabilities must be recorded in writing in the individual's case file. Caseworkers 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 caseworker also must record whether an accommodation that was approved was provided to the individual, and when it was provided. Form DHS-4428-A may be used for this purpose.

Requests for Accommodations

A request for accommodation is any verbal or nonverbal communication that a reasonable person would interpret as a request for help, or a statement that a program requirement is difficult for the person to accomplish, because of an actual or possible physical, mental, or learning problem.

The client is not required to use specific words or phrases such as reasonable accommodations, ADA, or disability to prompt an employee's obligation to record, consider, and provide a reasonable accommodation. Requests may be oral or in writing. If a client tells any DHS employee, including but not limited to a receptionist, or the caseworker, that an activity or requirement is not compatible with his or her mental or physical abilities, medical or health conditions, or disability, the client's statement must be treated as a request for accommodation, which must be fully considered before any negative action is initiated. A request for accommodations does not need to be in writing or on any particular form. However, form DHS-4428-A, Client Reasonable Accommodation, is available for clients who wish to use it and must be used by DHS staff. It is available as an MS Word template.

Follow-Up

Caseworkers must follow up with the client to gather any additional information (such as nature of the disability, nature of the resulting limitation, nature of the extra help,

services, or modification to policy needed) and verification needed to process the request for accommodation. Clients with certain disabilities, including cognitive disabilities or mental illness, may not be able to fully explain the nature of their disability and limitations, and the accommodations they need. Caseworkers must arrange for professional screening and assessment as needed. A request for accommodations does not need to be in writing or on any particular form. However, form DHS-4428-A is available for clients who wish to use it.

PROVIDING ACCOMMODATION PENDING DOCUMENTATION

In some instances, clients may lack documentation of a disability at the time they request an accommodation, or at the time it becomes apparent to the DHS employee that an accommodation is needed. If this occurs, record the request or need for the accommodation and, if the worker or ADA coordinator determines that the accommodation is reasonable, provide the accommodation.

If a requested accommodation is something the caseworker would and should do regardless of whether a disability exists (such as helping the client get verification or scheduling appointments at a particular time of day), the worker need not consult the ADA coordinator but must document the request in the client's file.

If the requested accommodation is not something the worker ordinarily would do (such as always communicating with the client by telephone to provide information orally when written notices are sent), or if the type of accommodation that will ensure the client's access to program benefits and services is not readily apparent, the worker must consult the ADA coordinator before responding to the request.

Clients who need help gathering documentation showing the need for an accommodation are entitled to help if they appear to be unable to get the documentation without help as a result of a disability. If necessary, offer assistance in obtaining the documentation, including making arrangements for a medical examination, making a request for documentation if the client is unable to do so or medical providers are unresponsive to client requests, etc.; see BAM 815.

Client's have a reasonable period of time (at least 30 days) in which to obtain and provide documentation from professionals, such as doctors, therapists, counselors, etc. 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 Partnership. Accountability. Training. Hope (PATH) program. The individual's Family Self-Sufficiency Plan (FSSP) shall reflect and incorporate the need for reasonable accommodations, and any change in the individual's abilities, disabilities, or needs. The FSSP shall address not only the suitability of work or self-sufficiency related activities that would be affected by the individual's disabilities, but also the need for disability-related services and supports. See BEM 228 for more information about the FSSP.

ADA AND SECTION 504 COMPLAINTS

Clients who believe that they have been discriminated against on the basis of disability have the right to file a complaint under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504) with the DHS ADA coordinator in central office. The ADA coordinator in central office will review and investigate (if necessary) all complaints. Clients whose requests for accommodations are not fully granted by the caseworker shall be informed of their right to file a complaint with the DHS ADA coordinator in central office.

Individuals who believe they have been discriminated against on the basis of disability (including failure to provide reasonable accommodations), race, national origin (including the failure to provide access to services to people with limited English proficiency) may also file a complaint with the Office of Civil Rights at the U.S. Department of Health and Human Services or, for Food Assistance Program (FAP), with the US Department of Agriculture and the Michigan Department of Civil Rights.

All DHS offices must have posters that effectively communicate the rights of people with disabilities to file a complaint if they believe they have been denied access to DHS programs, services, benefits because of their disability, or if they have been denied the help they need to access DHS programs, services, or benefits. The poster must be displayed in clearly visible areas. Every local office must have available in their lobby and at the reception desk copies of the following:

- DHS PUB-259 (available on the DHS public web site), which describes the complaint process.
- Form DHS-866, Complaint Under Americans With Disabilities Act (Title II), which is available on the DHS public website and as an MS Word template.

These documents are to be provided to every individual who asks for them.

COMPLAINT PROCEDURES

All complaints received by the local DHS office alleging that any employee of the office has failed to comply with or has acted in a way that is prohibited by the ADA or Section 504 should be directed to the central office ADA coordinator.

A complaint shall include the following information:

1. The name of the complainant and/or any alternate contact person designated by the complainant to receive communication or provide information for the complainant.
2. The address and telephone number of the complainant or alternate contact person.
3. A description of the discrimination, failure to accommodate disability, or the manner in which the ADA or Section 504 has not been complied with or has been violated, including times and locations of events and names of witnesses, if appropriate.

Complaints do not need to be on a particular form, although form DHS-866 shall be available for clients who wish to use it. A complaint shall not be denied, rejected or

ignored if it is incomplete, unless the ADA coordinator is unable to identify and contact the complainant to supplement the information provided. Any time a client makes a verbal complaint of discrimination based on disability, the client must be offered help to put the complaint in writing.

The ADA coordinator is required to take immediate action on the complaint.

Complaint investigations shall be conducted by the ADA coordinator or the backup ADA coordinator for the agency. If the ADA coordinator was involved in the initial decision to deny the accommodation, then the client shall be informed of this, and shall have the option to have the complaint handled by the backup coordinator ADA coordinator. If the client does not specify a choice, the complaint shall be handled by the ADA coordinator. All investigations shall include a meeting with the client to elicit information about their disability and the complaint. Whenever possible the meeting should be held in-person rather than by telephone.

Resolved Complaints

If the client and the ADA coordinator jointly agree to a resolution of the complaint, the ADA coordinator will put agreement in writing and send two copies of the agreement to the client. The agreement will generally contain the following items:

- A description of the complaint.
- A summary of the facts.
- A description of the resolution agreed to.
- The time frame for resolving the complaint.
- An assurance that DHS will comply with the specific terms of the agreement.
- An explanation that the client must sign a copy of the agreement and return it to the ADA coordinator in the time specified in order for the agreement to go into effect. All terms of the agreement will be explained orally to the client before the written agreement is provided.

If the complaint has been resolved, the resolution should be recorded and filed in the client's case file and with the ADA coordinator.

Unresolved Complaints

The DHS ADA coordinator shall review the complaint, and attempt to resolve the matter. If the ADA coordinator cannot resolve the client's complaint, the ADA coordinator will send the client a notice of non-resolution. The notice will include the following:

- A description of the complaint.
- A summary of any resolution proposed.
- A statement addressing the issues that could not be resolved.
- The factual and legal reason reasons why the complaint was not fully resolved in favor of the client.
- The client's right to file a complaint with Michigan Civil Rights Commission and the appropriate federal agency having jurisdiction over the department program.

- Contact information (name, phone number, address, fax, and email) for both Michigan Civil Rights Commission and the appropriate federal agency.

Except in exceptional circumstances, the DHS ADA coordinator shall notify the individual of the final determination.