

MEMORANDUM

TO: Entities Involved in Administration or Operation of TANF Programs

FROM: Thomas E. Perez
Director, Office for Civil Rights
U.S. Department of Health and Human Services

DATE: January 19, 2001

RE: Policy Guidance - Prohibition Against Discrimination on the Basis of Disability in the Administration of TANF (Temporary Assistance for Needy Families)

The implementation of welfare to work programs presents a series of challenges and opportunities. One such challenge is ensuring that welfare reform programs are implemented in a manner that is consistent with Federal civil rights laws prohibiting discrimination against individuals with disabilities.

Notwithstanding gains in work for many TANF clients, other families with multiple barriers to work are at risk of losing benefits before obtaining employment or of being unable to benefit from TANF job training, education, and other programs. Some former welfare beneficiaries have succeeded in moving to work despite extraordinary obstacles. However, others, due to known or unrecognized disabilities, need additional training, accommodations, and support services to prepare for or succeed at work.

In an effort to assist you in understanding the application of Federal civil rights laws regarding disability discrimination to your programs, we are issuing the attached policy guidance. This document, entitled "Prohibition of Discrimination on the Basis of Disability in the Administration of TANF (Temporary Assistance for Needy Families)," details how Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 interface with welfare to work programs. Our goal in preparing these materials is to assist you in recognizing potential civil rights issues and to thereby enable you to prevent problems from occurring as you carry out your welfare to work programs.

In August 1999, we issued two-part guidance explaining how Federal civil rights laws apply to certain aspects of welfare reform. The purpose of the present guidance is to respond to additional questions that have been raised regarding the obligations of State agencies, counties, and service providers to adopt methods for administering welfare programs to ensure equal opportunity for persons with disabilities in all aspects of a TANF program, including applications, assessments, work program modifications, sanctions, and time limits.

This policy guidance identifies essential requirements of an ADA-504 compliant TANF program that the Office for Civil Rights will apply in its compliance reviews and/or investigations. These requirements are not new; rather, they reiterate ADA Title II and Section 504 principles that OCR has been enforcing for many years.

Many states have already undertaken substantial efforts to address the needs of individuals with disabilities (see, e.g., descriptions of state practices on the National Governors' Association website, www.nga.org). In writing this guidance, we relied heavily on states' efforts in our description of "promising practices" – policies, procedures and other recommended steps that recipients and covered entities can take to ensure meaningful access to TANF programs by people with disabilities. These "promising practice" provisions are not mandatory requirements; they are one way for TANF agencies to address ADA/Section 504 obligations.

OCR has provided substantial technical assistance for over 20 years to recipient/covered entities seeking to ensure that people with disabilities can meaningfully access social service programs. This guidance applies that experience to the relatively new challenges presented in the context of administering TANF programs. Consistent with OCR's commitment to provide technical assistance, regional office staff from both OCR and the Administration for Children and Families (ACF) will be available to answer questions or concerns you may have related to the guidance. Further, HHS is sponsoring in Spring 2001 three regional conferences with State TANF administrators to facilitate an exchange of information between States regarding their efforts to identify barriers to employment (including mental health issues and learning disabilities) among welfare recipients. The regional meetings, entitled "Screening and Assessment in TANF/WtW," and sponsored by ACF and the Assistant Secretary for Planning and Evaluation (ASPE), will serve as ideal forums for dialogue regarding the guidance. We look forward to obtaining your input.