

	State of Indiana Indiana Department of Correction	Effective Date	Page 1 of	Number
HEALTH CARE SERVICES DIRECTIVE-ADULT Manual of Policies and Procedures		4/1/2022	4	2.19A

Title
INCARCERATED INDIVIDUALS WITH DISABILITIES

Legal References	Related Policies/Procedures (includes but is not limited to) 00-02-201, 01-01-101, 01-01-102, 01-01-103, 01-02-101, 01-05-101, 01-06-101, 02-01-101, 02-01-105, 04-02-102, 04-03-103,	Other:
Americans with Disabilities Act		National Correctional Healthcare Standards

I. PURPOSE:

This Health Care Services Directive (HCSD) provides a process for identifying incarcerated individuals with disabilities as defined in the Americans with Disabilities Act (ADA).

II. DEFINITIONS:

- A. **ADAPATIVE TECHNOLOGY:** Any product that helps people who are unable to use regular versions of products.
- B. **ADA MEDICAL FACILTATOR:** The identified person responsible for coordinating assistance needed to reduce limitations to regular activities.
- C. **AMERICAN SIGN LANGUAGE (ASL):** The language used by individuals that are hard of hearing or deaf.
- D. **AMERICANS WITH DISABILITIES ACT (ADA) OF 1990:** The civil rights law that prohibits discrimination against an individual with disabilities in areas of public life including incarcerated individuals.
- E. **ASSISTIVE TECHNOLOGY (AT):** Any item, piece of equipment, or product system that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
- F. **DISABILITY:** With respect to an individual, the term “disability” means 1) a physical or mental impairment that substantially limits one or more major life activities of such individual; 2) a record of such an impairment; or, 3) being regarded as having such an impairment.
- G. **EFFECTIVE COMMUNICATION:** The ability to convey information to another adequately and efficiently.

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- H. ELECTRONIC MEDICAL RECORD (EMR): Digital version of paper charts that contain the medical and treatment history of patients in a single location.
- I. IMPAIRMENT (PHYSICAL OR MENTAL): Any physiological or psychological disorder that substantially limits one or more of the major life activities.
- J. INCARCERATED INDIVIDUAL: An adult person committed to a department of correction (federal, state, or local) and housed or supervised in a facility either operated by the department of correction or with which the department of correction has a contract, including and adult under parole supervision; under probation supervision following a commitment to a department of correction; in a minimum security.
- K. MAJOR LIFE ACTIVITIES: Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- L. MITIGATING MEASURE: Any act utilized that eliminates or reduces the symptoms of an impairment in a way that makes it no longer substantially limiting.
- M. REASONABLE ACCOMMODATION: Any modification or adjustment that enables an individual with a disability to actively participate in regular activities.
- N. SPEECH TO SPEECH (STS): A relay service available to any telephone callers with a speech disability to actively speak with another.
- O. SUBSTANTIAL LIMITATION: An individual who is unable to perform, or is significantly limited in the ability to perform, a major life activity that the average person in general population can perform.
- P. TELEPHONE TO TEXT (TTY): A telecommunication device for the deaf and hard of hearing that allows the individual to type messages while using the telephone.

III. PROCEDURES:

The Department and any vendor contracted for health services shall not discriminate against an incarcerated individual based on a disability regarding the provision of services, programs, treatment, and activities. The Department shall ensure the rights of incarcerated individuals with disabilities and that needs are addressed in a manner consistent with the health and well-being of the person.

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All incarcerated individuals must be screened for physical or psychological impairment at Intake by the contracted medical vendor in accordance with HCSD 2.02, "Reception Screening." The contracted medical vendor must appropriately assign a disability code as described in HCSD 2.05A, "Disability Status Classification Assignments for Adult Offenders," and notify the ADA Medical Facilitator of the disability code of the disabled IDP. All referrals must be placed in the EMR. The ADA Medical Facilitator shall also be identified as the HSA or designee. This role shall work with the Health Services staff and the disabled incarcerated individual to determine and identify level of limitation and the mitigating measures needed. Mitigating measures include but are not limited to: TTY, ASL translator, braille services, mobility devices, and companions. The ADA Medical Facilitator must collaborate with the facility ADA Coordinator to ensure reasonable accommodations can be made and met. Services to alleviate substantially limiting activities may be provided following direct request by the incarcerated individual or referral from the ADA Medical Facilitator.

The disability intake assessment and determination shall be based upon the following:

1. Self-report of physiological or psychological impairment;
2. Staff observation during assessment;
3. Received records noting recorded disability from other agencies or medical facilities; or,
4. Any other method used to assist in determining disabilities.

In the event an incarcerated individual arrives to the Department without a disability but develops one while incarcerated, the incarcerated individual shall be assessed by the Health Services vendor. If it is determined that a disability is present, and reasonable accommodations can be made, the ADA Medical Facilitator shall work with the incarcerated individual to determine needs. The facilitator shall arrange services or meet with the facility ADA Coordinator to meet those needs. Health Services staff shall update the disability code and changes shall be reported to the Classification department.

The disability code review shall take place annually during the annual health screening process as defined in HCSD 2.08A, "Annual Screening," and at the time of any facility transfer. Any changes shall be reported to the Classification department as well the facility ADA Coordinator.

IV. ADDITIONAL CONSIDERATIONS:

- A. If it is determined that the incarcerated individual's disability is hearing impairment, the Medical ADA Facilitator shall contact the Deaf and Hard of Hearing Services (DHHS), Division of Disability and Rehabilitative Services (DDRS) of the Family and Social Services Administration, to arrange for an assessment by DHHS staff. Upon completion of the assessment, the ADA Medical Facilitator and the clinician shall review the results of the assessment with any appropriate staff and determine what reasonable accommodations are necessary to ensure that the incarcerated individual can perform normal life activities without substantial limitations. Facilities may use licensed/certified interpreters, computers with voice recognition software, interpretation equipment, TTY telephone equipment, staff, other incarcerated individuals or any other appropriate

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mechanism to ensure proper communication. The ADA Medical Facilitator shall take all necessary steps to ensure IDP is able to engage in effective communication. The ADA Medical Facilitator shall inform the facility ADA Coordinator of any needs. The use of assistive devices and auxiliary aids shall be based on clinical decisions after medical examinations and appropriate referrals shall be made.

- B. If staff determine that the incarcerated individual's disability is a physical impairment, the Health Services staff shall coordinate care and needs with the ADA Medical Facilitator. Coordination shall occur between the Health Services division, facility ADA Coordinator, and Operations staff (including Classification) to determine if needs can be met at the current facility or if a transfer is needed.
- C. If an incarcerated individual suffers from more than one disability (e.g., blindness and mobility issue), the ADA Medical Facilitator shall consult with the Health Services staff to determine which issue most substantially limits normal activities to aide in determining the reasonable accommodations that will meet the needs of the incarcerated individual.

V. APPLICABILITY:

This Health Care Services Directive is applicable to all facilities housing incarcerated adults.

signature on file

Kristen Dauss, MD
Chief Medical Officer

Date