



Supporting Access to Information for the Individuals with Disabilities (Section 504)

Bridget Berardino, CARS
Kimberly Snowden, CARS
Randy Brauer, OHI
Jim Slade, OHI

Bridget Berardino: Hi. Good morning. I'm Bridget Berardino. I'm the Director of the Customer Accessibility and Resource Staff in the Offices of Hearings and Inquiries. And I'm here with Kim Snowden, who is also on our team. On the phone we actually have the Director of the Offices of Hearings and Inquiries, Randy Brauer, and his Deputy, Jim Slade, joining us from New York. Unfortunately they weren't able to be here in person today, but I wanted to make sure I introduced them live from New York.

Can you guys hear us, Jim and Randy?

Jim Slade: We can. It's not Saturday night, but it is live from New York.

Bridget Berardino: Perfect.

And as we said earlier, we're here to talk about the importance of supporting access to information for individuals with disabilities.

I know many of you were here last year and you may recall that Jim and Randy did a similar session talking about the requirements and the importance of our responsibilities. And many of you have been working on this over the past couple of years. So we wanted to take a quick poll and see how well you felt your organizations were doing in providing

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information. I'll give it a couple more minutes. I was hoping to see one – ah, there we go. Number four is starting to shoot up now. Ooh, interesting. Give it a couple more minutes. This is exciting.

It looks like we're honing in on sort of a Bell curve there. So I'm glad to see some positive responses going there towards the threes and fours. For those of you maybe at the other tail end of the Not Very Well, hopefully we can answer some of your questions today and talk about how we ensure we meet this important goal.

So, again, today we're going to focus on the accessibility of communications. We're going to talk about the fundamentals of the requirements and the important role we all play in making sure that communications are effective and we ensure a better customer experience for all of our customers.

We'll start with the Rehabilitation Act of 1973. Section 504 really focuses on equal access of our programs, our services, our activities, and our facilities. It's so important that we have effective communications to all of our beneficiaries and customers. We have to provide this access to ensure that they have access to our programs and services.

Next slide.

In addition to the Rehabilitation Act, there's a number of regulations for implementation of the rules. In particular, there's Part 84, 85 and 92 of 45 CFR. It really is focused on ensuring equal access to our customers, and making sure that we're all familiar with those key responsibilities is kind of the focus of today's discussion.

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So as a covered entity, you are responsible for providing auxiliary aids to individuals with disabilities. You need to ensure that this communication is provided in a timely basis to ensure equal access to benefits programs and services. The auxiliary aids will allow equal participation in our programs. And I'm actually going to hand it over to Kim to give a little more detail about the types of auxiliary aids and how it interacts with your programs.

Kimberly Snowden: Thanks, Bridget. I appreciate it.

Good afternoon, everyone. I'm glad to be joining you today to talk about this very, very important mission that we have to actually conquer together.

So on this slide you'll see that we are representing examples of auxiliary aids. So you'll see that there's large print, there's Braille, you have audio, data CDs. And then you go down to fed relay, videophone, and TTY. But I don't believe that this is an inclusive list of what auxiliary aids represent. I think that what's most important here and what we want you to take away is that auxiliary aid services extend beyond this. And I think that what we need to do is we need to actually have individual conversations. If someone reaches out to your organization and they require access to our programs, it may go beyond just hearing and may go beyond visual. So I think that what we need to do is have that one-on-one communication, see what their request is, and see what we need to do to meet that need. So it's about bringing access to our programs and seeing what we need to do to meet that need.

So Sections 504 and 508. They kind of go together a little bit. So you've got Section 508, which obviously is, you know, meeting electronic need. We've got websites. We need to make sure that individuals are able to

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access that information and that they are able to get that information from an electronic standpoint.

But that's technology. With Section 504, we're talking about accessing it. But accessing it from what kind of format? Is it Braille? Is it written? What type of access are we looking at? It's not necessarily – we don't need technology to make something 504 dependent. We just need to make sure that somebody can access it. But, if you look at it together, and you combine it together, I think that, from a compliance standpoint, and you're reading both Section 508 and Section 504, I think we're meeting the need of providing all information for our programs and our services and being able to do what we need to do for our memberships and our customers, and being compliant and ensuring that we're providing a very good and very competent customer experience for what we need to do, from your organizational standpoint and from our program standpoint.

