

**NATIONAL CENTER FOR LAW  
AND ECONOMIC JUSTICE**

275 Seventh Avenue, Suite 1506  
New York, N.Y. 10001-6708  
(212) 633-6967 – (212) 633-6371 (fax)  
lacheen@nclej.org – [www.nclej.org](http://www.nclej.org)

June 22, 2010

Marilyn Tavenner, Administrator  
Center for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Carmen Nazario  
Assistant Secretary for Children and Families  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Re: Accessibility and usability of state Medicaid and TANF agency websites

Dear Administrator Tavenner and Assistant Secretary Nazario:

I am writing to inform you about problems with the accessibility and usability of state Medicaid and TANF agency websites for people with disabilities, particularly those with vision and manual impairments. State agency websites have accessibility problems that prevent individuals with disabilities who use assistive technology from applying for benefits online, contacting the agency to request an application or information, using website search functions, and reading web pages. As a result, people with disabilities are being denied an equal opportunity to participate in and benefit from Medicaid and TANF programs, in violation of federal disability rights laws.

I am writing to urge the U.S. Department of Health and Human Services to take steps to address these problems. Specifically, I urge HHS to require states to fix the specific accessibility problems we have identified, issue instructions to states on making Medicaid and TANF agency websites accessible, convene an interagency Work Group to develop materials to assist states in developing and maintaining accessible and usable websites, and provide technical assistance on these issues to states.

## **Introduction**

The National Center for Law and Economic Justice is a national organization that works to ensure that public benefits programs serving low-income individuals are operated fairly and in accordance with law, so that low-income families and individuals can receive the benefits and services to which they are entitled.

Website accessibility problems currently limit access to the Medicaid and cash assistance programs for people with disabilities. These problems must be addressed now. As the federal government and states prepares to implement health care reform, and up to 20 million additional individuals will become eligible for Medicaid coverage, it is more critical than ever that eligible individuals can obtain ready access to information about state Medicaid programs and ready access to the application process.

### **NCLEJ's accessibility and usability research project**

NCLEJ arranged for a team of law students from the Northeastern University School of Law's Legal Skills in a Social Context course to test the accessibility of public benefits agency websites in California, Florida, Michigan, New York, and Texas. These states were selected for several reasons, including the fact that they have large numbers of recipients in the TANF, Medicaid, and SNAP programs. Florida was also included because the State undertook a major modernization initiative that includes a heavy emphasis on the internet as a method of applying for benefits, obtaining information, and checking the status of a case. Similarly, Texas implemented the Integrated Enrollment and Services (TIES) initiative that placed increased emphasis on methods of access and communication other than face-to-face communication with the agency.

In states with more than one agency responsible for the state's TANF, Medicaid, and SNAP programs, the students evaluated the accessibility and usability of all relevant state agency websites. In states with a separate web portal for public benefits, the students tested the accessibility and usability of the portal as well. In California and New York, where benefits are administered by county agencies, the students also evaluated the accessibility and usability of some county public benefits agency websites.

The students used WAVE, a web accessibility evaluation tool developed by WebAIM,<sup>1</sup> to test the accessibility of the websites. They tested accessibility of website home pages, pages with information on benefits programs, applications for benefits, benefits eligibility screening tools, and other pages that individuals would be likely to visit if they need information on public benefits programs and want to apply for benefits. The students consulted with WebAIM staff, as well as an independent consultant on accessible technology. They also visited the state agency

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<sup>1</sup> [www.webaim.org](http://www.webaim.org)

websites with blind and visually impaired individuals who use assistive technology. Testing was conducted in the spring of 2010.

Highlights of the research are summarized below. Enclosed with this letter is NCLEJ's report, *The Closed Digital Door: State Public Benefits Agencies' Failure to Make Websites Accessible to People with Disabilities and Usable for Everyone*, which contains a more extensive discussion of the research findings and of relevant law and policy.

### **Summary of web accessibility problems found**

All of the state public benefits agency websites examined in the study had accessibility problems that make it difficult or impossible for some people with disabilities to do one or more of the following:

- Obtain information on public benefits programs
- Obtain information on program eligibility requirements
- Obtain information on how to apply for benefits
- Apply for benefits online
- Contact the agency for assistance or to request an application

In addition, some of the websites had problems in design, layout, number of steps required to obtain information, or other usability problems that make the websites difficult for anyone to use. Specific problems found include the following:

**1. *Accessibility problems that prevent individuals with disabilities from applying for benefits online.***

- The **Florida** Department of Children and Families online application for Medicaid, cash assistance and SNAP benefits is not accessible to or usable by individuals with vision impairments who use assistive technology. This problem is particularly egregious, as the internet is the primary means provided by the State for applying for benefits, and approximately 90% of the applications submitted in the State are submitted online.

