

WORKPLACE PERSONAL ASSISTANT SERVICES: EMPLOYERS PERSPECTIVE

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◆ INTRODUCTION

As discussed in Chapter One of this guide, there are many different definitions of Personal Assistance Services. However, many employers are most familiar with the definition from the Presidential Committee on Employment of People with Disabilities. The Presidential Committee's Job Accommodation Network (JAN) describes Personal Assistance Services as "people" or "devices" that assist a person with a physical, sensory, or cognitive disability with tasks that the person would perform for her or himself if she or he did not have a disability (Presidential Committee on Employment of People with Disabilities, 1997). The Presidential Committee on Employment of People with Disabilities states that work-related PAS may include:

- ▶ **filing;**
- ▶ **retrieving work materials that are out of reach;**
- ▶ **providing travel assistance for an employee with a mobility impairment;**
- ▶ **assisting and employee with a cognitive disability with planning or decision making;**
- ▶ **reading material to an employee with a visual impairment;**
- ▶ **providing a sign language interpreter during staff meetings to accommodate an employee with a hearing impairment**

PAS may take the form of adjustments to an employee's work schedule, a co-worker assigned to assist a worker with a disability with a specific job related function, modification to the employee's work station, or the hiring of a workplace personal assistant.

◆ WHY EMPLOYERS SHOULD CONSIDER PAS AS A REASONABLE ACCOMMODATION

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ment. Thus, many employers are turning to the large and untapped labor pool of employees with disabilities. The use of PAS as a reasonable accommodation is new to many businesses. In the workplace, PAS is considered a reasonable accommodation to enable an employee to perform the essential functions of the job. According to Section 1630.9 of the Americans with Disabilities Act (ADA) Handbook, the employer's obligation to make a reasonable accommodation is a form of non-discrimination.

SECTION 1630.9 -- NOT MAKING REASONABLE ACCOMMODATION

- (a) It is unlawful for a covered entity not to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of its business.**
- (b) It is unlawful for a covered entity to deny employment opportunities to an otherwise qualified job applicant or employee with a disability based on the need of such covered entity to make reasonable accommodation to such individuals' physical or mental impairments.**
- (c) A covered entity shall not be excused from the requirements of this part because of any failure to receive technical assistance authorized by Section 506 of the ADA, including any failure in the development or dissemination of any technical assistance manual authorized by that Act.**
- (d) A qualified individual with a disability is not required to accept an accommodation, aid, service, opportunity or benefit which such qualified individual chooses to accept. However, if such individual rejects a reasonable accommodation, aid, service, opportunity or benefit that is necessary to enable the individual to perform the essential functions of the position held or desired, and cannot, as a result of that rejection, perform the essential functions of the position, the individual will not be considered a qualified individual with a disability.**

From: A Technical Assistance Manual of the Provisions of Title I. Equal Employment Opportunity Commission

If an adjustment or modification specifically assists the individual in performing the duties of a particular job, it may be considered a type of reasonable accommodation (ADA Handbook, 1992). For instance, an employer may provide an individual who is blind with a workplace personal assistant to act as a sighted guide on business trips. However, if a modification assists the individual throughout his or her daily activities, on or off the job, it is considered a “personal” item that the employer is not required to provide. An employer does not have to provide an employee with a workplace personal assistant for personal needs such as grooming, eating, or personal hygiene unless such non-job related supports are provided to employees without disabilities (EEOC Title I Technical Assistant Manual, 1992). Daily living activities on or off the job are not the responsibility of the employer.

◆ **WORK SITE MODIFICATIONS AND ASSISTIVE TECHNOLOGY AS A REASONABLE ACCOMMODATION**

Work site modifications through use of adapted equipment or alterations to the workplace often make it possible for a qualified person with a disability to do the same job as everyone else. For example, the use of the telephone at work for the workers with normal hearing is seldom an issue. However, for the worker unable to hear clearly or to hear at all, using the phone to take accurate information or to place an emergency call can be an issue. To improve hearing on the telephone, many types of assistive devices are available. The following are a few examples:

- ▶ ***Amplified Telephone*** -- Amplified telephones with frequency response selections can help the person with moderate to severe hearing disability. These systems are more costly (usually several hundred dollars) and may not work with multi-line phone systems.
- ▶ ***“In-Line” Amplifier*** -- Small, inexpensive “in-line” amplifiers give minimal amplification but are often adequate for the user with a mild to moderate hearing disability. This type of amplifier is connected between the body of the standard telephone and the receiver.
- ▶ ***Portable Amplifier*** -- Another inexpensive, but often completely adequate phone amplifier is the portable amplifier

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that attaches to the receiver of the standard telephone. The portable phone amplifier, can be easily carried in a pocket or purse and is powered by either an AA battery or a hearing aid battery. This type of phone amplifier is also useful for the person with a mild to moderate hearing disability. It can be used on single or multi-line telephones.

