Introduction to American with Disabilities Act (ADA) and Reasonable Accommodations

Hosted by the CalFresh and Nutrition Branch
Tuesday, March 19, 2019
How to Listen In

• This webinar will be held in “listen only” mode.
• There are two ways to connect to audio:
  1. Via phone
  2. Via computer
How to Ask Questions

• On-line
  – Type your questions into the question pane on your control panel anytime during the presentation.

• We will address as many questions as possible.

• We will follow-up on questions that we cannot get to during the live presentation.
Agenda

• Expanding CalFresh to SSI Recipients Refresher
• Guest Speaker: Maureen Keffer, CDSS Civil Rights Unit
  – Learning Objectives
  – Legal Framework
  – Who is Protected?
  – Reasonable Accommodations
  – Effective Communication
• CDSS Readiness Planning
• Resources
• Questions and Answers
Expanding CalFresh to People with SSI

• People receiving Supplemental Security Income and California State Supplementary Payment (SSI/SSP) have been ineligible to receive CalFresh due to the eligibility policy known as “cash-out”.

• Due to a recent policy change, people receiving SSI/SSP will be eligible to apply for CalFresh on or after June 1, 2019.
  – There is NO change or reduction to SSI/SSP amount

• After implementation, SSI/SSP recipients will be considered elderly and/or disabled for the purpose of determining CalFresh eligibility.

For more information on the policy change, visit the Reversing SSI Cash-Out webpage at: http://www.cdss.ca.gov/CalFreshSSI
Learning Objectives
Today’s Learning Objectives

• Understand the requirements for equal access for people with disabilities under the ADA and other disability rights laws;

• Identify what a reasonable accommodation is and how to respond to a reasonable accommodation request;

• Understand the requirements for effective communication with people with disabilities and identify resources provided by CDSS to assist counties in meeting these requirements
Legal Framework
Some Laws Protecting People with Disabilities

• Title II of the Americans with Disabilities Act
  – 28 CFR Part 35: Nondiscrimination on the Basis of Disability in State and Local Government Services

• California Government Code Section 11135
  – Incorporates ADA Title II protections

• CDSS regulations and guidance
  – MPP Division 21
  – Forthcoming ACLs: ADA and Reasonable Accommodations; Best Practices for Disability Access in CalFresh
Who Is Protected?
Disability

- Under the ADA the term “DISABILITY” means:
  - A physical or mental impairment that substantially limits one or more major life activities.
  - Examples:
    - Physical: blindness, low vision, deafness, hearing impairment, cerebral palsy, epilepsy, orthopedic conditions, tuberculosis, cancer, multiple sclerosis, heart disease, HIV
    - Mental: intellectual disabilities, organic brain syndrome, major depressive disorder, bipolar, PTSD, ADD, autism, learning disabilities
Qualified Individual with a Disability

• ADA Title II says that no “qualified individual with a disability” can be denied equal access to programs or services.
  – Qualified individual with a disability = an individual with a disability who, *with or without reasonable accommodations... or the provision of auxiliary aids and services*, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.
Reasonable Accommodations
Reasonable Accommodations Definitions and Examples

• ADA Title II requires reasonable modifications (also known as reasonable accommodations) to policies, practices, and procedures when necessary to provide equal access to people with disabilities.

• Examples of reasonable accommodations
  – Waiver or extension of a deadline
  – Help understanding or completing forms
  – Extra reminders
  – Documents in alternative formats
  – Allowing a family member to help in a telephone interview
  – Assignment of a specific case worker
Reasonable Accommodations Step-by-Step

1. Notice of right to request a reasonable accommodation
2. Qualified individual with a disability
3. Reasonable accommodation request
4. Nexus between the disability and the accommodation
5. Request is reasonable
6. Interactive Process
7. Documentation
1. Notice of right to reasonable accommodations

- All clients, applicants, participants, and other interested persons, must be notified of the right to request reasonable accommodations and protections against discrimination on the basis of disability.
  - Posters in the lobby
  - PUB 13
  - Notice on website
  - Training for staff on verbal notice to clients / offer of extra help
2. Qualified individual with a disability

- Is the person who is asking for or in need of extra help a qualified individual with a disability?
3. Reasonable accommodation request

• HOW?
  – Whenever a person communicates a request to change the rules, policies, practices, or services, or asks for extra help based on a disability
  – Can be written or oral, in person, by email, phone, text, etc.
  – No form required
  – No “magic” words
  – May be requested by a third party on the individual’s behalf
3. Reasonable accommodation request continued

- **WHEN?**
  - **ANYTIME!**
    - During the screening and application process
    - After denial or acceptance of benefits
    - During receipt of benefits, including redetermination
    - At termination of benefits, including during fraud referrals
4. Nexus

- There must be a nexus (an identifiable connection) between the accommodation and the person’s disability.
5. Accommodation is reasonable

- An accommodation requested by a qualified individual with a disability that responds to a disability-related need (NEXUS) may be denied ONLY if:
  - The accommodation would impose an undue financial or administrative burden on the CWD; or
  - The accommodation would fundamentally alter the nature of the program, service, or activity
5. Accommodation is reasonable continued

• What do we mean by undue burden and fundamental alteration?
  – Decision must be made by the head of the CWD or a designee
  – Must consider all resources available for use in the funding and operation of the service, program, or activity
  – Decision must be documented in writing, including a statement of the reasons for denying the accommodation
6. Interactive Process

• If the accommodation as requested is not reasonable to the CWD, the individual and CWD should discuss whether there is an alternative that would effectively address the individual’s disability-related need.

