

# Addendum: Delivering Personal Assistance Services in Congregate and Non-Congregate Sheltering

This addendum provides important information to sheltering partners and stakeholders on providing personal assistance services (PAS) in congregate and non-congregate shelters.

## Overview

FEMA offers the following information and promising practices to assist our state, local, tribal and territorial (SLTT) partners, as well as shelter planners and operators, in anticipating and attending to the needs of people with disabilities.<sup>1</sup> Planning and executing clear and decisive actions to provide PAS in congregate and non-congregate shelters immediately following a disaster is an emergency management promising practice. Providing PAS enables children and adults with disabilities to maintain their independence in congregate and non-congregate shelter settings and receive equal access to sheltering services. PAS allows persons wishing to maintain their independence the ability to remain in the general population. Others requiring PAS within congregate and non-congregate shelters may be beneficiaries of these services, such as older adults who may not consider themselves as having a disability or women who are in the late stages of pregnancy.

## Legal Authorities

- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794
- Titles II, III, and V of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-103, 12131-134, 12181-12189, and 12201-12213
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), 42 U.S.C. §§ 3601-19
- Architectural Barriers Act of 1968, 42 U.S.C. §§ 4151-4157
- Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207
- The Homeland Security Act of 2002, 6 U.S.C. §§ 311-321q

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<sup>1</sup> State codes and standards must, at a minimum, meet federal requirements, but can be more comprehensive. The Americans with Disabilities Act and other federal laws, including the Robert T. Stafford Act, the Rehabilitation Act, the Fair Housing Act, and the Architectural Barriers Act, provide affirmative obligations and prohibitions of discrimination on the basis of disability. No state or local government, or its contractors, in providing services may, by law, policy or contract, provide services below those standards without violating federal law. This does not mean that a state or local government cannot enact laws and ordinances or provide services, obligations, and prohibitions that extend beyond these standards to ensure greater access.



## References

- ADA Best Practices Tool Kit for State and Local Governments, Chapter 7, Emergency Management under Title II of the ADA (2007), Addenda 1-3, and the Introduction to Appendices 1 and 2, available at: <https://www.ada.gov/pcatoolkit/toolkitmain.htm>.
- The ADA Title II Technical Assistance Manual (1993) and Supplement (1994), available at: <https://www.ada.gov/taman2.html> and <https://www.ada.gov/taman2up.html>.
- The ADA Title III Technical Assistance Manual (1993) and Supplement (1994), available at: <https://www.ada.gov/taman3.html> and <https://www.ada.gov/taman3up.html>.
- The ADA Title II and III Guidance on the 2010 ADA Standards for Accessible Design, available at: [https://www.ada.gov/regs2010/2010ADASTandards/Guidance\\_2010ADASTandards\\_prt.pdf](https://www.ada.gov/regs2010/2010ADASTandards/Guidance_2010ADASTandards_prt.pdf).
- Appendix 5: Guidance on Providing Personal Assistance Services under FEMA's Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters (2010), available at: [https://www.fema.gov/media-library-data/20130726-1831-25045-7316/fnss\\_guidance.pdf](https://www.fema.gov/media-library-data/20130726-1831-25045-7316/fnss_guidance.pdf).

*Access for, and inclusion of, individuals with disabilities is required.<sup>2</sup> The following information provides emergency managers and shelter planners resources on how to meet these requirements.*

## Personal Assistance Services

PAS are provided to individuals of all ages with physical, sensory, intellectual, learning and/or other disabilities to help with activities of daily living (ADLs), such as grooming, eating, bathing, toileting, dressing and undressing. PAS also includes instrumental activities of daily living, such as taking medication, communicating, and accessing programs and services. Typically, PAS may be provided by home health agencies, independent contractors, Centers for Independent Living (CILs), family members, or friends.

