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ADP BULLETIN

Title

Requirements to Ensure Access to Services for Persons with Disabilities

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Deputy Director Approval

dave neilsen, Deputy Director
Program Services Division

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PURPOSE

The purpose of this bulletin is to inform all service providers (prevention, treatment, and recovery) and contractors of their legal responsibility to comply with:

- Americans with Disability Act (ADA);
- Section 504 of the Rehabilitation Act of 1973;
- 45 Code of Federal Regulations (CFR), Part 84, Non-discrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance;
- Title 24, California Code of Regulations (CCR), Part 2, Activities Receiving Federal Financial Assistance and;
- Unruh Civil Rights Act California Civil Code (CCC) Sections 51 through 51.3 and all applicable laws related to services and access to services for persons with disabilities (PWD).

Any enterprise licensed or certified by the Department of Alcohol and Drug Programs (ADP) or any entity (counties or providers) receiving state or federal funding that has been allocated by ADP must comply with these requirements and ensure access to services by the disabled. These statutory and regulatory requirements assist in ensuring PWD are provided access to alcohol and other drug (AOD) prevention, treatment, and recovery services.

DISCUSSION

The ADA, Section 504 of the Rehabilitation Act of 1973, and the Unruh Civil Rights Act, challenged the state and the nation to fully integrate PWD into jobs and services. The legislation and implementing regulations require that all providers make reasonable

accommodations and provide accessible services for PWD. ADP requires compliance with these laws and regulations for programs, agencies, and contractors that provide prevention, treatment, and recovery services for AOD use and abuse.

ADP will continue to require that all licensed or certified providers of services or programs receiving federal or State funding that has been allocated by ADP adhere to the requirements of the ADA, Section 504, and the Unruh Civil Rights Act, ensuring that all AOD prevention, treatment and recovery programs be accessible to PWD (refer to Exhibit 1) to the fullest extent possible.

Each county is responsible for ensuring that its services and its contract service providers' programs are accessible and do not discriminate against or deny equal opportunity to participate in and benefit by the provider's services.

Counties must conduct assessments and keep records of these results, which shall be provided to ADP upon request. The assessments must:

- Determine the extent of the need for AOD services within the county.
- Determine the percentage of the county residential AOD service providers that accept PWD and the county's implementation plan for ensuring that a sufficient number of out-patient and residential AOD services accessible by PWDs are strategically placed within the county.
- Define, develop, and implement: 1) the referral mechanism for those AOD service facilities that do not accept PWD; 2) the plan to provide services to PWD that are substantially equivalent to services provided to non-disabled individuals, including equivalency of travel time and distance.
- Designate a County Access Coordinator (CAC).

Each county is required to designate a County Access Coordinator (CAC) for serving PWD. The role of the CAC is that of liaison between the provider community, County AOD Administrator's office, and ADP. The CAC is responsible for ensuring the integrity of the county's compliance with all issues related to AOD services.

Every treatment program licensed or certified by ADP is required to acknowledge in it's initial application "…that the treatment program will not discriminate in employment practices and in provision of benefits and services on the basis of race, color, national origin, religion, sex, or mental or physical disabilities pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, California Government Code Section 11135, et seq., and other applicable state and federal laws." [Title 9, CCR Section 9804(b)(11)].

Further, the Unruh Civil Rights Act provides protection from discrimination by all business establishments in California. CCC Section 51(b) describes this protection:

> All persons within the jurisdiction of this state are free and equal, no matter what their sex, race, color, religion, ancestry, national origin, disability, or medical condition, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

ADP has recently received several complaints from individuals who were denied AOD services because a facility was either physically or programmatically inaccessible (i.e., refusing to provide a sign language interpreter). Investigation revealed that the complaints were accurate, and services were unlawfully denied to PWD. Although recent complaints only involved licensed or certified treatment facilities, requirements for access also apply equally to providers of prevention and recovery services.

Services must be made available to all individuals with mobility, communication, or cognitive impairments as required by state and federal laws and regulations. Prevention, treatment, and recovery providers must take action to identify all physical and programmatic barriers to services and develop plans for removing or mitigating the identified barriers. Failure by service providers to initiate actions to correct identified deficiencies may result in civil penalties, and possible suspension, or revocation, of licensure, certification or contract cancellation.

Providers applying for initial licensure or certification must plan to be fully accessible at the time of application. Applicants for renewal of a licensure or certification must have conducted an assessment to identify barriers to service and developed an Access to Services Plan for removing or mitigating any identified barriers. Applicants failing to address these requirements can anticipate denial of their initial application or the withholding of renewals for existing licensed or certified programs until these requirements are adequately addressed.

To assist counties, providers, and contractors in the early identification of service access barriers, ADP has attached a sample document "Guidance on Developing an Access to Services Plan" (Exhibit 3) and a "Checklist for Accessibility: Alcohol & Drug Programs" (Exhibit 4).

REFERENCES

- The Americans with Disabilities Act of 1990
- Section 504 of the Rehabilitation Act of 1973
- 45 CFR, Part 84, Non-discrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance
- Title 24, CCR, Part 2, Activities Receiving Federal Financial Assistance
- The Unruh Civil Rights Act (CCC Section 51 through 51.3)

BACKGROUND

ADP entered into a Voluntary Compliance Agreement (VCA) in 1994 with the Office of Civil Rights, Department of Health and Human Services, to enforce Section 504 of the Rehabilitation Act and the ADA in order to eliminate discrimination based on disability in AOD facilities. ADP has maintained technical assistance contracts to assist contractors and service providers to comply with the issues outlined in the VCA since 1997. ADP supports the right of all Californians' access to AOD services.

QUESTIONS/MAINTENANCE

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OR

Contact your County AOD Administrator and ask for the designated County Access Coordinator, who will assist you in any issue relating to the development of an "Access to Service Plans," as well as any issue specific to access, referral, or admission to AOD services.

EXHIBITS

Exhibit 1: Americans with Disabilities Act (Summary)
Exhibit 2: The Unruh Civil Rights Act (Summary)
Exhibit 3: Guidance on Developing an Access to Services Plan
Exhibit 4: Checklist for Accessibility: Alcohol & Drug Programs

DISTRIBUTION

County Alcohol and Drug Program Administrators
Strategic Local Government Services, LLC
Director's Advisory Council
ADP - Licensing and Certification Branch (Treatment and Outpatient Services)
ADP - Licensees and Certification Holders
ADP - Narcotic Treatment Program
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