• Document it!
7. Documentation

- All requests must be documented in the individual’s case file. Details include:
  - The fact that the individual has a disability and/or requested an accommodation
  - The accommodation(s) requested; and
  - The accommodation(s) provided, including interactive process negotiations

- Remember, the CWD director must provide a written statement if the accommodation request is unreasonable (undue burden or fundamental alteration), and still must engage in the interactive process until an appropriate accommodation is implemented
Effective Communication
Vision, Hearing, and Speech Disabilities

• Include blindness, low vision, deafness, hearing loss, deaf-blindness, speech disorders

• Must ensure that communication with individuals who have vision, hearing, or speech disabilities is equally effective as communication with people who do not have these disabilities

• Requirement also applies to companions
Auxiliary Aids and Services: Definition

- Items, equipment or services that assist in effective communication between a person who has a hearing, vision or speech disability and a person who does not
Examples of auxiliary aids for vision disabilities:

- Large print
- Braille
- Accessible electronic formats for use with a screen reader
- Audio recording
- Qualified reader
Examples of auxiliary aids for hearing disabilities:
- Qualified sign language, oral, cued-speech, or tactile interpreter;
- Note taker
- Real-time captioning
- Telecommunications devices or systems (e.g. TTY)
- Written materials

Examples of auxiliary aids for speech disabilities:
- Qualified transliterator
- Communication board / pencil and paper / other device and extra time
Auxiliary Aids and Services: Important Reminders

• Cannot charge individuals for auxiliary aids and services
• Cannot require an individual to provide his or her own interpreter
Determining What Auxiliary Aid or Service

• When deciding what auxiliary aid or service to provide, CWDs must consider:
  – how an individual normally communicates
  – nature, length, complexity, and context of the communication

• **Primary consideration** must be given to the individual’s request. This means the individual’s choice of auxiliary aid or service must be granted unless the CWD can demonstrate that:
  – an equally effective means of communication is available; or
  – the individual’s chosen means of communication would result in a fundamental alteration or undue burden
CDSS Readiness Planning

- Accessible Forms
  - Large Print and Digitally Accessible
    - Round 1:
      - CF 285 – CalFresh Application
      - Approval/Denial Notices
      - CW 2200 - Verification Request Form
      - IRT Notice
    - Round 2:
      - SAR 7 – Semi-Annual/Periodic Report
      - SAR 7A – Reporting Instructions
      - CF 37 – CalFresh Application for Recertification

- CalFresh Statewide Info Line
  - Assessing potential to upgrade to include TTY access
Reminders/Take Home

• Beginning June 1, 2019, a large influx of newly eligible SSI/SSP recipients that are elderly, blind or individuals with disabilities, are expected to apply for CalFresh.

• Some SSI/SSP recipients will need a reasonable accommodation in order to participate in CalFresh.

• Understanding requirements under the ADA and the basic principles of providing a reasonable accommodation are essential as all partners plan for implementation of this policy change.

• Email questions to calfreshssi@dss.ca.gov
Resources: ACLs and Civil Rights Coordinators

• Forthcoming ACLs:
  – “Prohibition of Discrimination Against Qualified Individuals with Disabilities in CWD-Administered Programs, Services, and Activities”
  – Specific ACL regarding best practices for disability access in CalFresh

• Your County ADA Coordinator or Civil Rights Coordinator
Resources: Policy Guidance

- Revised Final Title II Rule: A Compilation of Regulatory Provisions and Guidance -- Nondiscrimination on the Basis of Disability in State and Local Government Services
- ADA Title II Technical Assistance Manual, US Department of Justice, Civil Rights Division
- ADA Best Practices Tool Kit for State and Local Governments, US Department of Justice, Civil Rights Division
- ADA Title II Tutorial, ADA National Network
- Effective Communication, US Department of Justice, Civil Rights Division, Disability Rights Section
Resources: All Stakeholder Meetings

All are invited to join. The group meets bi-monthly, in-person and via webinar.

Next Meeting: All Stakeholder #6
May 14, 1:00 to 2:30pm
CDSS Headquarters and Webinar

More info, including meeting materials: http://www.cdss.ca.gov/CalFreshSSI

Email: CalFreshSSI@dss.ca.gov
Policy Webinar Series Wrap-Up

Five Part Policy Webinar Series:

• Policy Overview: Reversing SSI Cash-Out and New State Nutrition Programs
• Policy Refresher: CalFresh Eligibility Rules for Elderly and/or Disabled Individuals
• Policy Refresher: CalFresh Eligibility Rules for Residents of Institutions
• Policy Refresher: CalFresh Rule for Authorized Representatives
• Introduction to ADA and Reasonable Accommodation

All Recordings and Materials Posted to:

http://www.cdss.ca.gov/CalFreshSSI
Coming Soon: 
Guest Speaker Webinar Series

- Serving People of All Sexual Orientations and Gender Identities
- Serving People with Disabilities
- Serving Seniors
- Serving People in Multiple Languages and Welcoming Immigrants
- Serving Diverse Communities and Advancing Racial Equity

Register Now
www.cdss.ca.gov/inforesources/CalFreshSSI/training
Question and Answer