

## **Chapter 2**

### **FAIR HOUSING AND EQUAL OPPORTUNITY**

#### **INTRODUCTION**

This chapter explains the laws and regulations requiring the MHC to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the MHC's housing choice voucher (HCV) operations.

This chapter describes the legal requirements and MHC policies related to these topics in three parts:

Part I: Nondiscrimination. This part describes the laws and regulations governing the responsibilities of the MHC regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part describes the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part describes the obligations of the MHC to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

### **PART I: NONDISCRIMINATION**

#### **2-I.A. OVERVIEW**

Federal laws require the MHC to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The MHC will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063

- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012

When more than one civil rights law applies to a situation, the laws will be read and applied together.

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

## **2-I.B. NONDISCRIMINATION**

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as the MHC policies, can prohibit discrimination based on other factors.

The MHC shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”). Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The MHC will not discriminate on the basis of marital status, gender identity, or sexual orientation [Federal Register Notice 02/03/12].

### Muskegon Housing Commission Policy

State law prohibits discrimination in housing on the basis of race, color, sex, sexual orientation (including gender identity), physical or mental disability, religion, ancestry or national origin, familial status and receipt of federal, state or local public assistance.

Muskegon Housing Commission does not discriminate on the basis of any of the protected classes identified in Federal and State laws and regulations in the admission or access to or participation, treatment or employment in any of its programs and activities.

The MHC will not use any of these factors to:

- Deny any family the opportunity to apply for housing assistance, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing assistance that is different from that provided to others

- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

#### Muskegon Housing Commission Policy

The Muskegon Housing Commission will not inquire about a person's race, color, religion, sex, sexual orientation, gender identity, marital status, national origin, ancestry, age, physical or mental disability, familial status or receipt of public assistance, unless it is necessary to determine a person's eligibility for a preference or other program benefit for a particular protected class or as may be required by law for data collection purposes provided that the MHC notifies the person of the purpose of the inquiry and that the person's response is voluntary.

#### **Providing Information to Families and Owners**

The MHC must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the MHC must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, disability, sexual orientation, gender identity or marital status in connection with the contract.

#### **Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by the MHC or an owner, the family should advise the MHC. HUD requires the MHC

to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the MHC is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

### Muskegon Housing Commission Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the Muskegon Housing Commission in writing. The Muskegon Housing Commission has designated the Executive Director to be the responsible coordinator of compliance with applicable federal and state nondiscrimination requirements and addressing grievances:

Executive Director  
Muskegon Housing Commission  
1080 Terrace Street  
Muskegon, MI 49442-3346  
Telephone Number: 231-722-2647  
TTD (231) 722-0400 (TTY)

The Muskegon Housing Commission will attempt to remedy discrimination complaints made against it.

The Muskegon Housing Commission will refer the family to outside resources if they feel they have been discriminated against by a landlord.

The Muskegon Housing Commission will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The MHC must ensure that persons with disabilities have full access to the MHC's programs and services. This responsibility begins with the first contact by of an interested family and continues through every aspect of the program.

### Muskegon Housing Commission Policy

The Muskegon Housing Commission will inform all applicants and participants of their right to request an accommodation if they require one, in writing, on the intake application, reexamination documents, and notices of adverse action by the MHC, by including the following language:

“Persons with disabilities who require reasonable accommodation may call the Muskegon Housing Commission to make special arrangements – (231) 722-2647.”

The MHC will display posters and other housing information and signage in locations throughout the MHC’s office in such a manner as to be easily readable from a wheelchair.

## **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

A person with a disability may require certain types of accommodations in order to have equal access to the HCV program.

A reasonable accommodation is a change, exception or adjustment to a rule, policy, practice, procedure or service that may be necessary for a person with a disability to have an equal opportunity to participate in a program or to use or enjoy housing. There must be an identifiable relationship, or nexus, between the person’s disability and the need for the requested accommodation.

The MHC can deny the requested accommodation if it would impose an "undue financial and administrative burden" for the MHC or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

### **Types of Reasonable Accommodations**

When needed, the MHC will modify its policies and procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the MHC range) if the MHC determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with MHC staff
- Approving a live-in aide that is necessary for the care and well-being of a person with a disability
- Allowing an additional bedroom (e.g. to accommodate medical equipment or a live-in aide)
- Rent from a relative

- Port a voucher to live near necessary services or a caregiver
- Extend or reinstate a voucher
- Waive a stated deadline to provide information, make a request or a file an appeal of a decision regarding housing assistance

## **2-II.C. REQUEST FOR AN ACCOMMODATION**

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the MHC treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The person with a disability does not have to be the person making the request. The request can be made by a family member or someone else acting on the person's behalf.

