

Board of Supervisors
WAYNE COUNTY

RESOLUTION NO. 85-12: AUTHORIZATION TO ADOPT A WAYNE COUNTY DEPARTMENT OF SOCIAL SERVICES (DSS) AMERICANS WITH DISABILITIES ACT (ADA) POLICY

Mrs. Crane presented the following:

WHEREAS, the New York State Office of Temporary and Disability Assistance issued 06-Administrative Directive Memorandum 05 entitled "Providing Access to Temporary Assistance Programs for Persons with Disabilities and/or Limited English Proficiency (LEP)" which requires each County Department of Social Services to adopt an ADA Policy; and

WHEREAS, Wayne County DSS has developed a policy based on the direction provided by the State; now, therefore, be it

RESOLVED, that the Wayne County Board of Supervisors adopts the following Wayne County DSS Americans with Disabilities Act (ADA) Policy for the Department of Social Services:

WAYNE COUNTY DSS AMERICANS WITH DISABILITIES ACT POLICY

In April 2006, the New York State Office of Temporary and Disability Assistance issued 06-ADM-05, *Providing Access to Temporary Assistance Programs for Persons with Disabilities and/or Limited English Proficiency (LEP)*. This policy is being issued to implement 06-ADM-05 and the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504) in Wayne County DSS programs and services.

I. General requirements of the ADA/504

- DSS must provide an equal and meaningful opportunity to people with disabilities to participate in and benefit from DSS programs.
- DSS cannot use methods of program administration with a discriminatory effect on people with disabilities.
- DSS shall make reasonable accommodations when necessary to avoid discrimination.

The specific actions that must be taken by staff to meet these requirements are discussed below.

II. Who must comply with this policy

This policy applies to all Wayne County DSS programs, including but not limited to Family assistance, Safety Net Assistance, Medicaid, Food Stamps, Emergency Assistance, Child Support, and Children and Family Services programs. The policy also applies to DSS programs provided by contractors, such as employment services contractors.

III. Who is protected by the ADA and Section 504

The ADA and Section 504 apply to all individuals who have a physical or mental impairment that substantially limits a major life activity. This is a very broad definition that covers many individuals, including many people who do not receive and do not qualify for disability benefits (such as SSI or SSD).

New York State, in part 303.7 of regulation 18 NYCRR, extends the definition of the term handicap to include those persons having Acquired Immune Deficiency Syndrome (AIDS), those testing positive for human immunodeficiency virus (HIV) infection or who are perceived as susceptible to AIDS or HIV infection.

The State has also recognized that its TA, FS, MA and HEAP programs encompass people with many different native languages and varying abilities to communicate in English. The Office of Temporary and Disability Assistance (OTDA) policies extend these protections to persons with Limited English Proficiency (LEP).

Examples of physical impairments: Blindness, low vision, deafness, hearing limitations, arthritis, cerebral palsy, HIV, AIDS, traumatic brain injury, high blood pressure, asthma, irritable bowel syndrome, quadriplegia, cancer, diabetes, multiple sclerosis, anatomical loss, alcoholism, and past illegal use of drugs for which the person received or is receiving treatment. This is not a complete list of physical impairments.

Examples of mental impairments: Clinical depression, bi-polar disorder (manic depression), anxiety disorder, post traumatic stress disorder, learning disabilities (e.g., dyslexia), attention deficit disorder, mental retardation. This is not a complete list of mental impairments.

Examples of major life activities: Engaging in manual tasks, walking, standing, lifting, bending, performing manual tasks, speaking, hearing, seeing, breathing, eating, sleeping, taking care of oneself, learning, reading, concentrating, thinking, and working.

Major life activities also include major bodily functions such as bladder, bowel, digestive, immune system, cell growth, brain, neurological, circulatory, endocrine, and reproductive functions.