**2. *Accessibility problems that prevent individuals with disabilities from contacting the agency for an application or for information.***

- The **California** Department of Social Services (CDSS) website instructs users to email the agency with comments, suggestions and questions directly through the agency's website, but the email form for contacting the agency is not accessible to

individuals with vision impairments who use assistive technology.

- The **Texas** Health and Human Services Commission (HHSC) website instructs users to email the agency to request an application, but the email form for doing so is not accessible to individuals with vision impairments who use assistive technology.

3. *Accessibility problems that prevent individuals with disabilities from searching the agency's website.*

- The **California** DSS and California Department of Health Care Services (CDHCS) websites are searchable, but visually impaired individuals using assistive technology are unlikely to be able to use them because the search function is not labeled in a way that can be detected by assistive technology.

4. *Formats that are not accessible to individuals who cannot use a mouse.*

- The **California** DSS website home page presents menu choices in a manner that is difficult or impossible for individuals with impaired fine motor control, and those who use a keyboard instead of a mouse to access the web, to use.

5. *Inadequate color contrast that makes it difficult for individuals with low vision to read.*

- The **California** DSS website contains text that is difficult for individuals with low vision to read, because there is insufficient contrast between the text and the background.
- **Michigan** Department of Human Services (MDHS), Michigan Department of Community Health (MDCH), and **New York** State Department of Health websites have similar problems.

6. *Design choices that make it difficult or impossible for individuals using assistive technology to read.*

- The **Michigan** DHS and DCH websites and **New York City** Human Resources Administration website use a three-column layout but do not use headers for the columns, so it is difficult for individuals with vision impairments using assistive technology to read and understand.

7. *Other accessibility problems.*

- The **California, Florida, Michigan, New York,** and **Texas** agency websites had pictures, tables, search boxes, or other elements that could not be interpreted by screen readers and other assistive technology because they were not labeled in a

format that could be read by screen readers and other assistive technology. Although not all of these deficiencies would prevent an individual who uses assistive technology from applying for benefits online or contacting the agency, they make the websites more difficult to use and information more difficult to obtain for individuals with disabilities who use assistive technology.

### **Public benefits agency website usability problems**

The research also found problems with the usability of websites that affect that ability of everyone – including individuals with disabilities and others – to obtain information and apply for benefits online.

#### **1. *Information on the web sites is difficult to find.***

- On the **Texas** HHSC and **New York State** Office of Temporary and Disability Assistance (OTDA) websites, it was not obvious how to find information on the Medicaid program because the word “Medicaid” is not used.
- On the **New York State** OTDA website, users have to select “programs and services” and scroll or tab through nineteen links before arriving at “How to Apply for Services.”
- The **New York State** Department of Health website informs users that individuals can apply for Medicaid by writing, calling, or going to the local department of social services in their county, but the links to these local agencies were rife with problems: some local agencies don’t have websites; links to several local agency websites were broken; some link to the county’s general website, not the local agency website; and others take the user to the wrong page on the local agency website. One local agency website refers users back to the State Department of Health for information on the Medicaid program. Several local websites lack information on how to apply for benefits.
- The **Michigan** DCH website sends users interested in Medicaid to a page with links to information relevant to policymakers and providers, not potential applicants. Additional links take the user to a description of nineteen programs, none of which are called “Medicaid,” and none of which link to an application for Medicaid or information on how to apply for benefits.

#### **2. *Agency web pages are cluttered and confusing.***

In **Michigan**, the MDCH and MDHS website home pages are extremely cluttered, making the websites difficult to navigate. Some of the information on these pages, such as links to Facebook, Twitter, and podcasts, add to the clutter, and are not sufficiently important to put in

the middle of the home page. Generally, there is so much information on the page that finding anything is difficult.

### **State and local agency website problems violate federal disability rights laws, web accessibility guidelines, and state law and policy**

The accessibility problems identified violate the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504), the World Wide Web's Web Content Accessibility Guidelines (WCAG), and state accessible technology laws and policies that incorporate the standards of Section 508 of the Rehabilitation Act. The websites violate the ADA and Section 504 because the web accessibility problems deny individuals with disabilities with an equal opportunity to participate in and benefit from agency programs and services,<sup>2</sup> and are methods of program administration with a discriminatory effect on individuals with disabilities.<sup>3</sup> As the U.S. Department of Justice has noted, even if these agencies make information or opportunities to apply for benefits available to individuals through means other than their websites, individuals with disabilities unable to access an agency's website do not have an equal opportunity to participate and benefit in programs, because these alternatives do not provide the 24-hours-a-day, 7-days-a-week access provided by the internet.<sup>4</sup> Further:

- As federal deadlines for processing Medicaid applications are determined from the date an application is filed with the agency,<sup>5</sup> and benefits are provided back to the date of application,<sup>6</sup> the inability of individuals with disabilities who use assistive technology to apply online could add delay to the receipt of benefits to individuals with disabilities using assistive technology and result in the provision of benefits for a shorter time period.
- For individuals with disabilities that limit the ability to travel to a welfare center (or to a "community partner") to apply for benefits, the internet may be the primary or most effective means of applying for benefits or obtaining information from the agency, and thus the failure to make websites fully accessible may result in a denial of access to programs and benefits.

