



## **PERSONAL ASSISTANCE SERVICES (PAS) PROCEDURES UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION**

### **Background**

The Equal Employment Opportunity Commission (EEOC) determined that updated regulations “were needed to enhance the employment, retention, and promotion of qualified individuals with disabilities...” On January 3, 2017, the EEOC issued updated regulations for Section 501 of the Rehabilitation Act of 1973. Section 501 prohibits federal agencies from discriminating against job applicants and employees based on disability and requires agencies to engage in affirmative action for individuals with disabilities. One of the provisions of the updated Section 501 regulations requires federal agencies to provide Personal Assistant Services (PAS) to certain employees with disabilities beginning January 3, 2018.

### **Introduction to PAS**

For many individuals with disabilities PAS help make employment possible. PAS are services that help individuals perform basic activities of daily living that an individual would typically perform if he or she did not have a disability. PAS are non-medical services such as helping an individual take off and put on a coat, eat, and use the restroom. These services are needed by individuals whose specific disabilities make it difficult for them to perform such activities on their own. They are not the same as services that help individuals perform job-related tasks, such as sign language interpreters who enable individuals who are deaf to communicate with coworkers, and readers who enable individuals who are blind or have learning disabilities to read printed text. Those services are already required as reasonable accommodations under the Rehabilitation Act, as long as the provision of such services does not impose an undue hardship.

PAS might include, but are not limited to assistance with the following tasks:

- Assistance with removing and putting on clothing;
- helping an individual use the restroom;
- pushing a wheelchair or assisting someone with getting into or out of a vehicle at the worksite; or
- providing travel assistance for an employee with a mobility disability.

Under the Section 501 regulations, federal agencies are required to provide PAS during work hours and for job-related travel. Work hours include time that an employee is

teleworking, whether the telework is part of an agency telework program available to all employees or is being provided as a reasonable accommodation. Generally, the agency's responsibility for providing PAS begins when the employee reaches his or her duty station or begins teleworking and concludes when the work day ends.

### **PAS Eligibility**

The Consumer Product Safety Commission (CPSC) is required to provide PAS to an individual if: (1) the individual is an employee of the agency; (2) the individual has a targeted<sup>1</sup> disability; (3) the individual requires the services because of his or her targeted disability; (4) the individual will be able to perform the essential functions of the job, without posing a direct threat to safety, once PAS and any required reasonable accommodations have been provided, and (5) providing PAS will not impose undue hardship on the agency.

### **Requests for PAS**

The process for requesting PAS, the process for determining whether PAS is required and the agency's right to deny a request is the same as for a reasonable accommodation (please see RA directive). As with a reasonable accommodation, an employee may request PAS (orally or in writing) by informing his or her first-line supervisor that he or she needs assistance with daily life activities because of a medical condition. However, for record-keeping purposes, the requestor must complete the "Confirmation of Request for Personal Assistance Services" (Appendix H) or confirm their request in writing (including by email).

The employee does not need to mention Section 501 or the EEOC's regulations explicitly, or use terms such as "PAS" or "affirmative action" to trigger the agency's obligation to consider the request. The employee's supervisor should consult with the Disability Program Manager (DPM) to determine whether the employee is entitled to PAS, and, if so, the nature of the required services.

An employee's request will also be considered if it is made to another supervisor or manager in his/her immediate chain of command, staff in the Office of Equal Employment and Minority Enterprise (OEEOME) or the DPM. The employee does not have to state the medical condition to his or her supervisor, but may be required to provide medical documentation to the DPM if the disability is not obvious.

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<sup>1</sup> Targeted disabilities are a subset of conditions that would be considered disabilities under the Rehabilitation Act. The federal government has recognized that qualified individuals with certain disabilities face significant barriers to employment, which for some people may include lack of access to PAS in the workplace, that are above and beyond the barriers faced by people with the broader range of disabilities. The federal government calls these "targeted disabilities." A list of targeted disabilities can be found at [https://www.opm.gov/Forms/pdf\\_fill/sf256.pdf](https://www.opm.gov/Forms/pdf_fill/sf256.pdf). Note, however, that not everyone with a targeted disability will be entitled to PAS under the new regulations, because only some individuals with targeted disabilities require assistance with basic activities like eating and using the restroom. Medical conditions that are more likely to result in the need for PAS include, for example, missing limbs or paralysis due to spinal cord injury.

Where it is obvious that an employee has a targeted disability, such as paralysis or missing limbs, the DPM may not require the employee to provide medical documentation in support of the request.

The DPM and supervisor/decision maker should ask the employee what types of PAS he or she needs using the same type of informal, interactive process used for reasonable accommodations.

Very personal information, including explicit details related to personal care such as toileting and bathing, is handled in the most discreet manner and is not shared or discussed with the employee's supervisor. The employee should provide this information to the DPM and the PAS provider so that CPSC can ensure that the personal assistant that is selected is capable and qualified to meet the employee's specific needs.

Once the nature of the required services is determined, the employee will provide the DPM with a description of tasks that have been agreed upon by the employee and supervisor/decision maker; including the frequency, duration and type of tasks to be performed by the PAS provider.

### **PAS on Travel**

CPSC will provide PAS to eligible employees during work-related travel as a reasonable accommodation. PAS during official travel may include assistance with job-related tasks when the employee is attending conferences, meetings, trainings etc. The services may also consist of personal care related tasks such as carrying luggage and work materials and providing personal attendant care (i.e, eating, drinking, toileting, etc.).