This one I love to talk about a little bit. Because we've got electronic services. So I know my mother used to just pick up, you know, the phone hanging on a wall, and make the phone call, and call the doctor and say, my daughter is sick, I need to bring her into the doctor's office. Well then we had the flux capacitor who took, I don't know, Michael J. Fox into the future, and, you know, all of these wonderful organizations. I know my bank. Everything you do is on the computer. You can make a checking deposit. I don't even have to go into the bank anymore. I don't have to go to my ATM machine anymore. Everything can happen on the computer.

So there are these wonderful electronic services, but from an accessibility standpoint, can? Is everything accessible? So from an electronic and a technology standpoint, we also need to evaluate those services at the

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same time. So I want to make sure, from your organizational standpoint, from being able to set up appointments, from being able to submit things, also make sure that when you are planning things, when you are, you know, growing your technology world, that you are stepping back, you're looking at it from your 508 perspective, but you're also looking at it from a 504 perspective to make sure that if an individual is able to do it, make sure that all individuals are able to do it. Individuals with disabilities, individuals who don't have disabilities that they are able to access it and they are able to do something. So we want to make sure that everybody has equal access. And I think that's the overarching thing. We want to make sure that everybody can have that same communication regardless of their challenge. Whether they have a disability or they do not have a disability. It's about having equal access.

So Section 504 compliance. We worked with the Regional Offices, and the experts out in the Regional Office, and we did some looking in to the complaint-tracking module out there, and we were looking to see if there were any beneficiary issues regarding accessing – or having any - or being able to get accessible communications. And it appears to me that you all are doing very well. There was very, very low volume of having any complaint issues, and it seems to me that you all are being very responsive and you're responding very quickly. Which is very good. Going back to what Bridget had said when she was having conversations that a lot of the programs that I know you are dealing with, a lot of the healthcare programs, they have timely implications, so we want to make sure, therefore, being response – responding to a beneficiary, if you are responding to your members, if there is timely protections that we are dealing with, we want to make sure that we're being responsive to anybody who needs something in the accessible format, that we were not taking anything away from them. We want to make sure we're protecting

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them. So you all are doing very well with this important work, and we want to thank you for the efforts that you are making.

So some additional insights on 504 compliance. We want to make sure that you are doing the efforts and working on some efforts that can potentially help you as you move forward on this important mission. So, again, I use like the acronym CTM, communication, training, and monitoring. So basically you need to make sure that you are communicating with your members, communicating with potential members. You want to make sure that you are letting them know what auxiliary aids and services that you have, let them know that they are available. And also let them know how they can reach out to you to be able to receive this information.

The other thing that you need to do and make sure that you're doing is work with your staff. Make sure that you are training them on the auxiliary aids that you have. Also make sure that you are working with them to let them know how they can respond to these specific requests.

And also, for the monitoring, make sure that you are monitoring and evaluating your business processes. Make sure that you are looking at what you can do. Are there any gaps in your processes? And also look at your best practices. How are you doing? What's working and what's not working?

So basically in summary we're really glad that we got to come out and talk with you today, basically just bringing back to you from what I know was presented to you last year, just refresh your memory, and, you know, just be able to talk to you about the importance of providing accessible information.

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And I think it's about making sure that you are establishing communication, establishing communication with everyone. You know, that's what you want to do. You want to bring a great customer experience, making sure that you are able to effectively communicate with individuals with disabilities. And also just communicate with everybody. You want to establish that open line of communication, seeing what you need to do just to make that experience better, and just doing what you need to do.

But the other thing, too, is we're here for you guys as well. If you are having any challenges, I know that, you know, from the poll that we saw, some are doing things well, some are having some challenges. You know, please make sure that you reach out to us. Talk to us. If you're having best practices, let us know how things are going. We want to make sure that we know and understand what challenges that you are having so we can work with you and see what we can figure out to make communications better and what we can do to make sure things are just moving along and people have access to all the programs.

So where to do if you need help? Obviously you can reach out to us here, and you can also, for Section 504 information and information that impacts -is impacted by 1557, with regards to Section 504, reach out to your CMS Regional Account Managers. And if you have any questions with regards to 1557 as it regards to language accessibility, you can reach out to the Office of Civil Rights and you can please copy your Account Manager on that, too, to make sure that those questions get answered.

Randy Brauer: Randy, before Bridget goes into the question-and-answer review with the audience, would you like to add anything?

