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JAN

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>> CART writer is standing by.

>> Hello, everyone and welcome to the special event web cast called PAS and the new section 501 affirmative action requirement. Our featured speaker today is from the equal employment community commission. Before we turn it over we need to go over a few housekeeping items. First if any of you experience technical difficulties during at web cast, please give us a call at 800‑526‑7234 for voice. And hit the button 5 when the autoed system ‑‑ automated system picks up. Second, toward the end of the presentation, time allowing, we will have a question and answer period. But you can send in your questions at any time during a web cast either to our e‑mail account which is question@askjan.org or use our question and answer pod located at the bottom of your screen to use that pod type in your question and submit it to the question queue. On the bot. The screen you will notice a file share pod if you have difficulty viewing the slides, that's where you can find them. And finally at the end of the web cast an evaluation form will automatically pop up on your screen in another window if you don't have your pop up blocked. We appreciate your feedback so please stay logged on to fill out that it evaluation form.

 Now let me introduce our featured speaker. She is a policy adviser in the office of federal operations at the EEOC. Her work focuses on federal sector disability employment policy including revising EEOC's regulations under section 501 of the Rehabilitation Act of 1973 which of course is our topic today. And management directive 715. She works closely with staff from the office of personnel management and the Department of Labor's office of disability employment policy to improve the hiring, promotion and retention of people with disabilities in the Federal Government. Prior to joining the office of federal operations, she served as the confidential assistant for the EEOC commissioner where she played a leadership role in the curb cuts to the middle class initiative which is an inner agency effort working to increase employment opportunities and financial independence for individuals with disabilities. Has been recognized for her disable advocate work and the American association for people with disabilities and was honored by the White House in 2013 as one of eight champions of change who embodied the spirit of the Americans with Disabilities Act. And she holds a JD in ‑‑ sorry, she holds a JD from Seattle University of School of law and BA in political science. Welcome. Thank you for being here and I will turn the program over to you now.

>> Thank you so much for the introduction. Thank you so much for inviting me to speak today. I'm a huge fan of JAN and I started working here and used these tools myself. Thank you. And I'm glad to present on this topic. So with that, if we can move to slide number 2, the introduction. I want to just start off by giving folks a little bit of background about the regulation generally and then go into the requirement provide personal assistant services.

 As some folks and hopefully all of you aware that last year on January 3, 2017, EEOC issued a final rule that amends the regulations implementing section 501 of the Rehabilitation Act of 1973. So on slide three a background of what is section 501. So section 501, the statute of the rehab act imposes two distinct obligations on federal agencies as employers. So the first requirement under the statute is a probation on discrimination ‑‑ prohibition on discretionination. This is where we apply the same standard as the ADA. We have ‑‑ the discrimination in hiring, et cetera. Now the second obligation under section 501 is that it requires federal agencies to engage in affirmative action in the hiring, retention, placement, advancement of people with disabilities. So there are two obligations. The affirmative action obligation is what this rule is about. This only applies to the affirmative action obligations and this is unique it to the Federal Government. So it's only for federal agencies and it's only an affirmative action rule.

 So the question is, why did the EEOC update this regulation and why ‑‑ and give some context on the update and there was a couple of reasons for it so the first is that since 1973 onwards, there has been a number of executive orders, informal guidance, and EEOC management directives that have been putting out requirements regarding the affirmative action obligations but they have been all over the place. And so part of the rule ‑‑ part of the purpose of this rule was to really gather all of those various requirements and codify them and give it the strength and force of a regulation. Now the second part of this rule is that it does add ‑‑ so in addition to these codifying these existing requirements, it does add two new affirmative action obligations. One is the requirement that agencies have a work force goal for individuals with disabilities and targeted disabilities and that goal has been set by the EEOC and I don't want to get into that part of it. But the second piece of it is that it requires agencies to provide personal assistance services as part of the agency's affirmative action obligation. And the reason for both of these significant shifts in additions to the regulation is that because of what EEOC has found since 1973 is that while we really made strides in hiring people with disabilities and in particular people with targeted or more severe disabilities, we ‑‑ progress hasn't been enough. What we have seen is that agencies have brought more people on board with disabilities, however, people with more significant disabilities still remain, still faced the same difficulties in access in getting into the workplace. Advancement, et cetera. Part of one of the reasons for the personal assistance services requirement is to increase the employment numbers of people with targeted disabilities. Because what we found is even in agencies that are hiring folks with targeted disabilities those individuals are at least two grades below their peers without disabilities. So to ensure that government is being a model employer for people with disabilities, the EEOC issued an updated regulation and added the two substantive requirements.