Illegal use of drugs and the ADA: Individuals currently engaged in the illegal use of drugs are not protected by the ADA when DSS acts on the basis of that drug use. People who are participating in drug treatment and individuals who have successfully completed treatment are protected by the ADA if they are not currently engaged in illegal drug use. People wrongly believed to be engaging in illegal drug use are protected by the ADA.

The determination of whether someone has a disability under the ADA is not a searching inquiry: The focus of DSS staff should be on ensuring that individuals have equal and meaningful access to our programs and services, not a detailed analysis of whether the individual meets the ADA/504 definition of disability.

DSS applicants, recipients, and members of the public: The ADA and Section 504 protect individuals receiving DSS benefits and services, those applying for benefits and services, and others. For example, an individual with a disability who wants information about DSS programs who has not yet applied for benefits has a right to access that information and a right to reasonable accommodations (see below) to do so. Family members and others who accompany someone applying for benefits shall not be discriminated against by DSS.

The individual must meet essential program eligibility requirements: If an individual does not meet essential program eligibility requirements (e.g., income, resource, and immigration requirements), it is not discriminatory to exclude the person from a DSS program.

Past history of a disability: The ADA/504 also protects those with a past history of a disability from discrimination based on that history.

Regarded as having a disability: The ADA/504 protects individuals who DSS staff believe have a disability from discrimination. For example, DSS cannot discriminate against someone based on a belief that a minor condition is much more limiting than it is. Nor can DSS discriminate against someone because he/she takes medication, and DSS believes that means he/she has some type of disability.

IV. ADA/504 Coordinator

Angela Switzer, Staff Development Coordinator, at 315-946-7416 is the ADA Coordinator for Wayne DSS. It is her responsibility to oversee and monitor ADA/504 compliance, advise staff in accommodating clients, and recommend policy and procedure changes to improve ADA compliance, and take the other actions specified in this policy. The ADA Coordinator has the authority to instruct staff to modify rules and procedures to accommodate individuals with disabilities. The Coordinator is also responsible for investigating and deciding ADA/504 grievances. However, it is each worker's responsibility to comply with the ADA and to provide accommodations to clients. Staff do not need the Coordinator's permission to provide routine, obviously reasonable accommodations to clients. In the absence of the Coordinator, all responsibilities and authority regarding ADA/504 will be assigned to **Shelly Bentley, Director of Social Services, at 315-946-7415.**

V. ADA/504 grievance procedure

Everyone has a right to file a grievance with Wayne DSS if the person believes he/she was denied an accommodation or was discriminated against in another way as a result of a disability. Wayne DSS has a grievance form that individuals can use to file a grievance [Attachment C], but they are not required to use it. DSS staff must help individuals fill out a grievance form if they need help as a reasonable accommodation. If a grievance is submitted to a DSS staff person, the staff person must forward it to the ADA/504 Coordinator. DSS staff must tell anyone who requested accommodations who is dissatisfied and anyone who believes he/she was treated unfairly because of a disability about the right to file a grievance and offer them a grievance form.

Grievances must be investigated and decided within 10 business days of when they are received by DSS. While a grievance is pending, DSS should not reduce the client's benefits, close the client's case, or take other adverse action against the client. If the individual has also requested a fair hearing, the ADA/504 Coordinator must still investigate and decide the grievance. If the grievance is denied, the ADA Coordinator must issue a written denial explaining the reason for the denial.

The ADA Coordinator should consider whether one or more grievances on an issue indicates the need for changes in policies or practices, and if so, take steps to obtain these changes.

VI. Physical accessibility

If a building or part of a building where DSS services are provided is not physically accessible, DSS must ensure that the individual is provided meaningful access to services through other ways, by either holding appointments with clients in another office

in the building or at a different location, holding an appointment at the client's home, conducting appointments over the phone, allowing an authorized representative to attend the appointment for the individual, or by other means.

