

## MEMORANDUM



January 12, 2018

To: Jerome Fowlkes  
Director, Office of Agency Services  
Farm Credit Administration

From: Dorothy L. Nichols *DLN*  
Chief Operating Officer

Subject: Applicability of FCA PPMs 857 (Reasonable Accommodations for Individuals with Disabilities) and 862 (Personal Assistance Services)

Pursuant to the authority vested in me by Article IX, Section 1 of the Bylaws of the Farm Credit System Insurance Corporation (FCSIC), I confirm that I concur in the application of existing Farm Credit Administration PPMs 857 and 862 to FCSIC.

FCA PPMs 857 and 862 shall be applied to FCSIC as follows:

- Except as noted herein, each reference to the “Farm Credit Administration” shall be read to refer to FCSIC;
- The first “reference” on page 1 of PPM 857 shall be read as 12 U.S.C. § 2277a-7 (§ 5.58 of the Farm Credit Act of 1971, as amended);
- All references to “Chief Operating Officer” shall refer to the FCSIC Chief Operating Officer;
- All references to “Chief Executive Officer” shall not apply to FCSIC and any responsibilities of the Chief Executive Officer under the PPMS shall be undertaken by the FCSIC Chief Operating Officer;
- All references to “Office Directors” shall refer to FCSIC’s Director of Risk Management and FCSIC’s Chief Financial Officer;
- All references to “General Counsel” or “Office of General Counsel” shall refer to FCSIC’s General Counsel;
- All references to Office of Agency Services, Equal Employment Opportunity and Inclusion Director, Reasonable Accommodation Coordinator and Special Emphasis Disability Program Manager shall refer to those FCA offices and officials acting in those capacities on behalf of FCSIC under the Inter-Agency Agreement in effect between FCA and FCSIC.

Please contact Howard Rubin or me if you have any questions.

**Issuing Unit:** OAS  
**PPM Category:** Human Resources  
**Document Number:** PPM 862  
**Date of Publication:** 1/2/2018  
**Title:** PERSONAL ASSISTANCE SERVICES

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**POLICY:**

The Farm Credit Administration’s (FCA or Agency) policy is to comply fully with the Equal Employment Opportunity Commission (EEOC) regulation requiring Federal agencies to provide Personal Assistance Services (PAS) as part of their obligation to engage in affirmative action to employ people with disabilities. FCA is committed to providing PAS to its employees with targeted disabilities who require such assistance in order to be at work or participate in work-related travel, unless doing so would impose undue hardship.

**REFERENCES:**

- Rehabilitation Act 1973, 501(b)
- 29 CFR §1614.203(d)(5)
- Questions and Answers: Federal Agencies’ Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act (September 18, 2017)
- Questions and Answers: The EEOC’s Final Rule on Affirmative Action for People with Disabilities in Federal Employment (undated)

**APPLICABILITY**

This policy covers all FCA employees. Section III also covers applicants for FCA employment.

**DELEGATED AUTHORITY**

The Chief Operating Officer is authorized to approve implementing procedures and controls.

**REPORTING REQUIRED**

PPM 857, Reasonable Accommodation for Individuals with Disabilities, requires the Reasonable Accommodation Coordinator (RAC) to prepare an annual report for the Chief Executive Officer (CEO) on reasonable accommodation requests. Requests for PAS will be included in this report.

**APPROVED** \_\_\_\_\_ /s/  
Dallas P. Tonsager  
Chairman & Chief Executive Officer

**Date** 1/2/18

## IMPLEMENTING PROCEDURES FOR PERSONAL ASSISTANT SERVICES FOR EMPLOYEES WITH DISABILITIES

### I. DEFINITIONS:

- a) **Disability:** Has the same meaning as the definition in Section 1.b of the Implementing Procedures to PPM 857.
- b) **Targeted disability:** A subset of the larger disability category including, but not limited to:
- Developmental disabilities, such as cerebral palsy and autism spectrum disorder;
  - Traumatic brain injuries;
  - Deafness or serious difficulty hearing, benefitting from, for example, American Sign Language;
  - Blindness or serious difficulty seeing even when wearing glasses;
  - Missing extremities (arm, leg, hand, and/or foot);
  - Significant mobility impairments, benefitting from the use of a wheelchair, scooter, walker, leg brace(s), and/or other supports;
  - Partial or complete paralysis (any cause);
  - Epilepsy and other seizure disorders;
  - Intellectual disabilities (formerly described as mental retardation);
  - Significant psychiatric disorders, for example, bipolar disorder, schizophrenia, PTSD, or major depression;
  - Dwarfism; and
  - Significant disfigurement, for example, disfigurements caused by burns, wounds, accidents, or congenital disorders.