 So slide 5 actually sets out what are the requirements for agencies in terms of their overall affirmative action plan. And as you can see, there is eight elements of the affirmative action plan which agencies are now in the process of submitting to EEOC via our management directive 715. So what we have got on this list of eight really looks at the work force life cycle of the individual. So we are looking at hiring and advancement, what steps the agency is taking. The requirement that agencies ensure that harassment on the base of disability is prohibited as well as to provide training with examples on harassment against people with disabilities. Third is to ensure that the agency has reasonable accommodation procedures in place. Number four, is to ensure the agency has a notice of rights regarding accessibility technology and facilities and number five is personal assistance services. Number six is the requirement that agencies the utilization analysis that is submitting the agency ‑‑ to the EEOC annually. Your work force numbers. Number 7 is the goals which the regulations states that the ‑‑ each agency must take steps to achieve a goal of 12% of people with disabilities at the GS10 and below. And 12% of people with disabilities at the GF11 level and above and for agencies not on the GS scale it's the conversion to the Washington, D.C., metro region DS11 step one. It's how we are looking at it. And within that work force goal there is a sub goal for people with targeted disabilities of 2% of both grade levels and finally requirement number 8 is record keeping. So these are all of the requirements of the affirmative action plan and I wanted to give that some context and now I would like to dive into slide 6 and then move on to seven which really delves into personal assistance services.

 So looking at slide 7, slide 7 sets out how the regulation defines personal assistance services. So personal assistance services pursuant to the regulation is defined as assistance with performing activities of daily living. That an individual with typically perform if he or she did not have a disability and that is not otherwise required as a reasonable accommodation. Now there is a lot to parse out there, but it's important to note that this definition is really what agencies should be partly looking at when they are looking at does someone need personal assistance services. Because this definition is unique to the regulation.

 Next slide, slide eight. So here we've got this definition of these are services that relate to activities and daily living but really what does mean? How does an agency make this assessment and how do individuals know this is something that they can request. So first off the requirement to provide personal assistance services is an affirmative action requirement and this is something that is really ‑‑ this only applies to federal agencies at the moment. And this ties back to the earlier point about the need for agencies as a model employer to do more to bring people with significant disabilities into the work force. So as part of the government affirmative action obligation, the EEOC is requiring that agencies provide personal a‑‑ provide these services to go beyond the reasonable accommodation or non‑discrimination requirements. Is and what does that mean practically? Examples of personal assistance services are things such as assisting someone with removing and putting on clothing such as outer wear, coats, assisting someone with eating, microwaving their food. Maybe it's helping someone actually eat or placing a bottle of nutritional supplements next to them so they can drink that. Or it might include assistance using the restroom. Anywhere from assistance with toileting to opening restroom doors, assistance handing someone paper towels. All of the ‑‑ I like to think of personal assistance as a lot of the things that we as people without certain disabilities sort of do on a day to day basis that for other ‑‑ for individuals with disabilities that require personal assistance, if they didn't have it, they couldn't be at work. And that's the key point that this regulation in terms of the personal assistance provision is trying to address is that there is a lot of really talented individuals with significant disabilities who want to work who can work, however, they can't be in the workplace because they need assistance with activities of daily living. If you can't eat for eight hours a day, there is not going to be a way for you to be at work even if you got other reasonable accommodations. So to really bring those folks into the workplace and to make our federal agencies really reflect what America looks like, that's the sort of policy reason for this regulation.

