



Title: Personal Assistance Services

Last Updated: 3/1/2022

Originating Office: Office of Civil Rights, ocr@usagm.gov, (202) 920-2265

(a) PURPOSE: The policy establishes USAGM Personal Assistance Services (PAS) policies and procedures for employees with targeted disabilities.

(b) POLICY:

(1) Policy Overview.

(A) The Agency must provide PAS to employees with targeted disabilities, in addition to other Reasonable Accommodations.

(i) PAS help employees perform activities of daily living they would typically perform if not for their disability.

(ii) Examples of PAS include assistance with removing and putting on clothing, eating, using the restroom, powering a wheelchair, or entering and exiting vehicles or worksites.

(iii) PAS, unlike Reasonable Accommodations, do not help persons with disabilities perform their specific job functions.

(iv) PAS is an Affirmative Action obligation that goes beyond non-discrimination requirements under the Rehabilitation Act.

(2) Targeted Disabilities.

(A) Targeted disabilities are a subset of the larger disability category. The federal government recognizes that qualified individuals with certain disabilities, particularly manifest disabilities, face significant barriers to employment, 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. The federal government calls these “targeted disabilities.” These include:

(i) Developmental disabilities, for example, cerebral palsy or autism spectrum disorder;

(ii) Traumatic brain injuries;

(iii) Deafness or serious difficulty hearing, benefiting from, for example, American Sign Language;

(iv) Blindness or serious difficulty seeing even when wearing glasses;

(v) Missing extremities (arm, leg, hand and/or foot);

- (vi) Significant mobility impairments, benefitting from the utilization of a wheelchair, scooter, walker, leg brace(s) and/or other supports;
- (vii) Partial or complete paralysis (any cause);
- (viii) Epilepsy and other seizure disorders;
- (ix) Intellectual disabilities;
- (x) Significant psychiatric disorders, for example, bipolar disorder, schizophrenia, PTSD, or major depression;
- (xi) Dwarfism; and
- (xii) Significant disfigurement, for example, disfigurements caused by burns, wounds, accidents, or congenital disorders.

(3) Eligibility.

(A) The Agency is only required to provide PAS if the requesting employee is entitled to them under the regulations. To be eligible, the requestor must:

- (i) Be an employee of the Agency;
- (ii) Have a targeted disability that creates a need for PAS;
- (iii) Be able to perform the essential functions of the job with PAS and any reasonable accommodations; and
- (iv) 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.

(B) In addition, the Agency can deny a PAS request if it would impose undue hardship on the Agency.

(i) Undue hardship means the PAS would require significant difficulty or expense. This determination considers factors such as the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the Agency.

(ii) This determination must consider all resources available to the Agency as a whole.

(4) PAS Requirements. The Agency must provide PAS in the following circumstances:

(A) When the individual is working, including teleworking;

- (i) Agencies cannot revoke a person's right to telework just because PAS services are required during telework.

(B) When the individual is on work-related travel; and

(i) If the Agency's assignment of work-related travel results in the employee's inability to rely on their usual source of PAS during both work and off-work hours, absent undue hardship, the Agency must provide PAS at all times during that work-related travel as a reasonable accommodation.

(ii) If the employee's usual PAS provider is available during work-related travel, the Agency must pay any additional costs related to providing PAS while on travel, such as transportation costs for the PAS provider, as a reasonable accommodation.

(C) During employer-sponsored events, including social events and planning.

(5) Choosing a PAS Provider.

(A) If the employee prefers a particular provider (e.g., because the employee has worked with the provider in the past), the Agency must give primary consideration to the employee's choice to the extent permitted by law.

(B) The Agency may choose a different provider if:

(i) The individual's preferred provider is not qualified or less qualified than another applicant;

(ii) The Agency decides to utilize a pool of shared providers instead of dedicated providers, for reasons of cost or convenience; or

(iii) The Agency decides to have appropriate existing employees provide PAS for reasons of cost or convenience.