VII. No separate programs

People with disabilities cannot be put in separate programs (e.g., separate education and training programs) just because they have disabilities. If a person meets the essential eligibility requirements for a program, he/she has a right to participate in that program.

VIII. Services must be provided in the most integrated setting

DSS must provide services to people with disabilities in the most integrated setting appropriate to the needs of the person with a disability. For example, if a reduction in Medicaid home care services to an individual would require the individual to move to a nursing home, the reduction violates the ADA/504.

IX. DSS must provide reasonable accommodations to individuals with disabilities

DSS must provide reasonable accommodations to individuals with disabilities. A reasonable accommodation is any reasonable change in the way DSS does something for a person with a disability or one that allows a person to do something. **The Request for Assistance form (Attachment A) will be made part of the application packet and, if turned in with the application, will alert the Intake workers and screeners of a client's need for assistance in completing the application process.**

Examples of accommodations that must be provided:

- Help with filling out an application for benefits and help with gathering documents showing eligibility for benefits or a disability
- Accommodations in appointments, including scheduling appointments at time of day that will prevent long waits; seeing clients who cannot wait on a priority basis; scheduling appointments so they do not conflict with doctor's appointments, rehab, or therapy; combining appointments to reduce travel; home visits for individuals who have difficulty traveling to DSS or attending appointments at DSS for disability-related reasons; allowing clients to reschedule appointments when a disability prevents attendance.
- Giving a person more time to submit documents or complete other tasks
- Providing additional explanations of forms and program rules
- Allowing an individual to bring a friend, relative, neighbor, or advocate with them to DSS appointments and during the application process
- With the client's consent, sending copies of notices to a client's friend, relative or neighbor who can remind the client of appointments and/or help the client attend an appointment
- Reading notices and other program materials to the client
- Providing notices, applications, and other program materials in alternative formats (e.g., large print, Braille, audiotape, etc.)
- Modifying welfare work activities (discussed below)
- Modifying agency policies for people with disabilities when necessary to avoid discrimination (e.g., shelter policies, appointment policies, no-animal policies, policies about how a task must be done)
- Allowing clients with disabilities to communicate with a worker by email or other methods when needed for a disability-related reason
- Allowing clients to submit documents by fax when needed for a disability-related reason
- Accommodations in program rules: Rules must be modified for people with disabilities when reasonable. For example, rules requiring staff to see clients in the order in which they arrive at DSS, rules requiring clients to come to DSS for appointments, and rules requiring clients applying for benefits to come to DSS on particular days of the week or times of

day, must all be modified for people with disabilities when necessary to provide an equal and meaningful opportunity to participate in DSS programs.

- Accommodations for family members: In some situations, DSS must accommodate family members with a disability so an applicant/recipient has meaningful access to the program. For example, if a parent receives SSI and is applying for cash assistance for her child, DSS must accommodate the parent so their child has an equal and meaningful opportunity to participate in the cash assistance program.
- Accommodations in work activities: Clients may be entitled to a number of different types of accommodations in cash assistance work requirements, including:
 - Assignment to a particular program, work site, or job appropriate for the individual given their disabilities
 - Part-time activities (less than 30 hours per week) if the client cannot participate full-time because of a disability or disability-related treatment
 - Accommodations at a job site or education and training program (e.g., equipment, modification or rules or procedures, job coaches, tutors, modified training materials)
 - Assignment to activities that are not countable towards federal work participation rates (e.g., rehab or therapy for more than 4 consecutive weeks a year)
 - Exemptions from work activities if the person cannot participate as a result of a disability, even with the accommodations listed above

The client's employability plan should contain information about the client's disability-related limitations, the accommodations needed, and whose responsibility it is to ensure that they are provided.

