

# CenterPage

A quarterly publication of the

## Office of Equal Opportunity and Civil Rights

Centers for Medicare & Medicaid Services



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### MLK Commemoration at CMS



To begin a new year and reflect on the vision of an American hero, CMS celebrated the birthday of Dr. Martin Luther King, Jr.

On January 17, in an auditorium filled to capacity, including videoconference with the regional offices, CMS staff and guests came together to honor Dr. King. With several speakers invited to participate, the ambitious program raised expectations and delivered a tremendous start for the year.

The dais included the CMS Administrator, Thomas A. Scully; Deputy Administrator and Chief Operating Officer, Ruben J. King Shaw, Jr.; Ramon Suris-Fernandez, Director of the Office of Equal Opportunity and Civil Rights; William Sotak from the Office of Internal Customer Support, who served as the master of ceremonies; Charlotte Poole (formerly Flemings) from Centers for Medicaid and State Operations, who provided the invocation; Helen Dea from the Office of Information Services, who introduced the keynote speaker; the Reverend Dr. Frank Madison Reid III, Senior Pastor of Bethel A.M.E. Church; Rabbi Gila Ruskin, Chevrei Tzedek Synagogue and the CMS Choir, which featured Larry Pratt.

With the theme: *Remember! Celebrate! Act! A Day On, Not A Day Off*, each participant brought a message that resonated the spirit of Dr. King and challenged the audience to individual greatness. The program is available on videotape at the CMS Library.

#### Correction

The interview with Ruben J. King-Shaw, Jr. (Fall 2001) incorrectly stated that he met his wife in Tallahassee. He met his wife in Miami. Miami is also where their two daughters were born.

| INSIDE THIS ISSUE |  |
|-------------------|--|
| 2                 | ADR--Principles of Conflict Resolutions      |
| 2                 | Carpal Tunnel Syndrome and the Supreme Court |
| 3                 | African American History Month               |
| 3                 | Women's History Month                        |
| 3                 | Federal Women's Conference                   |
| 3                 | Holocaust Memorial                           |
| 4                 | Strengthening Diversity                      |
| 4                 | Job Fair & Conference Schedules              |
| 4                 | Calendar of Events                           |
| 4                 | OEOCR Staff Changes                          |
| 4                 | Call for Committee Members                   |

### Administration's Support for Affirmative Action

On August 10, 2001, the Bush Administration made it clear that it planned to defend a federal affirmative action program. Accordingly, that same day, Solicitor General Theodore Olson filed a high-profile brief that supports a Federal Highway Administration minority set-aside program for highway contractors.

The filing came in *Adarand Constructors, Inc. v. Mineta*, No. 00-730, the third round in the long-running litigation over a Federal Highway Administration minority set-aside program for highway contractors, first enacted by Congress in 1990. The program sets aside 10 percent of highway and transit contracts to firms owned by minorities. After the Supreme Court first blocked the program in 1995, Congress re-enacted it, but the program was later modified to ensure that only economically disadvantaged firms benefited. The U.S. Court of Appeals for the 10<sup>th</sup> circuit upheld the revised program prompting Adarand Constructors, Inc. (a white owned firm) to challenge it again.

The Bush administration says the program is necessary because "there is extensive evidence of public and private discrimination" in the awarding of contracts, and the program meets the 1995 ruling of a "compelling" government interest. "Our interest is in assuring that public dollars...do not serve to finance the evil of private prejudice," wrote Solicitor General Theodore Olson in the government brief.

On November 27, the Supreme Court decided not to review the Adarand decision because of a procedural problem.

There are more decisions ahead on affirmative action. Three cases are coming up through the Court of Appeals that could present the U.S. Supreme Court and the Bush Administration with more challenges in the affirmative action arena than the Adarand decision.

CenterPage will keep you posted.

*The actual phrase "affirmative action" was first used in President Lyndon Johnson's 1965 Executive Order 11246 which requires federal contractors to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin."*

*In 1967, President Johnson expanded the Executive Order to include affirmative action requirements to benefit women.*

# PRINCIPLES OF CONFLICT RESOLUTION<sup>1</sup>



## Think Before Reacting

The tendency in a conflict situation is to react immediately. After all, if we do not react we may lose our opportunity. In order to resolve conflict successfully, it is important to think before we react--consider the

options, weigh the possibilities. The same reaction is not appropriate for every conflict.

