

**Hernandez et al. v. County of Monterey; CFMG
CV 13-2354 BLF
ADA Programmatic Monitoring Report
Fifth Monitoring Report – First by Terri McDonald**

Submitted To:

Ernest Galvan
Benjamin Hattem
Caroline Jackson
Van Swearingen
Cara Trapani
Attorneys at Law
Rosen, Bien, Galvan & Gurnfeld

Susan Blitch
Ellen Lyons
Attorneys at Law
County of Monterey

Peter Bertling
Attorney at Law
Bertling and Clausen, LLP

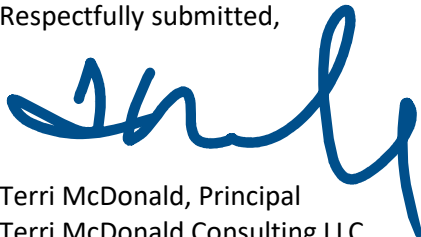
April 17, 2023

Dear Counsel,

Please see my First Monitoring Report for Hernandez et al v. County of Monterey; CFMG. I want to thank the County and Wellpath employees, the incarcerated persons interviewed and defense and class counsel for their assistance in completing this first report. During this review period, the staff were open and transparent with the status of compliance with the ADA programmatic aspects of the agreement. As reflected in this report, there is much work ahead for the County and Wellpath to come into compliance with the ADA programmatic aspects of the Settlement Agreement, but I have found the employees open to feedback and committed to making the necessary changes to comply.

I look forward to on-going engagement with the County, incarcerated persons and counsel in anchoring systemic improvements in the Monterey County jails. The findings during my first monitoring period are included in the attached report.

Respectfully submitted,



Terri McDonald, Principal
Terri McDonald Consulting LLC

Attachment

Hernandez et al. v. County of Monterey; CFMG
CV 13-2354 BLF
ADA Programmatic Monitoring Report
Fifth Monitoring Report – First by Terri McDonald

This is the first monitoring report by Terri McDonald concerning the Settlement Agreement pursuant to Hernandez v. County of Monterey and CFMG (“Wellpath”). This report will focus solely on the programmatic aspects of the Settlement Agreement and implementation plans associated with the American with Disability Act (ADA) provisions. This document addresses monitoring beginning in mid-September 2022 and ending December 31, 2022. This report includes information gleaned from prior ADA monitor reports, document reviews,¹ interviews with staff and incarcerated persons and an initial tour of the jails that occurred on October 13 and 14, 2022. The provisions identified by the report are a summation of requirements delineated in the ADA implementation plan and local ADA policies but do not mirror the prior ADA monitoring reports in number or order of the reports.²

Four ratings are used for this report: Not Rated, Non-Compliance, Partial Compliance and Substantial Compliance.

- Not Rated – The Monitor was unable to conduct a review of data on on-site operations during this rating period.³
- Non-Compliance – Little evidence provided to demonstrate policies, training, procedures adequate resources and internal auditing exist associated with the provision.
- Partial-Compliance – Evidence provided that demonstrates development and partial implementation of policies, procedures, training, self-auditing exist but have not yet been anchored in daily operations and/or self-monitoring and corrective action.
- Substantial Compliance – Policies, procedures, practices and resource allocation have been implemented to provide durable and sustained compliance coupled with the implementation of an effective system for tracking compliance and taking corrective measures in response to instances of non-compliance.

In general, it is clear that there are committed and dedicated staff determined to comply with the Settlement Agreement. The County has implemented policies, practices, training and auditing to comply. Staff have been assigned to serve as experts in the Settlement Agreement and their commitment to implementation is noted and

¹ A variety of documents were requested going back to September 2021 to understand historical trends. However, not all documents requested were provided or exist and future monitoring will assist the County and Wellpath in establishing evaluation and reporting metrics relative to the monitoring provisions.

² Sabot Consulting served as the prior ADA Monitoring team and utilized different status reporting format and provision numbering.

³ The “Not Rated” category will not be used in future reports as it is only used for this report due to lack of time for this expert to do a thorough review or lack of documentation provided to make a definitive rating. Those areas not thoroughly reviewed will be reviewed during the next tour and if documented proof of practice is not provided by the County for future reports, the rating will likely be Non-Compliance in those areas. However, it is not anticipated this will occur in the future.

demonstratable. The tragic loss of the prior ADA Expert understandably has led to a loss in forward momentum in monitoring and the potential for a change in course direction for the County as a new monitor makes recommendations. But this also creates an opportunity for renewed focus on the strategy to help the County and Wellpath implement areas of the Settlement Agreement that appear elusive to this point.

It is hoped the previous momentum can be re-established and a sustained and targeted corrective action plan to address the myriad of provisions to comply with the Settlement Agreement can begin anew following this report. The report is designed to list the policies, training and metrics associated with each provision followed by an overview of findings and recommendations to assist with an update to the ADA corrective action plan. As the report is not a public facing report, it will purposefully not articulate in great detail the importance and justification for each provision as the importance is certainly implied when the provision concept was listed in the implementation plans and/or the County's previously approved ADA policy.

During this first review, the following areas appear to be going well and will likely require only minor corrections to maintain and/or reach and sustain substantial compliance: Establishment of an ADA Coordinator and Ombudsperson; establishment of a Compliance Sergeant with the backbone of internal monitoring; establishment of a consistent Multidisciplinary Team process (MDT); inclusion of ADA populations in programming with adaptive supports; relationship between custody and Wellpath contract medical and mental health provider; and willingness to learn and implement revisions to local practices.

