Personal Assistance Services
Guidance on Providing PAS in Congregate and Non-congregate Shelters
July 2021
Emergency Management Considerations for Providing Personal Assistance Services

FEMA Individual Assistance
What are Personal Assistance Services?

- Personal Assistance Services (PAS) are a:
  - “Range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability.” 29 USCS § 705(28)
- PAS may be provided by home health agencies, independent contractors, Centers for Independent Living (CILs), family members, or friends.
- PAS categories: Informal versus formal services
Who requires PAS?

- PAS are provided to individuals of all ages with physical, sensory, intellectual, learning and/or other disabilities to help with activities of daily living.

- 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.
Primary Responsibility for Planning and Providing PAS

- The state, local, tribal, and territorial (SLTT) governments have the primary responsibility for ensuring the availability of PAS in disaster shelters.
  - Often, shelter operators at the local level are instrumental in planning for PAS prior to the onset of shelter operations.
What are the impacts of NOT providing PAS in disaster response shelters?

- Individuals with disabilities may face:
  - Loss of independence
  - Inequitable access to disaster response sheltering services
  - Unjustified institutionalization
  - Separation from family and/or support system
During pandemics, such as COVID-19, the risks are even higher

- On July 26, 2020, U.S. Assistant Secretary for Health and Human Services Admiral Brett Giroir, a member of the White House Coronavirus Task Force, stated “We are point-of-care testing in nursing homes or prioritizing all nursing homes, because that's where 50 percent of the mortality is.”

- Too often, in the wake of a disaster, persons seeking shelter who require PAS are transferred to long-term care facilities because PAS was not available.

- The goal of emergency managers and disaster shelter planners must be to provide equitable services that keep people living in their communities, in the general population.
What support can FEMA provide?

**May provide:**

- Federal assistance through a grant or contract when an SLTT demonstrates that providing PAS is beyond their resource capabilities. Cost share required.
- Contracted support, via contracting offices at the incident level or FEMA Individual Assistance Support Contract (IASC) for large scale incidents.
- Technical assistance and guidance materials (e.g., PAS Addendum)

**Please note:**

- The IASC is only available after the SLTT government depletes its resources
- 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.
What is the SLTT’s role?

- Prepare for continuity in service-provision **prior to a disaster** to avoid unnecessary or unjustified institutionalization of people with disabilities.

- Obligations under *Olmstead v. L.C.*
  - Ruled that the "integration mandate" of Title II of the Americans with Disabilities Act requires public agencies to provide services "in the most integrated setting appropriate to the needs of qualified individuals with disabilities."
  - People with disabilities have a qualified right to receive state funded supports and services in the community rather than institutions.
How can SLTT’s meet this requirement?

- Work closely with individuals who require PAS to understand proper care needs
- Identify and contract with potential PAS providers in advance of disaster responses to ensure continuity of services:
  - 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
  - Engage community-based organizations specializing in advocacy on behalf of, or that provide support services to, individuals with disabilities
The Role of FEMA Public Assistance in PAS

FEMA Public Assistance
Where is Public Assistance policy related to PAS found?

- The Public Assistance Program and Policy Guide (PAPPG), version 4 combines the majority of Public Assistance policies into a single volume and provides an overview of the Public Assistance (PA) Program implementation process.
- PAPPG includes information for relevant eligible activities related to eligibility of PAS.
- PAPPG also includes information regarding eligibility for Private Nonprofit (PNP) organizations.
- PAPPG Version 4
How Public Assistance Supports PAS

- FEMA PA Policy facilitates reimbursement to State/Local/Tribal/Territorial (SLTT) jurisdictions for the provision of emergency protective measures (e.g., PAS).

- This is managed through the routine PA Grant process working with the SLTTs as the “the authority rests with a state or a local or tribal jurisdiction that has the authority or the legal responsibility to provide emergency shelter and other assistance to a population.”
How Public Assistance Supports PAS (continued)

- Private Nonprofit (PNP) organizations are often the PAS providers. To seek reimbursement, PNPs would need to have agreements or contracts in place with SLTT jurisdictions in order to be compensated for provision of PAS specific to a Stafford Act declared incident.