As of the date of this PPM, lists of disabilities that are designated as targeted disabilities are found on the Office of Personnel Management's Standard Form 256 and the EEOC's Demographic Information on Applicants form. These lists may be subject to change.

- c) **Personal Assistance Services (PAS):** Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing or putting on clothing, eating, and using the restroom during work hours and job-related travel. Other examples of PAS could include pushing a wheelchair or helping an employee get into or out of a vehicle at the worksite.

PAS do not help employees with disabilities perform their specific job functions, such as reviewing documents or answering questions that come through a call-in center. PAS differ from services that help an employee to perform job-related tasks, such as sign

language interpreters who enable individuals who are deaf to communicate with coworkers, and readers who enable individuals who are blind or have learning disabilities to read printed text. Those services are required as reasonable accommodations, if the individual needs them because of a disability and providing them does not impose undue hardship on the agency. FCA's obligation to provide reasonable accommodations is independent of this PPM and the regulation it implements.

- d) **Personal Assistance Service (PAS) provider:** An employee or independent contractor whose primary job functions include provision of PAS that help individuals with targeted disabilities perform activities of daily living, including, for example, assistance removing and putting on clothing, eating, and using the restroom. A PAS provider need not have medical training or medical qualifications.
- e) **Undue hardship:** Has the same meaning as the definition in Section 1.e of the Implementing Procedures to PPM 857, except that "reasonable accommodation" is replaced with PAS.

## II. FCA'S OBLIGATION TO PROVIDE PAS

FCA is required to provide an employee with PAS, provided by a PAS provider, during work hours and job-related travel if:

- a) The employee requires such services because of a targeted disability;
- b) The employee will be able to perform the essential functions of the job once PAS and any required reasonable accommodations have been provided; and
- c) Provision of such services would not impose undue hardship on FCA.

FCA is not required to provide PAS to help employees commute to work. FCA is required to provide PAS only when an employee is working or is on work-related travel.

## III. PROHIBITION ON ADVERSE ACTIONS BASED ON NEED FOR PAS

FCA will not take adverse actions against job applicants or employees based on their need for, or perceived need for, PAS.

## IV. SELECTION AND USE OF PAS PROVIDERS

- a) **Finding PAS Providers:**

Applicants for PAS provider positions may be found in the same way that applicants for other positions are located -- by advertising the opening on USAJOBS and other job posting boards. Additional resources include local vocational rehabilitation offices, American Job Centers, centers for independent living, home care agencies, and the individual who requested PAS. Additionally, some contractors are available through GSA Advantage.

**b) Employee's Choice of PAS Provider:**

If FCA hires a PAS provider who will be assigned to a single employee, and if that employee prefers a provider (for example, because the provider has worked with him or her in the past), FCA must give primary consideration to that choice to the extent permitted by law. However, it may not be possible to honor the employee's preferences in all cases. FCA may choose a different provider if, for example, the employee's preferred provider is not qualified or less qualified than another applicant; if FCA decides to utilize a pool of shared providers instead of dedicated providers; for reasons of cost or convenience; or if FCA decides to have appropriate existing employees provide PAS.

An employee may request permission to bring his or her own PAS provider to work as a reasonable accommodation (not as a PAS) if the employee does not request that FCA assume the cost of providing the services. However, if the employee wants FCA to assume the cost of providing the services, FCA may have reasons to choose a different provider, as discussed above.

**c) Terms of PAS Provider Employment:**

FCA may require PAS providers to provide PAS to more than one employee, as long as each employee entitled to PAS receives PAS in a timely manner.

FCA may assign non-PAS job functions to PAS providers, as long as these other duties do not interfere with provision of PAS and all employees who are entitled to PAS continue to receive them in a timely manner. These other duties could include work-related tasks that are required as a reasonable accommodation or work-related tasks that any assistant would provide.

FCA may not require a non-PAS provider employee to provide PAS to another employee.

**V. Requests for PAS**

The process for requesting PAS is the same as the process for requesting reasonable accommodations under Section 2 of the Implementing Procedures to PPM 857, except that "reasonable accommodation" is replaced with PAS, applicants are not entitled to

PAS, the time frame set forth in paragraph (d) of Section 2 does not apply, and FCA Form 502 is replaced with FCA Form 519, Confirmation of Request for Personal Assistance Services (CRPAS).

#### **VI. Process for Determining Whether PAS are Required**

Once a decision-maker receives a request, the requesting employee, the decision-maker, and the RAC will work together to determine whether and what kind of PAS are required. The procedures set forth in Sections 5, 6, 7, and 10 of the Implementing Procedures to PPM 857 will be followed, except that “reasonable accommodation” is replaced with PAS, “disability” is replaced with “targeted disability,” and FCA Form 504 (referenced in Section 10) is replaced with FCA Form 517, Personal Assistance Services Information Reporting Form.