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<sup>2</sup> 28 C.F.R. § 35.130(b)(1)(ii); 45 C.F.R. § 84.4(b)(1)(ii); 84.52(b)(2).

<sup>3</sup> 28 C.F.R. § 35.130(b)(3)(i); 45 C.F.R. § 84.4(b)(4).

<sup>4</sup> U.S. Department of Justice, *Accessibility of State and Local Government Websites to People with Disabilities*, available at [www.ada.gov/websites2.htm](http://www.ada.gov/websites2.htm).

<sup>5</sup> 42 C.F.R. § 435.911(a)(1).

<sup>6</sup> 42 C.F.R. § 435.911(b).

- In some states, such as Florida, the internet is the primary means provided to apply for benefits. Over 90% of the applications in Florida are submitted online. Thus, lack of accessibility of the online application is a major impediment to accessing benefits.

All of the states included in the research have state laws or policies requiring state agency websites to be accessible to people with disabilities, and track or expressly incorporate Section 508 standards.<sup>7</sup> In Florida, the public benefits agency has its own policy requiring the agency website to be accessible.<sup>8</sup>

## Recommendations

It is evident that states have more work to do to make their websites accessible and usable, and to bring them into compliance with federal disability rights laws. The existence of federal disability rights laws and state laws and policies requiring websites to be accessible does not ensure website accessibility. HHS should:

- Require the states included in NCLEJ's research to address the accessibility problems identified in NCLEJ's report; and
- Issue instructions to state Medicaid and TANF agencies making clear that agency websites must be accessible to and usable by people with disabilities.

Instructing the five states included in our study to fix the problems identified, however, is not sufficient. First, we have no doubt that other states' Medicaid and TANF agency websites have similar problems. Second, it is likely that the problems found are the result, at least in part, of the states' lack of technical expertise, limited resources, and failure to make web accessibility and usability a priority. Given the nature of the problems identified, federal guidance, leadership, and assistance is needed. Therefore, we also recommend that HHS:

- Create an interagency Work Group comprised of accessible technology experts, public benefits agency stakeholders, including organizations representing people with disabilities and public benefits recipients, and others, to develop templates for

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<sup>7</sup> See, Cal. Gov. Code § 11135(d)(2); *State of Florida Accessibility Statement: MyFlorida.com*, available at [www.myflorida.com/myflorida/accessibility.html](http://www.myflorida.com/myflorida/accessibility.html); Michigan Accessibility Policy, available at [www.michigan.gov/0,1607,7-246-45712-2090--,00.html](http://www.michigan.gov/0,1607,7-246-45712-2090--,00.html); New York State Information Technology Policy, *Accessibility of Web-Based Information and Applications* (January 14, 2009); 1 Tex. Admin. Code § 213.10.

<sup>8</sup> Florida Department of Children and Families, CF Operating Procedure No. 50-13, Systems Management: Internet/Intranet Policy, Section 9(m), available at [www.dcf.state.fl.us/publications/policies/050-13.pdf](http://www.dcf.state.fl.us/publications/policies/050-13.pdf).

accessible/usable public benefits agency websites; best practices for accessible/usable website development procurement; sample RFP language; processes necessary to ensure that web accessibility/usability is maintained; protocols for testing web accessibility/usability; and other materials and recommendations to assist states in making their benefits agency websites accessible and usable; and

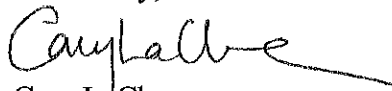
- Develop a mechanism to provide ongoing technical assistance on these issues to state agencies.

I am sending a similar letter with our findings and recommendations to FNS.

### **Conclusion**

I am interested in meeting with you to discuss how HHS intends to address this problem. I look forward to speaking to you about this further.

Sincerely,



Cary LaCheen

cc: Sharon Parrott, Senior Policy Advisor, HHS  
Cindy Mann, Center for Medicare and Medicaid Services, HHS  
Mark Greenberg, Deputy Assistant Secretary for Policy, Administration for Children and Families  
Henry Claypool, HHS Office on Disability  
Georgina Verdugo, Director, HHS Office for Civil Rights  
Claudia Williams, Office of the National Coordinator for Health Information Technology  
Derek Miller, Legislative Director, Office of Senator Tom Harkin  
Denise Forte, Director of Education Policy, House Committee on Education and Labor

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