**Procedural Standard 11-1**   **November 20, 2012**

TO: All DES Staff

FR: A. E. Adams Ph.D. Director, Disability Evaluation Services

BY: Sherry J. Campanelli, Program Compliance Manager,

 Disability Evaluation Services

RE: **Access to Disability Evaluation Services**

**Background**:

The Disability Evaluation Services (DES) program facilitates disability determination services on behalf of the Massachusetts Executive Office of Health and Human Services (EOHHS) in accordance with state and federal laws and regulations.

Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act require that public entities such as EOHHS must take reasonable steps to ensure that individuals with disabilities can take advantage of the benefits, programs and services they provide. Further, public entities must also make reasonable modifications to their policies, practices, and procedures as necessary to ensure access for individuals with disabilities. Massachusetts law similarly prohibits discrimination and mandates affirmative action to ensure equal opportunity for people with disabilities.[[1]](#footnote-1)

The purpose of this Procedural Standard is to affirmatively state the DES policy regarding program access to individuals applying for state and federal benefits served by the DES program.

**Policy:**

For purposes of this policy, DES will regard all applicants as being disabled and will make its best efforts to provide reasonable accommodations as requested or arranged with the applicant and/or her/his representative.

It is DES policy to provide reasonable access to the disability determination process for those individuals applying for MassHealth, Emergency Aid to the Elderly, Disabled and Children (EAEDC) and/or Transitional Aid to Families with Dependent Children (TAFDC) programs.[[2]](#footnote-2) Reasonable access may include the following:

1) Reasonable modifications to DES rules, policies, or practices, including but not limited to, use of a service animal;

2) Removal of architectural, communication, or transportation barriers; or

3) Provision of auxiliary aids and services.

**Procedures:**

The following represent the activities and services offered by DES **on a routine basis** to ensure reasonable access to the disability determination process for applicants for the programs mentioned above:

**Assistance in Obtaining Treating Source(s) Information to Document Applicant’s Impairments:** DES routinely requests, on behalf of the applicant, all available medical information from treating source(s) who have seen them within the prior 12 months and for which we have an appropriate signed release(s) of information. Furthermore, DES makes at least one routine follow-up contact for information not received and may, if appropriate; also make a further targeted clinical call to obtain supplementary medical or psychological information likely to be available from the treating source. *(See PS 99-3 “Pursuit of supplemental information from a treating provider.”)*

**Preferred Scheduling of Consultative Examination (CE):** When treating source information is unavailable or insufficient to make a disability determination, DES schedules a consultative medical and/or psychological examination. Once it is determined that a CE is needed (but before the appointment is actually scheduled), DES contacts the applicant by phone or by mail regarding the CE process, asks for the applicant’s preferences related to scheduling the appointment and makes reasonable attempts to schedule the CE within those parameters. These contacts also provide instructions for requesting an interpreter or transportation.

**Proximate Scheduling of CE’s:** The DES CE scheduling unit makes every effort to schedule CEs with a provider whose office is near (within 10 miles or less) to the applicant’s residential address.

**Notice of Availability of Transportation Assistance for CE’s**: MassHealth and TAFDC[[3]](#footnote-3) applicants are again instructed in the written notice of a consultative examination appointment that transportation will be provided if needed and also how to request such assistance.

**Transportation Assistance:[[4]](#footnote-4)** MassHealth and TAFDC applicants are provided transportation assistance by taxicab and/or, on occasion by ferry, if neededto attend a CE.

**Notice of Availability of Interpreters for CE’s:** All applicantsare once again instructed in the written notice of a CE appointment that interpreters for individuals who are not fluent in English will be provided, if needed, and also are instructed how to request interpreter assistance. *(See PS 99-6 “Utilization of Interpreters for the Consultative Examination Process.”)*

**Correspondence for Limited English speakers**: DES provides notices of consultative examinations in Spanish. For those whose first language is other than English or Spanish, these letters and all other written correspondence are accompanied by a multi-lingual sheet advising the recipient of the importance of the content, the need to have the it fully translated, and instructions for obtaining help to translate the notice.

**Telephone Reminders for CE Appointments:** DES staff place a reminder telephone call to the client prior to each scheduled CE appointment. If telephone contact is made, DES staff also use the conversation as an opportunity to verify the client’s current address and phone number, explain the need for a CE and the possible consequences of not attending as well as to inquire if the individual has any barriers to attendance.

**Foreign Language Services for CE’s**: For individuals whose application indicates they are unable communicate in English, qualified language interpreter services are provided to ensure satisfactory communications support during a consultative examination. *(See PS 99-6 “Utilization of Interpreters for the Consultative Examination Process.”)*

**Telecommunications for Non-English Speakers**: Telecommunication for Spanish-speaking applicants is handled by DES staff fluent in Spanish or by use of language line services. For other languages, DES staff use language line services in order to communicate effectively with non-English speaking clients with disabilities.

