



# DEVELOPMENTAL PROGRAMS BULLETIN

## COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE:  
April 8, 2014

EFFECTIVE DATE:  
April 8, 2014

NUMBER  
**00-14-04**

SUBJECT:  
**Accessibility of Intellectual Disability Services  
for Individuals Who Are Deaf**

BY:  
  
**Fred C. Lokuta**  
**Deputy Secretary for Developmental Programs**

### SCOPE:

Individuals and Families  
Administrative Entity (AE) Administrators and Directors  
County Mental Health/Intellectual Disability (MH/ID) Administrators and Directors  
State Center Directors  
Non-State Intermediate Care Facility for Persons with an Intellectual Disability (ICF/ID)  
Directors  
Supports Coordination Organizations (SCOs)  
Providers of Services through the Consolidated and Person/Family Directed Support  
Waivers

### PURPOSE:

The purpose of this bulletin is to clarify the requirement to provide communication assistance to individuals who are:

- Deaf; AND
- Registered with or seeking registration with a County MH/ID Program; OR
- Are enrolled or are enrolling to receive Consolidated or P/FDS services through the Office of Developmental Programs (ODP).

### BACKGROUND:

Under state law, the Commonwealth of Pennsylvania "assure[s] within the State the availability and equitable provision of adequate mental health and mental retardation services for all persons, who need them" Mental Health and Intellectual Disabilities Act of 1966, §201 (50 Pa.C.S. §§4201, 4509(5)).

The Americans with Disabilities Act (ADA) ensures the provision of equal access for all individuals with disabilities. This law requires that 'reasonable accommodation' be made to allow individuals with disabilities to participate fully in and receive all of the services and benefits available to those without disabilities. In certain instances, it is necessary for individuals who are deaf to have communication assistance in order to

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

**The Appropriate Developmental Programs Regional Office**

receive services and benefits. Communication assistance services can take a variety of forms depending on the needs and ability of the individual who is deaf.

This bulletin describes the roles and responsibilities of County MH/ID Programs, Administrative Entities, Supports Coordination Organizations and providers of waiver services in ensuring that individuals who are deaf are able to communicate effectively while seeking registration with a County MH/ID program or receiving services through ODP's Intellectual Disability System.

## **DISCUSSION:**

This bulletin is intended to cover communication assistance services for deaf individuals receiving services through ODP's Intellectual Disability System. Costs for any of the communication assistance services described in this bulletin cannot be passed on to the individual.

The following criteria will be utilized to determine whether an individual is deaf<sup>1</sup>:

- As a result of a hearing impairment, the person is unable to understand or communicate verbal expressions at a level commensurate with his or her intellectual ability, even when wearing hearing aids; OR
- As a result of a hearing impairment, his or her primary language is Sign Language<sup>2</sup>.

The following are examples of communication assistance that may be made available based upon the individual's needs by County MH/ID Programs, Administrative Entities, Supports Coordination Organizations and providers of intellectual disability services to facilitate communication with individuals who are deaf:

- Access to Video phone equipment,
- Assistive Technology, such as adapted telephones like videophones, captioned telephones and telecommunication devices for deaf persons (TTYs),
- Communication Access Realtime Translation (known as CART or realtime captioning),
- Video Remote Interpreting,
- Closed caption decoders,
- Highly visual communication tools, checklists, schedules and materials,
- Open and closed captioning on TV,
- Staff or interpreters proficient in sign language<sup>2</sup>,

---

<sup>1</sup> The ADA also requires effective communication for individuals who are hard of hearing but do not meet these criteria. While this Bulletin does not address their specific needs, ADA compliance is required.

<sup>2</sup> For the purposes of this bulletin, the term "sign language" includes American Sign Language ("ASL"); Sign Language from other countries, such as Spanish Sign Language; Signed Exact English; a mixture of ASL and signed English; tactile sign; and visual-gestural communication.

- Sign Language Interpreters<sup>3</sup> (includes but is not limited to: certified interpreters and certified deaf interpreters),
- Transliteration<sup>3</sup>, AND
- Exchange of written notes.