 So moving on to the next slide, when we are thinking about personal assistance, there is the question of, okay, but anybody can work request this, right? Who should the agency provide these services to? When does that obligation kick in? So the regulation outlines a set of requirements that I want to run through about when the agency must provide these services. So agencies must provide personal assistance services during work and job related travel if the first the individual has to be an employee. And that includes existing employees who might benefit from these services or new employees. But it has to be only eligible for employees. The second thing is that the individual must have a targeted disability. The list of targeted disabilities is on the following ‑‑ or examples of targeted disabilities is on the following slide, but some of them include partial and complete paralysis, significant mobility impairment. And that list of what is a targeted disability comes from OPM standard form 256, the delineation of targeted disabilities which are those more severe disabilities where individuals have faced more barriers to employment versus other disabilities and medical conditions. The individual must have a targeted disability. They have to be an employee.

 Next the individual needs personal assistance services because of their targeted disability. So it has to be tied to what the disability is. Now number four is that the individual will be able to perform the essential job function and obviously without posing a direct threat to safety, they can perform the essential function, once personal assistance services and any other reasonable accommodations have been provided. So that addresses the factor of personal assistance services is something that brings and keeps people in the workplace but it's not related ‑‑ it's not enabling someone to perform the essential job function which I'm going to get into a little bit more detail. So this is something that enables the individual to perform ‑‑ to be at work. And then finally the agency must provide it if it will not impose an undue hardship on the agency. And then the standard that we use for undue hardship for personal assistance services is the same standard as that for reasonable accommodation. So an undue hardship when it's an undue hardship based on cost in that case the agency has to look at its entire budget before making that determination and when we say budget, that's budget except for funds that are specifically allocated for other purposes. You have to look at the entire agency's budget or if the significant difficulty on the operation of the agency. So that standard is the same as that forum accommodations.

 If all of these factors have been met that you have an employee with a targeted disability who needs personal assistance services because of their targeted disability and that employee with these services along with other reasonable accommodations can perform this, they are now performing the essential job functions without posing a direct threat and PAS doesn't create an undue hardship, at that point the agency is required to provide it. So peeling that back a little bit, if we move to slide 10, first thing that we want to look at as your thinking through this is to really determine is this person eligible to receive PAS? So are they an employee? If they are an employee, then it's looking at do they have a targeted disability? So then what I listed here are examples of various targeted disabilities. Now point number three of when is an individual eligible is that they need PAS because of their targeted disability. Now a lot of people might not have a targeted disability, but they may not be entitled to PAS because only some people will actually need assistance with activity of daily living. So I will give myself as an example. I am someone who has a significant psychiatric disability, however, I don't need personal assistance services for activities of daily living. So I might ‑‑ although I have a targeted disability, I would not be eligible to receive PAS because I don't need the services because it's not related to my targeted disability, if that makes sense.

 So moving on to slide 11, which is the obligation to provide PAS, so what I listed here are examples of when an agency may be required to provide PAS and what types of services are not really considered personal assistance services under the regulation. We are looking at it, an agency is ‑‑ like I said earlier, an agency is required to provide personal assistance services to current employees and future employees. An agency is required to provide personal assistance services during telework. So if you have an employee who receives telework either as part of regular telework policy or as part ‑‑ as telework as a reasonable accommodation, the agency would be required to provide personal assistance services if needed during that time whenever that employee is teleworking. And agencies are cautioned against rescinding telework agreements because of potential need for services. Agency is also required to provide personal assistance services during a employer sponsored event such as a holiday party and that's looking at as a same way if would have a sign language interpreter at a holiday party this would be comparable to that.

 Now there are limitations on what services are ‑‑ the agency is required to provide. Personal assistance services is not required to help employees commute to work. Back and forth from work. If it's commuting from getting out of a building to getting into the car. Those are things that are commute related and that's not personal assistance services. The agency is not required to provide that. Similarly personal assistance services does not include assistance with performing job related tasks because those types of services are things that would be considered reasonable accommodation. And then finally personal assistance services under the regulation does not include medical services. You know an agency may choose to hire a personal assistance service provider that does have medical qualifications but that's not what the regulation requires, the regulation limits those two activities ‑‑ limits the types of services to activities of daily living. Which is eating, drinking, using the restroom or moving, not medical services.