Accommodations needed on an ongoing basis: Many accommodations are needed on an ongoing basis. Once a staff person determines that an accommodation is necessary, they should indicate the need for this accommodation (though not the client's diagnosis) in the comment sheet in the client's electronic record and prominently on the outside of the client's paper case folder so other staff are aware of it. In addition, the staff person must take the steps needed to make sure that the accommodation is provided without request in the future (until the client's condition changes or the accommodation is no longer needed), so the client does not have to ask for it each time. **The need for accommodations extends to clients with Limited English Proficiency and their need for interpreter services on an on-going basis.**

Using information the agency already has to accommodate clients: The agency should use information it already has about a client (e.g., from past applications or receipt of benefits) to offer accommodations to clients even if the client hasn't requested an accommodation.

Accommodations for those with mental health problems and/or cognitive disabilities: DSS staff shall not assume that all clients with a cognitive disability or mental health problem have someone to assist them. Those who have mental and/or cognitive disabilities, as a result, may need accommodations. Some clients have a relative, friend, advocate, or service provider who can assist them, but many do not.

Accommodating clients based on behavior: Some clients are not aware that they have disabilities (e.g., mental disabilities) and are therefore unlikely to request reasonable accommodations, even though they need and are entitled to them. Some clients behave in a hostile or disruptive manner because of a disability (e.g., a mental disability). When a client is acting this way, the agency should always consider the possibility that the client has a disability and offer accommodations to the client even if the client hasn't requested them.

Clients should not be referred to other agencies as an accommodation: Applicants and recipients with disabilities may need other services (e.g., mental health care) that DSS does not provide. Referring clients to other agencies and services may be appropriate in such instances, but it is not a substitute for providing accommodations at DSS so the applicant/recipient can obtain DSS services.

Who is responsible for providing reasonable accommodations at DSS: Every worker has a responsibility to provide accommodations. If the worker is not sure if an accommodation is reasonable, the worker should consult with Angela Switzer, the ADA Coordinator. However, many accommodations needed by clients are routine and should be provided as a matter of course.

Accommodations by contractors: DSS must ensure that DSS contractors provide accommodations to DSS clients with disabilities. Staff should not assume that contractors have done so unless and until they follow up with the client and/or contractor.

Time frame for providing accommodations: Many accommodations (such as help with completing an application) shall be provided on the same day they are requested. Other accommodations should be provided in time to prevent a denial of equal and meaningful access to programs and services. **It is the district's responsibility to ensure that the filing or application date is protected when an appointment must be rescheduled for a person with a disability and/or LEP because reasonable accommodations cannot be made on the date the application is filed.**

DSS cannot require clients to accept an accommodation: DSS gives consideration to the client's request, however, after discussing the alternatives, individuals have a right to refuse accommodations. If an individual refuses an offered accommodation and as a result, cannot comply with a program requirement, DSS staff can initiate an adverse action against the client. Before doing so, however, staff should re-offer the accommodation and inform the client that an adverse action may be taken if the client is unable to comply with a requirement as a result of refusing the accommodation.

XI. Client disclosure of a disability and obligation to document a disability

Disclosure of a disability is voluntary: Workers must tell clients that they have a right to disclose a disability. Workers should also tell clients that they have a right not to disclose a disability, but if they want a reasonable accommodation, they must disclose a disability. **If the Applicant/Recipient does NOT disclose a disability or limitation but it is apparent through observation, historical data known to the agency, or other means, additional medical documentation is not necessary to receive an accommodation. The worker should fill out Reasonable Accommodation Worksheet – A (Attachment B). The original worksheet must be signed by both the client and the worker. A copy of the worksheet should be given to the A/R.**

When can DSS require documentation of a disability? If a client asks for accommodation, DSS staff reserves the right to require the client to submit documents from a doctor or other professional showing the existence of a disability and need for an accommodation.

