



UNITED STATES-
DEPARTMENT OF HEALTH & HUMAN SERVICES

Office for Civil Rights

Region IV
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W., Suite 8B70
Atlanta, GA 30303-8909

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

August 30, 2002

Ms. Kathryn Hall
Attorney at Law
Georgia Legal Services Program
Waycross Regional Office
1057 Grove Avenue
Waycross, Georgia 31501

Mr. Steve Lowe
Director
Division of Family and Children Services
Department of Human Resources
Two Peachtree Street, NW
Suite 19-490
Atlanta, Georgia 30303-3142

Dear Ms. Hall:
Dear Mr. Lowe:

Re: Complaint Number 04-02-3096

Background:

The Office for Civil Rights (OCR) has completed its investigation of the complaint filed on behalf of [REDACTED] (hereinafter "Complainant") against Georgia Department of Human Resources, Division of Family and Children Services (GDHR, DFACS) and the Clinch County Department of Human Resources, Division of Family and Children Services (CCDHR, DFACS) in Homerville, Georgia (hereinafter, the "Recipient"). The complaint alleged that the Recipient discriminated against the Complainant, on the basis of disability, by failing to provide reasonable accommodation in her participation in the TANF program. Furthermore, Complainant alleges the Recipient retaliated against her after she filed a fair hearing request.

The OCR has jurisdiction over the matter presented under the authority of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794 and its implementing regulation at 45 C.F. R. Part 84 and title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 45 C.F. R. Part 35. Documentation in the record establishes CCDHR is a recipient of Federal financial assistance as administered by DHHS, as such, is covered under section 504. As an instrumentality of Clinch County, Georgia responsible for administering the

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TANF program among other duties, CCDHR is also a public entity covered under title II of the ADA. In addition, evidence in the record shows that Complainant has a disabling condition and that she is an "otherwise qualified" disabled person. Consequently, OCR has the authority to address the allegations raised in her complaint.

Findings/Analysis:

Pursuant to the Voluntary Corrective Action Plan that GDHR, DFACS entered into with OCR on February 28, 2001, OCR is to notify GDHR, DFACS of all complaints it receives regarding the TANF program, and provide that agency the opportunity to investigate and resolve the complaint before OCR determines whether more formal investigative activity is warranted. In accordance therewith, OCR referred this matter to GDHR which has conducted an investigation of this matter and forwarded its findings to OCR. OCR has received and examined the investigative report, findings and recommendations from the GDHR, DFACS. This is to advise you of the findings and of OCR's concurrence with those findings.

GDHR, DFACS's investigation included the review of the case records, including medical documentation, interview of staff and interview of the complainant. The investigation found that the Clinch County DFACS **has not** provided Complainant reasonable accommodation to her disability. The finding was based on the following evidence:

1. Although the agency had access to medical statements and was aware of Complainant's pending SSI claim, Complainant was expected to comply with a work plan which included 40 hours per week of employment. The work plan did not specify any limitations or accommodations related to her disability.
2. Evidence reviewed indicated that the agency made little accommodation to Complainant's transportation problems, requiring her to attend appointments ten to twenty miles from her home, sometimes without advance notice.
3. The agency continued to request medical statements and reports from doctors after staff statewide had been informed by directive and through TANF/ADA training that requesting medical documentation was no longer a function of caseworkers for TANF cases.
4. Interviews and case documentation indicated that caseworkers may not be consistent in communicating to TANF clients what will occur in TANF staffings and who will participate.
5. Although Complainant's record indicated planned referrals to Vocational

Rehabilitation, the agency did not prioritize a referral for Complainant.

6. Review of the caseworker's "good cause" determinations indicated that they appeared to be rigid and capricious. In one incident the caseworker would not approve a "good cause" determination because the doctor's statement did not specifically include a date. In another incident, Complainant arrived in the afternoon for a morning appointment. The caseworker would not meet with the Complainant and keyed in a case termination on that same day.

By letter dated August 2, 2002, the DFACS Civil Rights Compliance Office advised Clinch County of its findings and recommendations for corrective action. The county was advised to report their actions on the recommended corrective action by September 15, 2002. The corrective action identified is as follows:

1. Review more TANF cases to determine whether the actions noted in Complainant's case were incidental or are general practice in the Clinch County DFACS office.
2. In working with TANF cases, the county needs to focus on assisting the client in becoming self-sufficient when possible, and limit focus on the 48 month limit.
3. The county needs to ensure that clients nearing the lifetime limit receive appropriate counseling and information regarding Hardship Waivers.
4. The county needs to ensure, through more formal communication, that TANF clients are informed and prepared for staffings/conferences and that only staff from partner agencies who have an identified need to be present are included in the staffings.
5. The county must refrain from requesting doctors' statements or reports, or otherwise communicating with health care providers regarding TANF clients, except where policy allows.
6. The county needs to ensure that TANF clients are provided transportation services as needed. Work plans and case narratives should identify the transportation plan.
7. Additional training is needed in the areas of Exceptional Customer Service and the ADA/504 Compliance Policy.

OCR concurs with the corrective action recommendations in this case. GDHR, DFACS should

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notify OCR within thirty(30) days from the date of this letter of the corrective actions taken. This office will keep this case in monitoring status until such time as we have received documentation that the corrective actions have been completed.

Please note that the determination made in this letter is not intended and should not be construed to cover any other issues which may exist and are not specifically discussed herein regarding compliance with section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act.

Complainant's Right to File a Civil Action:

Complainant may have the right to file a civil action to remedy discrimination by a recipient of Federal financial assistance or other covered entity. Complainant may wish to consult an attorney about his/her right to pursue a private cause of action, any applicable statute of limitations, and other relevant considerations.

Prohibition Against Retaliation:

Complainant has the right not to be intimidated, threatened, or coerced by a recipient or other covered entity or other person because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing held in connection with a complaint.

Disclosure of Records:

Under the Freedom of Information Act, 5 U.S.C. 552, and its pertinent regulation, 45 C.F.R. Part 5, it may be necessary to release this document and related correspondence and records upon request. In the event OCR receives such a request, we will seek to protect, to the extent provided by law, personal information which, if released, would constitute an unwarranted invasion of privacy.

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If you have any questions, please contact me at (404) 562-7858 or Henry F. Barbour, III, Deputy Regional Manager, at (404) 562-7864.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Roosevelt Freeman", with a long horizontal flourish extending to the right.

Roosevelt Freeman
Regional Manager
Office for Civil Rights
Region IV