PAS are generally classified into two categories:

- **Informal (paid or unpaid) services:** provided by family members, friends and neighbors
- **Formal services:** paid either directly out-of-pocket or by public payers, such as non-government organizations, public or private insurance, community resources or other providers

PAS are provided at two distinct levels of care:

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<sup>2</sup> Generally ensuring equal access to sheltering for people with disabilities is required under federal civil rights laws, but which law applies depends on the specific circumstances of the shelter.



- Tasks related to ADLs may be administered by in-home care providers including the following:
  - **Grooming:** brushing teeth, combing hair and/or trimming nails
  - **Eating:** assistance with feeding and drinking
  - **Bathing:** bed bath or full body bath, as needed
  - **Toileting:** assisting with bedpan, urinal, or toilet; personal cleaning after voiding; monitoring of urine and stool
  - **Dressing and undressing:** to extent needed in order to maintain health and dignity
  - **Walking:** stability, rising, sitting and way finding
  - **Transferring:** to and from a wheelchair, bed, toilet or other required movement
  - **Maintaining health and safety:** adult supervision (includes persons with dementia, and other cognitive and/or mental health disabilities), proper hygiene, may need to assist with maintaining body temperature, ensure surroundings are safe from trip hazards and other safety measures as required
- Higher level of PAS care administered by home health aides, when allowed by the state, tribe or territory and with the proper training and certification, may include the following tasks:
  - **Skin care:** changing of dressings (to include wound cleaning as permitted by the state)
  - **Catheterization:** changing of apparatus
  - **Colostomy care:** changing of apparatus
  - **Administering medications:** including injections where permitted by the state, tribe or territory
  - **Respiratory Care:** assistance with respiratory function, to include mechanical ventilation as permitted by the state

## Personal Assistance Services Provider and Survivor Protection

The concerns and safety of the survivor requiring PAS, their families, and the PAS provider must be in the forefront of pre-disaster planning efforts. Especially during a pandemic, it is imperative that proper personal protective equipment is provided.

Emergency managers, shelter planners and disability organizations must work together to ensure the availability of proper personal protective equipment and other supplies, such as\*:

- Face masks
- Medical gowns
- Hand sanitizer
- Goggles (eye protection)



- Gloves

\*Note: if the person receiving personal assistance services is known or suspected to have COVID-19 or influenza-like illness (ILI), then additional PPE (e.g. a respirator) may be necessary. Consult the CDC's guidance on [Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#).

## Planning for Personal Assistance Services Prior to a Disaster

As an emergency preparedness measure within shelter planning, SLTTs should conduct research during steady state to determine if there are home healthcare companies that can be contracted to provide prompt PAS in congregate and non-congregate shelters. Possible sources may include local home healthcare companies that are licensed in the state or jurisdiction, or small businesses and other organizations capable of assembling teams of providers as needed. Shelter planners may also engage community-based organizations that specialize in advocacy on behalf of, or that provide support services to, individuals with disabilities to identify potential PAS providers. FEMA's Regional Disability Integration Specialists are available within each of the ten regions and are a valuable resource for states, tribes, and territories in locating and engaging with PAS providers. In disaster environments, SLTTs may need to bring in contracted PAS providers from outside of the affected jurisdiction. For assistance from other states or jurisdictions, licensing concerns, such as waiver or reciprocity, is an issue the SLTT must address. Doing so allows for the use of licensed providers from other jurisdictions during sheltering operations.

It is important to use the most readily available resources to prevent health decline of a survivor receiving PAS and preserve the ability to maintain their independence. CILs are a valuable resource found throughout the states and territories. Many CILs provide PAS and/or are aware of other community-based PAS providers. CILs and other local stakeholders are good resources for planning in advance of a disaster but, without prior coordination, may not be able to provide the immediate assistance required. In addition, it is important to prepare for continuity in service-provision prior to a disaster to avoid unnecessary or unjustified institutionalization of people with disabilities, potentially violating state obligations under the Americans with Disabilities Act. SLTT partners should recall their obligations under *Olmstead v. L.C.* and ensure that individuals with disabilities are not unnecessarily placed in nursing homes, intermediate care facilities for individuals with intellectual disabilities (ICF-IIDs) and other institutional settings in order to provide service-provision during or after a disaster, but should instead prepare for maintaining community-based residence during and after the emergency.

