



CDC has Issued a New Operational Policy
"Personal Assistance Services"

1. Summary of Policy:

As part of the Centers for Disease Control and Prevention's obligation to engage in affirmative action, CDC provides Personal Assistance Services (PAS) to individuals who need them because of targeted disabilities. PAS means assistance with performing activities of daily living not otherwise required as a reasonable accommodation. Such services do not include medical care.

2. Related Issuances:

CDC Policy for Processing Requests for Reasonable Accommodation, dated October 8, 2015

3. Responsible Organization:

Office of Equal Employment Opportunity

4. Material Superseded:

None

5. Recertification:

This document is scheduled for recertification on or before the last working day of July 2024.

6. Points of Contact:

Cadacia Green, OEEEO, 770-488-3206, or Thomas Jones, OCOO/SBI, 770-488-4777.

7. To go directly to the Policy, enter the following URL into the location line of your browser:

<https://sbi.cdc.gov/policy/doc/Policy645.pdf>.

/s/ Sherri A. Berger, MSPH
Chief Operating Officer

**References to CDC also apply to the Agency for Toxic Substances and Disease Registry (ATSDR).

Category: General Administration
Policy #: CDC-GA-2019-01
Date of Issue: 08/29/2019
Proponent: Office of Equal Employment Opportunity
Application: All CDC Locations, Domestic and International
Applicable Staff: All CDC Employees

PERSONAL ASSISTANCE SERVICES

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1. PURPOSE AND SCOPE

As part of the Centers for Disease Control and Prevention's (CDC)¹ obligation to engage in affirmative action, as required by new amendments to the Rehabilitation Act, [29 C.F.R. §1614.203 \(2018\)](#), CDC provides Personal Assistance Services (PAS) to individuals who need them because of [targeted disabilities](#). PAS are services that help individuals who require assistance to perform basic activities of daily living, like eating and using the restroom. This policy provides direction on providing PAS to CDC employees.

This policy applies to all CDC employees² at all locations, domestic and international, and to all Centers, Institute, and Offices (CIOs), Staff Offices, and Business Services Offices, which are hereafter called "CDC Components"³ unless otherwise noted.

2. BACKGROUND

The Equal Employment Opportunity Commission (EEOC or Commission) amended the regulations implementing [Section 501 of the Rehabilitation Act of 1973](#) on January 3, 2017. Section 501 is a federal civil rights law that prohibits federal agencies from discriminating against job applicants and employees based on disability and requires federal employers to engage in affirmative action for individuals with disabilities.

Section 501 prohibits discrimination and adopts the [Americans with Disabilities Act \(ADA\) standard](#). This law requires affirmative action and applies only to the federal government. While progress has been made, people with disabilities remain disproportionately represented at lower

¹References to CDC also apply to the Agency for Toxic Substances and Disease Registry (ATSDR).

² For the purposes of this policy, "employees" consists of members of the civil service, Commissioned Corps officers, and locally employed staff. For more information on these categories, refer to "Employee Categories (Updated March 2017)," available at: http://intranet.cdc.gov/ocio/docs/systems-tools/Employee_Category_Definitions.pdf.

³ More information on CDC organizational nomenclature is available at: <https://sbi.cdc.gov/DOA/pdf/orgnom.pdf>.

levels of federal employment. Employment rates of individuals with severe disabilities (targeted disabilities) remain particularly low.

An individual does not need to mention Section 501 or the EEOC's regulations explicitly or use terms such as "PAS" or "affirmative action" to trigger the agency's obligation to consider the request.

3. POLICY

A. General Requirements

CDC will provide PAS, upon request, to current employees with a targeted disability⁴ when the requirements below are met.

