

	GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES		
	MEDICAID POLICY MANUAL		
	Chapter:	2000	Effective Date:
Policy Title:	Americans With Disabilities Act		
Policy Number:	2020	Previous Policy Update:	MT 1

REQUIREMENTS

Persons with disabilities cannot be discriminated against, but must be provided with opportunities equal to persons without disabilities in accessing government programs, public services and employment.

BASIC CONSIDERATIONS

The Americans with Disabilities Act (ADA) gives civil rights protections to individuals with disabilities. These protections are similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications. In general, the ADA became effective on January 26, 1992.

The Americans with Disabilities Act is intended to remove barriers that persons with disabilities may have to employment, public accommodations, public services, and telecommunications. It prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment, and to all employment-related activities.

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all State and local governments, their departments and agencies, and to any entities with which a government agency contracts for services.

Unless the government can establish that a requirement is necessary for the provision of a service, program, or activity, it must eliminate any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities. A public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can demonstrate that a particular modification would fundamentally alter the nature of its service, program, or activity, it is not required to make that modification.

Basic Considerations (cont.)

A public entity must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. A State or local government's programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as program accessibility, applies to facilities of a public entity that existed on January 26, 1992. Public entities do not necessarily have to make each of their existing facilities accessible. They may provide program accessibility by a number of methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate accessible sites.

Definitions

Disability - The ADA definition of disability differs from the understanding of a disability that has traditionally been employed by the agency. By disability the ADA does not necessarily mean a condition which makes it impossible for a person to be employed. Rather, a person "with a disability" is one who meets any one of the three following criteria:

- The individual has a physical or mental impairment that substantially limits one or more of that person's major life activities.
- The individual has a record of such impairment.
- The individual is regarded as having such impairment.

ADA protection applies primarily to individuals with disabilities. However, a parent with a disabled child may receive protections under the ADA. Also, an individual who assists persons with disabilities in asserting their rights under the ADA may receive protections under the ADA even though the individual providing the assistance may not have a disability.

Meaningful access - The ADA requires that persons with disabilities must be afforded meaningful access to the Medicaid program. To provide meaningful access is not limited to merely providing physical access to a DFCS office building, though providing physical access is absolutely necessary. Rather, it means that individuals with disabilities must be given the opportunity to benefit from all available resources, services, and activities to the same extent as that given to persons without disabilities.

Reasonable Accommodation - The ADA requires that public entities and employers provide reasonable accommodation for a person with a disability. Although the ADA contains no clear definition of reasonable accommodation, and no specific limits are established for what is reasonable, examples are provided.

The ADA requires that, when necessary, a public entity such as DFCS provide reasonable accommodation to an individual with a disability. By providing an accommodation the agency insures that the individual with a disability is able to participate in all programs and receive all benefits and services for which that individual is otherwise eligible. If a modification or

Reasonable Accommodation (cont.)

adjustment is needed to make that possible, then DFCS must do what is required to make it possible. Providing a reasonable accommodation may take many forms including, but not limited to, policy or procedural modifications, deferral from certain activities, provision of auxiliary aids, extensions of deadlines, and the granting of hardship waivers.

Examples of making reasonable accommodation at the administrative level include making existing facilities readily accessible to and usable by an individual with a disability, acquiring or modifying equipment, or providing qualified readers or interpreters.