

Access to DTA Benefits for Clients with
Disabilities:
Accommodations & the *Harper* Settlement

Sarah Levy & Lizbeth Ginsburg
Greater Boston Legal Services

The Problem

- Clients with disabilities repeatedly losing or being denied DTA benefits, often because their disabilities prevented them from following DTA processes.
- DTA didn't have a system to accommodate clients with disabilities.

Ms. Harper and her experience

“Because of my bipolar and anxiety, it’s hard to think and everything is discombobulated and confusing to me. I get hyper and aggravated and feel belligerent and can’t control it.

I also hate it when DTA talks down to me like I’m an idiot. I know how things are supposed to be, and when I get talked down to, I get heated and start cussing because I feel like that’s the only way I’m going to get heard. I try to calm myself down and call GBLS.”

Client voices

“I tried to explain both my physical and mental health problems to the worker. The interpreter told both me and the worker that I looked fine, that I didn’t have a disability and that my psychological problems were ‘nothing.’ I used to hate working with welfare because there would be a lot of fighting and they would lower my money and I wouldn’t understand why. I would cry and have to call my friends to help me buy things for my daughters.”

- Emilia M.

How big of a problem is this?

The national numbers:

- 25%-33% percent of TANF (federally-funded welfare) recipients have a serious mental health illness
- 20% of TANF recipients are known to have a physical disability that impairs their ability to work.
- 25-33% of TANF recipients are known to have a learning disability.
- Approximately 25% of Food Stamps recipients are known to be disabled themselves or have a household member who is disabled.
- Many clients have multiple disabilities.

What those barriers translate into

From 2006-2009, DTA:

- Denied 27,289 applications for clients known to be disabled due to procedural reasons (missed appointments, incomplete paperwork).
- Terminated 118,816 cases for clients known to be disabled and previously found eligible due to procedural reasons (missed appointments, incomplete paperwork).

The ADA: Reasonable Accommodation

Under the ADA, a public agency must provide a “reasonable accommodation” to a person with a disability when:

- the person is otherwise eligible for the agency’s programs or services; and
- the accommodation is needed to ensure that the person is not excluded due to disability.

Scope of *Harper* Settlement

- All disabilities
- All DTA programs
- About accommodation
- About methods of administration that tend to screen out individuals with disabilities

Harper by the numbers

- 5 years, 8 months from filing to court approval of settlement
- 18 GBLS staff and interns
- 4 DTA Commissioners
- 3 Assistant Attorneys General
- 31,400 pages of discovery
- Electronic discovery: warehouse of every transaction in every case handled by DTA for four years
- 6 Expert reports
- 16 depositions over 21 days
- 107 court filings
- 28 mediation sessions + 30 meetings between parties
- 5,637 hours spent by GBLS staff

Content of the Settlement

- Screening for disability
- Client Assistance Coordinators (CACs)
- Recording information about disability and accommodations
- Readability of written materials
- Improvements to reasonable accommodation system
- Auxiliary aids

Content of the Settlement

- Verification of eligibility factors
- Vendor payments
- Director of Disability Access (DDA)
- Adverse action pilot
- Duration
- Monitoring and Enforcement

Focus on Accommodations

Screening

Application

Eligibility reviews and recertifications if interviewed

If disclose disability

If seeking TAFDC disability exemption or EAEDC due to disability

Interactive Process

Indicators an accommodation may be appropriate

- Client who loses benefits because can't follow DTA processes (appointments, paperwork, verifications)
- Client keeps calling you back
- Client who has difficulty due to disability that you can anticipate will be a problem in dealing with DTA:

Going places, dealing with paperwork, reading/writing, explaining what they need, meeting deadlines, troubleshooting.

What Screening Looks Like

- Programmed in BEACON
- Mandatory (but nothing's perfect)
- Set questions
- Inquiry happens multiple times
- Option to discuss with Client Assistance Coordinator instead of worker

The Screening

“There are things DTA will ask you to do in order to get or keep your benefits. If you have a health problem that makes it hard for you to do something DTA asks, you can ask for help. This is called an accommodation. This could be because of a physical or mental or emotional health problem. Some of the things we’ll ask you to do are:

- Read notices we send and follow instructions in them
- Fill out forms
- Come to the office for appointments
- Get and give us documents to prove whether you can get benefits
- Tell us about changes in your household/case
- Meet deadlines

Do you think you might need help with any of these things, or something else, because of a health problem?”