- The individual is a federal employee of the agency
- The individual has a targeted disability
- The individual requires the services because of his or her targeted disability
- The individual will be able to perform the essential functions of the job, without posing a direct threat to safety, once PAS and any required reasonable accommodations have been provided
- PAS will not impose undue hardship on the agency

PAS allow individuals to perform activities of daily living that an individual would typically perform if he or she did not have a disability. These services are not the same as services that help the individual perform job-related tasks, which are provided as a reasonable accommodation. Reasonable accommodations, such as sign language interpreters for individuals who are deaf or readers for individuals who are blind or have learning disabilities, are already required under the part of Section 501 that prohibits discrimination based on disability, as long as the provision of such services does not impose an undue hardship.

PAS differ from medical services and services that are typically performed by someone who often has the job title of "personal assistant." PAS do not include, for example, performing medical procedures (e.g., administering shots) or medical monitoring (e.g., monitoring blood pressure). PAS are non-medical services, such as helping an individual take off and put on a coat, eat, and use the restroom. These services are needed by individuals whose specific disabilities make it difficult for them to perform such activities on their own. PAS only include assistance with basic human functions and are only required if they enable the employee to do his or her job up to normal standards.

An agency's obligation to provide reasonable accommodations is unaffected by the new regulations.

B. Cost and Undue Hardship

The cost of PAS will vary depending on the location as well as how much assistance an employee needs, but the EEOC indicated in the Section 501 regulations that PAS providers earn, on average, an amount per hour that is approximately equal to the federal minimum wage and an amount per year that is significantly lower than the annual salary of a GS-5 level employee.

⁴ See [Appendix A](#) for more information on what constitutes a target disability.

In addition, agencies have the right to deny PAS when provision of the services would pose an undue hardship. The process of determining whether providing personal assistance services is an undue hardship can be the same as the agency uses to determine whether a reasonable accommodation poses an undue hardship. Because the typical cost of PAS is minimal, undue hardship based on cost should rarely be an issue.

Under the new regulations for Section 501, the term "undue hardship" has the same meaning that it has in the [reasonable accommodation](#) context. Granting a request for PAS will impose undue hardship if it would result in "significant difficulty or expense." The regulations emphasize that, as with reasonable accommodation, the determination of whether granting an individual's request for PAS would impose "significant" difficulty or expense must take into account all resources available to the agency as a whole.

C. When Providing PAS is Required

CDC must provide PAS to an employee regardless of when the employee was hired. Even if an existing employee who is entitled to PAS under the regulations has arranged for his or her own PAS in the past, the agency will be responsible for providing PAS once the employee's PAS request is approved.

When a CDC employee assignment of work-related travel results in an inability to rely on his or her usual source of PAS during both work and off-work hours, CDC must provide PAS at all times during that work-related travel, as a reasonable accommodation (absent undue hardship). Additionally, even if an employee's usual PAS provider is available during work-related travel, CDC must, as a reasonable accommodation, pay any additional costs (e.g., transportation costs for the usual PAS provider) related to providing PAS while the employee is on work-related travel.

CDC is not required to provide PAS to help employees commute to work. CDC is only required to provide PAS when the individual is working, unless he or she is on work-related travel.

CDC is required to provide PAS during telework if the employee is entitled to telework under the agency's telework policy or as a reasonable accommodation. CDC must not revoke an individual's permission to telework because he or she is entitled to PAS under the new regulations.

CDC, as a matter of affirmative action, provides PAS for employees to participate in employer-sponsored events to the same extent as they must provide reasonable accommodations. The Rehabilitation Act requires reasonable accommodations that enable employees with disabilities to enjoy "benefits and privileges of employment" equal to those enjoyed by similarly situated employees without disabilities. Benefits and privileges of employment include physical access to spaces available to all employees (such as cafeterias or break rooms), employer-sponsored training, and employer-sponsored social events.

D. Service Providers

PAS providers may be federal employees or contractors. CDC may use federal employees, independent contractors, or a combination of employees and contractors. CDC has discretion as to how to classify their PAS providers concerning pay grade, benefits, and leave.

CDC will not require someone who does not provide PAS or similar services as part of his or her job to assist another employee with tasks such as eating and using the restroom.