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Thank you so much, Kim, and its Randy and Jim. And we are here in New York and more than happy to be a part of it. And don't want to belabor the point, guys, I think Bridget and Kim did just an excellent job giving you a review. I just want to sort of emphasize a couple of quick things if I may.

First of all, the Customer Accessibility Resource Staff, which is a small but mighty team that Jim and I stood up inside the Offices of Hearings and Inquiries to provide a place of focus for individuals with disabilities to – and our first big mission is making sure that all of us collectively, as Kim so beautifully put it, fighting this war together, will improve and share best practices and just get better, so to speak, at providing accessibility in our external communications to the Medicare population and beyond.

So, you know, that's what they are here for. It's a new part of our world, and we're really, really happy to have it.

And I wanted to also stress what Kim was saying right at the end here when she was talking about getting help and questions. For any organization that has an issue, please do reach out to us for assistance. This isn't a "gotcha" game. We're really very interested in being able to be helpful. And if you think you are having an issue or struggling especially, you know, we have resources that can help, we have ideas and suggestions, and at an absolute minimum we want to talk to you so that we can see what we can do to be supportive. Are there barriers in your way that we can help remove to ensure that individuals get access to information in accessible formats? You know, that's extraordinarily important to us. And being able to have that dialogue, as Kim was just saying, is, really, just vital for us to be able to do all of this work successfully together.

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So those are the two things I wanted to stress. Jim?

Jim Slade: Yeah, no, all I would say is, you know, you don't have to reach out to us just when you have a problem. Certainly, as Kim said, tell us what's working for you because, you know, we're all in this together. And, you know, the last thing I would say is, last September when we had the conference, we received some really good questions, and I'm really interested to hear what the audience has to ask today.

Randy Brauer: Excellent. So Kim, Bridget, thank you so much, and thanks very much to our friends in the Center for Medicare and the wonderful conference planners for hooking us in remotely.

Bridget Berardino: Great. Thank you, Randy. And as Jim mentioned, we have received some questions over the past few months, so we thought we would go ahead and start with a couple that seem to come up around this topic and then we'll open it up for questions here.

The first question is about whether or not the Plans have to give notice that they will provide communications in an accessible format. And the answer is yes, you must notify your beneficiaries, enrollees, applicants, and the public. You can do this on your website. You can on your website you should include information about the aids that are available and also how to make a request when needed.

Okay. The next question, do Plans need to convert all their documents in an accessible format in anticipation of these requests. And the answer – no. You only need to make documents available upon request. Each Plan can decide what materials, if any, that they prepare ahead of time to be for conversion in anticipation of requests. However, you must provide the information in a timely manner. As Kim mentioned, and I think we've

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hit on this a couple times, it's very important that this information be provided in a timely manner and provides equal access to everyone in the program.

Note we are talking about printed material. Anything that is available online, like Kim mentioned, must be accessible when it's posted.

And then the last question. What should the Plans do if they have questions about accessible communications and publications? And I think that's the one we've been honing in on because we all know that when we leave here everything seems very clear and then we get sort of an issue that's a little bit gray. We encourage you to talk to your Account Managers. We are here at Central Office. We can coordinate with your Account Managers to again bring in the resources that you may need and we can discuss issues. We also want to hear about best practices, so we are working with the Account Managers to kind of encourage conversations around both aspects of this, questions as well as successes that you have had.

And, again, we're here to work with you and make sure that we provide the best service that we can for the Program.

And I think those are all the questions that we had ahead of time.

Stacey Plizga: Okay. Do we have any questions from our in-house audience? Okay, please tell us your name and where you are from.

Linda Howard: Linda Howard from Alternative Compliance Consulting. And I have a question regarding 1557, the language insert requirement. In addition to the insert of the alternative languages, there is also a requirement that you have to include any other prevalent languages. And I know last year,

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looking for the prevalent languages by state there wasn't any – at least I couldn't find any guidance from CMS in terms of that data. And it was stated that it would be released soon. Has that information been released in terms of giving Plans guidance on prevalent languages by state?

Bridget Berardino: Unfortunately I'm not as familiar with the 1557 part about languages, but I think it's a question that we can probably record and take back. I don't know that we have that answer right here today.
Okay. Thank you.

Michael Sneckenberger: Hi. Mike Sneckenberger, Anthem. From the fall conference, one of the impressions we had is the enrollees only have to make a request once during the time they are enrolled in order for alternative materials, or standing order, if you will. I wanted to see if that is still the requirement at this time.