**Telecommunications for the Deaf:** DES maintains a TTY/TDD line and makes the telephone number for this service available on all applicant correspondence.

Non-Routine Requests for Modifications/Accommodations to Access DES Services

The following represent services provided by DES **upon request** to ensure reasonable access to the disability determination process for applicants for the programs mentioned above:

**Special Transportation:** On occasion, if medically necessary, ambulance and/or handicapped accessible transportation may be arranged. Disability Reviewers are reminded to redouble their efforts to obtain treating source information before arranging for special transportation as it is quite likely to be sufficient to make the disability determination. *(See PS 99-3 “Pursuit of supplemental information from a treating provider.”)*

**ASL Services for CE’s**: For individuals who are deaf, qualified sign language interpreter services are provided to ensure satisfactory communications support during a consultative examination. *(See PS 99-6 “Utilization of Interpreters for the Consultative Examination Process.”)*

**Telephonic Psychological CE’s:** When circumstances and psychological factors are found to significantly limit a DES client’s ability to travel from their residence to the office of a consultative examination (CE) provider, DES may offer to arrange for psychological CE’s to be conducted telephonically.

**Other non-routine requests:** DES staff may occasionally receive a variety of other requests for disability-related modifications to assure access to services. Example(s) of these are personal care attendant services (PCA) to facilitate CE attendance and Braille or large print notices.

For all requests for **non-routine** accommodations or modifications, DES staff will endeavor to remove barriers, accommodate stated needs and/or make reasonable modifications in agency policies, processes, activities, and/or procedures to enable the client to pursue his or her claim for benefits. Reasonable modifications include anything that does not fundamentally alter the nature of the activity, service or program.

Usually, such situations will present as a request for a specific modification or request for assistance by the applicant and/or his or her representative. The applicant may or may not use the term “reasonable access” or may use a similar reference such as “reasonable accommodation” in making a request for assistance. It is not necessary for the applicant to use any particular terminology when requesting a modification of DES procedures to enable them to participate in the disability review process.

Any DES staff person who receives a non-routine request from an applicant for disability-related modifications of process or special assistance must enter a descriptive progress note in DEScovery, as well as the ***RACC1 code***, and notify the assigned DR of the request. Often, Disability Assistants (DA) responding to incoming calls will be the first to receive a request for accommodations. In that event, DAs are responsible to fully document the request and enter the RACC1 code in DEScovery. It is not necessary to enter RACC1 for transportation, foreign language interpreters or any other routine assistance listed above.[[5]](#footnote-5)

The responsible DR, in consultation with a Program Manager, considers the best way to respond to the request for modifications and notifies the applicant (or their representative) regarding the DES response to their request. All requests receive a timely response, usually in the same form of communication in which the request was received, i.e., response is in writing if the request is in writing. Regardless of how the request is made, an interim (and, if possible, a final) response is made within two workdays. In any case, a final response is made within fourteen (14) workdays. Before denying a request for accommodations, the DR/PM responsible for the case will consult with the Associate Director of Clinical Affairs (or designee). Again, all activity relating to receiving and responding to requests for accommodation must be fully documented including the disposition in the appropriate clients’ progress notes. It is also the DR’s responsibility to verify that the case is properly coded with RACC1 before it is closed. All requests for accommodations must be coded even if the accommodation is not provided, i.e.-CE is ultimately found not to be necessary.

**Summary:**

DES makes every effort to provide reasonable access to the disability determination process for applicants with disabilities through provision of transportation, interpreter services, outreach and reminder services, as well as written notices and telecommunications in the applicant’s native language. Any **non-routine** requests for access or modifications to disability determination policies and procedures are carefully considered and, if they do not alter the fundamental nature of DES activities, are provided if necessary to access DES services. All proposed denials of requested accommodations or modifications must first be referred to the Associate Director of Clinical Affairs (or designee) for disposition.

1. To the extent that DES provides services to other states, although federal law and regulations still apply, consideration will also be given to the rules applicable in that state. [↑](#footnote-ref-1)
2. Includes the Learning Disabilities Assessment Program (LDAP) and other programs as are, or may in the future be, administered for EOHHS. [↑](#footnote-ref-2)
3. Transportation is not available to EAEDC applicants, however, DES makes every effort to accommodate applicants in other ways, e.g. preferential and/or proximate scheduling. Scheduling of psychological CE’s for both EAEDC and TAFDC clients may also be arranged at a local DTA office if on-site availability has been pre-arranged with that office. [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. DES staff will also make an effort to accommodate requests not clearly related to the client’s disability. Examples include preference for a CE provider of specific gender or to be permitted to attend a CE accompanied by client’s children. It is not appropriate to code such instances with RACC1. [↑](#footnote-ref-5)