

SETTLEMENT AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

AND

THE MICHIGAN DEPARTMENT OF HUMAN SERVICES

DEPARTMENT OF JUSTICE COMPLAINT NUMBER 204-37-228

1. This matter was initiated by two complaints filed with the United States Department of Justice ("Department") or ("United States"), against the Michigan Department of Human Services ("MDHS"). The complaints alleged that the MDHS violated Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12131-12134, by denying qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs, or activities of the MDHS.
2. The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, to investigate the allegations of the complaints in these matters, and to determine MDHS's compliance with Title II of the ADA and the Department's implementing Title II regulation. Also, the Department is authorized to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. § 12133, to bring a civil action enforcing Title II of the ADA, should the Department fail to secure voluntary compliance pursuant to subpart F. In consideration of the terms of this Agreement as set forth below, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit in this matter.
3. The parties to this Settlement Agreement ("Agreement") are the United States of America and the Michigan Department of Human Services. In order to secure compliance by voluntary means and to avoid the burdens and expenses of possible litigation, the parties hereby agree as follows:
4. The ADA applies to MDHS because it is a public entity as defined in Title II of the ADA. 42 U.S.C. § 12131 and 28 C.F.R. § 35.104
5. The Department asserts that MDHS violated title II of the ADA by failing to provide qualified interpreters to parents and children, who are deaf or hard of hearing, during interviews by MDHS case workers in child abuse and neglect investigations.
6. MDHS's position is that it did not violate Title II of the ADA or its implementing regulation and that its willingness to enter into this settlement agreement is not to be construed as an admission of wrong-doing or liability, which it expressly denies.

Factual Background:

7. The Department received two complaints from parents who are deaf and who were denied interpreters on more than one occasion when interviewed by MDHS case workers even though qualified interpreters were necessary for effective communication. Specifically, these complaints stem from allegations that:
 - a. A MDHS case worker conducted interviews of a deaf parent whose children were alleged victims of child abuse without an interpreter even though a qualified interpreter was allegedly necessary for effective communication;
 - b. A MDHS case worker interviewed a deaf parent accused of child neglect and her deaf children without an interpreter even though during the interviews a qualified interpreter was allegedly necessary for effective communication;

Legal Standards:

8. Title II of the ADA and its implementing regulation prohibit discrimination against qualified individuals with disabilities on the basis of disability in the services, programs, and activities of a public entity, such as MDHS. 28 C.F.R. § 35.130(a).
9. Title II of the ADA and its implementing regulation requires public entities, such as, the MDHS to furnish appropriate auxiliary aids and services when necessary to afford an individual who is deaf or hard of hearing with an equal opportunity to participate in, and enjoy the benefits of, MDHS's services, programs, or activities. 28 C.F.R. § 35.160(b)(1).

Actions by MDHS:

10. In order to take steps to make sure that qualified individuals with disabilities participate in and benefit from its programs, services, and activities, MDHS agrees to the following:
11. Within forty-five days of the effective date of this Agreement, MDHS agrees to update its MDHS Hotline numbers, its website, and any other pertinent literature that is disseminated to the public to include a TTY number and the Michigan Relay Number.
12. Within one hundred and twenty days of the effective date of this Agreement, MDHS agrees to adopt Appendix A as its new policy on Effective Communication. In addition, MDHS agrees to distribute a copy of its new policy on Effective Communication to its employees. MDHS further agrees not to modify its Effective Communication policy without the consent of the Department.

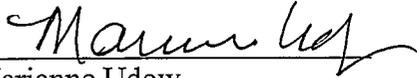
13. MDHS agrees to use the revised Form 3200 which directs case workers in the instruction section of Form 3200 to indicate if a child, parent, or other individual they need to interview in a child abuse and/or neglect investigation has a disability and requires appropriate auxiliary aids and services, such as qualified interpreters, for effective communication.
14. Within one hundred and twenty days of the effective date of this Agreement, MDHS will instruct all of its employees, including case workers and managers, who are responsible for conducting programs, activities, and services to comply with the provisions of this Agreement.
15. Within one hundred and twenty days of the effective date of this Agreement and pursuant to its obligations under Title II, MDHS will make available to its employees, applicants, beneficiaries, interested persons and the general public, information regarding the provisions of Title II and the law's applicability to the programs, services, and activities of MDHS by means of a public notice. This public notice or its equivalent will be included in all current printings of MDHS posters. The following notice or an equivalent notice will also be included in future MDHS's posters, and will appear on MDHS's web site:

In accordance with the requirements of title II of the ADA of 1990, MDHS does not discriminate against qualified individuals with disabilities on the basis of disability in MDHS's services, programs, or activities. MDHS provides and pays for appropriate auxiliary aids and services, including qualified interpreters, whenever necessary to ensure effective communication with members of the public, including but not limited to participants at hearings who are deaf or hard of hearing. Mary Hall-Thiam, MDHS's ADA Coordinator, is the employee designated as responsible for coordinating MDHS's efforts to comply with and carry out the provisions of Title II of the ADA. To request appropriate auxiliary aids and services, please contact the Director in your respective local MDHS office. If your Director is unable to assist you, he/she will forward the matter to Ms. Hall-Thiam for final resolution. Ms. Hall-Thiam can be reached at the Office of Equal Opportunity and Diversity Programs, 235 S. Grand Avenue, Suite 1412, Lansing, MI 48909, (517) 373-8520; or call [TTY number (517) 373-8521 or use the Michigan Relay System 1(800)-649-3777].

16. MDHS is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of MDHS believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, MDHS has the burden of proving that compliance with the effective communication requirements would result in such alteration or burdens.

For the Michigan Department of Human Services

For the United States



Marianne Udow

Director

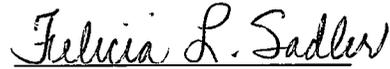
Michigan's Department of Human Services

4-6-06

Date

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