Bridget Berardino: That is the goal. If the beneficiary notifies you that their preference is Braille, I think our goal is to provide those communications to the extent possible in that format.

Michael Sneckenberger: Thank you.

Britton Whittlebeck: Hi. Britton Whittlebeck from Lumeris. I had a question about once materials are requested in another language or an alternative format, as far as timeliness from an operations standpoint. Is it acceptable to send an English version or a print/read version of a document to meet the timeliness standard and then within a reasonable amount of time send that alternative format?

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Bridget Berardino: I want to make sure I understand the question. So you're saying send it in a standard format and then follow up with the alternative format?

Britton Whitbeck: Right. So if they had – if they requested a service or a drug, and we were either approving or denying, and we have a certain timeframe to provide that notification but they've requested all communications in another language or an alternative format, to meet that timeliness standard, could we submit the standard format and then follow up in a timely manner with an alternative format requested?

Bridget Berardino: You know, I think with the alternative format, and I don't want to speak directly to the language because we're definitely not the experts on the language –

Britton Whitbeck: Okay.

Bridget Berardino: The goal is to ensure that the protections are there. So if you've been notified that someone needs that alternative format, they need to be given that same timeframe which they get the information in a way that they can consume it.

Britton Whitbeck: Okay.

Bridget Berardino: So I think that would be the concern. And I'll lean on Kim or Randy or Jim if they have any more clarification. So I know we've talked about ensuring folks have the protection, so if we're going to give them ten days to respond to something, you know, they need to get the information the way they can consume it for that clock to start. So I think we can't just assume that the standard format meets their need. If they did ask for it in Braille, sending it to them in standard format doesn't necessarily ensure that they have received the communication.

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Britton Whitbeck: Okay. Thank you.

Jim Slade: I couldn't have said it better, Bridget. Nicely done. And that's really what's so very important. But, you know, as you run into questions and issues like this, we really do welcome the interactive dialogue so that we can look for ways to provide, you know, guidance and clarifications and work with our CM partners who provide all that information to you about the operational running of the programs. So happy to hear your experiences. Also really thrilled to hear from folks who have figured out great ways to make things work. You know, all of that is good. But I would agree with Bridget.

Stacey Plizga: Okay, it appears we have another question.

Deidra Rosenbaum: Hello. Deidra Rosenbaum from health partners. Just a quick clarification from the last one. Is it possible to give oral notification, especially if it's then needed in another language or need to read that information out loud to the individual? Would that meet the requirement while we are looking at doing the Braille or the other type of language to meet the timeliness requirement and ensure that there are benefits are protected?

Bridget Berardino: So let me just make sure I understand the question. You're asking if you can provide the information orally while you are also working on the timeliness thing. And I think this gets into some of these ongoing conversations we need to have. There have been cases, actually, where the preferred method of communication has been either orally or a qualified reader, and so that does meet some of the requirements. But I think we would have to make sure that we do also ensure the timely protections are there and make sure we consider each case. So sometimes we have to think about on a case-by-case basis to make sure

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that we can consider how the communication is going and we're ensuring effective access.

And, again, I appreciate on the flip side you don't want to delay an answer because you're working on something else.

Deidra Rosenbaum: Right.

Bridget Berardino: So I think if that's the case, we should probably, when that arises, we want to make sure that you guys also have processes to make sure that that is escalated quickly and we can get the resolution quickly.

Deidra Rosenbaum: Okay. Thank you.

Bridget Berardino: And I'll open that up, and any of my colleagues want to add to that?

Randy Brauer: Nothing to add here, Bridget.

Michelle Juhanson: Good morning. Michelle Juhanson from PerformRx. Thank you very much for the presentation, and thank you for dialing it in, Randy. One question – or two. Number one, would CMS be willing to provide some examples of what discrimination looks like inside of the Parts C and D programs specific to some real concrete operational areas like coverage determinations, and appeals, and call center, so that we can make our training sufficiently robust to deal with our business model. And then number two, so we're grappling with the concept of what the covered entity technically means. So we're a pharmacy benefit manager, and our current reading of the rule is that we're an indirect recipient of government funds. We're delegated to provide services such as coverage determinations and call center, but we are not technically the Plan sponsor. So if the beneficiary were to complain about them being

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discriminated against, for example because of a call and maybe someone was rude or didn't transfer them to the relay and they called our number, is CMS's expectation that the PBM or the TPA or the indirect recipient have its own independent grievance procedure or are they supposed to be fed into the Plan sponsor's grievance procedure? And I can type that out if you need it.

