



STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
UNIFORM POLICY MANUAL


Claudette J. Beaulieu, Deputy Commissioner

September 4, 2009
Effective Date

POLICY TRANSMITTAL NO.: UP-09-20

SUBJECT: Rights and Responsibilities Policy Update

This transmits revisions to the Uniform Policy Manual pertaining to client rights and agency responsibilities under Title II of the Americans with Disabilities Act (ADA) of 1990.

We have amended section 1005.10 of the UPM to make technical corrections to ensure that the UPM correctly and accurately reflects the provision of the ADA and to comply with the settlement agreement for Raymond v. Rowland.

Important Changes

- Clarification of the term "learning disabilities" to include, but not be limited to, blindness;
- Clarification to provide that the existence of a disability is not sufficient to demonstrate the need for accommodation when there is an authorized representative available and able to perform the required tasks on behalf of the individual;
- Clarification to reflect that the responsibility of granting accommodations involving significantly greater administrative or fiscal burden may only be granted by the Department's ADA coordinator, not the Department's Affirmative Action Director as previously provided;
- Clarification of one of the examples provided in the UPM of an accommodation that is presumed to be reasonable and may be offered by the eligibility worker; and
- New language in procedures regarding assistance units with authorized representatives to clarify that they must be available, willing, and able to perform the required task on behalf of the individual.

This policy applies to all programs that are administered by the department.

The department is committed to ensuring that individuals are provided equal access to its programs and services. The department also recognizes that identical treatment may be discriminatory for persons with disabilities, and therefore will take necessary action to ensure that qualified individuals or persons legally authorized to act on their behalf have access to all programs, services, or activities.

INSTRUCTIONS FOR UPDATING THE UPM:

Remove and Recycle

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DISPOSITION: This Policy Transmittal may be recycled once the UPM has been updated.

DISTRIBUTION: UPM list

RESPONSIBLE UNITS: Family Support (860) 424-5540

Date Issued:

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Date: 9-4-09

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1005.10

Section:
Rights and Responsibilities

Type:
POLICY

Chapter:
Rights of Applicants and Recipients

Program: ALL
PROGRAMS

Subject:
Right to Fair Treatment

1005.10 A. General Principle

1. The assistance unit has the right to be treated fairly by the Department regardless of the unit's race, color, religious creed, sex, marital status, age, national origin, ancestry, criminal record, political beliefs, sexual orientation, mental retardation, mental disability, learning disability or physical disability, including, but not limited, to blindness.
2. The Department shall notify the assistance unit of its right to non-discrimination, of the availability of accommodations for individuals with a disability and the complaint procedure on its application and redetermination of eligibility forms and on each notice of action affecting eligibility for, or the amount of, benefits. The Department shall also provide oral notice at face-to-face intake and redetermination interviews.

B Right to Reasonable Accommodation for Assistance Units

1. An individual with a disability has a right to receive a reasonable accommodation from the Department when a reasonable accommodation is necessary to allow the individual to have an equally effective and meaningful opportunity to participate in, and benefit from, programs administered by the Department, if the individual has a disability, or is regarded by the worker or the Department as having a disability, and a modification in the Department's policies, practices or procedures is required in order to allow the individual to participate. Accommodations may be appropriate at any point of interaction between the individual and the Department. Any accommodation must be reasonable and not cause a fundamental alteration in the program or cause undue administrative or fiscal burden on the Department. Reasonable accommodations do not include waivers of essential factors of eligibility.
2. When an accommodation is required, the accommodation that is provided is determined by the Department through an interactive process on a case by case basis that involves both the client and the Department. The Department takes into account both the wishes of the client and the availability of any less burdensome, alternative accommodations that would allow the client to participate in activities, program or services.

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1005.10 B. Right to a Reasonable Accommodation for Assistance Units (continued)

3. The following are not considered a reasonable accommodation as they constitute a fundamental alteration to the Department's programs:
 - a. Waiving the requirement that an applicant for benefits based on disability provide medical documentation to substantiate that he or she meets a program's disability criteria.
 - b. Waiving the requirement that verification of income or assets be provided in order to qualify for programs that require such verification.
4. If the Department determines that an individual who is applying for assistance has a disability that requires that the Department provide an accommodation of assistance in obtaining the required medical verifications, the Department shall offer to provide such assistance as a reasonable accommodation that includes, but is not limited to, writing to the medical provider to obtain existing documentation of the disability, provided:
 - a. the client cannot obtain the required verification himself or herself as a result of his or her disability; and
 - b. there is no authorized representative or other person identified by the client willing and able to act on behalf of the client.
5. The Department shall inform the assistance unit in writing or orally that reasonable accommodations are available if a member of the assistance unit has a disability and an accommodation is required in order to allow the individual an equally effective and meaningful opportunity to participate in activities, services or programs provided by the Department