- If a disability is obvious (e.g., blindness, quadriplegia, mental retardation) DSS staff cannot require documentation of the disability.
- If an individual needs an accommodation during the application process but does not have documentation of a disability, DSS must accommodate the person and give the individual a reasonable amount of time to get documentation.
- If an individual needs an accommodation, has no documentation and does not yet have medical coverage or other means to pay for doctor's visits, lab tests, etc., DSS must accommodate the individual until he/she has the means to obtain documentation

Disability documentation from clients' own providers: Some clients have previously diagnosed disabilities and have or can obtain documentation of disabilities from their own treating professionals. Staff must consider and give appropriate weight to these documents.

XII. DSS's obligation to record disability-related information in the case record

Staff must record the following information in the client's case record: the client's disability, the type of accommodation requested, whether the request was granted or denied, whether the accommodation was provided, the reason an accommodation request was denied. DSS must also keep a record of all accommodation requests. **As this information is all provided by completing the Reasonable Accommodation Worksheet – A, the worksheet should then be imaged once the case has been processed.**

XIII. Confidentiality of disability-related information

Staff must comply with all applicable confidentiality laws regarding client's disability-related information. At the same time, staff must inform relevant staff at the agency about an individual's need for an accommodation so they can arrange for and/or provide accommodations. DSS staff must get client consent before sharing information about client's disability with contractors or other agencies.

XIV. Disability screening of cash assistance applicants and recipients

DSS will be developing a separate policy on disability screening of cash assistance applicants and recipients.

If an individual says he/she has a disability that limits his/her ability to engage in work activities, they cannot be assigned to a work activity until after the results of the evaluation are available, unless it is an activity that is consistent with the individual's claimed limitations.

Information about a client's disabilities obtained by the employment unit can be shared with other agencies and programs to which the client is referred (e.g. VESID, employers) with the client's consent.

If a cash assistance recipient has refused to be screened for disabilities and is unable to comply with work activities, the employment unit should offer the client an opportunity to be screened again prior to taking adverse action against the client. Any reasonable accommodations that were offered and refused should be offered again as well.

XV. Service animals

DSS cannot exclude service animals from its programs, or impose limits on access to programs and services. A service animal is any animal trained to perform a task for an individual with a disability, including individuals with vision impairments, hearing impairments, manual impairments, seizure disorders, balance problems, mental health problems, and other impairments. The service animal need not have a harness or be trained by a professional trainer, and individuals with disabilities cannot be required to provide certification proving the animal is a service animal. Dogs must be on leashes. If the service animal poses a direct threat to the health or safety of others, such as displaying vicious behavior, it can be excluded, but staff cannot make assumptions, about how a particular animal is likely to behave based on past experience with other animals. Each situation must be considered individually. Even when the service animal can be excluded on this basis, however, the client has the right to enter DSS facilities without the service animal.

XVI. Effective communication with people with disabilities

DSS staff must ensure that communication with people with disabilities, including those with hearing, vision and cognitive impairments, is effective. **If an Applicant/Recipient for assistance presents a barrier to communication, attempts should be made to communicate with the client in ways that they will understand. The new Request for Assistance form (Attachment A), if turned in with the application, can alert the worker/screener to the need for assistance.**

Effective in-person communication with people with speech and hearing impairments: If an applicant or recipient has a hearing impairment and uses American Sign Language, DSS must provide a qualified interpreter free of charge for in-person substantive appointments and other significant interactions with the agency (e.g. eligibility interviews, disability evaluations, employability plan development, conciliation). DSS staff cannot require, pressure, or encourage individuals to use an applicant's/recipient's friends or family members to interpret, though individuals have a right to have a friend or relative interpret if they prefer that option. Children should never be used to interpret.

If the deaf or hearing impaired individual can read and write English sufficiently well, DSS staff are permitted to write notes to communicate with the person, but only for brief, simple interactions (such as making an appointment with the agency or submitting a document). **In these instances, written communication must be neat and orderly on a comment sheet. Questions and answers should be numbered for easy review. The agency will arrange for a sign language interpreter for eligibility interviews.**

A Foreign Language/Sign Language Comprehension Confirmation Form (Attachment F) should be completed at the Eligibility Interview and made part of the case record.