## Promising Practice

Due to flooding in Baton Rouge in 2016, several people, including individuals with disabilities who needed PAS, evacuated their homes and went to emergency shelters. The New Horizons Independent Living Center, a CIL out of northern Louisiana, provided PAS within the shelters. They



connected with the Louisiana Department of Children and Family Services, the ESF 6<sup>3</sup> partner of Governor's Office of Homeland Security & Emergency Preparedness, to provide required PAS and fulfill its obligations under the law. Services and facility access for providers were conducted seamlessly, with their contractors presenting proper identification badges and checking into the shelters where their clients were staying. There were no issues reported and services continued until the clients were able to return home or to suitable housing.

## **American Red Cross Personal Assistance Services Capabilities**

American Red Cross provides licensed health care professionals to support clients in shelters. When the need exceeds the capacity of those licensed professionals, American Red Cross may engage PAS contractors.

## **FEMA's Personal Assistance Services Capabilities**

If a state, tribe, or territory has a declared emergency or major disaster and requests assistance from FEMA, FEMA may provide federal assistance through a grant or contract when the state, tribe, or territory shows that providing PAS is beyond the capabilities of the SLTT. Such assistance requires a cost share between FEMA<sup>4</sup> and the state, tribe or territory, regardless of whether it is a grant or contractual assistance. A grant is available when a SLTT can perform the work, and contractual assistance is used when it cannot. Public Assistance (PA) reimbursement through a federal grant is discussed below in detail. With regard to contractual assistance, FEMA determines the contract vehicle to provide PAS using factors such as the scale of service required and the immediacy of the service. For large scale requirements, FEMA maintains the Individual Assistance Support Contract, which can provide sizeable numbers of personnel. This contract is for use only after the state, local, tribal or territorial government depletes its resources. PAS staff available through this contract include personnel for providing services related to ADLs, for basic-level care and for high-level care, as well as supervisory personnel. The time needed for contractor staff to begin working in shelters can vary based on disaster-specific circumstances and can be more accurately estimated when a task order is issued. For smaller scale requirements, FEMA can procure a standalone contract for PAS, usually based in the Region the disaster occurred.

Per DHS and FEMA security regulations, all PAS personnel working to assist disaster survivors under a FEMA contract must have a favorably adjudicated background investigation and be issued a personal identity verification card. The PAS contractor(s) will be able to provide assistance to individuals with disabilities to maintain their independence during their stay in a congregate or non-congregate shelter environment.

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<sup>3</sup> ESF 6 is Emergency Support Function 6, which includes Mass Care, Emergency Assistance, Housing, and Human Services functions.

<sup>4</sup> A FEMA cost share is considered a form of federal financial assistance, which triggers non-discrimination obligations under Section 308 of the Stafford Act, 44 U.S.C. § 5151, and other applicable federal civil rights laws.



## Public Assistance Reimbursement

### Eligibility

A state, tribe, or territory with an approved disaster declaration authorizing PA Category B emergency protective measures may be eligible for reimbursement of PAS. An applicant, typically a SLTT government or its contractors, becomes a subrecipient to the state, tribe or territory recipient upon FEMA's approval of funding.

Category B emergency protective measures include sheltering services:

- Example: On June 17, 2020, FEMA Policy 104-009-18, FEMA Emergency Non-Congregate Sheltering during the COVID-19 Public Health Emergency (Interim), was published<sup>5</sup>. The policy provides eligibility requirements for non-congregate sheltering and waives the preapproval requirement for non-congregate sheltering through December 31, 2020. Also, the policy added new work items that may be eligible due to the COVID-19 pandemic, such as cleaning/sanitation supplies.
- Note: A pre-drafted, formalized agreement between the state, tribe, or territory and the PAS vendor(s) will help facilitate PA reimbursement. Upon request, FEMA will provide technical assistance in developing this agreement.
- To be considered eligible, the item of work must be the legal responsibility of the eligible applicant. Generally speaking, measures to protect public health, life, and safety are the legal responsibility of the SLTT.
- The legally responsible SLTT can either conduct the work themselves or they can enter into formal agreements or contracts with private or nonprofit organizations to conduct the work on their behalf.