## Listen Actively

Listening is the most important part of communication. If we do not hear what the other parties are communicating we can not resolve a conflict. Active listening means not only listening to what another person is saying with words, but also to what is said by intonation and body language. The active listening process also involves letting the speaker know that he or she has been heard.

## Assure a Fair Process

The process for resolving a conflict is often as critical as the conflict itself. It is important to assure that the resolution method chosen as well as the process for affecting the methods is fair to all parties to the conflict.

## Attack the Problem

Conflict is very emotional. When emotions are high it is much easier to begin attacking the person on the other side than it is to solve the problem. The only way conflicts get resolved is when we attack the problems and not each other. What is the problem that lies behind the emotion? What are the causes instead of the symptoms?

## Accept Responsibility

Every conflict has many sides and there is enough responsibility for everyone. Attempting to place blame only creates resentment and anger that heightens any existing conflict. In order to resolve a conflict, we must accept our share of the responsibility and eliminate the concept of blame.

## Use Direct Communication

Say what we mean and mean what we say. Avoid hiding the ball by talking around a problem.

## Look for Interests

Positions are usually easy to understand because we are taught to verbalize what we want. However, if we are going to resolve conflict successfully we must uncover why we want something and what is really important about the issue in conflict.

## Focus on the Future

In order to understand the conflict, it is important to understand the dynamics of the relationship including the history of the relationship. However, in order to resolve the conflict we must focus on the future. What do we want to do differently tomorrow?

## Options for Mutual Gain

Look for ways to assure that we are all better off tomorrow than we are today. Our gain at the expense of someone else only prolongs conflict and prevents a resolution.

# CARPAL TUNNEL SYNDROME AND ADA<sup>2</sup>

A recent Supreme Court decision has effectively narrowed the scope of the Americans with Disabilities Act (ADA)<sup>3</sup>, ruling that an impairment must have a substantial effect on a person's daily life to qualify as a disability under the law. "Merely having an impairment does not make one disabled for purposes of the ADA," the court declared. "Claimants also need to demonstrate that the impairment limits a major life activity."

The unanimous ruling written by Justice Sandra Day O'Connor could affect millions of workers. Both sides --labor and management--in the long-running dispute over the scope of the ADA agreed that the ruling will make it more difficult for workers to prove that they are disabled, and therefore, entitled under the law to an accommodation by their employers.

The ruling was the latest in a series of high court decisions that have generally narrowed the scope of the ADA. This particular case centered on one worker's inability to perform certain manual tasks at an automobile assembly plant because of carpal tunnel syndrome. The court ruled that the impairment alone did not qualify the worker as disabled under the ADA. "To be substantially limited in performing manual tasks, an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives," O'Connor wrote. Continuing, she wrote, "The impairment's impact must also be permanent or long-term."

Stephen Bokat, general counsel of the U.S. Chamber of Commerce, hailed the ruling as "the definitive opinion on what constitutes a disability under the ADA." He said that it should reduce a number of "marginal cases" brought against businesses under the 1990 legislation but denied that it would encourage employers to resist making accommodations for employees who have impairments that affect their work. "The majority of accommodations are not tremendously expensive, and most employers do it." Bokat said. The referenced case involved Ella Williams, a former worker at a Toyota Motor Corp. assembly plant in Georgetown, KY. She developed carpal tunnel syndrome and was transferred to another job at the plant, but that job was later expanded to include tasks, which Williams could not perform. Williams sued when her job was not returned to the original, more limited tasks, contending that her condition prevented her from performing the expanded duties.

<sup>2</sup> This article is a summary of a story that appeared in the Washington Post on January 9, 2002.

<sup>3</sup> The Americans with Disabilities Act covers private sector and state and local government employees. The Rehabilitation Act covers federal government employees. The Rehabilitation Act was amended in 1992 to apply the standards of the Americans with Disabilities Act.

<sup>1</sup> Re-printed from the Department of Navy's, Alternative Dispute Resolution homepage.

## 2002 African American History Month

Each year in February, CMS celebrates the rich and varied contributions of African Americans to the culture and history of the United States and the world.

On Tuesday, February 12 at 1:30 p.m., the CMS African American History Month Program will feature Anthony Browder, cultural historian and founder of the Institute of Karmic Guidance as our guest speaker. Mr. Browder is also recognized internationally as an artist, author, publisher, lecturer and educational consultant. The theme chosen for this year, *Born of Kings and Queens* makes the historical connection of Blacks beyond the shores of America to the rich history of great African civilizations.