Wayne DSS has a contract(s) with interpreter service(s). To arrange for an interpreter, staff shall contact the ADA Coordinator, **Angela Switzer, at ext. 7416** for a listing of the current contracted interpreter services. In the absence of the ADA Coordinator, staff is directed to contact **Shelly Bentley, Director of Social Services at ext. 7415.**

Effective telephone communication with people with disabilities: Some individuals with speech and hearing impairments use the following technology/procedures to make and receive phone calls:

TTY (teletext typewriter). If one party to the call doesn't have a TTY (e.g., DSS), the two parties communicate through a relay operator, who has a TTY and can read the TTY text to the party without the TTY and type responses.

Video relay: The caller uses a video phone (a computer or TV monitor) and uses sign language to communicate. If one party to the call doesn't have video relay equipment, the two parties communicate through a video relay operator who uses American Sign Language to facilitate communication between the deaf and hearing person.

Speech to speech relay: Specially trained relay operators serve as the voice of the person with a speech disability who may be difficult to understand.

To make a call to a TTY user: Dial 7-1-1 and give the relay operator the phone number you want to call.

To receive a call from a TTY user: Just answer the call and communicate through the relay operator.

To make a call to a video relay user: Dial the number given by the client.

To receive a call from a video relay user: Just answer the call and communicate through the relay operator.

To return messages from a relay user: Pay attention to the number of the message. The number may be the client's direct number or it may be the number of a relay operator. If the client uses voice or video relay, you may need to call a relay operator and give the operator the number.

Effective communication for individuals with vision impairments: When DSS provides information in a written paper form, it must provide it in an alternative format (e.g., large print, Braille, CD) to individuals with vision impairments who request materials in alternative formats. There is no single format that is effective for everyone with disabilities, nor everyone with vision impairments. The alternative format used must be one that is effective for the individual, though it need not be the person's first choice. To arrange to have materials put into alternative formats, contact the **ADA Coordinator, Angela Switzer, at ext 7416**. In the absence of the Coordinator, all responsibilities and authority regarding ADA/504 will be assigned to **Shelly Bentley, Director of Social Services at ext. 7415**.

XVII. Notice of ADA/504 rights

DSS staff must provide applicants, recipients, and members of the public with information about the ADA and Section 504. DSS staff must provide an ADA/504 Notice of Rights pamphlet [Attachment D], to all applicants, at recertification, and copies should be available in waiting rooms. Staff must also verbally explain the information in the pamphlet to **all applicants and recipients**. **In addition, a poster [Attachment E] must be posted in DSS waiting rooms, and in waiting rooms of DSS employment services contractors and other contractors serving DSS clients.**

XVIII. Staff training

All DSS staff and contractor staff must be trained on the ADA and on this policy. This training will be included in the orientation of new DSS staff, as well as held annually. It is the responsibility of the ADA Coordinator to ensure that DSS staff and contractor staff receive this training. **Additional training materials will be made available at the time of the trainings and for on-going use.**

Mr. Manktelow moved the adoption of the resolution. Seconded by Mr. Groat. Upon roll call, all Supervisors voted Aye, except Supervisors Spickerman, Manktelow, LeRoy, Plant and Park who voted Nay. The Chairman declared the Resolution adopted.

WAYNE COUNTY
Board of Supervisors
LYONS, NEW YORK

This is to Certify that I, the undersigned, Clerk of the Board of Supervisors of the County of Wayne, have compared the foregoing copy of resolution with the original resolution now on file in this office and which was duly adopted by the Board of Supervisors of said County at a session held on the 23rd day of February 2012 and that the same is a true copy of said original and of the whole thereof.

In Witness Whereof, I have hereunto subscribed my name and affixed the official seal of the Board of Supervisors of the County of Wayne, this 23rd day of February 2012.

Clerk of the Board