### Private Nonprofit Reimbursement

As noted above, to be eligible for PA funding, an item of work must be the legal responsibility of an eligible applicant.<sup>6</sup> Measures to protect life, public health, and safety are generally the responsibility of SLTT governments. However, in some cases, the government entity may enter into formal agreements with private entities, including, private non-profit (PNP) organizations, to conduct sheltering activities when necessary as an emergency protective measure in response to a declared incident. In these cases, PA funding is provided to the legally responsible government entity, which then reimburses the private organization for the cost of providing those services under the agreement or contract. FEMA will not supply the reimbursement directly to the PNP contracted by the SLTT government. PNP PAS providers should work with their eligible SLTT emergency management offices to coordinate the reimbursement with the appropriate legally responsible authorities.

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<sup>5</sup> FEMA Policy 104-009-18 was updated and reissued as FEMA Emergency Non-Congregate Sheltering during the COVID-19 Public Health Emergency, Version 2 (Interim) on August 29, 2020.

<sup>6</sup> 44 CFR §206.223.



## How States/Tribes/Territories Request Reimbursement

PAS are eligible services for congregate and non-congregate sheltering<sup>7</sup>. Some of the covered items include care for survivors with disabilities or others with access and functional needs, including the provision of the following: grooming, eating, walking, toileting, bathing, dressing and undressing, transferring, maintaining health and safety, assistance with administering medication, and communicating/accessing programs and services.<sup>8</sup> Regarding individual eligibility for PAS, FEMA PA will not question the reason a survivor requires/requests PAS. The applicant, typically a SLTT government and/or its contractors, are responsible for implementing program access and establishing eligibility requirements.

The eligible costs will be reimbursed through the state, tribe or territory government grant recipient. An applicant for PA assistance must submit, and have approved, a Request for Public Assistance (RPA). Once FEMA approves funding for an applicant, the applicant becomes a subrecipient to the state, tribe or territory recipient. The PA reimbursement process includes:

- an applicant briefing
- an exploratory call
- a recovery scoping meeting in which the subrecipient identifies the eligible work for reimbursement
- entering information into the FEMA Grants Portal
- validating costs/project development
- compliance review
- obligation of project

The project is later reviewed, and if approved, it is signed by FEMA, the recipient and the subrecipient. The funds are obligated to the recipient, not the subrecipient. The recipient is responsible for distributing funding to the subrecipient. Each recipient has their own process on how they award funds to a subrecipient. Most require the subrecipient to complete the work and to request reimbursement; then during the closeout process, the recipient validates invoices and timeframes before awarding the funds to the subrecipient. When evaluating costs for reimbursement, PA evaluates whether the costs are deemed reasonable and necessary to provide the eligible work under 2 C.F.R. § 200.403 and the Public Assistance Program and Policy Guide (PAPPG). More examples of eligible services can be found in the [PAPPG](#).<sup>9</sup>

## Establishing Relationships with Community-Based Organizations

Long before an emergency or disaster occurs, SLTT emergency managers and shelter planners must work closely with individuals in the community who require PAS to understand their perspective on

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<sup>7</sup> PAPPG V42020, Page 121

<sup>8</sup> Chapter 7.II.O.2.d on page 121 of PAPPG, version 4

<sup>9</sup> PAPPG V42020, Pages 45-46



the proper care needed. To ensure individuals with disabilities maintain their independence and are not placed into institutional settings during an emergency, emergency managers and shelter planners are responsible for establishing relationships with community-based organizations (CBOs) who routinely advise on or deliver PAS to children and adults with disabilities. Provided below is a list of recommended CBOs providing or advising on PAS<sup>10</sup>:

