MISSOURI DEPARTMENT OF MENTAL HEALTH

Office of Deaf Services

ADA Title II and ACA Section 1557 Compliance in SATOP

Regulations implementing Title II of the Americans with Disabilities Act (28 CFR Part 35) and Section 1557 of the Affordable Care Act (45 CFR Part 92) apply to all programs, services, and activities provided or made available by the Department of Mental Health. This includes programs services, and activities made available through contract, licensure, certification, or other arrangement. Regulations implementing Title III of the Americans with Disabilities Act (28 CFR Part 36) and Section 1557 of the Affordable Care Act apply to most private entities providing health services to the public, including mental health and substance use treatment.

Requirements of ADA Title II and ACA Section 1557

All DMH programs, services, and activities must provide:

- Equal opportunity for deaf and hard of hearing (D/HH) individuals to participate and to obtain the same benefit as other individuals;
- Communication for D/HH individuals that is as effective as communication with others;
- Reasonable modifications of policies, practices, and procedures when needed to afford equal access, equal opportunity, or equally effective communication;
- Auxiliary aids and services, including interpreters, when necessary for effective communication;
- An opportunity for D/HH individuals to request their preferred means of communication, including preferred auxiliary aids and services.
- Primary consideration to the auxiliary aids and services requested by the D/HH individual;
- Notification of rights, including how to request auxiliary aids and services and how to file a grievance or complaint under the ADA and Section 1557.

All DMH programs, services, and activities must not:

- Deny services or equal opportunity to a D/HH individual on the basis that the individual is D/HH or requires auxiliary aids or services for effective communication;
- Deny a requested auxiliary aid or service without obtaining a written decision from the DMH director or his/her designee or proposing an alternative that would provide equally effective communication;
- Require or request that a D/HH individual provide their own interpreter;
- Use an individual as an interpreter who is not licensed and appropriately certified as an interpreter by the State and qualified to interpret for a particular assignment;
- Deny services to or otherwise retaliate against an individual on the basis that the individual has asserted a right protected by the ADA or Section 1557, including the right to participate in a grievance or complaint.

Any allegation of noncompliance with a referenced law or regulation must be reported to DMH.

In Missouri, an estimated 253,000 people (4.2% of the population) have a hearing loss significant enough to be legally considered a disability. Persons conducting assessments, screenings, or instructing SATOP classes should be prepared to interact with individuals who are D/HH and sensitive to their needs. Some solutions may be simple and common sense: speak clearly and distinctly; avoid looking away or placing your hands over your mouth while talking; place the individual nearer the speaker; be clean shaven; avoid standing with the sun or any other strong light source at your back; avoid standing in front of "busy" backgrounds; and/or use quiet rooms. Agencies that use video as part of their programming must provide accommodations for program participants who are D/HH. Videos should be professionally captioned.

Individuals who identify their primary language as American Sign Language (ASL) must receive services from staff whose ASL fluency is documented with the DMH Office of Deaf Services or through qualified, appropriately certified sign language interpreters unless the individual voluntarily requests an alternative. Interpreters who have completed 40 hours of DMH-approved mental health interpreting training receive preferential hiring.

Individuals who are deaf should not be expected lip-read as this is generally an ineffective form of communication. Individuals who are hard of hearing may or may not be able to speech-read (lip-reading combined with other visual cues and listening) depending on their degree and quality of residual hearing, amplification, training, and other factors. Do not assume a D/HH individual is able to lip-read or speech-read.

Individuals who are deaf and use ASL as their primary language may have dysfluency in ASL due to delayed exposure to accessible language or other factors. Deaf individuals also may have low literacy or be functionally illiterate in English due to educational experiences and having English as a second language. While many deaf individuals have eloquent native fluency in ASL and mastery of English literacy, many do not. Language and literacy skills should not be assumed, and particular attention needs to be paid to the reading level of written materials. A Deaf person with significant dysfluency in ASL may need an ASL/English interpreter who specializes in dysfluency or a Certified Deaf Interpreter in addition to an ASL/English Interpreter. Written materials, including captioned videos, that exceed an individual's literacy may need to be interpreted into ASL.

ASL involves the use of grammatical and morphological facial expressions, and speech-reading requires an unobstructed view of the mouth. Mask-wearing policies may need to be modified for communication with D/HH individuals either by making an exception to masking requirements when the risk is reasonable or can be mitigated to a reasonable level by alternative means or by using masks with a transparent insert.

If SATOP providers have any questions about the rights or needs of D/HH individuals, please feel free to contact the Office of Deaf Services for consultation, technical assistance, or training opportunities.

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