Bridget Berardino: That was a very long –Complicated question. And I do appreciate the request for examples. I mean we have simple examples that, you know, I can speak to where we do have examples, you know, if someone does call the call center and is asking for information in an alternate format, we have to provide that, right. So we have to record the request and make sure that the Medicare information is provided to them in that format. You know, we give examples of what some of the – I don't want to say standard because there's always, you know, everything is a two-way street but, you know, if someone asks for Braille, we have to provide that. So on the flip side, if that request is made and then we don't provide the Medicare information that is the basis for a complaint. And I think that what you're probably getting to is probably some of the more complex discussions, and I think it's really, when we try to get down to it, is around equal access, right, ensuring that people have access to the same processes and information that they have, that all of our customers have. So if that extends – and I don't want to – definitely don't want to give any legal answers around contracting – but if that extends to parts of the program that provide those services to our beneficiaries, we have to ensure that access. So we need to make sure that we have the processes in place to get them that information.

And if you type it up, I'm sure we can get a little more detail when we work on some of the follow-up questions.

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Michelle Juhanson: Will do. Thank you.

Bridget Berardino: And, again –

Randy Brauer: You know, hey, it's Jim and Randy here. And Deidre, thank you. Great question. Please do send that in to us.

Jim Slade: I mean, offhand, you know, we'll think about this a little bit more. You know, it's the Plan's responsibility to make sure that their benefits are accessible. So, I mean downstream contractors, it would probably be in the agreement between the Plan and the downstream contractor. But, you know, we'll get a little bit more information on it and we'll get it back to folks.

Randy Brauer: Yep. I couldn't have said it better myself. And, you know, all I would add to that conversation is, as Bridget was saying, whether or not it is the – quote/unquote – legal responsibility, we'd urge everyone to try and bake this conversation into our operational processes. Just simply because, if you'll forgive me here, it's the right thing to do. I'll tell you a little story. Last fall we had the pleasure of seeing an equipment lab at the National Federation for the Blind. And we had an individual walk through what it's like to use a screen reader. And they showed us sort of like two paths. The path of a really well-designed document, on a web page, that was well tagged, and what that felt like to use. And then they walked us through one that was a little bit less well designed. And it was really just so stunning to see that.

So to your question specifically about case examples, how can we show – I think that is a fantastic idea. We've been trying to be as creative as we can be thinking about, you know, maybe we can do some YouTube videos. Maybe we can do, you know, some things that help sort of make

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it real. Because inasmuch as it's a compliance issue, and it is, and it's a serious one, it's also just simply the right thing to do when you have the opportunity to watch what it's like to struggle to just understand something the rest of us take so easily for granted.

So great questions. Please do send it in so we can ponder and kick that around a bit, and happy to try to provide some real-world examples. Jim, I think you had one, actually, to share, too.

Jim Slade: My example that's come up more than once in discussions, you know a disabled person, particularly like a low-vision type person, is on the phone with a call center rep, and the call center rep asks that person to get a sighted person to read the document for them. You know, that could be interpreted as discrimination. You're not providing equal access to the benefit. So that's just one example that has come up. And I'm sure there are plenty of others, but that's what popped into my head.

Randy Brauer: Thanks, Bridget.

Bridget Berardino: Thank you.

Michelle Juhanson: Just a general question. When you say, say your questions in, are the answers going to be posted somewhere? I mean, how will we get the responses back to the questions, in terms of everyone having access to the answers?

Bridget Berardino: We are actually trying to gather some questions. I think our goal is over the summer to potentially provide some Frequently Asked Questions and release those out to the Plans, and then also have some conversations with your Account Managers where we can sort of have a back-and-forth to kind of get to some of the details you guys are talking about.

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Stacey Plizga: Okay. Great questions. With that I would like to thank Kimberly and Bridget for the information on Accessible Communications.

And our call-in users, too. Jim and Randy, thank you.

All right, so if you'd like to evaluate the session, then go ahead and select A, follow the link. And that brings us to our lunch break. We will be taking a 60-minute lunch break, and our next session will begin promptly at 12:45. For our in-house guests, the cafeteria is downstairs. And if you pre-ordered your lunch, you can pick it up at the Jazz Man Café, which is right outside of the cafeteria. And for our viewing audience, please be back at 12:45. Thank you.