Attachment A provides definitions for the purposes of this bulletin of some of these types of communication assistance.

An individual's need for communication assistance can be determined in various ways which include, but are not limited to: An assessment completed by a speech-language pathologist, a formal communication assessment selected by ODP for individuals who meet the criteria for such an assessment, or a determination by the Individual Support Plan team of the individual's need for communication assistance to be provided on an interim basis pending the completion of an assessment. Assessments are very important for determining the long-term needs of participants. The need for an assessment, however, should not delay the provision of communication assistance (such as an interpreter for a meeting). For this reason, the service can be authorized in the Individual Support Plan and provided on an interim basis pending the completion of an assessment when the Individual Support Team determines that communication assistance is necessary.

When a need for communication assistance is identified; the County MH/ID Program, Administrative Entity, Supports Coordination Organization or provider must provide an opportunity for individuals to request the type of communication assistance of their choice. Primary consideration must be given to the choice expressed by the individual unless different communication assistance is recommended in the deaf individual's most current communication assessment. Each such entity must have written protocols in place within 60 days of the effective date of this bulletin for staff to request and obtain the necessary communication assistance.

When it has been determined or assessed that an individual needs a Sign Language Interpreter, in general it is not recommended that family members or friends who meet these criteria be utilized to fulfill this need. Individuals have the right to interact directly with County MH/ID Programs, Administrative Entities, Supports Coordination Organizations and providers. Family members and friends also have the right to focus on their role as team members and informal supports for the individual. There are some

---

<sup>3</sup> Interpreters and/or transliterators must be registered with the Pennsylvania Department of Labor and Industry, Office of Vocational Rehabilitation, Office for the Deaf and Hard of Hearing (ODHH) prior to providing interpretation and/or transliteration services. In accordance with Act 57 of 2004, also known as the Sign Language Interpreter and Transliterator State Registration Act, the Registry of Interpreters for the Deaf (RID) has separate certifications for interpreters and transliterators. More information regarding certification can be found at <http://www.rid.org/> or the state chapter, PA RID, at <http://www.parid.org/> Prior to registering with the ODHH, interpreters and/or transliterators must have proof of passing the national certification tests that are recognized and/or issued by the Registry of Interpreters for the Deaf.

situations, however, when it may be acceptable to use a family member or friend who is Sign Language Interpreter including when:

- The family member or friend is rendering a paid waiver service at the time where it is expected that he or she will perform this function as part of the service. For example, a family member who is a Sign Language Interpreter is rendering Home and Community Habilitation as authorized in the Individual Support Plan. As part of this service the family member is working on assisting the individual with grocery shopping. It may be necessary for the family member to interpret for the individual when the individual needs to interact with the cashier;
- An emergency situation arises where the safety and welfare of the public or the individual is of paramount importance; OR
- Other Sign Language Interpreters have been offered and refused and both parties have agreed to the family member or friend.

County MH/ID Programs, Administrative Entities, Supports Coordination Organizations and providers are not responsible for providing communication assistance for any function that is covered in the individual's Individualized Education Plan (IEP).

When scheduling an appointment for Medical Assistance covered (non-waiver) services, individuals or staff who assist them should ask the Medical Assistance provider for an interpreter. If there is difficulty getting an interpreter, individuals or staff should ask for further assistance in obtaining an interpreter:

If the individual receives physical or behavioral health services through fee-for-service (ACCESS), the individual or staff should either send an e-mail to [MA-Interpreter@pa.gov](mailto:MA-Interpreter@pa.gov), or call the Office of Medical Assistance, Bureau of Fee-for-Service Programs at 1-866-872-8969, choose Option #7, and leave a message.

If the individual uses a Medicaid Managed Care Organization (MCO) for physical or behavioral health, the MCO should be contacted for assistance. In the case of physical health, contact the Special Needs unit of the MCO.