An employee on official travel who requires services of a PAS provider is not personally responsible for covering additional costs incurred as a direct result of the travel. In some instances, an employee's own personal assistant, friend or family member who typically assists the employee when at home can be used by an employee as his or her PAS provider for official travel. Should an employee be authorized to use his or her own personal assistant on official travel, CPSC will reimburse the personal assistant directly for per diem and incidental expenses.

The DPM will consult with the employee's supervisor/ decision maker and the employee to determine whether a PAS provider will be provided en-route with the employee, or whether the service will be provided at the destination only. The employee must provide the DPM with his or her travel itinerary including the general description of the needed services, the schedule of services, and all specific information relating to the travel (i.e, departure and return information, hotel, work site location, etc.).

## **PAS Providers**

A PAS provider is an employee or independent contractor whose primary functions include the provision of personal assistance services. In general, the training or skill that a PAS provider should have will depend on the specific services needed by the employee. PAS may also be provided by an employee's family member who is hired as a professional PAS provider, either as a contractor or Federal employee. CPSC has the discretion to decide if employees, independent contractors, or a combination of employees and contractors will be utilized. Decision makers/supervisors should consult with the DPM to explore provider options.

- Providing PAS to a Single Individual

In determining a PAS provider for a single individual, CPSC must give primary consideration to the requestor's preferences to the extent permitted by law. In some cases, the employee who needs PAS will be able to recommend a provider. However, it may not be possible to honor the requestor's preferences in all cases. A different provider may be chosen if, for example, the requestor's provider is not qualified or less qualified than another applicant, if the agency decides to utilize a pool of shared providers instead of dedicated providers for reasons of convenience, or if the agency decides to have appropriate existing employees provide PAS for reasons of cost or convenience.

- Providing PAS to More than one Employee

If there is more than one employee requiring PAS within the agency, CPSC may use a pool of PAS providers rather than assign one PAS provider to each employee, so long as the services are provided in a timely manner.

## **Locating a PAS Provider**

Resources for PAS providers include local vocational rehabilitation offices, American Job Centers, centers for independent living, home care agencies, and the individual who requested PAS. Additionally, some contractors are available through GSA Advantage. If CPSC decides to hire a full-time/part-time PAS provider, applicants for PAS provider positions may be found in the same way that applicants for other positions are located - by advertising the opening on USAJOBS and other job posting boards.

## **Undue Hardship**

CPSC may only deny a request for PAS if the difficulty or cost of providing the service would be an undue hardship. The process of determining whether providing PAS is an undue hardship is the same as the process the agency uses to determine whether a reasonable accommodation poses an undue hardship.

## **PAS Funding**

PAS will be funded from a central account and proper procurement procedures will be followed to procure PAS services.

### **The following resources offer further information about PAS:**

Personal Assistance Services (PAS) in the Workplace — Publication on PAS developed by ODEP's Job Accommodation Network (JAN).

Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act — Guide from the Equal Employment Opportunity Commission to assist federal agencies to provide personal assistance services (PAS) under Section 501 the Rehabilitation Act of 1973.

**APPENDIX A**

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**CONFIRMATION OF REQUEST FOR PERSONAL ASSISTANCE SERVICES**

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1. DATE OF REQUEST:

2. TO (NAME OF FIRST-LINE SUPERVISOR)

3. NAME OF EMPLOYEE/APPLICANT

4. WORK PHONE

5. OFFICE/ORGANIZATION

6. POSITION TITLE AND GRADE

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7. IDENTIFY THE TARGETED DISABILITY OR DIAGNOSIS WHICH LIMITS YOUR ABILITY TO PERFORM ACTIVITIES OF DAILY LIVING.

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8. DESCRIBE THE NATURE AND TYPE OF PERSONAL ASSISTANCE SERVICES NEEDED TO PARTICIPATE IN THE WORKPLACE (or during work-related travel if this is an official travel PAS request).

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9. INDICATE THE EXPECTED DURATION (frequency and length of time) IN WHICH SERVICES ARE REQUIRED.

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10. DO YOU HAVE A PREFERRED PAS PROVIDER IN MIND? IF YES, PLEASE PROVIDE INFORMATION ABOUT THE PROVIDER (also include a telephone number and email address).

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11. COMPLETE THE FOLLOWING ONLY IF YOU ARE REQUESTING PAS FOR OFFICIAL TRAVEL:

a. PURPOSE OF WORK RELATED TRAVEL: \_\_\_\_\_

b. DATE SERVICES ARE NEEDED: \_\_\_\_\_

c. TRAVEL LOCATION: \_\_\_\_\_

d. WILL YOU NEED THE PERSONAL ASSISTANT TO ACCOMPANY YOU TO AND FROM YOUR TRAVEL DESTINATION? \_\_\_\_\_ IF YES, PLEASE PROVIDE THE LOGISTICS OF THE TRIP (method of travel, flight and hotel information, etc.)

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\_\_\_\_\_

SIGNATURE OF REQUESTOR/DATE	SIGNATURE OF SUPERVISOR/DATE
OEEOME TRACKING NUMBER (OEEOME WILL ASSIGN)	

**A copy of this request must be furnished to OEEOME for information tracking purpose.** All requests for accommodation will be handled in a prompt and expeditious manner. All records of reasonable accommodation must be kept confidential.