Other events scheduled for the month include lunchtime sessions on Cultural Competency in Health Care, Holistic Health and Genealogy. For more information on the 2002 African American History Month program, log on to: <http://hcfanet.hcfa.gov/hpages/oeocr/calendar.htm>.

## Women's History Month — March 2002



Dorothy Davis, Helen Blotzer, Agnes Sweeney, Eda Teague and Murtle Watson are five Army nurses who served in different theaters of World War II, from Pearl Harbor to the Battle of the Bulge and the Philippines.

These Maryland women will recount their experiences at the 2002 CMS Women's History Month Program on Wednesday, March 13 at 10:30 EST.

## Baltimore Federal Women's Conference

The Baltimore Federal Executive Board, Federal Women's Council will host its 20<sup>th</sup> Annual Federal Women's Conference on March 20, 2002 at Martin's East. The conference theme is, "Women Sustaining the American Spirit."

Ms. Kathy Lockhart, Associate Director for Operations at the Veteran Affairs Maryland Health Care System will be the keynote speaker. Additionally, two dynamic trainers will present professional workshops centered on career planning, "Breaking the Glass Ceiling" and "Your Career, Your Adventure."

The Federal Executive Board's Federal Women's Program Awards will be presented to the employee and agency that have displayed outstanding support of the goals of the Federal Women's Program.

The cost for this one-day conference is \$60. The conference fee includes two training sessions, continental breakfast, luncheon, exhibitors and vendors show and the opportunity for professional networking.

For more information contact Lynn Strange at extension 65115 or email [Lstrange](mailto:Lstrange). Registration forms are available at, <http://hcfanet.hcfa.gov/hpages/oeocr/FWC%20Form.PDF>.

## CMS Holocaust Memorial<sup>1</sup>— April 2002

CMS's seventh annual Holocaust Memorial Program will be held on Tuesday, April 23, 2002, at 1:30 p.m. EST in the Grand Auditorium. This program and similar ones at other Federal agencies are presented in response to Public Law 96-388, which calls for an annual, national, civic commemoration of the Holocaust.

The focus of this year's program is on the liberation of the concentration camps at the end of World War II. As Allied troops moved across Europe in a series of offensives on Germany, they began to encounter concentration camp prisoners. Many of these prisoners had survived death marches into the interior of Germany. Soviet forces were the first to reach a major Nazi camp, reaching Majdanek near Lublin, Poland, in July 1944. The Soviets liberated additional camps in Poland and the Baltic states. U.S. and British forces liberated other notorious concentration camps in Germany, including Buchenwald, Dachau, and Bergen-Belsen, during 1945. Only after the liberation of the Nazi camps, was the full scope of Nazi horrors exposed to the world. Liberators confronted unspeakable conditions in the camps, where piles of corpses lay unburied, disease was rampant, and survivors resembled skeletons.

The speakers for this year's program represent two perspectives on liberation: that of the liberator and that of the liberated. One of our keynote speakers, Retired Brigadier General Alvin D. Ungerleider, served in the 29<sup>th</sup> Infantry Division throughout World War II. He took part in the Normandy Landings to the Elbe and helped to liberate the Nordhausen and Dora-Mittelbau slave labor camps. Recipient of numerous decorations, General Ungerleider continued his military career after World War II, serving in the United States, Germany, and Vietnam. Now retired, General Ungerleider remains active in the community, volunteering in various armed forces organizations, the American Red Cross, and the Speakers Bureau of the United States Holocaust Memorial Museum.

The other keynote speaker, Nesse Godin, is a survivor of the Shauliai, Lithuania Ghetto, the Stuffhof Concentration Camp, four labor camps, and a death march. Ms. Godin was born in Shauliai, Lithuania where she lived with her parents and two brothers until the Nazi invasion.

A resident of the Washington, DC area since 1950, Ms. Godin has dedicated her adult life to teaching and sharing memories of the Holocaust. Ms. Godin is also a member of the Holocaust Museum's Speakers Bureau. She has appeared before a variety of community groups and has received numerous honors and awards, including the prestigious Elie Wiesel Holocaust Remembrance Medal.

Returning to CMS is Rabbi Elan Adler of Moses Montefiore Anshe Emunah Hebrew Congregation, who will once again deliver the invocation. Also, the children's choir from the Krieger Schechter Day School will also return to perform several songs appropriate to the occasion.