- [Centers for Independent Living](#)<sup>11</sup>
- Home health agencies
- Respite providers
- Mental health organizations
- Developmental disability organizations
- Aging organizations, such as Area [Agencies on Aging](#)
- Advocacy groups
- Protection and advocacy agencies
- Medical or Vocational service agencies
- Faith-based organizations, local houses of worship, and voluntary agencies
- American Red Cross chapters

## Hotlines and Resources for Individuals Requiring Personal Assistance Services

Hotlines are essential lifelines for people requiring emergency or ongoing PAS. SLTT emergency managers and shelter planners should be prepared to provide information on hotlines and other community resources upon request. A selection of valuable hotlines is provided below:

- [The Partnership's for Inclusive Disaster Strategies' Disaster Hotline](#): provides information, referrals, guidance, technical assistance and resources to people with disabilities, their families, allies, organizations assisting disaster-impacted individuals with disabilities and others seeking assistance with immediate and urgent disaster-related needs. The Disaster Hotline is always available for intake calls, 24 hours a day, 7 days a week, 365 days a year.
  - Call 1-800-626-4959 or email [info@disasterstrategies.org](mailto:info@disasterstrategies.org)
- [Disaster Distress Helpline](#): The U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) manages the Disaster Distress Helpline which provides 24 hours a day, 7 days a week, 365 days a year crisis counseling

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<sup>10</sup> FEMA does not endorse any non-government entities, organizations, or services. The Agency has not independently verified third-party claims.

<sup>11</sup> There are currently 340 centers and 224 satellite offices in the United States and its territories that cover most counties and parishes.





and support to people experiencing emotional distress related to natural or human-caused disasters.

- Call 1-800-985-5990 or text “TalkWithUs” to 66746
- Deaf/Hard of Hearing: Text “TalkWithUs” to 66746, TTY 1-800-846-8517, or use your preferred relay service to call the Disaster Distress Helpline at 1-800-985-5990
- Spanish Speakers: Call 1-800-985-5990 and press “2”, within the 50 states, text “Hablanos” to 66746, from Puerto Rico, text “Hablanos” to 1-787-339-2663
- [Lines for Life Military Helpline](#): The Military Helpline operates 24 hours a day, 7 days a week, 365 days a year and gives free, confidential support to service members, veterans and their families. Calls are answered by veterans and others trained in military culture who offer compassionate, non-judgmental support and, where appropriate, connect people with the referrals, resources, or treatment they need through tough times.
  - Call 1-888-457-4838 or text “MIL1” to 839863
- For individuals that participate in the Medicaid program, there may be additional resources available. Although this document is not a description of Medicaid-funded personal care services, interested parties may visit their state’s Medicaid agency website to determine service availability. Contact information for state Medicaid agencies is available at <https://medicaiddirectors.org/about/medicaid-directors/>.

## Civil Rights Complaints Regarding Personal Assistance Services

FEMA Office of Equal Rights (OER) receives and investigates allegations of [civil rights violations](#), including those related to PAS, in connection with FEMA or FEMA-funded programs and activities. Members of the public may contact OER as follows:

- Call the FEMA Office of Equal Rights at 833-285-7448; or for TTY users, call 1-800-462-7585
- Email the FEMA Office of Equal Rights: [FEMA-CivilRightsOffice@fema.dhs.gov](mailto:FEMA-CivilRightsOffice@fema.dhs.gov)
- Mail a complaint to the FEMA Office of Equal Rights:  
FEMA Office of Equal Rights  
C Street, SW, Room 4SW-0915  
Washington, DC 20472-3505

Members of the public may also file civil rights complaints with the Department of Homeland Security, Office for Civil Rights and Civil Liberties. For more information, please visit this site: <https://www.dhs.gov/file-civil-rights-complaint>.