#### **VII. FCA Staff Responsibilities**

FCA staff responsibilities are the same as those set forth under Section 4 of the Implementing Procedures to PPM 857, except that “reasonable accommodation” is replaced with PAS.

#### **VIII. Denial of PAS Request**

FCA is required to provide PAS only if the requesting employee is entitled to them under the regulations. Therefore, FCA may deny a request for PAS if:

- The requester is not an FCA employee;
- the requester does not have a targeted disability;
- the targeted disability does not create a need for PAS;
- the requester is not able to perform the essential functions of the job, even with PAS and any reasonable accommodations;
- the requester would create a direct threat to safety on the job, even with PAS and any reasonable accommodations; or
- providing PAS would impose undue hardship on FCA.

The process for denying a PAS request is the same as that set forth in Section 11 of the Implementing Procedures to PPM 857, except that “reasonable accommodation” is replaced with PAS, and FCA Form 503 is replaced with FCA Form 518, Denial of Personal Assistance Services Request.

**IX. Request for Reconsideration**

The reconsideration process for denials of requests for PAS is the same as that set forth in Section 12 of the Implementing Procedures to PPM 857, except that “reasonable accommodation” is replaced with PAS and the time frames in that section do not apply.

**APPROVED** \_\_\_\_\_ /s/ \_\_\_\_\_

**William J. Hoffman**  
**Chief Operating Officer**

**Date** \_\_\_\_\_ **1/2/18** \_\_\_\_\_

**CONFIRMATION OF REQUEST FOR PERSONAL ASSISTANCE SERVICES (FCA-519)**

*Completed by the Individual Requesting Personal Assistance Services (PAS)  
Return form to the Reasonable Accommodation Coordinator (RAC), Office of Agency Services*

Employee's Name:

Telephone:

Office:

Date of Request:

Today's Date:

**PERSONAL ASSISTANCE SERVICES REQUESTED** – Note: Please be as specific as possible

**REASON FOR REQUEST** – Identify targeted disability and why it creates a need for PAS.



**PERSONAL ASSISTANCE SERVICES INFORMATION REPORTING FORM (FCA-517)**

*Completed by Decision-Maker*

*Attach copies of all documents obtained or developed in processing this request  
Return form to the Reasonable Accommodation Coordinator (RAC), Office of Agency Services*

Name of Individual Requesting PAS:

Office:

Job held or desired (occupational series, grade level):

Date Request Received:

Received by:

Date referred to decision-maker:

Decision-maker:

Date PAS approved or denied:

Was PAS approved or denied?

1<sup>st</sup> reconsideration:

Date requested:

Decision-maker:

Date requester informed of decision:

Approved or denied:

2<sup>nd</sup> reconsideration approved or denied:

Date requested:

Decision-maker:

Date requester informed of decision:

Approved or denied:

Date PAS provided (if approved):

## DENIAL OF PERSONAL ASSISTANCE SERVICES REQUEST (FCA-518)

*Completed by Decision-Maker*

*Return form to the individual requesting the PAS and provide copy to the Reasonable Accommodation Coordinator, Office of Agency Services*

Name of Individual Requesting PAS:

Type(s) of PAS Requested:

Request for PAS denied because (may check more than one):

Requester is not an FCA employee

Requester does not have targeted disability

Targeted disability does not create a need for PAS

Requester is not able to perform the essential functions of the job, even with PAS and any reasonable accommodations

Requester would create a direct threat to safety on the job, even with PAS and any reasonable accommodations; or

Providing PAS would impose undue hardship on FCA.

Detailed reason(s) for the denial of PAS (must provide specific reasons why PAS was denied):

### ***Steps to request reconsideration of the decision:***

1. The individual asks the decision-maker to reconsider the denial. The individual may provide additional information to support this request. The decision-maker must respond to the request for reconsideration within **20 business days**.
2. If the decision (denial) is sustained:
  - a. If the decision-maker is not an Office Director, the individual may seek a second level of reconsideration from the appropriate Office Director. The individual may present additional information in support of his or her request. The Office Director will respond to the request for reconsideration within **20 business days**.
  - b. If the decision-maker is an Office Director, the individual may seek a second level of reconsideration from the Chief Operating Officer (COO). The individual may present

additional information in support of his or her request. The COO will respond to the request for reconsideration within **20 business days**.

If denial was based on undue hardship, concurrence by the General Counsel (if the General Counsel or Deputy General Counsel was decision-maker, concurrence by Chief Human Capital Officer):

<b>Name</b>		<b>Date</b>
<b>GENERAL COUNSEL</b>	<b>Signature</b>	
<b>Name of Decision-Maker</b>	<b>Signature</b>	<b>Date</b>

FCA 518 (12/17)

*Return form to the individual requesting the PAS and provide copy to the Reasonable Accommodation Coordinator, Office of Agency Services*