The person requesting the accommodation must explain what type of accommodation is needed to provide the person with the disability full access to the MHC's programs and services.

If the need for the accommodation is not readily apparent or known to the MHC, the person requesting the accommodation must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the disability.

### Muskegon Housing Commission Policy

The Muskegon Housing Commission will encourage a request for accommodation to be made in writing using the Muskegon Housing Commission's reasonable accommodation request form. However, the Muskegon Housing Commission will consider an accommodation any time there is any indication that an accommodation is needed whether or not the MHC's form is used or a formal written request is submitted.

## **2-II.D. VERIFICATION OF DISABILITY**

The definitions of disability under Federal and State civil rights laws are provided in Exhibit 2-1 at the end of this chapter. The definition of a disability for the purpose of obtaining a reasonable accommodation under these laws is much broader than the HUD definition of disability that is used for waiting list preferences and income allowances. Even though a person does not meet the definition of disability under the HCV Program, the person may be entitled to an accommodation to provide equal opportunity to participate in the Program.

Before providing an accommodation, the MHC must determine that the person meets the definition of a person with a disability, and that the accommodation is necessary the family's access to the MHC's programs and services.

If a person's disability is obvious or otherwise known to the MHC, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the MHC, the MHC must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the MHC will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- In most cases, proof that a person who is 62 years of age or less and receives Supplemental Security Income or Social Security Disability Insurance benefits is verification that a person has a disability
- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The MHC must request only information that is necessary to evaluate the disability-related need for the accommodation. The MHC will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the MHC does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the MHC will dispose of it. In place of the information, the MHC will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

## **2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].**

The MHC must approve a request for an accommodation if the following conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a relationship between the requested accommodation and the disability.

- The requested accommodation is necessary for the person with the disability to have full access to the program and its benefits or to use and enjoy the housing.
- The requested accommodation does not impose an undue financial and administrative burden on the MHC or fundamentally alter the nature of the MHC's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the MHC's program with respect to the number of employees, type of facilities and overall size of the MHC's budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the MHC may enter into discussion and negotiation with the family, request more information from the family, or may request the family to sign a consent form so that the MHC may verify the need for the requested accommodation. The family's refusal to provide a consent form may result in the MHC's inability to verify the need for the requested accommodation and a denial thereof.

#### Muskegon Housing Commission Policy

After a request for an accommodation is made, the MHC will respond, in writing, within 30 days.

If the requested accommodation requires a waiver of a HUD requirement or regulation, the MHC will contact the HUD program office for interpretation and/or waiver of the regulation.

If the MHC denies a request for an accommodation because it would impose an undue financial and administrative burden or fundamentally alter the nature of MHC's operations, the MHC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the MHC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the MHC will notify the family, in writing, of its determination within 30 days from the date of the most recent discussion or communication with the family.

The family may appeal any determination within 30 calendar days after the determination is issued. The appeal should be in writing. Alternative means of filing an appeal, such as personal interviews or tape recordings, may be made upon request. An informal review, including a conference with the family and the family's representative if requested, by telephone or other equally effective method of communication to accommodate the family will be conducted. A written decision will be made within 30 calendar days of completing the informal review.

The family may appeal the decision of the informal review to the MHC Executive Director within 20 calendar days after the decision is issued. The MHC will expeditiously provide the family with a written decision on the appeal.

## **2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

HUD regulations require the MHC to ensure that persons with disabilities related to hearing and vision have reasonable access to the MHC's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the MHC shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

### Muskegon Housing Commission Policy

To meet the needs of persons with hearing impairments, TDD/TTY (text telephone display / teletype) communication are available. To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with MHC staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are having material explained orally by staff; upon request, sign language interpretation by a qualified interpreter at no cost to the person with a hearing impairment; or having an advocate to receive, interpret and explain materials and be present at all meetings. The MHC strongly discourages the use of friends or relatives to interpret and explain materials because of issues with confidentiality, privacy and conflict of interest. If the person with a hearing impairment uses a friend or relative to interpret and explain the materials, the MHC reserves the right to have an interpreter of its choice present.

The MHC will make its best effort to provide timely communication assistance. In the event that an alternative form of communication is not requested in advance or the requested assistance is not available when needed, the process may be delayed.

