

**DATE:** October 26, 2015

**TO:** Subscribers

**SUGGESTED DISTRIBUTION:** Commissioners, TA Directors, WMS Coordinators, Employment Coordinators, Staff Development Coordinators, and Medicaid Directors

**FROM:** Phyllis Morris, Deputy Commissioner  
Center for Employment and Economic Supports  
Jason Helgerson, Deputy Commissioner  
Office of Health Insurance Programs and Director of New York Medicaid

**SUBJECT:** Alternative Formats and Rafferty v. OTDA, DOH, HRA, et. al Settlement

**EFFECTIVE DATE:** October 23, 2015

**CONTACT PERSON:** CEES SNAP Bureau at 1-800-343-8859, ext. 3-1469  
Medicaid Local District Support Unit: Upstate (518) 474-8887 and  
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This GIS is to provide local districts a summary of the terms and conditions of a court approved settlement entitled, Rafferty v. OTDA, DOH and HRA, et. al. This case was brought by a class of New York City residents who are blind or seriously visually impaired who are applicants for, and recipients of, Supplemental Nutrition Assistance Program (SNAP) and Medicaid (MA). The State and City Defendants (OTDA, DOH and NYC HRA) have entered an agreement to provide written materials in alternative formats, effective July 1, 2016. Written materials, including Applications, Communications, and Publications will be produced by OTDA and DOH in the following primary alternative formats: 18 point font, Audio CD and data CD. In addition, Braille will be made available to any recipient or applicant who requests it and asserts that none of the primary alternative formats will be equally effective for them.

The following definitions are included in the Rafferty Stipulation and are relevant to the terms and conditions of the Stipulation in which OTDA and DOH agreed to provide:

- “Applications” refers to the documents made available by the State and City Defendants to individuals for the purpose of applying to receive or to continue to receive SNAP and/or Medicaid benefits. OTDA shall produce the following applications and their successors in alternative formats, LDSS 2291, LDSS 2921, LDSS 3174, LDSS 4826 and LDSS 4942. DOH shall produce the following applications and their successors in alternative formats DOH 4220, DOH 4282, DOH 4328, and DOH-5178A (scheduled to replace DOH-4495A).
- “Audio Format” refers to audio files containing *audio transcriptions* of text documents for use with computers and digital audio players, whether provided through electronic transmission over the internet or on physical media such as compact discs, or other successor technology that Defendants may adopt.

- “Communications” refers to any personalized and individualized written notice that is issued to a Class member by either the State or City Defendants concerning the Class member’s SNAP and/or Medicaid benefits or application for SNAP and/or Medicaid benefits. As used herein, a Communication is “issued” by a party when it is published and mailed by the party’s employees or contractors in the name of the party.
- “Data Format” refers to electronic versions of text documents accessible to Class members through the use of *assistive screen reading* software, whether provided through electronic transmission over the internet or on physical media such as compact discs, or other successor technology.
- “Primary Alternative Formats” refers to the following: (a) Large Print; (b) Audio Format; and (c) Data Format.
- “Publications” refers to the non-personalized and non-individualized documents that are made available to the general public concerning SNAP and/or Medicaid benefits by the State and City Defendants, including instructions to Applications and related informational materials. OTDA shall produce the following publications and their successors in alternative formats, Pub. 1301, Pub. 1313, LDSS 4148 A-C, LDSS 4826A. DOH shall produce the following publications and their successors in alternative formats OHIP 0065, DOH 4220B, DOH 4220C, DOH 4220I, DOH 4286, DOH 5104, Supplements to the LDSS 4148 A-B, and NY Medicaid Choice enrollment packet.
- “Public Facing Employees” refers to all employees of OTDA, DOH or HRA whose job duties include regularly interacting with Class members and the general public concerning applying for or receiving SNAP and/or Medicaid benefits, and/or fair hearings relating to SNAP and/or Medicaid benefits.

**No later than July 1, 2016, OTDA and DOH have agreed to add as an addendum to all program applications language substantially similar to: “If you are blind or seriously visually impaired and need written information in an alternative format, check the type of notice you want to receive from us: \_\_\_ Standard notice & large print notice; \_\_\_ Standard notice & data CD notice; \_\_\_ Standard notice & audio CD notice; \_\_\_ Standard notice & Braille notice, if you assert that none of the other alternative formats will be equally effective for you. If you require another accommodation, please contact your social services district.”**

No later than July 1, 2016, OTDA has agreed to produce the following communications in the primary alternative formats and Braille: (i) notices issued through CNS for SNAP and/or Medicaid benefits; (ii) notices concerning mass changes to Class members’ SNAP and/or Medicaid benefits issued by OTDA outside of CNS; (iii) notices concerning a Class member’s application for and/or receipt of SNAP and/or Medicaid benefits issued by OTDA; (iv) notices pertaining to fair hearing requests and the scheduling thereof issued through FHIS; (v) Decisions After Fair Hearing concerning SNAP and/or Medicaid benefits; (vi) notices concerning compliance with such Decisions After Fair Hearing issued by OTDA’s Office of Administrative Hearings; and (vii) reconsiderations of Decisions After Fair Hearing issued by OTDA’s Office of Administrative Hearings. OTDA has also agreed to make all publications available to the SSDs in the primary alternative formats and available for download from the OTDA website.

No later than July 1, 2016, DOH has agreed to produce the following communications in the primary alternative formats and Braille: (i) notices to terminate, reduce, suspend, or restrict Medicaid benefits issued by DOH through eMedNY or by any successor system, and outside of CNS; and (ii) notices to individuals automatically enrolled in Medicaid issued by DOH as a result of an individual's eligibility for Supplemental Security Income ("SSI") benefits.

No later than July 1, 2016, OTDA and DOH has agreed to include information on applications and all communications issued through CNS language substantially similar to: "If you are blind or seriously visually impaired and need notices or other written materials in an alternative format (large print, audio or data CD, or Braille), contact your local social services district."

No later than July 1, 2016, OTDA shall develop training materials for its public facing employees.

OTDA issued GIS 14 TA/DC022 entitled, "Disability Accommodation Indicator" (DAI) on June 23, 2014 which informed the social service districts (SSDs) of the creation of a new indicator field on WMS. This indicator was implemented as part of the development process for the creation of alternative formats of certain OTDA and DOH written material. OTDA also issued GIS 15 TA/DC023 on June 3, 2015 entitled, "Rafferty v. Doar, et al. Settlement and Alternative Format Materials for the Visually Impaired" which advised the SSDs that a settlement has been reached in this class action lawsuit.

#### NYC Implications

As provided in the Stipulation of Settlement, NYC HRA shall notify all its relevant personnel about the existence of this Stipulation and provide them with a summary of their terms and conditions.

#### MA Implications

As provided in the Stipulation of Settlement, publications in primary alternative formats will be available for download on the DOH website no later than July 1, 2016. Medicaid specific applications in audio (and Braille) formats will include appropriate language making clear that the documents are being provided solely for informational purposes. Further instructions will be provided in a separate release issued by the New York State Department of Health.