 And then next slide, we are looking at slide 12, what this really delineates is the difference between personal services as an accommodation and personal assistance services as part of an agency's affirmative action obligation. So an individual with a disability under the non‑discrimination obligations of the rehab act may be entitled to ‑‑ and may be receiving personal services as an accommodation. So those are services such as note taking, typing, answering the phone. There are services that are directly related to the job or they enable the individual to apply for the job or perform ‑‑ enjoy the benefits and privileges of the job. So those services is not what this is about. This is for as under the affirmative action obligation this is assistance with eating, putting on and off outer wear. These are not job related services. Now a question that has come up are job coaches personal assistance services and the answer to that is no. Job coaches are required to be provided already as a reasonable accommodation. Another question that we have received is also are does an agency have to provide personal assistance services during travel, work related travel? The answer is that's been required under a part of a reasonable accommodation. And GSA has issued regulations ages ago about providing personal assistance services as part of whenever an individual with a disability is traveling.

 I hope that this kind of slide helps you as listeners and employees of the government to look at if someone comes to you and asks for PAS to look at it as are they asking for services as an accommodation or asking for personal assistance services as part of the affirmative action obligation. Under an accommodation that should be analyzed under the non‑discrimination standard. This is only for those other types of services that are related to activities of daily living.

 Next slide. And I'm trying to rush through this because I welcome questions. So hopefully we will be able to get to that. So one of the things that agencies have been wondering is who should provide these services? How should an agency identify personal assistance service providers? And when in the process of issuing the regulation and during various comment periods, you know, we have been asked a number of agencies and individuals to either ask for kind of giving agencies the opportunity to create their own type of program, or for the EEOC to say this is exactly what you have to do as we were drafting the regulation, what the EEOC really decided was that an agency should have the flexibility to design whatever program works best for them and their work force and the individuals that need these services. So an agency when they are looking to provide these services, you know, when you look at who should be a personal air cysteines provide ‑‑ personal assistance provider, the agency can have that individual perform additional tasks so maybe there is an employee that is already that might be willing to provide personal assistance services as part of their job and so they might be doing ‑‑ might be working administrative assistance and now they are willing to provide personal assistance services for another employee. That's okay. As long as providing those personal assistance services are the primary job duties. What we don't want to have happen is someone is supposed to be providing these services and then it doesn't happen because other work comes in the way. So individual can perform ‑‑ provider can perform additional tasks but personal assistant services has to be their primary duty. An agency and some examples we are aware is the agency assigns one provider to multiple people so depending if you have a couple of people who need these services you might be able to hire one person to provide these services at various times of the day to several staff. Now an agency can hire a full time PAS and have that as an employee and there are the schedule A regulation do allow use of the hiring authority to hire personal assistance service providers. You can hire someone full time or you can hire contractors and that's something that a number of agencies have been starting to do and other agencies have already had in place. And as it says here, the services of providing these personal assistance services must be the primary job function. So what we are cautioning is that there is an informal‑type of arrangement with various co‑workers, that's not a personal assistance service provider. That's a co‑worker and what we want to ensure is that this is ‑‑ these services are provided in demand when they are needed in a timely fashion and the agency has the flexibility to design that program however they want and it's just that there must be a person whose primary job is to provide these services as needed.

 Next slide. So in terms of how the individual selects the provider, like I said, the agency has the flexibility to design their program in terms of how they are hiring providers or using contractors, et cetera. Now the only thing to look at is that when an agency is choosing its provider for a single individual so it's a full time PAS provider, the agency should give primary consideration to the individual's preferences to be permitted by law. There is preference for the individual's choice. If it's a full time PAS, otherwise the agency has just ‑‑ the agency still has full discretion. And the other key thing is that the providers are not required to have specialized medical training because personal assistances are as envisioned under the regulation are non‑medical services. Those are some of the things to evaluate when making a determination of who should be a provider of these services.

