

## Office of Deaf Services

## Effective Communication Under ADA Title II and ACA Section 1557

Must provide the individual with an Title II of the Americans with Disabilities Act (28 CFR § 35) and Section 1557 of the opportunity to request their preferred Affordable Care Act (45 CFR § 92) require that covered entities take appropriate auxiliary aids and services. steps to ensure communication with individuals with disabilities is as effective as communications with others. This includes a requirement to provide auxiliary aids and services\* where necessary to ensure equal opportunity and a requirement to Is an alternate aid/service available that provide primary consideration to the aid or service requested by the individual would provide equally effective with the disability. Use this decision tree to determine whether a requested communication? (Answering YES requires auxiliary aid or service is required. Anytime a requested aid/service is denied, the assessment of communication needs\*\*) provider must be able to demonstrate that the denial is permissible. NO YES Is the alternate aid/service Would the requested aid/service significantly easier and/or more result in an undue financial or cost-effective to implement? administrative burden or fundamentally alter the nature of the program or service? NO YES (Answering YES requires analysis<sup>^</sup>) Would the requested aid/service Would the requested aid/service NO result in an undue financial or result in an undue financial or administrative burden or administrative burden or YES fundamentally alter the nature of fundamentally alter the nature of the program or service? the program or service? (Answering YES requires analysis<sup>^</sup>) (Answering YES requires analysis<sup>^</sup>) Identify and offer the most effective aid/service that YES NO would not result in an undue burden or fundamental YES alteration. (Requires analysis) Alternate aid/service may be offered. Consumer is not obligated to accept Requested aid/service must be provided. alternate, but provider is not obligated to honor consumer's request. \*E.g. ASL-fluent staff, qualified on-site interpreter, VRI, assistive listening device, real-time captioning, email communication, etc. \*\*By a qualified person, usually the DMH Director of Deaf Services. Either requested aid/service or alternate ^Decision must be made by the Director of DMH or his or her designee NO aid/service may be offered. Consumer is after considering all resources available for use in the funding and not obligated to accept alternate. operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.