

**OWC/PRC GUIDANCE LETTER NO. 50**

TO: Directors, County Departments of Job and Family Services  
Directors, County Public Children Services Agencies  
Directors, Child Support Enforcement Agencies

FROM: Tom Hayes, Director

DATE: January 14, 2003

SUBJECT: **ADDRESSING EMPLOYMENT BARRIERS**

The purpose of this guidance letter and the related attachment is to provide information that counties may find helpful when developing strategies to assist customers who have barriers to employment. This guidance letter also transmits information about Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (ADA) of 1990 and the effect of these Acts on TANF programs.

**Statutory Requirement**

Ohio Revised Code Section 5107.41 requires the county department of job and family services, as soon as possible after a family submits an application for cash assistance, to schedule and conduct an appraisal of each member of the assistance group who is an adult or minor head of household. As a result of this appraisal, a plan is developed for the family to achieve self-sufficiency through employment.

Pursuant to Ohio Revised Code Section 5107.70, a county department of job and family services, at times it determines, may conduct assessments to determine whether any member of the assistance group is in need of assistance or services. This section of the revised code requires that, at the first assessment, the county must explore whether any member of the assistance group is the victim of domestic violence, including child abuse. This section also says that a county may explore whether any member of the assistance group has a substance abuse problem and whether there are any other circumstances that may limit an assistance group member's employability.

## Americans with Disabilities Act (ADA)

On January 19, 2001, the Department of Health and Human Services (HHS) issued policy guidance entitled “Prohibition Against Discrimination on the Basis of Disability in the Administration of TANF”. This guidance makes it clear that TANF agencies cannot discriminate against individuals with disabilities in the ways in which they screen, determine eligibility, or deliver services.

ADA requires public agencies to evaluate whether their policies and procedures are consistent with the Act. This includes evaluating whether application procedures, screening, assessment, job search, and work assignments discriminate against those with disabilities. Agencies are required to make reasonable modifications to avoid discrimination, unless such modifications would fundamentally alter the nature of the program or service.

Two concepts are central to complying with ADA. These are 1) *individualized treatment* and 2) *effective and meaningful opportunity*. Individualized treatment means that individuals with disabilities are treated on a case-by-case basis. Services are provided based on facts and objective evidence, not on generalizations and stereotypes. Effective and meaningful opportunity means that individuals with disabilities are afforded the opportunity to benefit from TANF programs. The TANF agency must offer programs to individuals with disabilities that are as effective as the programs that are offered to those who do not have disabilities.

Guidance provided by the Department of Health and Human Services requires that appraisals and assessments include a determination of each person’s ability to meet program requirements. The guidance recommends that workers screen for the potential presence of a disability. If there is an indication that someone has a disability that effects their ability to complete or benefit from a program assignment, the agency must provide the individual an opportunity for a more comprehensive assessment. This assessment is needed to better determine the nature and extent of the disability and the accommodations that may be needed.

**If there is suspicion of a disability, programs are obligated to determine if there is one.**

Requiring an individual to do job search before application and before assessing for suspected disabilities is inconsistent with the ADA. Inadequate assistance with application or other program procedures for those with known disabilities is also inconsistent with the legislation.

Executive Order 13078 calls on programs that work with public assistance recipients to incorporate reasonable accommodations into education, job training and employment

settings. For example, an individual with a learning disability may need specialized instruction in reading and writing. Agencies may work with employers to develop job accommodations. Job accommodations may include such things as job coaching, flexible scheduling, restructuring job and work hours, providing written instructions, providing specialized supervision, getting appropriate educational services, making transportation accommodations, and modifying the work environment.

Research studies in Washington State indicate that a very high percentage of TANF customers have a learning disability. Other national research studies indicate that many barriers that adults face are a direct result of having learning disabilities. A lawsuit in Massachusetts involving services to those with learning disabilities resulted in a finding against the Massachusetts Department of Transitional Assistance (DTA). The Office for Civil Rights concluded that DTA discriminated against individuals with learning disabilities because 1) there were no appropriate employment services for customers with learning disabilities and 2) the department failed to make reasonable accommodations in its policies and practices.

The Department of Health and Human Services suggests that states take a proactive approach regarding services to those who have disabilities. The attachment discusses ways to identify the presence of various disabilities and provides strategies for working with those who have barriers to employment.

If you have any questions, please contact your Work Activity Policy Coordinator at [WACTA@ODJFS.state.oh.us](mailto:WACTA@ODJFS.state.oh.us) or Shanna Bagner, Bureau of Civil Rights at (614) 644-2703.

TH:bn

Attachment

cc: Deputy Directors  
Joel Potts  
China Widener  
Jane Frye  
Joel Rabb  
Fayette Moore  
Pam Parkes