 With all that in place, agencies may or may not have people who need personal assistance services right away, however, moving to the next slide agencies are required under the regulation to issue written personal assistance procedures. So the regulation which was issued on January 3, 2017, actually had ‑‑ became effective on January 3, 2018. And so what the reg require is by that effective date, the agency must have written procedures in place for processing requests for personal assistance services. So I want to thank everybody out there who has already provided those written procedures to the EEOC as we will ‑‑ we are going to be reviewing and providing feedback on that and that will be covered in the next slide. But the requirement is that agencies have to have procedures in place for how they are going to process these requests. And an agency does have flexibility in how to ‑‑ how it chooses to draft those procedures. So an agency may issue a stand alone procedure for processing these requests. So who is eligible, you know how is the determination made, who is the decision maker. So all of the factors you will consider in reasonable accommodation procedures the agency, you know if you are writing a stand alone procedure those should be all of the things that are covered or alternatively an agency may merge the procedures for processing personal assistance services with their existing reasonable accommodation procedures. And I know a number of agencies have done that and essentially if you are using your reasonable accommodation procedures to process personal assistance services that is really just looking at the processing of the request for personal assistance. It does not make personal assistance services a reasonable accommodation because it's notice procedure. So an agency can use their existing procedures and note that these services are provided part of an affirmative action obligation but the process for providing this services personal assistant services are the same as that for reasonable accommodation. So what we want to ensure is that individuals know how to request this when they get feedback and who is eligible and those are all of the things that should be in an agency's written procedure.

 Next slide. So here what we've got is actually sample language. If an agency chooses to use the existing reasonable accommodation procedures to provide personal assistance services and so what it states here is that the process for requesting personal assistance services the process for determining whether such services are required and the agency's right to deny such services when provision of services would pose as undue hardship are the same for reasonable accommodation. If an agency has that in their RA procedures then they met the written procedure requirement under the regulation. If not, then the agency must issue separate written procedures and those must be sent to the EEOC for review and approval.

 So looking at slide 17, the key piece here is that the agency may not take adverse action against employee or an applicant based on their need for or perceived need for personal assistance services. That's one of the things that we are finding is really important to stress to existing employees who may be needing these services that maybe they have ‑‑ they have asked for it but then they are concerned that they might impact their job, the key is that an agency can't taked a version action because they need it. So that's something to also stress. If there is concern from folks about what will happen if I make this request? Will I get in trouble.

 Then finally on slide 18, what we've got here is as I stated the regulation went into ‑‑ the effective date of the regulation was January 3, 2018. And to comply by that date, agencies are required and I didn't get into the reasonable accommodation procedures because of time issues, but agencies are required to update their reasonable accommodation procedures and have those procedures submitted to the EEOC. As well as issue written procedures to provide personal assistance services. And so if you issue those written procedures as part of your reasonable accommodation procedures, then that could just be one packet that you send to the EEOC. If you issue separate procedures, please indicate that these are just your personal assistance services procedure and submit that to the EEOC. The e‑mail box for agencies to submit their procedures for review is RAprocedures@EEOC.gov. We ‑‑ thanks to everybody who has already submitted these procedures. We are in the process of reviewing them and are working towards getting feedback letters within the next 60 days.

 So I know that was a lot of information and I'm really glad we have some time for questions so with that I would like to open it up.

>> Great. Thank you. That was an excellent overview. We do have a lot of questions. Some of these came in during and I think you did address them during your presentation but I want to go ahead and give them to you anyway just because I think some of these points are worth emphasizing. The first one I don't know if you addressed this. Somebody wanted to know what are the vulnerabilities the agency may face if they are not ready to provide the services until the summer of 2018? What's going to happen to an agency if they aren't ready right now? That's the question.