## **2-II.G. PHYSICAL ACCESSIBILITY**

The MHC must comply with Federal and State laws and regulations pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- Title II and Title III of the Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968

- The Fair Housing Act of 1988

The MHC's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in the following documents:

- This plan describes the key policies that govern the MHC's responsibilities with regard to physical accessibility.
- PIH Notice 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.

The design, construction, or alteration of the MHC's facilities must conform to the Uniform Federal Accessibility Standards (UFAS) and the 2010 Standards of Accessible Design. When issuing a voucher to a family that includes an individual with disabilities, the MHC will include a current list of available accessible units known to the MHC and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

## **2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

A MHC's decision to deny or terminate the assistance of a family that includes a person with a disability is subject to the reasonable accommodation requirements [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the MHC's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to fully participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination must inform them of the MHC's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the MHC must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the MHC's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the MHC must make the accommodation.

## **PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)**

### **2-III.A. OVERVIEW**

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

The MHC will take affirmative steps to communicate with persons who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the MHC will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the MHC and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the MHC.

### **2-III.B. ORAL INTERPRETATION**

The MHC will offer competent interpretation services, upon request, to the LEP person.

#### Muskegon Housing Commission Policy

The Muskegon Housing Commission will provide oral interpretation upon request. The Muskegon Housing Commission may use competent bilingual staff if available and in-person interpretation through community-based organizations depending on the situation.

The Muskegon Housing Commission does not specifically hire bilingual interpreters, but where feasible, the MHC will train and/or hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

LEP persons may use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the offered services offered by the MHC. The MHC strongly discourages the use of friends or relatives to interpret because of issues with confidentiality, privacy and conflict of interest. If the LEP person uses a friend or relative to interpret and explain the materials, the MHC reserves the right to have an interpreter of its choice present.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the services offered by the MHC. The interpreter may be a family member or friend.

The MHC will analyze the various kinds of contact it has with the public to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), the MHC will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

### **2-III.C. WRITTEN TRANSLATION**

Translation is the replacement of a written text from one language into an equivalent written text in another language.

In order to comply with written-translation obligations, the MHC should take the following steps:

1. The MHC should provide a written translation of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
2. If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the MHC is not required to translate vital written materials, but should provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials.

#### Muskegon Housing Commission Policy

The Muskegon Housing Commission may use the forms translated by HUD on [www.hudclips.org](http://www.hudclips.org). Also, the MHC will translate vital documents upon request by an LEP person. The MHC will provide a written notice, translated in all of the languages

## **EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL AND STATE CIVIL RIGHTS LAWS [24 CFR Sections 8.3 and 100.201]**

The definition of disability under State and Federal civil rights laws are broader than the HUD definition for purposes of the HCV Program. The definition of disability is much broader under the State's civil rights laws than the Federal's civil rights laws.

A person with a disability is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of the person, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, tuberculosis, diabetes, mental retardation, emotional illness, HIV disease (whether symptomatic or asymptomatic), drug addiction (other than current addiction caused by current, illegal use of drugs) and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and/or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the MHC) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users

- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

### **State Law**

A person with a disability is any person who:

- Has a physical or mental impairment that substantially limits one or more of a person's major life activities;
- Has a physical or mental impairment that significantly impairs physical or mental health, which means having an actual or expected duration of more than 6 months and impairing health to a significant extent as compared to what is ordinarily experienced in the general population;
- Has a physical or mental impairment that requires special education, vocational rehabilitation or related services;
- Has without regard to severity unless otherwise indicated, absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; mental retardation; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive development disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury; or
- Has a record of any of the physical or mental impairments described in the foregoing clauses (1) through (4); or (6) is regarded as having or is likely to develop any of the physical or mental impairments described in the foregoing clauses (1) through (4).

The existence of a physical or mental disability is determined without regard to the ameliorative effects of mitigating measures such as medication, auxiliary aids or prosthetic devices.

A physical or mental disability or impairment does **not** include pedophilia, exhibitionism, voyeurism, sexual behavior disorders, compulsive gambling, kleptomania, pyromania, tobacco smoking, or any condition covered under 5 M.R.S.A. §4553, sub-§9-C. It does **not** include psychoactive substance use disorders resulting from current illegal use of drugs, although this may not be construed to exclude an individual who has successfully completed

a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use; is participating in a supervised rehabilitation program and is no longer engaging in such use; is erroneously regarded as engaging in such use, but is not engaging in such use; or in the context of a reasonable accommodation in employment is seeking treatment or has successfully completed treatment.

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of state disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under state civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

