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ATTORNEY GENERAL GUIDANCE:
RIGHTS OF DISABLED PERSONS TO ACCOMMODATIONS DURING COVID-19 CRISIS

The COVID-19 pandemic has created unique challenges for people with disabilities. Some disabilities increase the risk of infection and severity of illness. Additionally, measures taken to prevent the disease from spreading have created new barriers for people with disabilities to access needed goods and services.

This guidance provides some examples of how our civil rights laws protect the rights of people with disabilities in the context of COVID-19.

REASONABLE ACCOMMODATIONS

People with disabilities may require additional assistance and safeguards to work, live, and access critical resources safely during the COVID-19 public health crisis. Individuals with underlying conditions who believe they need additional protection can seek “reasonable accommodations” in employment, housing, and places of public accommodation. See M.G.L. ch.151B, § 4; M.G.L. ch. 272, § 98; 42 U.S.C. § 12101, et seq. Broadly, a reasonable accommodation is a change to a physical space, policy, rule, or process that permits a disabled person equal access and enjoyment of her rights.

QUESTIONS AND ANSWERS

1. *I work for an essential service and I’m expected to report for work, but I have an underlying condition that makes me vulnerable to COVID-19. What should I do?*

Workplaces that remain open should minimize the possibility of infection of their employees and customers, including by permitting workers to work from home where possible. If you have an underlying condition that places you in a high-risk category, you can request telework as a reasonable accommodation. If your particular job is not conducive to telework, and there is some other job you could do for your employer by telework, you can request a change in job responsibilities. Employers should grant such telework requests where it is reasonably possible to do so. If telework is not reasonably possible, you can request other accommodations to help reduce your risk. For example, if you work in a grocery store, you can request work with less customer interaction or a change in shift to reduce your exposure. The law requires employers to work with you and make good faith efforts to come up with a reasonable accommodation that can alleviate or at least mitigate the risk of infection.

2. *I live in a housing complex that has instituted a policy barring all visitors. The property manager has been enforcing this policy, turning people away. I have a personal care attendant (PCA) and am worried he will be turned away. What are my rights?*

PCAs, caregivers, and medical professionals must be permitted access to those in their care. If you are concerned that your landlord might attempt to prohibit your caregiver from visiting you, you can request, as an accommodation, an exception to any policy barring visitors. Landlords must generally grant such requests pursuant to both state and federal law and applicable guidance. Where appropriate, you should consult with your PCA, caregiver, or medical professional about any services that might be provided by telemedicine, so as to limit the in-person visits and contact for your safety and the safety of others. However, this is your decision, and cannot be made for you by your landlord.

3. *If I need to be hospitalized for COVID or some other reason, will my PCA, caregiver, or family member be able to accompany/visit me?*

Hospitals are generally not permitting any visitors at this time in order to protect against COVID-19 exposure. As a person with a disability, you can request an exception to this policy for your PCA, caregiver, or family member if it will be difficult for you to get the care you need without their presence. Hospitals should consider these requests, and grant them where necessary to the provision of equal care to the disabled person, and where the additional risk does not create an undue burden. If your PCA, caregiver, or family member can provide you the assistance you need remotely, hospital staff should work with you to make this possible.

4. *Some essential businesses have changed their business models in ways that make it harder for me, as a person with a disability, to access needed goods or services. What can I do?*

Massachusetts law requires that places of public accommodation – such as restaurants, grocery stores, pharmacies, healthcare facilities – do not discriminate based on a person’s disability. Businesses that are open to the public must make efforts to address issues of accessibility so that people with disabilities are not excluded. For example, goods or services that permit “drive-up” or “curbside” pick up should permit customers to arrive on foot, in a wheelchair, or otherwise without a car. If a disability or underlying condition prevents you from accessing a business, you should contact that business and request an alternative accommodation. Businesses should consider such requests and grant them wherever practicable.

If you have questions or need further assistance with a request for accommodation, you may contact the Civil Rights Division of the Office of the Attorney General at (617) 963-2917 or <http://www.mass.gov/ago/civilrights>.

Dated: April 27, 2020