Work site modifications may include special equipment, facility modifications, and/or adjustments to work schedules or job duties. For example, an employee with quadriplegia uses a personal computer to develop office procedures and operation manuals. To increase productivity, her employer purchased a voice dictation program that enables her to operate her personal computer for research, e-mail, report writing, and data collection. Another employee who is blind has to prepare memos, briefs and technical reports using a variety of resources such as books, newspapers, and Internet materials. His employer purchased a print reader to assist him in accessing these products.

Some employers are afraid that work site modifications for workers with disabilities will be expensive and therefore prohibitive for many businesses. Research from JAN shows that accommodations don't have to be costly: 80% of job accommodations suggested by JAN cost less than \$500 (Job Accommodation Network, June 14, 2000). In a recent survey of 42 companies, Virginia Commonwealth University found that 80% of human resource representatives indicate costs are an insignificant barrier to hiring or advancing persons with disabilities (Darlene Unger, Personal Communication, October 12, 2000). Table 1 on the following page includes examples of the use of work site modifications and assistive devices in the workplace.

◆ USE OF A “WORKPLACE PERSONAL ASSISTANT” AS A REASONABLE ACCOMMODATION

If a person has a visual, hearing, speech, or mobility impairment, the accommodation that enables the individual to work may be a person, known as a workplace personal assistant (WPA). Most employees do not require a PA; yet, for those individuals who do need these services, they can make the difference between employment and unemployment. Hiring individuals to assist employees with disabilities to perform their jobs is considered a reasonable accommodation. Providing a PA for certain job-related functions may include qualified readers or

A bookstore needed a cashier for the afternoon rush; it hired an individual who has a spinal cord injury. Since the store had a workstation that was low enough for him to use, only a few changes were made to his cashier station.

- First, a hook was added to hold bags for packaging customer purchases. This allows the cashier to get bags easily without having to bend over.
- Next, several shelves were removed so he could maneuver behind the counter, and the phone was lowered to within his reach.
- The Cashier cannot use his fingers, so he was given a few simple tools. A short dowel was inserted into a cuff, which allows him to pull money out of the drawer and to push numbers on his keyboard. A change belt was mounted on the counter in front of him so he could handle coins more easily. He pushes down the buttons at the top to get the exact amount of a customer's change.

A business found that it never had enough promotional materials to meet customer demand. When requests were made to the company, the response time was slow. A young man with cerebral palsy was hired to put together sales binders and fill customer requests. To make it easier to compile the binders, the most frequently used materials were placed into two "lazy Susan" filing systems that sit on his desk.

- Other important information is filed on shelves with the least used materials located on the higher shelves.
- A co-worker assists him when he needs to reach these materials.
- A simple box was built for his wheelchair so he can move materials from one area of the office to another.
- Since he could not use a standard hole punch, an electric one was purchased from an office supply store. This low cost accommodation allows him to punch holes using only one hand.

A woman was hired by a university card service to perform customer service duties. She takes pictures of students, faculty, and staff using a computerized photographing system. To make the job accessible, her camera was moved from the floor to a table at her workstation.

- She was unable to use a standard mouse; it was replaced with a trackball. A trackball is simply an upside down mouse that allows you to move the cursor with one finger.
- She was unable to handle money to balance her cash drawer. A phone call to a local bank to inquire about purchasing a currency counter resulted in the acquisition of one from surplus at no cost.

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sign language interpreters. It can also include a personal assistant to serve as a travel attendant for an employee who uses an electric wheelchair to assist on business trips. Table 2 on the following page provides sample PA job functions for readers, interpreters/transliterators and personal attendants. Table 3 on page 44 shows examples, taken from the Presidential Committee's Job Accommodation Network (JAN), of the use of PAs that employers have provided for their employees with disabilities.