>> Right. So. I mean, so the agency to comply with the regulation is required to have written procedures. But at this point and as of January 3rd, 2018, if an individual requests personal assistance services, the agency should be ready to process that request. Now I guess two points on this. The first is that when we are looking at what must be ‑‑ what an agency has to have in terms of gearing out for the requirement, if the requirement is the agency has to have procedures in place. And if someone needs it then they should be ready to provide it. If an agency doesn't have anybody who is requesting personal assistance services or currently receiving some form of it, then the agency should ‑‑ is required to have written procedures. The written procedures are just how you are going to make the determination of who is providing the services. It's not figuring out which vendor to use. Those are not part of the procedural aspects of the implementation. Now if an agency receives a request which they are not ready for, part of the reason why there was a one‑year period between when the reg was issued to the effective date of January 3, 2018, was to enable agencies to prepare to implementing this regulation. So I would hope the agency has some mechanism in place to provide these services to someone who asks. Now at this point in time the EEOC has not yet made a determination about what ‑‑ how it will ‑‑ whether it will accept complaints based on the denial of personal assistance services. That is something that EEOC is opine its best for us to make that determination as we revisit our 1614 regulations. So barring a complaint situation, the agency should work towards figuring out how they can get these services to the individual who needs them. I hope that answers some of the questions.

>> I think it did. The next question is if we use the canned PAS language that you mentioned and add to the reasonable accommodation process, do we still need EEOC approval.

>> Well, yes. So first off on ‑‑ yes. You do need EEOC does need to review the procedures. Now the thing is the requirement to review reasonable accommodation procedures and provide feedback on that exists ‑‑ stems from executive order 13164 which was issued by President Clinton on procedures to provide reasonable accommodations. That executive order authorized the EEOC to review and provide feedback on reasonable accommodations procedures when they are initially submitted and any time they are updated. So if an agency is updating their procedures then, yes, they need to submit that to us. I will just say that the regulation does have ‑‑ does have some changes to what is required in a reasonable accommodation procedure. Certain things that in the past were nice to have such as deadline for processing requests. That used to be an agency should have a maximum time frame for processing requests and that's now an agency must have a maximum time frame and that must mean the procedures. So agencies will be in the process of revising their procedures so in that case we will review it as part of the RA review. Now if in the third case an agency has in the past six months have their reasonable accommodation procedures approved by the EEOC, and now the agency deciding it wants to provide ‑‑ use the same procedures to provide personal assistance services then an agency can add that as an addendum and send that to us for review. So there are three options. One, separate procedures and send that to EEOC for review and feedback. And adopting as part of the reasonable accommodation procedures. And if you updated your reasonable accommodation procedures they should be sent to us in any case and we will use personal assistance as part of that and the third is if the procedures were approved in the past six months, then in your adding personal assistance services can be added as an addendum.

>> Great. A couple of questions that are sort of related. One is if proof required from the applicant or employee requesting the PAS like a letter from the medical provider that they need the PAS?

>> So that ‑‑ an agency should already have documentation that the individual would ‑‑ has a targeted disability. And so there is not a need to get additional documentation about do they now ‑‑ they have a targeted disability and now they need a doctor's letter to say they need PAS to do the X, Y and Z. Really, when we ‑‑ with the revision of the ADA, really we are looking at trying to move away from medical inquiries. So in this case what the EEOC has opine is there shouldn't be a need to get medical documentation because it's a limited group of people that would actually require personal assistance services. And who will request those services and then the disability is actually obvious. So there wouldn't be any to get medical documentation.

>> Okay, and then somebody wanted to know if they are able to negotiate the time frame in which PAS services are needed or do they need to be available the entire time the employee is working. I think that is basically asking can we revisit periodically to make sure they still need it then you get it once and then get it forever.

>> No. So as we envisioned PAS, we are envisioning a very similar to the reasonable accommodation process. And so in that, you do revisit. And whether or not the accommodations are working in this case, too, what I would say that is that an individual may only need personal assistance services for an hour a day. Maybe it's just to use the restroom and heat up their lunch. And so in that case an agency, some creative things I have seen done is like an agency will have one provider serving multiple individuals and they have a time sheet of when each person needs to be ‑‑ needs these services. We didn't get prescriptive on this because we want the agency to work with the employees to design the program that fits for them.

