



Office of Equal Opportunity and Civil Rights

DATE: June 13, 2002

FROM: Ramón Surís Fernández
Director

TO: CMS Managers and Supervisors

A handwritten signature in black ink, which appears to read "Ramón Surís Fernández". The signature is written in a cursive style with some loops and flourishes.

SUBJECT: Reasonable Accommodations for Employees and Applicants with Disabilities

By E-mail dated March 25, 2002, Rubén José King-Shaw, Jr., Deputy Administrator and Chief Operating Officer, CMS, announced the realignment of the Agency's Reasonable Accommodations function under OEOCR. As the Agency's Reasonable Accommodation Coordinator, Bettie Tapscott Spencer is now responsible for processing requests for reasonable accommodations made by either CMS employees or applicants for employment. Additionally, Ms. Spencer is responsible for facilitating the day-to-day resolution of reasonable accommodation-related issues that arise between managers and employees or applicants for employment. Ms. Spencer can be reached telephonically on 410-786-0762 or via E-mail at Bspencer@cms.hhs.gov.

The foundation for CMS's responsibilities in the area of reasonable accommodation for employees and applicants with disabilities is found in the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended ("the ADA "). Generally, these laws prohibit employment discrimination against individuals with disabilities. Effective June 20, 2002, regulations from the U .S. Equal Employment Opportunity Commission (EEOC) concerning reasonable accommodation in Federal employment may be found at 29 C.F.R. Part 1630. Pursuant to these regulations, the Federal Government must provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship. In general, a reasonable accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities (EEOC's March 1, 1999, Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act). The EEOC identifies three general categories of reasonable accommodations:

- (1) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- (2) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

(3) modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities (EEOC's March 1, 1999, Enforcement Guidance).

The duty to provide reasonable accommodation is a fundamental statutory requirement because of the nature of discrimination faced by individuals with disabilities. Although many individuals with disabilities can apply for and perform jobs without any reasonable accommodations, there are workplace barriers that keep others from performing jobs they could actually do with some form of accommodation. These barriers may be physical obstacles (such as inaccessible facilities or equipment), or they may be procedures or rules (such as rules about when work is performed, when breaks are taken, or how job functions are performed). Reasonable accommodation removes workplace barriers for individuals with disabilities (EEOC's March 1, 1999 Enforcement Guidance).

The EEOC has issued a number of other documents that provide additional information on reasonable accommodation and the laws governing the employment of people with disabilities. These documents may be accessed through OEOCR's web page on the CMSnet. (See <http://hcfanet.hcfa.gov/hpages/oeocr/Disability.htm>).

In addition to processing reasonable accommodation requests, OEOCR is responsible for providing guidance on EEO/Civil Rights statutes and regulations, including the Rehabilitation Act, the ADA, as well as EEOC's regulations, policy, and guidelines on disability issues. OEOCR is also responsible for processing complaints of employment discrimination filed by CMS employees and applicants, including disability-based complaints and complaints alleging failure to provide reasonable accommodations. Please note that the Human Resources Management Group (HRMG) is responsible for administering the Selective Placement Program which allows CMS to hire individuals with disabilities under special Federal appointing authorities. While OEOCR and HRMG have distinct responsibilities in the employment of people with disabilities, CMS managers and supervisors are expected to ensure that laws and policies related to individuals with disabilities are followed within their own components.

CMS is committed to the principles of equal employment opportunity for all employees and applicants for employment. As we work together to ensure that CMS's employees are treated in an equitable and non-discriminatory manner, we will attract and retain a diverse workforce that is better able to meet the health care needs of our beneficiaries.