It is important to note that professionals who provide reader and interpreter/transliterators services usually do not refer to themselves as a personal assistant or WPA. The classification of readers and interpreters/transliterators as a personal assistant service is a business perspective driven by the EEOC's interpretation of the ADA. For example, when asked what personal assistant services are provided to employees with disabilities, representatives from IBM, Unum/Provident, and SunTrust Bank indicated they routinely provide personal assistants such as readers and interpreters (Jon Ehret, March 17, 2000; Susan Olson, April 17, 2000; and Meg O'Connell, April 11, 2000). However, with the exception of Unum/Provident, it was indicated that these businesses had no experience in providing personal assistants in the workplace for their employees.

In the business community, the current view is that a personal attendant is to be provided as a reasonable accommodation for job related functions only. In the disability field, a personal assistant is viewed as a person who assists people who have Activities of Daily Living (ADL) or Instrumental Activities of Daily Living (IADLs) deficiencies with their personal care or other daily activities (Dautel & Frieden, 1999). Activities of Daily Living are considered basic self-care functions such as bathing, dressing, and using the toilet. Instrumental Activities of Daily Living refer to tasks that require physical dexterity, strength, speech, hearing, vision, memory, and cognitive reasoning. Examples of IADLs include: cooking, cleaning shopping, doing laundry, using a telephone, and paying bills.

The disability rights movement has pushed for the utilization of personal assistants who provide assistance with ADL and IADL to people with disabilities throughout the community, including the workplace. However, at this time, an employer does not have to provide an employee with a WPA for personal needs such as grooming, eating, or personal hygiene (EEOC Title I Technical Assistant Manual, 1992). It is important to note that there is nothing in the law that prohibits an

employer from paying for personal attendant services if they choose to do so. For example, Unum/Provident has an Attendant Service Policy that subsidizes the cost of personal attendant service to employees who need these services in order to work (Susan Olson, Personal/Communication, April 17, 2000). The Unum/Provident Attendant Service Policy includes eating, bathrooming, hygiene and job specific assistance.

◆ **TABLE 2 -- SAMPLE JOB FUNCTIONS FOR WORKPLACE PERSONAL ASSISTANTS** —

Reader

- Assist an employee with a disability with reading:
 - resource and reference materials
 - technical materials in specialized areas
 - field reports, surveys, and other documents
 - legislation
 - regulations
 - policies
 - incoming correspondence
- Identify significant information and/or issues in incoming correspondence as per directions from the employee with a disability.
- Highlight and condense pertinent information as per directions from the employee with a disability.

Interpreter/
Transliterater

- Interpret spoken words using the communication mode of the deaf or hearing impaired individual, either a manual code for English or American Sign Language, to facilitate communication between hearing and hearing impaired employees.
- Interpret manual code for English or American Sign Language to spoken words for hearing individuals to facilitate communication between hearing and hearing-impaired employees.
- Transliterate spoken words to manual coded English/pidgin signed English to facilitate communication between hearing and hearing impaired employees.
- Transliterate manual coded English/pidgin signed English to spoken words to facilitate communication between hearing and hearing impaired employees.

◆ TABLE 3 -- EXAMPLES OF THE USE OF WORKPLACE PERSONAL ASSISTANTS

A state agency maintenance mechanic had difficulties climbing stairs and carrying materials. The job was restructured so that this individual always worked in a team with another mechanic.

- ◆ ***The co-worker was easily able to carry the equipment and do the required lifting on the job while this worker performed other necessary tasks.***

Because the facility had no elevator, the worker was assigned only to jobs on the first floor.

A college professor with physical limitations resulting from a stroke was assigned a...

- ◆ ***student worker to assist with transport of materials to and from classes.***

The cost was minimal as the worker was already assigned to the Department and performed other duties.

An engineer who uses a wheelchair worked in a manufacturing company that required employees to move around the facility inspecting buildings by climbing and crawling into small spaces. They worked in teams.

- ◆ ***A member of the team videotaped the areas that this worker could not access. The engineer used the videotape to gather pertinent information.***

A proofreader, who uses a wheelchair, in a publishing company was not able to transport materials from an inaccessible location to her workstation. She was provided a low file cabinet and drawer unit to help her access the necessary materials placed within her reach. This area was periodically stocked for her by co-workers.