All CMS staff are invited to attend this inspirational program about those who resisted evil by rescuing others, often at great risk to themselves. Regional Office staff can view a live broadcast of the program via video teleconference.

<sup>1</sup> Submitted by David Greenberg, CMSO

## Strengthening Diversity at CMS

On February 1, Ruben J. King-Shaw, Jr., Deputy Administrator and Chief Operating Officer issued a policy statement on diversity and inclusion in CMS.

Stating that *"strengthening diversity is among the most important objectives of our Administration,"* the Deputy Administrator explained how diversity and inclusion have a direct impact on the way we do business. The Deputy Administrator stated that both he and the Administrator *"firmly believe that the advantages diversity provides are essential to the success of CMS."*

Included in the diversity policy was the Administration's support for commemorative programs held throughout the year at CMS and the regular "Open Door" meetings with organizations and individuals across the country which are held to raise awareness of and be more responsive to our diverse beneficiary population.

This policy can be found on the OEOCR web site at, <http://hcfanet.hcfa.gov/hpages/oecr/Diversity.PDF>.

## Job Fairs & Conferences

|   |                                 |
|---|---------------------------------|
| Society of Hispanic Engineers Conference<br><a href="http://www.shpe.org/">www.shpe.org/</a>  | Minneapolis, MN<br>Feb. 5-10    |
| 10th Annual Women in Medicine and Science: Pathways to Leadership<br><a href="http://www.medschool.vcu.edu/cme/calendar.html">www.medschool.vcu.edu/cme/calendar.html</a> | Richmond, VA.<br>March 1        |
| National Equal Opportunity in Higher Education Conference<br><a href="http://www.nafeo.org">www.nafeo.org</a>   | Washington, D.C.<br>March 21-25 |
| National Organization for the Professional Advancement of Black Chemist and Chemical Engineers<br><a href="http://www.nobcche.org/">www.nobcche.org/</a>                  | New Orleans, LA<br>March 24-29  |

## CALENDAR OF EVENTS

### 2002 MARTIN LUTHER KING, JR. COMMEMORATION

CMS AUDITORIUM  
THURSDAY, JANUARY 17, 1:30 PM

### 2002 AFRICAN AMERICAN HISTORY MONTH PROGRAM

CMS AUDITORIUM  
TUESDAY, FEBRUARY 12, 1:30 PM

### 2002 WOMEN'S HISTORY MONTH PROGRAM

CMS AUDITORIUM  
TUESDAY, MARCH 13, 10:00 AM

### 2002 FEDERAL WOMEN'S CONFERENCE

MARTIN'S EASTWIND  
WEDNESDAY, MARCH 20, 8:30 AM

## OEOCR Staff Changes

Llaurny Iglehart-Howard is a new member to the Complaints Processing Team. She immediately comes to us from the National Institute of Health. She is a graduate of Spelman College and attended University of Baltimore Law School.

Tony Oh is a new member to the Civil Rights and Training Team and also serves as the OEOCR web developer. Tony is a graduate of James Madison University.

Gloria Potocek, a Special Assistant in OICS with over 20 years of Federal experience, will join OEOCR as the Special Assistant to the Director.

There are also two recent departures from OEOCR. Beverly Moore, a member of the Civil Rights and Training Team has retired after 37 years of Federal service. OEOCR has planned to celebrate her retirement at the Columbia Sheraton on Friday, February 22. For more information, go to the CMS Water Cooler, <http://hcfanet.hcfa.gov/cooler/retirement/bev's%20flyer1.doc>.

Leslie D. Knight, Diversity and Affirmative Employment Manager, has accepted a position with OICS to work on recruitment activities.

## A Call for Members

Special emphasis commemorations and observances are an important part of the agency's goals to strengthen diversity and promote equal employment opportunity. These programs promote cultural awareness, including valuing cultural diversity and other differences, and fostering an environment where differences among people improves our ability to achieve organizational goals.

The Office of Equal Opportunity and Civil Rights is soliciting members to be a part of the various committees. Members serve as volunteers and must obtain supervisory approval to participate. OEOCR encourages a diverse representation of CMS staff on each committee. If Central Office or Regional Office employees would like to become a member of any special emphasis commemorative committee, send an email to OEOCRInquiry or call Angela Davis-Putty on extension 65112.

For more information on the Special Emphasis Programs, go to <http://hcfanet.hcfa.gov/hpages/oecr/Special-emphasis.htm>

### CenterPage

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