

denial of access to interpreters, the clients allege that they were forced to communicate in writing and thus could not adequately participate in agency activity due to their inability to understand and comprehend written English. Important rights regarding outstanding issues may have been lost due to this SSA failure to provide programmatic access.

The Complaint rests its legal basis on SSA's own rules and policies. The federal regulations at 45 C.F.R. §§85 and 85.3, continue to be listed under the Department of Health and Human Services but are specifically applied, by their own terms, to SSA. These regulations require that SSA operate all of its programs and activities to ensure nondiscrimination against "qualified individuals with handicaps". It sets forth standards for what constitutes discrimination on the basis of mental or physical disability, provides a definition of "individual with handicaps" and "qualified individual with handicaps", and establishes a complaint mechanism for resolving allegations of discrimination. These regulations are issued under the authority of section 504 of the Rehabilitation Act of 1973.

As indicated earlier, SSA's own POMS provides direct support for the Complaint. SSA policy, as set forth at GN 00203.012, clearly indicates that it is SSA's policy to provide "for the purchase of sign language interpreter services whenever necessary to ensure accurate communication". SSA procedures require the District Office worker to determine the communication method preferred by the consumer. Policy guidance is provided explaining that many deaf or hard of hearing persons prefer sign language and that the purchase of these services is within the District Office authority.

To date, the Complaint remains unanswered despite the PABSS' requests to SSA for status. Nonetheless, the BPA&O and PABSS staffs in Rhode Island continue to see an issue with deaf access by persons who are deaf or hard of hearing to SSA programs. Working together, the BPA&O and PABSS they expect these matters to be favorably resolved.

## Conclusion

The Rhode Island BPA&O and PABSS project have created a unique partnership to address this issue of critical importance to the deaf and hard of hearing community in Rhode Island. The processes developed to insure that this group of clients is able to continue working with both programs, while insuring its access and legal rights are protected, have gone the distance to allow this community to fully participate in the work incentive programs. The partnership has strengthened and the inter-referral processes and collaborative work only enhances all other aspects of these two valuable programs.

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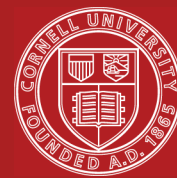
This is one of a series of briefs that been designed to disseminate information pertaining to promising practices within the BPA&O and PABSS network. This publication is neither an endorsement of the practice or statement regarding the mandated work of this network. The thoughts, opinions and practices expressed are those of the authors and do not reflect the viewpoints or official policy positions of either the Social Security Administration or Cornell University.

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Work Incentives Support Center

# Promising Practices

Creating Model Partnerships to Promote Employment of People with Disabilities

## Rhode Island Deafness Access Initiative: A Joint Effort of Rhode Island's PABSS and BPA&O Projects

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## Background

The Rhode Island Benefits Planning Assistance and Outreach (BPA&O) project has identified a pervasive access issue facing the state's deaf and hard of hearing community. In partnership, the Rhode Island Protection and Advocacy for Beneficiaries of Social Security (PABSS) project has taken action to remedy this issue of serious concern for this community. Lack of programmatic access to the disability benefits programs administered by the Social Security Administration (SSA) has created a situation in which legal rights are unintentionally forfeited due to SSA's failure to provide sign language interpreters and a lack of ability of most deaf or hard of hearing recipients to communicate in written English. SSA's failure to provide interpreters is the direct cause of the access issues facing this vulnerable community.

## The Problem

The District Offices of SSA in Rhode Island have not met their obligations under section 504 of the Rehabilitation Act of 1973 to provide accessible services to the State's deaf and hard of hearing community. Section 504 requires that SSA provide interpreter services to members of this community in order to assure equal access to SSA's programs. SSA's Program Operations Manual System (POMS) confirms this obligation in a specific section dealing with interviewing deaf and hearing impaired individuals. (See GN 00203.012).

The failure to provide access to the deaf and hard of hearing community has resulted in a barrier to programmatic access to the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) programs. This community lacks access to program information such as work incentives and appeal rights, making it extremely problematic to address issues concerning the benefits received and current recipient status. Lack of access to work incentive information has created significant barriers for those attempting, or contemplating, a return to work.

American Sign Language (ASL) is not simply the English language communicated through established gestures. ASL differs from the English language in that it shares few grammatical similarities with English language and it does not have a written form. Thus the use of English as a method of communication completely fails to meet the communication needs of the deaf or hard of hearing consumer. This language issue also creates significant problems with written notices sent by SSA. As written English and ASL are two distinct languages, written English is no more understandable to a deaf or hard of hearing consumer than the "signs" are to a hearing person. Attempting to communicate with a deaf or hard of hearing consumer through written English completely blocks access to information concerning consumer rights and programmatic information because the deaf or hard of hearing consumer, unless she has

been trained to read English, may not be able to make sense out of the written message.