- ◆ ***Materials that were housed elsewhere were brought to her on a daily basis by co-workers who were also obtaining or returning their own materials.***
- ◆ ***A federal agency employed two full-time sign language interpreters to accommodate communication needs of numerous deaf employees.***

Having interpreters on staff eliminated the need to contract out for this service. This eliminated the need to schedule interpreters in advance, allowing for impromptu meetings. In addition, these interpreters were familiar with the agency's vocabulary, protocols, and individuals, therefore enabling them to perform their duties better.

An insurance company program analyst who is deaf had to communicate with frequently others. The person worked with a team, but team members rotated throughout various projects.

- ◆ ***An interpreter was hired to facilitate communication between this worker and other team members.***

A private school employed a counselor who is blind. Accommodations included providing a screen reader and voice synthesizer for computer activities.

- ◆ ***A part-time support service assistant for completing handwritten paperwork and reading print materials.***

A health care service case manager who is blind was provided a driver to assist them in making home visits.

- ◆ ***The same driver also was used for other driving needs of the health care facility. As often as possible, trips were scheduled so that the driver was transporting this individual and meeting other needs at the same time.***

From the Presidential Committee on Employment of People with Disabilities, 1997
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In general, it is the employer's responsibility to provide a workplace personal assistant for job related functions and the employee's responsibility to provide a PA for personal needs. Employers often have no previous experience with providing a Workplace Personal Assistant and may not realize that providing a WPA can be easy to implement and inexpensive. Some common employer questions are addressed below.

I am concerned about the cost of providing a WPA. Often times cost is minimal; however, if the cost of the service is expensive, then employers should inquire about financial assistance available to either pay or help pay for the service. This might include assistance from state and local vocational rehabilitation agencies or tax incentives from the Internal Revenue Service, like the tax credit to small businesses who provide job accommodations. Also, employers must give the applicant/employee the opportunity to pay a portion of an accommodation that proves undue hardship for the business. In some cases, the applicant/employee may be able to write off the cost for the service by using a Social Security Work Incentive (see Chapter Seven on funding).

I believe this would be disruptive to my place of business. Keep in mind that in some instances, the provision of WPA may not require another employee to be hired. In many cases, a co-worker can quickly and effectively assist the employee with whatever is needed. If indeed a WPA would be needed on a consistent basis, then the employer needs to keep in mind that the WPA would be an employee and therefore is required to follow workplace policies like any other employee.

Employees should take care of their own personal care needs. Employers are not required to pay services not related to enabling the person to complete essential job functions. WPAs are not paid to take care of an employee's personal needs while at work. If an individual needs assistance eating or going to the restroom while at work it is up to them to make necessary arrangements and get their employer's permission to allow the PA on the premises to assist in such a way.

◆ **EMPLOYEE'S RESPONSIBILITY TO REQUEST WPA** —————

According to the Americans with Disabilities Act, it is generally the responsibility of the applicant/employee to inform the employer that an accommodation is needed. This request may be made verbally or in

writing. After the employer is informed that a WPA may be needed, given that the person requesting WPA satisfies the job-related requirements of the position, the employer should share a job description with the individual. The applicant would then have a chance to review the job functions fully and provide a more complete explanation of the role of the WPA.

◆ **WHAT SHOULD AN EMPLOYER DO FOLLOWING A REQUEST?**

A job applicant or an employee with a disability may request a workplace accommodation at any time during employment. There are several considerations when determining reasonable accommodation requests, including the demands of the job, the employee's skills and functional limitations, available technology, and cost. After the employer and employee agree that a workplace accommodation is needed, they should determine an appropriate accommodation. The following process may be helpful when determining the use of a Workplace Personal Assistant as a reasonable accommodation.

According to the Americans with Disabilities Act, it is generally the responsibility of the applicant/employee to inform the employer that an accommodation is needed. This request may be made verbally or in writing.