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1005.10 B. Right to a Reasonable Accommodation for Assistance Units (continued)

6. In addition to providing notice of availability of accommodations at the time of application, redetermination and notice of action, the Department shall inform assistance units of the availability of reasonable accommodations whenever it becomes apparent to the worker or the Department that an individual with a disability may need a reasonable accommodation in order to allow the individual an equally effective and meaningful opportunity to participate in activities, services or programs provided by the Department.
7. The Department shall review whether an accommodation is required in every case where an individual requests an accommodation, including when a client requests an accommodation after being informed of the availability of accommodations because it became apparent to the Department that the client may need an accommodation in order to participate meaningfully in Department programs, activities or services.
8. If there is no record of the individual's disability and the individual is not regarded as having a disability, then the individual has the burden of demonstrating the existence of a disability.
9. An individual with a disability must demonstrate that an accommodation is needed in order to enable the client to participate meaningfully in the Department's programs, activities or services.
10. Individuals or their representative have the option to request an accommodation, either in writing or orally, from their eligibility worker or from the agency's ADA coordinator.
11. Upon receipt of a request for an accommodation:
 - a. the Department's eligibility worker or ADA coordinator shall inform the client of any information that the eligibility worker or ADA coordinator needs in order to make a determination on the request for an accommodation, and specify a date for the documentation to be provided and;
 - b. the Department's eligibility worker shall offer assistance in obtaining existing documentation that is necessary to determine eligibility for an accommodation, if it appears likely to the worker that the client cannot obtain such documentation without assistance as a result of his or her disability and there is no authorized representative or other person identified by the client willing and able to act on behalf of the client.

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1005.10 B. Right to a Reasonable Accommodation for Assistance Units (continued)

12. The existence of a disability is not sufficient to demonstrate the need for an accommodation when:
 - a. the resulting functional limitations do not substantially interfere with the client's ability to participate in the activities, services and programs administered by the Department without an accommodation; or
 - b. an authorized representative identified by the assistance unit is available, willing, and able to perform the required tasks on behalf of the individual.

13. The need for an accommodation and the availability of an accommodation is determined by the eligibility worker. Approval of the eligibility worker's immediate supervisor or regional manager is secured when the accommodation requires agency resources beyond the eligibility worker's control, but within the control of the regional office. Accommodations that involve significantly greater administrative or fiscal burden may only be granted after consultation with the Department's ADA coordinator. The following are examples of accommodations that are presumed to be reasonable and may be offered by the eligibility worker:
 - a. maintaining a list of visually or cognitively impaired persons requesting to be called prior to the mailing of notices;
 - b. waiving office interviews or conducting interviews via the telephone;
 - c. extending deadlines for providing documentation related to factors of eligibility;
 - d. requesting the assistance of a specialized worker to help complete necessary forms, gather necessary documentation. Assist with making medical appointments, or assist with collecting medical documentation in order to establish disability where disability is a factor of eligibility;
 - e. providing forms or materials in Braille, tape or large print; and

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1005.10 B. 13. Right to a Reasonable Accommodation for Assistance Units (continued)

- f. requesting the assignment of a social worker to conduct a home visit to explain notices or explain or help complete forms and review and receive documentation.
- 14. Home visits are necessary if a face-to-face interview is required as part of the eligibility process and cannot be waived, the assistance unit cannot come to the Regional Office or sub-office because of a disability and there is no authorized representative available to attend the interview.
- 15. The eligibility worker shall document each request for an accommodation in the client's case file, and shall indicate the result thereof in the file (including when the accommodation is granted or denied by the ADA coordinator). If the accommodation is granted, the worker shall record the nature of the accommodation in the assistance unit's case record in a manner that Department staff will easily recognize and utilize when contacting the assistance unit. The worker shall also record the reason for denial in the client's file, if the request for accommodation is not granted.
- 16. When an accommodation is requested, whether it is granted or not, the eligibility worker shall inform the individual that he or she may request that the ADA coordinator review the determination of the eligibility worker.
- 17. Before taking any action on a case, the worker shall review whether a need for accommodation is recorded and whether the Department provided the necessary resources required to accommodate the individual.
- 18. All requests for accommodation directed to the Department's ADA coordinator shall be acted upon in accordance with the Department's ADA Policy Statement for Applicants/Recipients. The ADA coordinator shall:
 - a. acknowledge all requests for accommodation in writing within ten (10) working days of receipt of the request by the ADA coordinator; and
 - b. approve or deny all requests not later than twenty working days after the date of receipt, unless additional medical or technical information or evaluation is necessary.