If these contacts do not resolve the problem, the individual or staff should contact the ODP Deaf Services Coordinator. These resources should be utilized as individuals who are deaf have the right to interact directly with their Medical Assistance providers, have staff with clearly defined roles as supportive informants or advocates and confidentiality when they do not want their staff to be present at these appointments.

#### County MH/ID Programs and Administrative Entities

County MH/ID Programs and Administrative Entities are required to pay for necessary communication assistance any time these programs and entities need to communicate with an individual who is deaf for the following purposes:

- Engaging in any of the activities required through the Mental Health and Intellectual Disabilities Act of 1966. This includes but is not limited to enrolling and determining eligibility for the individual to receive intellectual disability services through ODP;
- Providing base-funded services; AND

- Engaging in any of the activities required by or related to the Administrative Entity Operating Agreement; including when the Administrative Entity delegates or purchases any administrative functions from another entity.

County MH/ID Programs may utilize base funds while Administrative Entities may utilize Waiver administration funds to cover communication assistance costs (including costs incurred by Supports Coordination Organizations to provide communication assistance). County MH/ID Programs are responsible for ensuring that contracted providers that provide base funded services meet applicable ADA requirements for individuals who are deaf.

#### Supports Coordination Organizations

Supports Coordination Organizations are required to provide communication assistance when providing supports coordination services (such as Individual Support Plan meetings and monitoring visits) to individuals who are deaf. Funding for communication assistance needed for supports coordination services must be requested from, and provided by, the Administrative Entity.

If the Supports Coordinator becomes aware of a need for communication assistance that has not been included in the Individual Support Plan, the Supports Coordinator should:

- Convene an ISP team meeting to determine how to meet the individual's immediate short-term need on an interim basis pending an assessment;
- Ensure that the individual receives an assessment; AND
- Otherwise follow the process outlined for "addressing changes in need throughout the year" in the *Individual Support Plan Manual for Individuals with an Intellectual Disability*.

The Supports Coordinator should contact the ODP Deaf Services Coordinator if the following occur:

- The Supports Coordinator has difficulty finding a provider to meet an assessed communication need; OR
- The Supports Coordinator becomes aware that a communication assistance need is not being met as specified in the Individual Support Plan.

#### Providers of Intellectual Disability Waiver Services

Providers of intellectual disability waiver services are required to provide any communication assistance deemed necessary as indicated in the Individual Support Plan when rendering services to waiver participants who are deaf. If specific communication assistance is indicated in the Individual Support Plan (for example, sign language proficient staff), providers must provide that assistance. If providers have difficulty fulfilling this obligation, they must contact the ODP Deaf Services Coordinator. If the provider becomes aware of a need for communication assistance that has not been included in the Individual Support Plan, the provider must contact the Supports Coordinator within ten (10) calendar days from the date the provider becomes aware of the need and must participate as needed to amend the Individual Support Plan.

### Targeted Services Management

Targeted Services Management (TSM) is a Medicaid State Plan service. As such, it is required that communication assistance must be provided for individuals who need it. If an individual experiences difficulty in being provided with communication assistance from a TSM provider they should contact their County MH/ID program. Communication assistance costs for individuals receiving TSM services may not be charged to TSM as these costs are not included in the TSM service rate. County MH/ID programs may utilize base funds to cover communication assistance costs for TSM.

### Intermediate Care Facilities for Persons with an Intellectual Disability

Intermediate Care Facilities for Individuals with an Intellectual Disability (ICFs/ID) are a Medicaid State Plan service. As such, it is required that communication assistance must be provided for individuals who need it. If an individual experiences difficulty in being provided with communication assistance from an ICF/ID, they should contact the Intellectual Disabilities Customer Service Line 1-888-565-9435. Communication assistance can be reimbursed for people receiving ICF/ID services by building them into the ICF/ID interim per diem rate as a direct or indirect cost.

### **ATTACHMENTS:**

Attachment A - Communication Assistance Definitions

### **OBSOLETE BULLETIN:**

MR Bulletin 00-06-10, *Payment for Sign Language Interpreters and/or Transliterators*