- Support for disability access and PAS requirements may be found in the PAPPG (version 4, effective June 1, 2020).
A closer look at how PA policy relates to accessible facilities and PAS

- Funding for PAS is described in FEMA PA Policy as *emergency work* and specifically an *emergency protective measure*.
- SLTT jurisdictions may implement measures to ensure sheltering (both congregate and non-congregate) are provided in facilities accessible for people with disabilities and to meet the needs of those same people while in a shelter.
A closer look at how PA policy relates to accessible facilities and PAS (continued)

- Such measures might include:
  - Eligible costs related to sheltering include Minor facility modifications, if necessary, to make the facility habitable, compliant with the Americans with Disabilities Act (ADA) - see PAPPG page 120
  - Provide funding that supports an SLTT to enter agreements or contract shelter staff, such as Personal Assistance Service workers (may include Certified Nursing Assistants (CNAs) or equivalent), prior to disasters that can be readily available to deploy to provide personal care to individuals with disabilities in shelters. - PAPPG page 121
Emergency Protective Measures Conducted by Private Nonprofit Organizations

- Emergency services are usually the responsibility of SLTT governments. Therefore, PNPs are generally not legally responsible for those services and FEMA does not provide PA funding to PNPs for the costs associated with providing those services.
When a PNP provides emergency services **at the request of, and under a contract to or agreement with the legally responsible government entity**, FEMA provides PA funding through that government entity as the eligible Applicant. These services may include the modifications and provision of PAS already mentioned. *PAPPG, version 4, Page 112*
Minimum Emergency Work Eligibility Criteria

- At a minimum, work must meet each of the following three general criteria to be eligible:
  - Be required as a result of the declared incident;
  - Be located within the designated area; and
  - Be the legal responsibility of an eligible Applicant.

_PAPPG, version 4, page 51_
PNPs: Interested in Becoming a PAS Provider or PA Eligible Facility?

- PNPs may pursue the opportunity to be PAS provider or to have their damaged facilities considered eligible for PA during declared incidents (or ideally before an incident).
- Contact the state emergency management agency to obtain information about PAS service provision or attending an Applicant Briefing – meetings run by the State to provide information about the application process and potential assistance.
- Applicants for FEMA PA must submit a Request for Public Assistance (RPA) through:
  - The relevant SLTT jurisdiction as the PA grant recipient for emergency work
PNPs: Interested in Becoming a PAS Provider or PA Eligible Facility?
(continued)

- If SLTT or PNP staff have questions regarding FEMA PA eligibility:
  - First, refer to the State PA Officer
  - If the State PA Officer is unable to assist, refer to the relevant FEMA Region, Recovery Division, PA Branch
    - A listing of the 10 FEMA Regions, including a contact phone number, can be found at: https://www.fema.gov/about-agency
Other Critical Considerations

- SLTTs and PNPs should explore other federal agency funding to support people with disabilities while residing in a shelter environment.

- Please be diligent regarding documentation: Any entity providing services under agreement or contract to an SLTT jurisdictions should maintain fulsome documentation of the activities and costs incurred in meeting the requirement(s) in the agreement/contract.

- Working with SLTT jurisdictions to plan for implementation of PAS with local resources should be a propriety to avoid delays in looking to federal level contracted resources to meet this vital need.
Where can I learn more about the PA process?

- PA in collaboration with EMI released a series of Independent Study courses early in 2019 a good general list of courses may be located at: https://training.fema.gov/is/searchis.aspx?search=public%20assistance

- Courses identified as areas of awareness for USDA staff:
  - IS1000: Public Assistance Program and Eligibility
  - ID1010: Emergency Protective Measures
  - IS1020: Public Assistance Donated Resources
  - IS1026: Eligibility of Private Nonprofit Organizations
Question & Answer
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Thank you for your participation!