CDC will consider an employee's choice of a particular PAS provider. If CDC is hiring a PAS provider who will be assigned to a single individual, and if that individual prefers a particular provider (e.g., because the provider has worked with the employee in the past), then CDC must consider the employee's choice.

However, it may not be possible to honor the individual's preferences in all cases. CDC may choose a different provider if, for example, the individual's preferred provider is not qualified or is less qualified than another applicant; if CDC decides to utilize a pool of shared providers instead of dedicated providers, for reasons of cost or convenience; or if CDC decides to have appropriate existing employees provide PAS, for reasons of cost or convenience.

Although PAS include assistance with activities that may be considered personal, PAS providers render this assistance in a professional capacity. The central question is whether the PAS provider can provide the necessary services. Generally, providers of one gender are no more qualified than those of another to provide such services. However, when hiring a PAS provider who will be assigned to a single individual, the agency must give primary consideration to the employee's preferences to the extent permitted by law.

An individual may request permission to bring his or her own PAS provider to work as a reasonable accommodation if the individual does not request that CDC assume the cost of providing the services. However, CDC is not obligated to assume the cost of using the employee's own PAS provider and CDC may choose a different provider.

If an individual's PAS provider would have access to classified information, the agency should find a provider who has, or who likely could get, the appropriate security clearance. The Commission acknowledges that, under some circumstances, finding such a provider may be sufficiently difficult as to constitute an undue hardship. If an individual with a targeted disability is unable to perform essential job functions because an appropriate provider cannot be found, then CDC may consider the individual to be unqualified for the position, the same as for reasonable accommodations.

CDC will instruct PAS providers to notify it of any absences as soon as possible, so that it can make alternative arrangements. Such arrangements could include, for example, contracting with different providers on a short-term basis, adjusting the schedules of shared PAS providers if CDC utilizes any, or allowing the individual to telework if the employee can work at home without the need for PAS provided by the agency.

CDC is permitted to assign non-PAS job functions to PAS providers who currently provide PAS and may employ individuals who also do other work-related tasks. Sometimes these work-related tasks are those that are required as a reasonable accommodation. Other times, the work-related tasks are the type that any assistant would provide. However, if CDC does assign additional duties to its PAS providers, CDC should ensure that those duties do not interfere with the provisions of PAS and that all individuals who are entitled to PAS continue to receive them in a timely manner.

E. PAS Request Process

As with reasonable accommodations, an individual may request PAS by informing a supervisor, Disability Program Manager (DPM), or other managers or supervisors that he or she needs assistance with daily life activities because of a medical condition. The individual does not need to mention Section 501 or the EEOC's regulations explicitly or use terms such as "PAS" or "affirmative action" to trigger the agency's obligation to consider the request. The requester does not have to use any specific legal terminology. Employees may have a family member or another representative of choice to assist in making a request.

CDC is only required to provide PAS if the requesting employee is entitled to them under the regulations. Therefore, CDC may deny a request for PAS if the individual does not meet the requirements in [Section 3.A.](#) of this policy.

To determine whether a requesting individual is entitled to PAS, and, if so, the nature of the required services, CDC will ask the employee what types of PAS he or she needs using the same type of informal, interactive process used for reasonable accommodation. This process should be brief in most cases. An employee is not likely to request assistance with activities such as eating or using the restroom unless it is truly necessary, and, in general, such assistance is only necessary for individuals who have obvious targeted disabilities like paralysis and missing limbs. Where it is obvious that an employee has a targeted disability and needs the requested services, CDC may not require the individual to provide medical documentation in support of the request.

F. Collection and Protection of Personal Information

The Rehabilitation Act prohibits the disclosure of medical information except in certain limited situations. Generally, information that is otherwise confidential under the Rehabilitation Act may be shared only with individuals involved in the PAS process who need to know the information to consider PAS for a specific individual.