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1005.10 B. Right to a Reasonable Accommodation for Assistance Units (continued)

19. An individual may request that the Department's Deputy Commissioner for Administration review the determination of the Department's ADA coordinator. All requests for review by the Deputy Commissioner for Administration shall be:
 - a. in writing; and
 - b. received by the Department's Deputy Commissioner for Administration not later than fifteen days after the date of issuance of the ADA coordinator's decision.
20. The determination by the Deputy Commissioner for Administration constitutes the Department's final administrative determination and is only subject to whatever external review may be available to the applicant or recipient by operation of law.

C. Spanish Speaking, Other Non-English Speaking, or Limited-English Proficiency (LEP) Assistance Units

1. If the head of an assistance unit or unit's representative is Spanish speaking, non-English speaking or has limited-English proficiency and requests that the eligibility process be conducted in his or her primary language, the Department explains to the assistance unit that the unit has the right to an interpreter provided by the Department instead of using a family member, friend or client advocate as an interpreter.
2. The Department shall conduct the initial and periodic eligibility interviews and interim interviews in the language normally used by the assistance unit or assistance unit's representative, as follows:
 - a. The Department shall use a bilingual eligibility worker or any other interpreter provided by the Department;
 - b. the Department shall obtain an interpreter; or
 - c. the Department may use a family member or friend age 16 or older as an interpreter, if the assistance unit expressly requests such an arrangement.

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1005.10 C. Spanish Speaking, Other Non-English Speaking, or Limited-English Proficiency (LEP) Assistance Units (continued)

3. For Spanish speaking assistance units, the Department shall use applications, redeterminations and interim activity forms and notices written in Spanish during the eligibility process or at time of interim contact.
4. The Department shall require that the interpreter sign all forms which the head of the assistance unit or the assistance unit's representative signs to acknowledge that he or she has informed the unit in the unit's primary language.
5. Upon request, the Department shall provide an interpreter for any Spanish speaking, non-English speaking or limited-English proficiency assistance unit when such services are necessary for communicating with the unit.
6. An assistance unit speaking Spanish has the right to receive application forms and notices in Spanish.
7. The services of the interpreter are used at the time of each contact with the assistance unit during the eligibility determination process and during any interim case actions.
8. The Department uses any employee of the Department or an interpreter from outside the Department to the extent that such services are available.
9. The Department uses family members, friends or client advocates of Spanish speaking, non-English speaking or limited-English proficiency (LEP) assistance units as interpreters only when assistance unit expressly requests such an arrangement.
10. Department reserves the right to provide its own interpreter to assist with communication, if the Department determines that the interpreter provided by the assistance unit is not accurately transmitting information between the Department and the assistance unit.
11. Children under age 16 are not permitted to act as interpreters for the assistance unit.
12. The Department does not require a Spanish speaking, non-English speaking, or limited-English proficiency (LEP) assistance unit to pay for the services of any interpreter used by the Department.

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P-1005.10 Additional conditions for Assistance Units with Visually Impaired Members

1. Send a memo to the Director of Public and Government Relations, Central Office, listing the name and telephone number of any individual who is blind or visually-impaired and requests to be called prior to the Department mailing a mass notice.
2. Call the assistance unit whenever an EMS alert #119 is generated, if the client requests a call as an accommodation whenever an EMS notice is issued.

Assistance Units with Authorized Representatives

1. An authorized representative must:
 - a. be available, willing and able to perform the required task on behalf of the assistance unit and;
 - b. adhere to appropriate fiduciary responsibilities as determined by the Department and;
 - c. communicate clearly and effectively with the assistance unit.
2. If the authorized representative fails to meet any of the requirements as listed above under Assistance Units with Authorized Representatives then;
 - a. the Department shall notify the assistance unit and;
 - b. in the absence of the assistance unit appointing a replacement authorized representative, the Department shall determine the need for an accommodation (cross reference 1005.10 B2 and 1005.10 B13).