

New Mexico Medical Advisory Team (MAT) Assessment

MAT Workgroup Name: Clinical Workgroup

Date: May 20, 2020

Question or Request: It is anticipated that workers (and possibly members of the public) will request accommodations under the Americans With Disabilities Act because of disabling conditions that preclude wearing a cloth mask.

- What are the best options for infection control in the workplace for persons who cannot wear a mask?
- What are some physical and behavioral health conditions that might preclude a person from wearing a mask?

Recommendation/s in bullet form:

- If an individual is unable to wear a mask in the workplace, options for the employer and individual to consider include:
 - Continuing to work remotely, if applicable;
 - Wearing a face shield instead of a mask, which can also help to limit the spread of virus (though less effectively);
 - Providing tissues for mouth/nose covering when coughing or sneezing (ensure sufficient access to hand sanitizer or soap and water for hand hygiene following each tissue use);
 - Modifying the physical workspace to include barriers (clear or solid as conditions warrant), higher walls or partitions for cubicles, etc.;
 - Acquiring “clear masks” for use by co-workers of deaf or hard of hearing employees.
- There are numerous physical and behavioral health conditions that might preclude a person from wearing a mask including:
 - Facial structure inconsistent with mask fit;
 - PTSD, Anxiety, claustrophobia or other behavioral health diagnoses in which wearing a mask or seeing others in masks creates emotional discomfort/distress;
 - Moderate or severe chronic respiratory disease in which symptoms worsen with mask wear;
 - Tracheostomy;
 - Allergy (not responsive to treatment) to the mask material.
- Some health conditions become complicated by others wearing masks:
 - Deaf or Hard of Hearing (unable to read lips or facial expressions of those wearing masks)
- The general principle for employers to consider is that the masks are meant to assist with limiting potential harm to employees and helping to reduce their risk of infection. However, if the emotional harm done by wearing a mask outweighs the potential physical benefit, a mask should not be worn and one or more alternative methods should be used to decrease the risk of infection.

Assessment:

Employees may have medical conditions that limit their ability to wear a certain face mask or all face coverings. The latest COVID-19 guidance from the Equal Employment Opportunity Commission (EEOC) provides some guidance to employers when an employee with a disability needs an accommodation related to PPE (such as modified face masks for interpreters) or an employee needs a religious accommodation under Title VII of the Civil Rights Act (such as modified equipment due to religious garb), the employer “should discuss the request and provide the modification or an alternative if feasible and not an undue hardship on the operation of the employer’s business under the ADA or Title VII.”^{1,2} The Centers for Disease Control and Prevention (CDC) provides guidance for the wearing of cloth face covers by the public and states that “Cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.”³

Alternatives to Face Masks

From a clinical perspective, there are many options that can be considered for individuals who are unable to wear a mask due to ADA considerations. These include:

1. Allowing those employees to continue working remotely, where appropriate for their job duties. Social distancing has been a key component of the nationwide and local strategy for preventing the spread of SARS-

New Mexico Medical Advisory Team (MAT) Assessment

CoV-2. If possible and feasible, an employer could consider allowing those employees with an ADA accommodation to continue working remotely while masks are required.

2. Allowing those employees who are unable to wear a face mask to wear a face shield instead, which may provide the wearer with less restrictions for breathing and can provide some decrease of virus spread compared to a facial mask.^{2,4}
3. Modifying the physical space where the individual works to include clear or solid barriers, higher walls or partitions for cubicles, etc.

Physical and behavioral health conditions that might preclude a person from wearing a mask including:

- Facial structure inconsistent with mask fit;
- PTSD, Anxiety, claustrophobia or other behavioral health diagnoses in which the benefit of wearing a mask or seeing others in masks creates emotional discomfort/distress;
- Have moderate or severe chronic respiratory disease in which symptoms worsen with mask wear;
- Tracheostomy;
- Allergy (not responsive to treatment) to the mask material.

Some health conditions become complicated by others wearing masks:

- Deaf or Hard of Hearing (unable to read lips or facial expressions of those wearing masks)

There may be individuals who require accommodations based on their specific needs or concerns and these should be reviewed based on the most recent guidelines from the Infectious Disease Society of America and the U.S. Equal Employment Opportunity Commission.

Red flags and concerns:

- Each individual who requests an individual accommodation under the Americans with Disabilities Act may require separate evaluation to understand the legal challenges and to also work with the employee to reach agreement about the best approach to addressing the health and safety needs of the employee and his or her coworkers.
- Accommodation for one individual will not equate to the same accommodation for others – each individual requires separate evaluation and reasonable accommodations based on their needs and aligned with the Americans with Disabilities Act.
- The evidence base for alternative forms of source control, applicable to those unable to wear a cloth face covering or medical grade face mask, is sparse requiring extrapolation and estimation of accommodations to limit the public transmission of SARS-CoV-2 (the virus causing Coronavirus Infectious Disease, COVID-19).

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Level of Consensus: Total

Resources/Reference:

- ¹ U.S. Equal Opportunity Employment Commission “Pandemic Preparedness in the Workplace and the Americans with Disabilities Act” Available from: <https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act> [Accessed May 19, 2020].

New Mexico Medical Advisory Team (MAT) Assessment

- ² U.S. Equal Opportunity Employment Commission “What you Should Know about ADA Rehabilitation Act and Coronavirus” <https://www.eeoc.gov/wysk/what-you-should-know-about-ada-rehabilitation-act-and-coronavirus> [Accessed May 19, 2020].
- ³ Centers for Disease Control and Prevention Coronavirus Disease 2019 (COVID-19), “How to Protect Yourself” <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>
- ⁴ Infectious Diseases Society of America. Policy and public health recommendations for easing COVID-19 distancing restrictions. Published April 16, 2020. Accessed April 19, 2020. https://www.idsociety.org/contentassets/9ba35522e0964d51a47ae3b22e59fb47/idsa-recommendations-for-reducing-covid-19-distancing_16apr2020_final-.pdf
- ⁵ Perencevich, E. N., Diekema, D. J., & Edmond, M. B. (2020). Moving Personal Protective Equipment Into the Community: Face Shields and Containment of COVID-19. JAMA. Available from: <https://jamanetwork.com/journals/jama/fullarticle/2765525> [Accessed May 19, 2020].