CDC cannot require an employee to complete a self-identification form regarding whether he or she is an individual with a disability, such as Office of Personnel Management's voluntary "Self-Identification of Disability" form (SF-256) or any other self-identification form. CDC also cannot make completion of the form a condition of receiving PAS. However, the agency still may be able to count an individual who is receiving PAS in its annual disability workforce analysis, even if the individual does not self-identify as having a disability.⁵

PAS records should be maintained and handled with the same confidentiality and safeguard requirements as reasonable accommodation request records. Complete confidentiality requirements can be found in CDC-GA-2001-06, "[Requests for Reasonable Accommodation \(RA\)](#)."

G. Appeals Process

Appeal to CDC Component Director

When a supervisor or manager denies the initial request for PAS, the employee may appeal the denial up to the Component Director for the program where the employee is assigned.

⁵ See 29 C.F.R. § 1614.203(d)(6)(ii).

The Component Director must review the written justification provided by the supervisor that forms the basis of the denial. The Component Director must also have access to engage all of the organization subject matter experts who were a part of the interactive process, as he or she deems necessary to make an informed decision.

If the Component Director concludes that the denial is appropriate, the Component Director must provide a written statement in favor of the denial. The written statement can be an affirmation of the undue hardship justification written by the supervisor or manager or any additional relevant information that the director provides. The rules on confidentiality and privacy apply.

If the Component Director concludes that the denial is inappropriate, then the Component Director must provide a written statement in favor of the employee and instruct the PAS be provided as immediately as practicable.

Other Appeals

If the employee chooses to contest the denial by the Component Director, the employee may contact the CDC Equal Employment Opportunity Office (OEEEO) Alternative Dispute Resolution (ADR) team or the Complaints Team to discuss other options, if appropriate or necessary.

4. RESPONSIBILITIES

A. Office of Equal Employment Opportunity (OEEEO)

- Assists employees with obtaining PAS once the employee has made it known that he or she has requested PAS
- Documents data on all PAS requests made, granted, or denied
- Maintains all PAS records in accordance with [Section 3.F.](#) of this policy
- Ensures all denial documentation provides a written justification
- Notifies the employee requesting PAS, his or her representative, and managers with a need to know of the PAS decision
- Collaborates with the Reasonable Accommodation Manager (RAM) to submit an annual report to the EEOC on CDC activities that includes a copy of PAS procedures and information on its efforts to implement them
- Works with supervisors on travel issues for any employees who request PAS for work-related travel
- Shares medical information only with individuals involved in the PAS process with a need to know the information to consider PAS for a specific individual

B. Human Resources Office (HRO)

- Forwards any PAS request and information received to OEEEO

C. Supervisors and Managers

- Engage in the interactive process with an employee who indicates a need for PAS to ascertain what he or she is asking for

- Share information about the interactive process only with other supervisors and managers with a need to know
- Engage in an interactive process with the CDC DPM, RAM, and HR representatives with a need to know about any PAS request
- Maintain the confidentiality requirements and privacy considerations involved with PAS information and documents the same as and reasonable accommodation request
- Share medical information only with individuals involved in the PAS process who need to know the information to consider PAS for a specific individual
- Provide written justification for undue hardship if a request for PAS is denied, as outlined in [Section 3.G.](#)
- Notify the DPM immediately once she or he is aware that an employee is requesting a PAS

D. Employees

- Communicate as necessary with supervisors, managers, human resources or the CDC OEEO Disability Program Manager or Affirmative Employment Program Manager to report a need for PAS

5. REFERENCES

- A. 29 C.F.R. § 1614.203 (2018) – [Rehabilitation Act](#)
- B. 29 C.F.R. 1630 (2018) [Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act](#)
- C. CDC. CDC-GA-2001-06 : *CDC Policy for Processing Requests for Reasonable Accommodation*, dated October 8, 2015, <https://sbi.cdc.gov/Policy/Doc/policy307.pdf>.
- D. EEOC. Final Rule On Affirmative Action for Individuals with Disabilities in Federal Employment, dated March 6, 2017, <https://www.federalregister.gov/documents/2017/01/03/2016-31397/affirmative-action-for-individuals-with-disabilities-in-federal-employment>.
- E. EEOC. Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act dated October 17, 2002, <https://www.eeoc.gov/policy/docs/accommodation.html>
- F. EEOC. Web Site, accessed 12/19/2018, <https://www.eeoc.gov/>.
- G. EEOC. Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act, dated September 18, 2017, <https://www.eeoc.gov/federal/directives/personal-assistance-services.cfm>.