Examples of accommodations: Extra help or doing things differently

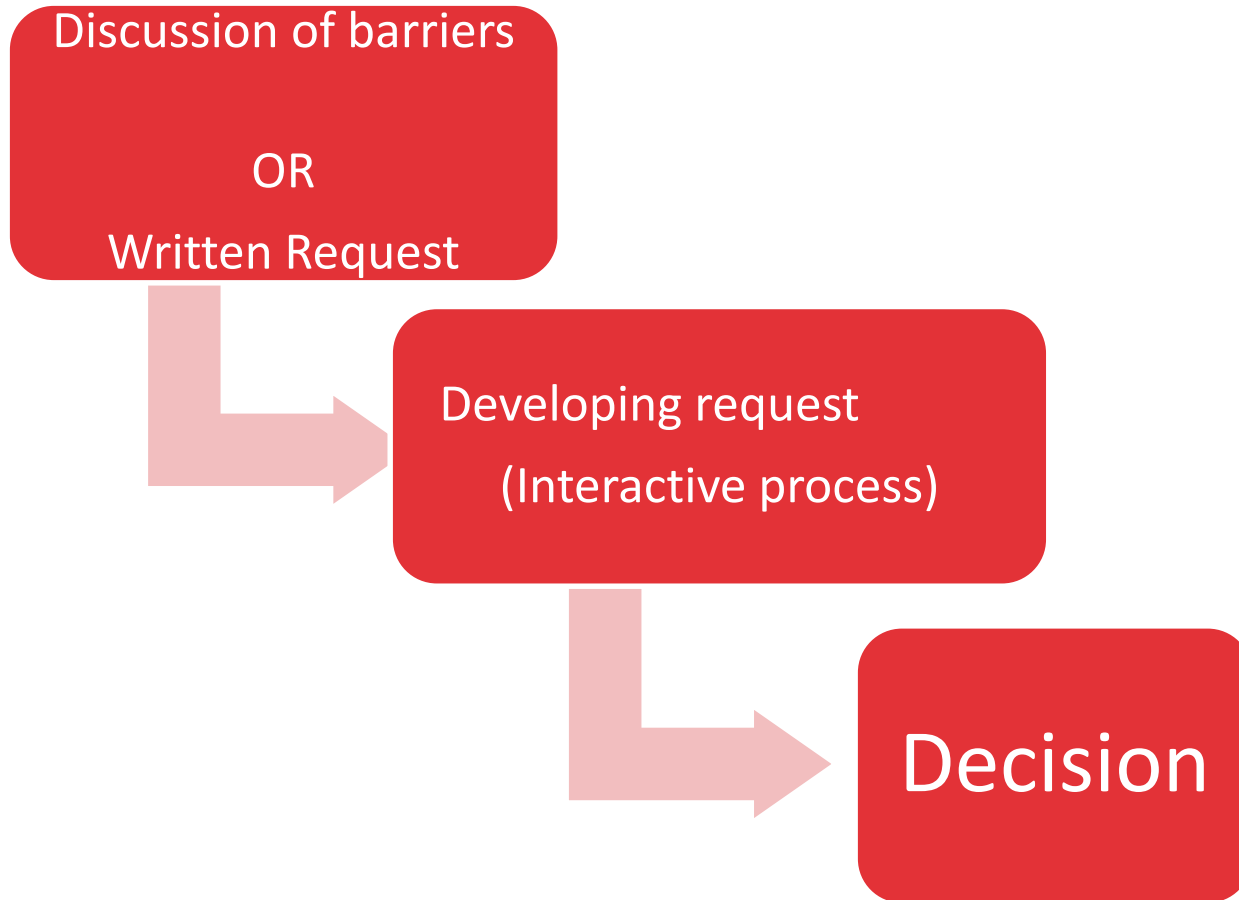
- Help getting verifications
- Complete form by phone and mail to client
- Affirmative calls to explain notices and what DTA is asking a client to do
- Not requiring a client to come to a DTA office
- Extending or reminding clients of deadlines
- Communicating with a helper
- Auxiliary aids

Examples of accommodations: Modifying rules

- Waive the TAFDC requirement that a child must graduate high school by age 19 if the child will graduate later because of disability.
- Modify asset limit if need vehicle due to disability

→Talk to GBLS if you run into problems with this.

The Accommodation Process



Written Requests

- Specify disability and impact on day to day activities
- Make specific requests and clearly articulate connection to disability related need
- Specify if you want to be included in discussions about accommodation
- Submit to CAC
- Involve Director of Disability Access as needed

Key Concepts

- Interactive
 - Back and forth discussion
- Individualized
 - What's right for **this** client?
- Specific
 - Who is responsible to do what? When and how?

Key Concepts: Fundamental Alteration

- DTA cannot be required to make a “fundamental alteration” to program rules.
- Cost is generally not a permissible reason.

→Talk to GBLS if you run into this

The Accommodation Process

Worker can
approve but
can't deny

CAC can
approve or
deny

If CAC intends to
deny, must first
convene TAO
Accommodation
Team

Accommodation Process

Decision

Approved

Approved
in part
Approved
as modified

Denied

APPEALABLE → Talk to GBLS

Role of Client Assistance Coordinators

- 1-3 in each office
- SNAP Supervisors with reduced caseloads
- Clients can choose to discuss disability issues with them instead of workers at any time
- Specific duties related to helping clients with disabilities
- One key role is supporting the accommodation process
- Director of Disability Access oversees CACs

Catherine.brown2@massmail.state.ma.us

Some common trouble spots

- Can't force someone to have an authorized rep or to be an authorized rep
- If client will need help every single time, say so. Don't put burden on client to request each time.
- If client needs affirmative calls from DTA due to disability, DTA has to call
- Use of technology- evolving

Auxiliary Aids

- For clients who need auxiliary aids, no “effective communication” unless that aid is provided. Likely need to extend deadlines until the necessary aid is provided.
- For clients who have hearing impairments
 - ASL is a different language than English. This means that deaf clients may not be fluent in English or able to understand DTA notices.
 - Regional VRI in: Brockton, Newmarket Square, Lawrence, Springfield Liberty and Worcester.
- For clients who have visual impairments
 - Underdeveloped area.

→Talk to GBLS if you run into this

Upcoming: Adverse Action Pilot

- Pilot in 3 DTA offices
- CACs have to take extra steps in TAFDC and EAEDC cases for clients known to be disabled when adverse action is about to happen
- Rigorous evaluation of outcomes

Please Help Us

- We are heavily involved in Implementation
- No Settlement can anticipate fully how things will play out in practice, so we need to be adept at adjusting where necessary
- Real cases move change

Please let us know what you're seeing and what is and isn't working.