(C) 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 the Agency assume the cost of providing the services. However, if the individual wants the Agency to assume the cost of providing the services, the Agency may choose a different provider.

(6) Confidentiality.

(A) The Agency will keep all information confidential and will only release it to those with a need to know as required under the Privacy Act.

(c) PRIMARY RESPONSIBILITIES:

(1) The Director of the Office of Civil Rights (OCR).

(A) Designates a Disability Program Manager (DPM) who has either extensive training in the PAS/reasonable accommodation process or a medical background, or both; and

(B) Designates a backup to serve as DPM in case the DPM has a conflict of interest or is unavailable.

(2) The Disability Program Manager.

- (A) Has direct administrative responsibility for the Agency-wide PAS program;
- (B) Notifies the relevant supervisor or manager as soon as the DPM receives a request for PAS and immediately initiates the interactive process.
- (C) Participates in the interactive process, during which the DPM provides expert advice and
- (D) Requests additional medical information, as necessary, from Requestors, their healthcare providers, or medical experts retained by the Agency; and
- (E) Securely maintains all PAS records.

(3) Supervisors and Managers.

- (A) Notify the DPM as soon as they receive a request for PAS and immediately initiate the interactive process;
- (B) Participate in the interactive process; and
- (C) Serve as the Deciding Official.

(4) Requestors.

- (A) Participate in the interactive process;
- (B) Complete the confirmation of request form when asked by the DPM; and
- (C) Are responsible for providing appropriate medical information related to the impairment at issue and the needed PAS whenever this information is requested by the Deciding Official or DPM. Inadequate medical information may be grounds for denying a request.

(d) PROCEDURES:

(1) Initiating a PAS Request.

- (A) Requestors can submit an oral or written request for a PAS (including via the confirmation of request form) to any of the following:
 - (i) The employee's first-line supervisor;
 - (ii) The employee's Office/Division Director; or
 - (iii) The DPM.
- (B) The request does not need to include specific words, such as "Personal Assistance Services," "disability," or "Rehabilitation Act" to be considered a request for PAS.

(C) The request does not need to identify a need for PAS. It is sufficient to request a change in workplace conditions or assistance based on a medical condition. However, Requestors are encouraged to identify the type of PAS that would enable them to accomplish the basic activities of daily living while working.

(D) Those who submit oral requests must also make the request in writing for recordkeeping purposes by completing a “Confirmation of Request for Reasonable Accommodation” form.

(E) A health care professional, family member, or other representative may make a request on an employee’s behalf. Whenever USAGM receives this sort of third-party request, the Agency will confirm the request with the employee by using the “Confirmation of Request for Reasonable Accommodation” form.

(F) The Agency will continue engaging in the interactive process and will not stop processing requests for the Requestor to complete the confirmation of request form. However, if the Requestor does not provide the required information during the interactive process, this may result in delayed processing or denial of the request.

(2) Processing a PAS Request.

(A) As soon as any Agency supervisor or manager receives a PAS request, they should inform the DPM.

(B) The DPM will immediately initiate the interactive process by coordinating a discussion that includes the Requestor, the DPM, and the supervisor, as necessary. At a minimum, the relevant parties should discuss: the request; the process the Agency uses to determine whether to provide PAS; who will make the decision regarding the request; and the potential PAS providers available. After the initial discussion, the interactive process continues. The Deciding Official and the Requestor engage in an open and ongoing dialog. The DPM provides expert advice and helps facilitate the dialog as necessary.

(C) Ongoing communication through the interactive process is particularly important when a specific limitation, restriction, or barrier is unclear.

(D) If the Deciding Official would like to request additional medical information from the Requestor, this requires further review.

(i) The DPM will determine whether additional medical documentation is necessary. If medical information is not necessary, the DPM will return the request for PAS to the Deciding Official to complete processing. If medical information is necessary, the DPM will inform the Requestor why the current information provided is insufficient and what additional information the Agency needs. The list of needed information may address such areas as:

(1) The nature, severity, and duration of the individual’s impairment;

(2) The activities that the impairment limits;

(3) If there is a specific PAS provider requested; and

(4) How PAS will assist the Requestor to accomplish the basic activities of daily life.