>> Okay. And this question is ‑‑ I will throw this out here because I think it's worth emphasizing. Who is responsible for assisting with using the restroom if no one volunteers to do it?

>> That's exactly why agencies are now obligated to provide personal assistance services and that's why personal assistance, we have a definition for personal assistance service providers, this is their primary job duty. So we are ‑‑ there shouldn't be a need for volunteering any more because now someone needs assistance using the restroom, they should be getting a personal assistance service provider and that's their job.

>> Okay, great. And you touched on this next question, too. But I think again this is worth emphasizing the difference between accommodating somebody and providing the PAS. If someone works in the field at least 35% of the time independently, now the doctor says they cannot drive themselves without working out in the field as a result of their medical condition. Is an agency required to have someone drive the person to the field each time and then remain there until she is finished working?

>> If that's considered commuting, then the answer is no. If this is work related travel like the individual in an office and then has to go to a meeting, then that's an accommodation.

>> So this really has nothing to do with PAS. At least described here.

>> Right. If it's just getting to and from work, then that's commute and that's not ‑‑ that is not required as a reasonable accommodation or is required as personal assistance services.

>> Okay, great. And then this is ‑‑ let's see. Can an agency make PAS expense part of the overall benefits so they can select their own provider meaning the employee select their own provider rather than the agency having to find the provider? I guess you add to the employee's paycheck so they can get their own PAS and pay for it for it out of their paycheck.

>> We have heard this question in the past. And there are ‑‑ what we have said is that there might be other conflicting regulations that are from GFA on reimbursing employees for this kind of expense. So those ‑‑ those EEOC is ‑‑ we are requiring the agency to provide these services. Now if an agency wants to ‑‑ is trying to figure out how to pay an employee for that, then the agency should really look at those other regulations to see if that will work.

>> Great.

>> I'm sorry. That's a little tricky to answer that one and that's something that we have definitely, you know, heard before and what we have said is that if an employee already has a volunteer and that person ‑‑ you know a full time volunteer PAS, you know, and the employee doesn't want the agency to provide another PAS, then an agency may figure out ways it keep a volunteer, but at issue around paying an individual extra money for the PAS that gets into all sorts of other health benefits rules, et cetera.

>> All right, great. And this one is a two parter but it's all related. Can a family member be contracted to be someone's PAS provider if an employee usually has a family member provide PAS, what are the agency's responsibilities particularly regarding travel for work? For example, perhaps the employee only needs PAS at the beginning or the end of the day and not at the regular work site but would be needed for job related travel? If the family member accompanies the employee, does the agency have to hire that family member?

>> So the job related travel actually covered under GSA regulations and that's a reasonable accommodation. And then the GSA regulations actually set out how to reimburse a family member for job related travel or existing PAS. So those are ‑‑ there is actually provisions for that in terms of a travel capacity. And in terms of at work, you know if an agency is using government nursing services, I'm just making that up, and an individual wants their family member to provide personal assistance services, then that family member can work as a contractor for government nursing services and then they would be assigned to the individual.

>> Great. And then we have some questions related to teleworking and providing PAS and teleworking. Somebody wanted to know specifically what do you mean by teleworking. Working from home or working from other places. Thought you might want to start with that.

>> I mean, I guess however telework is ‑‑ I would assume it was working from home. However telework is defined. I think the person wanted to make sure that you mean work at home and not just working in a satellite office.

>> I wasn't sure if it was telework we are look agent a coffee shop or something but then that's different. You would have to have a approved telework.

>> And then a follow up to that, if an employee has a private personal assistant at home would the agency need to provide a PAS or reimburse the employee for the PAS services when the employee teleworks? So basically based on what you said you have to pay for that even if the person has somebody.