Deaf consumers have reported that when they visit the local SSA offices to transact business, there is no sign language interpreter available. When they request an interpreter, the SSA representatives insist instead in communicating with them in written English. These consumers also report that TTY access to local SSA office and the "800" number is sporadic at best, TTY calls often are not answered, and when messages are left, there are almost never any return calls.

## BPA&O Discovers Repeating Pattern of Access Issues

The Benefits Specialists are responsible for reaching out to all recipient communities. In September of 2004, representatives from the Rhode Island Office of Rehabilitation Services and the BPA&O project noted that deaf and hard of hearing individuals were not utilizing benefits counseling services. A task group was created to address this situation. The group developed a strategy for ensuring access to benefits planning services. The strategy included outreach to community groups and aggressive referrals of individuals to benefits planners by vocational rehabilitation workers. In preparation for this work, benefits planners received training in using a TTY, placing calls through the Rhode Island Relay and effectively utilizing sign language interpreters.

When working with the deaf and hard of hearing community of this small state, Benefits Specialists repeatedly experienced a lack of understanding on the part of benefits recipients as to their rights and responsibilities under the SSA benefits and work incentive programs. The consistent theme that came through was SSA's failure to provide qualified interpreters to assist this specific group. District Office employees most often required deaf consumers to communicate through note writing.

## PABSS Steps to Resolve the Access Problem

The BPA&O program began referring deaf and hard of hearing individuals having issues with SSA to the PABSS program. By working closely together during their respective grant periods, the PABSS have educated BPA&O staff to recognize important legal issues facing SSDI and SSI recipients in Rhode Island and, importantly, when such issues should be referred for legal consultation. Regular meetings between the two organizations continue to reinforce information and keep all participants current. The PABSS staff has also made each client aware that they must continue to work with the BPA&O program in order to receive thorough information concerning their benefits history and current status if they are planning to, or considering to, enter the work force.

To date, the BPA&O project has referred approximately six deaf or hard of hearing individuals to the PABSS staff. Each has been accepted for representation by the PABSS program. Each potential client is scheduled for an interview with a PABSS attorney and a qualified ASL interpreter. BPA&O staff ensures that the client is available at the scheduled time and provides copies of information collected during the benefits planning process after securing proper releases of information.

The length of time necessary for a thorough and complete interview with a client through a sign language interpreter requires that the initial appointment be scheduled for a period of two hours. These interviews generally take longer than those involving hearing individuals for several reasons. The advocate must solicit much more factual information about the client's attempts at dealing directly with SSA. The advocate also will provide more programmatic explanation about the presenting issues, and the status of those issues, to the client. In addition, the numerous difficulties a deaf or hard of hearing individual has experienced each time she has dealt with SSA may result in the client's having difficulty in articulating to the advocate what the exact nature of the social security problem is. The advocate's having to explain

the client's need to sign authorizations to SSA and to other relevant entities such as current and former employers and explaining what PABSS will do for the client also takes time. The Rhode Island PABSS have also invited, with the client's permission, the BPA&O staff member who worked with the client to attend the initial interview so that the advocate can gather as much information as possible and explain the client's rights based on the information available.

After completing the intake process, a PABSS staff member begins to collect information concerning the individual's social security file. Contact with the Area Work Incentive Coordinator (AWIC) will secure information directly from SSA's computer system concerning the current status of the claim or benefits. A letter soliciting information and copies of relevant documents is sent to the District Office handling the individual's social security claim. The advocate also requests to schedule a file review. Once all relevant and necessary SSA information is in hand, a second meeting with the client, a PABSS staff member and an interpreter is scheduled. Follow up meetings are then scheduled as necessary.

Throughout this process both the PABSS and BPA&O staff members remain in constant contact with the client and are working in concert to secure needed information and documents.

## The Complaint filed by PABSS

On July 28, 2005, after accepting the cases of six deaf social security recipients, the PABSS project filed a Complaint with SSA's Office of General Counsel in Baltimore, MD. The Complaint alleges discrimination by the agency on the basis of disability in violation of the applicable law, regulations and SSA policy. The clients allege that they were denied the use of sign language interpreters even though interpreter services were requested in order to allow them to transact business with the SSA District Office. While aiming allegations at one particular Claims Representative, the Complaint notes a consistent pattern of denials of interpreters by SSA staff extending back several years. As a result of the