(ii) If the DPM requests medical information, the employee must provide the requested information within 30 calendar days.

(iii) The DPM may ask an Agency-chosen and Agency-compensated medical expert to review provided medical documentation.

(iv) If the Requestor is unable to provide sufficient information to support the PAS request, the DPM may ask the Requestor to undergo an examination by a health care professional of the Agency's choice and at the Agency's expense.

(v) The DPM may ask the Requestor to sign a limited release allowing the Agency to submit a list of specific questions or to otherwise contact the individual's health care professional to obtain additional information. However, the Agency may not, and will not, ask the Requestor to sign a release form so that the Agency can talk directly with the physician.

(vi) Failure to provide appropriate documentation or to cooperate with the Agency's efforts to obtain such documentation may result in a denial of the reasonable accommodation.

(3) Timeframe for Processing a PAS Request.

(A) The amount of time it takes to respond to each request for PAS will depend on the nature of the personal services needed and whether it is necessary to obtain supporting medical information. However, the Agency will provide requestors a response and provide approved PAS as quickly as reasonably possible.

(B) Absent extenuating circumstances, the timeframe for a PAS request will take no longer than 30 business days (approximately six weeks). This 30-business-day timeframe begins when the request is made, and includes processing the request, notifying the requestor of the outcome, and – if the request is granted – providing PAS. However, if the DPM must request medical information from a requestor, the 30-day timeframe will stop on the day the DPM made the request and will resume on the day the DPM receives the information.

(C) Within the allowable 30 days, the Agency must also adhere to the below timeframes:

(i) If the Requester makes a request for PAS to someone other than the DPM, such as supervisor or someone else in the employee's chain of command, the recipient must forward the request to the DPM within two business days of receiving the request.

(ii) The DPM will contact the requestor to acknowledge receipt of the request within seven business days of receiving the request.

(1) The DPM must fill out the "Confirmation of Request for Personal Assistance Services" Form at the same time as they acknowledge receipt of the request.

(2) The DPM may or may not begin discussing the substance of the request when acknowledging the request.

(iii) The DPM will contact the requestor within seven business days of receiving the request to have a substantive discussion about the request. This discussion allows the DPM to obtain necessary information, including:

- (1) Information about the medical condition;
- (2) The requested PAS and why it is needed; and
- (3) The specific limitations posed by the disability.

(D) Extenuating circumstances, including all the following, may slow processing or delivery of a reasonable accommodation:

- (i) If there is an outstanding request for medical information with the Requestor;
- (ii) If the Disability Program Manager or the Agency's medical expert is evaluating provided medical information;
- (iii) If the procurement of a PAS provider takes longer than 30 business days because of requirements under the Federal Acquisition Regulation; or
- (iv) If the needed PAS provider is not easily available because:
 - (1) The vendor typically used has unexpectedly gone out of business; or
 - (2) The vendor cannot promptly supply PAS and another vendor is not immediately available.

(E) Delayed Processing or Delivery.

- (i) If there is a delay in either processing or delivering PAS, the Deciding Official must:
 - (1) Inform the Requestor of the specific reasons for the delay in writing; and
 - (2) Keep the Requestor apprised, to the extent possible, of the date the Agency expects to complete the process.

(F) Expedited Processing. The Agency must expedite processing when the Agency determines that a PAS request is time sensitive (e.g., to participate in a specific Agency activity that is scheduled to occur shortly).

(4) Approval Process.

(A) If the Agency approves a request for PAS, the Agency will notify the Requestor in writing, using the "Disposition of Reasonable Accommodation Request" form. The Deciding Official must be identified on the form and sign the form.

(B) The Deciding Official approving the request does not need to provide the specific reasoning for approving the request on the disposition form.

(5) Process for Denial or Alteration of Requests.