6. ACRONYMS

ADR – Alternative Dispute Resolution
CDC – Centers for Disease Control and Prevention
CIO – Centers, Institute, and Offices
DPM – Disability Program Manager
EEOC – Equal Employment Opportunity Commission
HRO – Human Resources Office
OEEO – Office of Equal Employment Opportunity
PAS – Personal Assistant Services
RA – Reasonable Accommodations

RAM – Reasonable Accommodations Manager

7. DEFINITIONS

CDC Components – Organizational entities of CDC that are comprised of CIOs, Staff Offices, and Business Services Offices, as outlined in [Organizational Nomenclature Used in Delegations of Authority](#)

Disability – A physical or mental impairment which substantially limits one or more major life activities (e.g., caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working); or a record of such an impairment; or a limitation that is regarded as such an impairment

Essential Functions – Duties that are so fundamental to the position that the individual holds, or desires, that the individual cannot do the job without performing them

NOTE: A function can be “essential” if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed and not simply the components of a generic position description.

Personal Assistant Services (PAS) – Assistance with performing activities with daily living that an individual would typically perform if he or she did not have a disability and that is not otherwise required as a reasonable accommodation, including, including but not limited to, assistance with removing and putting on clothing, eating, and using the restroom.

Qualified Individual with a Disability – An individual with a disability that (1) satisfies the requisite skill, experience, education, and other job related requirements of the position; and (2) can perform the essential functions of the position with or without reasonable accommodation

Reasonable Accommodation – Any change or adjustment to work environment or in the way things are customarily done that would enable an individual with a disability to be considered for or perform the essential functions of a job

Reasonable Medical Documentation – Documentation that is needed to establish that a person has a disability that necessitates a reasonable accommodation

NOTE: An employer, in response to a request for reasonable accommodation, cannot ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation.

Undue Hardship – Determination made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of CDC, that a request poses significant difficulty or expense

NOTE: If a specific type of reasonable accommodation causes significant difficulty or expense, then CDC does not have to provide that particular accommodation.

APPENDIX A

What are "targeted disabilities?"

Targeted disabilities are a subset of the larger disability category. The federal government has recognized that qualified individuals with certain disabilities, particularly manifest disabilities, face significant barriers to employment that are above and beyond the barriers faced by people with the broader range of disabilities. These barriers are often due to myths, fears, and stereotypes about such disabilities. These "targeted disabilities" are listed below.

- Developmental disabilities, for example, cerebral palsy or autism spectrum disorder
- Traumatic brain injuries
- Deafness or serious difficulty hearing, benefiting from, for example, American Sign Language
- Blindness or serious difficulty seeing even when wearing glasses
- Missing extremities (arm, leg, hand, or foot)
- Significant mobility impairments, benefiting from the utilization of a wheelchair, scooter, walker, leg brace(s), or other supports
- Partial or complete paralysis (any cause)
- Epilepsy and other seizure disorders
- Intellectual disabilities (formerly described as mental retardation)
- Significant psychiatric disorders, for example, bipolar disorder, schizophrenia, PTSD, or major depression
- Dwarfism
- Significant disfigurement, for example, disfigurements caused by burns, wounds, accidents, or congenital disorders

However, not everyone with a targeted disability will be entitled to PAS under the new regulations, because only some individuals with targeted disabilities require assistance with basic activities like eating and using the restroom. Medical conditions that are more likely to result in the need for PAS include, for example, missing limbs or paralysis.