- ▶ **Identify the employee's Personal Assistance Services needs.**
 - Use job descriptions and job analyses to identify the essential functions of the job;
 - With the employee who has the disability, identify the employee's functional limitations and potential accommodations;
 - Consult with rehabilitation professionals, if needed.
- ▶ **Select and provide the Personal Assistance Service(s) that is/are most appropriate.**
 - With the employee, select Personal Assistance Services that are effective, reliable, easy to use, and readily available for the employee;
 - If equipment is used, the employee should try the product or piece of equipment prior to purchase (it is best, if possible, to try the product, modification, or equipment on the job);
 - If a person is used, the employee should direct the selection of the personal assistant.
- ▶ **Examine the Personal Assistance Service(s) utilized to see if it enables the employee to complete the necessary work task(s).**

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- ▶ **Evaluate regularly the Personal Assistance Services to ensure effectiveness.**
- ▶ **Provide regular follow-up. If needed, modify the Personal Assistance Services plan as necessary.**

When a request is made for a Workplace Personal Assistant or other Personal Assistance Services, employers should test the “reasonableness” of the accommodation. First, the employer and the employee need to identify the job functions that require Personal Assistant Services. Next, a variety of Personal Assistant Services should be identified that may reduce or remove the barrier and increase productivity. Finally, in partnership with the employee, the employer should implement the most appropriate accommodation with the least economic impact.

An employer is only required to offer an effective accommodation; it may not be the “best” accommodation in the eyes of the applicant or employee. For example, a customer service representative may want a personal attendant to come in daily to help respond to written correspondence, but the employer may either decide that having the WPA there once a week is enough to get the job done or may ask another worker to assist the person on a scheduled basis. If the employer decides that the WPA request as an accommodation presents undue hardship, then another alternative accommodation should be considered. Undue hardship is determined on an individual basis using the following criteria: the cost, overall financial resources of the business, and the type of operation of the employer. If the alternatives are deemed “unreasonable”, then the individual who made the request must be given a chance to pay for a portion of the service.

◆ **PROVIDING A WORKPLACE PERSONAL ASSISTANT AS A REASONABLE ACCOMMODATION**

When applying for a job, an applicant with a significant disability may need assistance to complete an application or a pre-employment test. For example, an employer may provide a reader to assist someone with a visual impairment with completing a job application or a pre-employment test. A WPA may also be needed to “assist” an employee with performing certain job functions. In this case, the WPA assists with, but does not perform, essential job functions. For example, a reader may be needed on a daily basis to help a customer service repre-

sentative who has a visual impairment and limited use of his/her hands to perform the essential job function of responding to *written correspondence*. This might include performing a job-related function like *reading written letters aloud* to the employee and/or *typing a response* dictated by the employee. Workplace personal assistants may also be needed to allow an employee to participate in or enjoy equal benefits and privileges of the job. For example, a driver may be hired from time to time to transport an employee to the annual company picnic or holiday celebration.

As illustrated previously in Table 3, sometimes a person outside of the company is hired to provide assistance, while at other times a co-worker may provide the assistance needed. For example, a major manufacturing corporation in Richmond, Virginia temporarily employed three sign language interpreters through the Virginia Department for the Deaf and Hard of Hearing (VDDHH) to accommodate the communication needs of employees who are deaf during the company's annual shareholders meeting. In another situation, which illustrates the use of existing workplace supports, a human resource assistant with a bank assisted an applicant (who could not write) complete a job application.

◆ SUMMARY

People with disabilities remain a largely untapped labor source. If greater numbers of people with disabilities are going to access employment, increased understanding and use of PAS is needed. The role and function of PAS in the workplace provides an important tool to employers for increasing access to individuals with significant disabilities as a major labor pool. Individuals with disabilities, employers, and rehabilitation professionals must expand their understanding of the benefits of PAS. Before large numbers of employees can begin accessing this support, additional regulatory clarification must be given to define the supports considered to be personal in nature and potentially funded by Medicare or other funding sources (Brooke, Revell, and Wehman, 2000).

To address the need for personal assistance services, the disability rights movement has pushed for a fundamental change in Federal and State long-term care policies (Dautel & Friedan, 1999). Current efforts are focused on the passage of The Medicaid Community Attendant Services and Supports Act (MiCASSA) to establish a national program of community-based attendant services and supports for people with disabilities, regardless of age or disability (ADAPT, 2000). Once

these important issues are addressed, it is hoped that employees with significant disabilities will expand their work opportunities. A chief business benefit will be dedicated, dependable, and productive employees.



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