(A) Denial. If the Agency denies a request for PAS, the Deciding Official must fill out the “Disposition of Reasonable Accommodation Request” form, sign it, and give the Requestor a copy. The form must contain the specific reason(s) for the denial, such as why the requested accommodation would not be effective or why the requested accommodation would present an undue hardship.

(B) If the Agency denies the specific PAS requested but offers a different PAS, the Deciding Official must fill out the “Disposition of Reasonable Accommodation Request” form, sign it, and give the Requestor a copy. The form must:

- (i) Explain the reasons for the denial of the requested PAS; and
- (ii) Explain the reasons the chosen PAS will be effective.

(6) Appeals Process.

(A) If the Agency denies a request, the Requestor has the right to:

- (i) Request reconsideration from the Deciding Official;
- (ii) Seek redress through an Agency approved informal dispute resolution process (e.g. Alternative Dispute Resolution); or
- (iii) File a formal EEO complaint with the Agency’s Office of Civil Rights.

(B) Requesting Reconsideration. To request reconsideration, the Requestor must ask the Deciding Official to reconsider the decision, in writing, within ten business days of receiving the initial decision and may present additional information in support of the request. The Deciding Official must respond to the request for reconsideration within fifteen business days of receiving the reconsideration request.

(C) EEO Process. If the Requestor wishes to file a formal EEO complaint, the Requestor must contact OCR within 45 calendar days from the date they received the form denying their request for PAS.

(i) OCR will explain the Requestor’s options, which include:

- (1) Traditional EEO counseling; or
- (2) Mediation through the Agency’s Alternative Dispute Resolution (ADR) process.

(ii) If the matter is not resolved during the informal complaint stage or ADR process, the individual may file a formal complaint with the Director of OCR. The complaint must be received by OCR within 15 calendar days from the date the individual is notified that the informal stage or ADR process has ended and has received a notice of right to file a complaint.

(7) Records Management.

(A) The DPM and Deciding must work together to complete the “Reasonable Accommodation Information Reporting” form within five business days of issuing a decision.

(B) The Agency must retain information and any records used to track PAS for at least three years. The Agency will make these records available to the Equal Employment Opportunity Commission (EEOC) upon request.

(C) The Agency’s record-keeping systems must:

(i) Track the processing of requests for PAS;

(ii) Maintain the confidentiality of medical information received in accordance with applicable laws and regulations; and

(iii) Allow the Agency to track the following information:

(1) The positions (occupational series, grade level, and agency component) for which PAS were requested;

(2) The number of approved PAS for each job;

(3) And the number of denied PAS requests for each job;

(4) The reasons for denying PAS requests; and

(5) The amount of time taken to process each request for PAS.

(e) SCOPE: These procedures apply to federal government elements of the U.S. Agency for Global Media (referred to in this policy as “Agency” or “USAGM”), including the Voice of America (VOA) and the Office of Cuba Broadcasting (OCB).

(f) AUTHORITY:

- (1) 29 CFR § 1614.203 - Rehabilitation Act regulations;
- (2) Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §791;
- (3) Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §12101;
- (4) 29 C.F.R. Part §1630 – “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, as Amended;” and
- (5) Questions and Answers: Federal Agencies’ Obligation to Provide Personal Assistance Services under Section 501 of the Rehabilitation Act, EEOC dated September 18, 2017.

(g) DEFINITIONS:

- (1) Personal Assistance Services. Assistance with performing activities of 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, for example, assistance with removing and putting on clothing, eating, and using the restroom.
- (2) Targeted Disability. A Disability that is designated as a “targeted disability or health condition” on the Office of Personnel Management's Standard Form 256 or that falls under one of the first 12 categories of disability listed in Part A of question 5 of the EEOC’s Demographic Information on Applicants form.
- (3) Undue Hardship. Significant difficulty or expense. This determination considers factors such as the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the Agency.
- (4) Personal Assistance Service Provider. An employee or independent contractor whose primary job functions include provision of personal assistance services.