

Appendix D

Federal Labor Relations Authority PROCEDURES FOR PERSONAL ASSISTANCE SERVICES

Procedures for Personal Assistance Services (PAS) allow employees with targeted disabilities to fully participate in the workplace by providing assistance with activities of daily living, such as eating, drinking, using the restroom, and putting on and taking off clothing.

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Eligibility

The following conditions may entitle an employee to PAS:

- The individual is a new or existing employee of the Agency and has a targeted disability.
- The employee requires such services because of his/her targeted disability (certain disabilities such as missing extremities and paralysis require assistance with basic activities of daily living like eating and using the restroom).
- The provision of such services would, together with any reasonable accommodation required under the Rehabilitation Act, enable the employee to perform the essential functions of his/her position, without posing a direct threat to safety; and
- Providing PAS will not impose an undue hardship on the Agency.

Not all employees with a targeted disability are entitled to PAS. Generally, such assistance is only necessary when it is obvious that an employee has a targeted disability (i.e. paralysis or missing limbs) and requires assistance with basic activities, like eating and using the restroom. In these situations, the Agency may not require the individual to provide medical documentation in support of their request. However, to determine whether a requesting individual is entitled to PAS and, if so, the nature of the required services, the Agency RAC should ask the employee what types of PAS he or she needs using the same type of informal, interactive process used for reasonable accommodation.

PAS do not help individuals with disabilities perform their specific job functions, such as services required as a reasonable accommodation to help an individual perform job-related tasks. For example, services provided as a reasonable accommodation, but not PAS, are sign language interpreters who enable individuals who are deaf to communicate with coworkers, and readers who enable individuals who are blind or have learning disabilities to read printed text.

The Agency will provide PAS for employees to participate in employer-sponsored events, to the same extent as reasonable accommodations is provided.

Procedures for requesting PAS

- As with reasonable accommodation, an individual may request PAS by informing a supervisor, human resources professional, RAC, or other suitable individual that he or she needs assistance with daily life activities because of a medical condition. The request may be made orally or in writing. The individual does not need to mention Section 501 or the EEOC's regulations explicitly, or use terms such as "PAS" or "affirmative action" to trigger the Agency's obligation to consider the request.
- A request for PAS may be made by a family member, health professional, or other representative on the individual's behalf with the individual's consent. The RAC will confirm the request, when necessary, with the person with the disability.
- As with reasonable accommodation, to enable the Agency to maintain accurate records of requests for PAS, the requestor is asked to confirm the request by completing the Request for Reasonable Accommodation, Appendix A and submit it to the designated RAC. The Agency will address PAS requests promptly even if the requestor does not complete the Request form.

PAS Providers

- PAS must be performed by a personal assistance service provider. The Agency has the discretion to use Federal employees, independent contractors, or a combination of employees and contractors. For services performed by Federal employees, the Human Resources Division will consult with the appropriate point of contact (e.g., employee's supervisor, the RAC) prior to determining the terms and conditions of employment. PAS may also be provided by an employee's family member who is hired as a professional PAS provider, either as a contractor or Federal employee.
- Resources for PAS providers include local vocational rehabilitation offices, American Job Center, centers for independent living, home care agencies, and the individual with requests PAS. If the Agency decides to hire a full-time/part-time PAS provider, applicants for PAS provider positions may be found in the same way that applicants for other positions are located - by advertising the opening on USAJOBS and other job-posting sites.
- If an individual that provides PAS is unavailable, the PAS providers must notify the Agency point of contact of any absences as soon as possible, so that they can make alternative arrangements. For example, contracting with different providers on a short-term basis, the schedules of shared PAS providers, or allowing the individual to telework if the employee can work at home without the need for PAS provided by the Agency.

Granting request for PAS

As with reasonable accommodations, the RAC has the responsibility for processing requests for PAS. As soon as a decision has been made to provide PAS to an employee, the RAC will assist the deciding official in arranging the service. As part of the interactive process, and in consultation with the Human Resources and /or Contracting, the RAC will assist the deciding official in determining the most appropriate source for PAS based on the employees' needs and available resources as prescribed in Sub-Section 1(c) (i) above. The deciding official is responsible for providing the decision in writing to the requestor. The Agency will maintain a copy of the decision in the same manner records are maintained for requests for reasonable accommodations.

Denial of request for PAS

- Procedures for denying a request for PAS are the same as the reasonable accommodations (See Appendix A). The Agency is only required to provide PAS if the requesting employee is entitled as prescribed in Sub-Section 1(a) above. Therefore, a request for PAS may be denied if:
 - The requestor is not an employee of the Agency;
 - The requestor does not have a targeted disability;
 - The targeted disability does not create a need for PAS;
 - The requestor is not able to perform the essential functions of the job, even with PAS and any reasonable accommodations;
 - The requestor would create a direct threat to safety on the job, even with PAS and any reasonable accommodations; or
 - The PAS would impose undue hardship on the Agency.
- Under the new regulations, the term “undue hardship” has the same meaning that it has in the reasonable accommodation context. Granting a request for PAS will impose undue hardship on an Agency if it would result in “significant difficulty or expense.” The regulations emphasize that, as with reasonable accommodation, the determination of whether granting an individual’s request for PAS would impose “significant” difficulty or expense must take into account all resources available to the Agency as a whole.
- The number of individuals with the types of disabilities that require assistance in activities of daily living and who will apply for federal employment is very low. However, in the unlikely event that the resources available to the Agency as a whole are insufficient to grant a particular individual’s request for PAS, the Agency may deny the request on the grounds that it would impose an undue hardship.

Confidentiality

As with reasonable accommodations, the Rehabilitation Act prohibits the disclosure of medical information except in certain limited situations. Generally, information that is otherwise confidential under the Rehabilitation Act may be shared only with individuals involved in the PAS process who need to know the information to consider PAS for a specific individual.