>> Right. If the agency. So if the agency is required to provide it, and so ‑‑ actually, I want to take it back to the previous question, too, about family members because I was looking through our FAQ sheet we issue as well and that question is addressed in terms of paying a family member. So if a family member is hired as a professional PAS provider, the agency must compensate the family member as a contractor or federal employee. So just going back to can you pay family member and the answer to that is yes. And in terms of telework, you know, the question is does the employee need PAS services when they telework to be paid by the agency? And that's something that you have to make that determination but the agency may be required to pay for personal assistance services at home and that is ‑‑ if that's what the person needs and they are entitled to telework, then, yeah. But it would be the same ‑‑ you know, consideration about if the agency is using a contractor then you can't just reimburse whoever is providing it if they are not an employee of that contractor. Does that make sense?

>> Yeah that makes sense. And then going along you mentioned your FAQs, we asked questions if you are developing FAQs to accompany the regulations and the answer is you already have those.

>> We do have a Q&A document that we issued back if September. Kind of going through the basics of what our personal assistance services and when to need to provide it and provide certain examples. We were in the process of developing other Q&A materials as well so any ‑‑ these are all great questions that people are raising and it's stuff that as we see a need for additional Q&As on certain subjects and we will be adding to it.

>> Great. And this is an interesting one. We haven't had this question here. If an employee has PTSD and needs a service dog to calm down his symptoms will the employer be required to provide that service dog?

>> No. So a service animal is a personal item. It's not a personal assistance service provider. So service animal, the employee would be ‑‑ as a reasonable accommodation be able to bring that service animal to and from work. But the agency doesn't have to provide personal items for ‑‑ to the employee such as a service dog.

>> Another question, will the EEOC be reviewing written procedures from each individual sub agency or one overall agency procedure?

>> Depends on your agency. So if your ‑‑ if you are in a department and all of the components follow the department‑wide policy, then we would just reviewing the department‑wide policy. If a component has its own handbook, its own set of reasonable accommodation or personal assistance forms, FAQ sheets or the decision maker is different, then, yeah, those are procedures that are for that component. So, yes we would be reviewing them and we have been receiving them from various component.

>> And someone wanted to know if you have a list of contracting agencies. I assume they mean PAS contracting agencies? I'm not clear on that.

>> Yeah, and the answer to that is, we have provided a few examples of where agencies can find PAS and I know that some folks have been reaching out to other agencies that already have it in place. However, EEOC is not in a position to identify specific contractors that are going to provide these services or endorsing certain contractors. We don't have that kind of list, however I would suggest contacting the acquisition office of your agency to see if they would be able to help identify contractors that are already on the approved vendor list which there are some.

>> Okay. And the last kind of general question before we wrap it up here, people are wondering whether this might be extended to private businesses or state and local governments, is that in the works or is that going to be considered?

>> So this ‑‑ I mean, that's ‑‑ I mean, I can't opine on that, but what we are hoping ‑‑ what this is really looking at is we got to start first with our government to make sure our government really reflects is a model employer for all. And we really providing those equal opportunity for individuals with disabilities to share their talents in the work place and, you know we got a lot of talented folks and our government needs to reflect the people. So we will start from there. And if folks want to ‑‑ if folks are looking at this in other companies and there might be some companies that are already providing these services, that's great. But really this ‑‑ I can't speak to the rest of the EEOC but I can say this really starting from making the government a model because when the government has been a model, that's actually been a way to create transformative change in the private sector.

>> Great. And unfortunately we are out of time. I do want to thank you.

>> And thank you.

>> So much for the presentation. Somebody did ask if they could contact you or another subject expert at EEOC and I noticed you put up your e‑mail address here.

>> Yes, feel free to contact me with questions on this.

>> Wonderful. Thank you. We also want to thank everybody for attending today and alternative communications services for providing the captioning. If you need additional information you have the e‑mail and contact us here at JAN for follow up or for any information you need about work place accommodations. We hope today's program was useful. As mentioned earlier, an evaluation form will automatically pop up on your screen in another window so as soon as we are finished here we would really appreciate your feedback so please take a moment to fill that out. Again, thank you for attending.