The following areas, on the other hand, will require more significant focus and support to implement meaningful and lasting reform of the system: Identification and tracking of the ADA population; establishment of meaningful and responsive ADA grievance and accommodation request systems; identification of seriously mentally ill population and provision of ADA supports that that population; housing of mobility impaired female populations; ADA policy language integration in all Lexipol local policies.⁴

While not written in every provision, ensuring sufficient staff are available to support the provisions and equal access are critical to compliance. It is recognized there are other experts who are working with the County, so this report will not specifically call for a staffing review, but it appears staffing shortages, particularly in health care, may be impacting the provision of an appropriate ADA program in the county. It should be understood in every provision that ensuring adequate staff is a recommendation.

I want to thank the representatives of the Monterey County Sheriff's Office and Wellpath leadership who were open, candid and introspective about the status of the ADA provisions. I also want to thank the staff and incarcerated persons who were approachable and candid about their individual ADA related knowledge, experiences and ideas for improvements. I am grateful for the willingness to transparently provide a myriad of documents and share the current status of implementation as it certainly is not easy to change monitors mid-stream. I look forward to working together with the County, Wellpath, and counsel in developing sustainable systems to support the ADA populations in the Monterey County jail system.

⁴ It is noted that access to medical and mental health care for the ADA population is addressed by other experts and will not be addressed significantly in this report, but access to care is a critical concern for the ADA monitor based on grievances and feedback during the October 2022 tour.

The following reflect the findings, observations and recommendations for this monitor’s first report and fifth ADA programmatic report.

Medical

1. Incarcerated persons with disabilities will have equal access to medical, dental and mental health care.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-100-F-08 Verification and Accommodation of Disability Wellpath HCD-110-F-09 Effective Communication Incarcerated Person Handbook
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Grievances Tours Interviews Clinical Expert Reports

Observations

There is no evidence to suggest systemic barriers associated solely with an ADA disability that do not exist for the non-ADA incarcerated populations. ADA identified persons have access to sick call processes and clinical care to the same degree as other incarcerated persons assuming they do not have a language, intellectual, cognitive or mental health barrier to accessing those services. The physical accessibility to clinic and treatment areas are under the purview of the ADA physical plant expert. However, operational and actual access to scheduled and emergency services will be addressed in this report, including transportation to those services.

In this first review, there is no evidence uncovered to suggest there is an inherent bias against providing equal access to services for the ADA population based solely on their ADA status. There was, however, ample information provided by interviewed populations concerning their complaints of untimely or insufficient care, but those issues are best addressed by the medical, mental health and dental experts. To the degree possible, future reports will more closely examine whether delays in health care that have been apparent during this monitoring period are more impactful to the ADA population due to their disability.

The vast majority of the following provisions create the building blocks for access to care for the ADA population and support this provision. Therefore, those foundational supports will be critical in ensuring access to care and when those near or reach substantial compliance collectively, this provision will be fully supported.

Recommendations

1. Continue to demonstrate a commitment to fair and equitable treatment of the ADA population through the implementation and sustainability of a quality ADA program.
 2. See following provisions for a myriad of recommendations and build an effective corrective action implementation strategy based on the following recommendations.
2. The medical intake process will attempt to identify accommodation needs and ensure this information is documented in the medical record as well as on a medical treatment order and provided to custody.

Expert Review

Partial Compliance

Policies Custody 602 - ADA Policy
 Custody 1110.00 – Inmate Classification – Requires Update
 Custody 731 – Inmate Health Care Communications – Requires Update
 Wellpath HCD-110-01B - Adaptive Support Needs
 Wellpath HCD-100-F-08 Verification and Accommodation of Disability
 Wellpath HCD-110-F-09 Effective Communication – Requires Update
 Wellpath HCD-110-F10- Durable Medical Equipment

Training None Provided for Evaluation

Metrics Intake Forms
 Electronic Medical Record
 Medical Treatment Orders
 Special Conditions List
 Tours
 Interviews

Observations

Wellpath does have established policies and screening forms for the identification of ADA persons upon intake. When an incarcerated person is identified as disabled or potentially disabled, this information is required to be shared with the custody staff via the Specific Conditions List and a Medical Treatment Order (MTO). The Special Conditions List is available to health care and custody staff through the jail management system and health care record. The Special Conditions list is also required to list important information, such as adaptive supports, the issuance of durable medical equipment (DME), the issuance of vests, and preferred method of communication.

The health care and custody staff responsible for implementation of this provision were clear about the requirements for identification and tracking of the population but admitted there have been breakdowns in the system, which will be further discussed in this report.

It is critical that this identification and tracking of the population must be fully functional as the identification and tracking of the ADA population is a baseline requirement for a strong ADA program. The County has implemented practices, but they are not consistent and there are profound breakdowns in communication between clinical and custody staff both at intake and when it is later determined that an incarcerated person has a disability that should lead to inclusion in the program. The population is under identified as will be described in subsequent provisions and disabled persons who receive some levels of supports are simply not on the Special Conditions List.

This is an area that requires a clear-eyed assessment from a multidisciplinary team to uncover the barriers and solutions contributing to the under identification of disabled incarcerated persons at intake or subsequently after the intake process is complete. Failure to maintain an accurate and thorough Special Conditions List and the breakdown in communication between health care and custody regarding who should be on the Special Conditions List inhibits compliance with virtually every aspect of the Settlement Agreement. A system exists to build upon, but the system is not fully functional and without resolving the breakdowns in identification of the population, ADA incarcerated persons are not being supported as required.

Recommendations

1. Convene an interdisciplinary workgroup to evaluate the ADA identification and tracking systems and develop a meaningful quality improvement plan to address.
2. Involve the Health Care and Medical Experts as appropriate for clinical guidance on identifying physically and intellectually disabled populations during intake and during subsequent medical and mental health assessments.
3. Numerous provision recommendations throughout this document support compliance with this provision.
3. Medical will have policies and practices for incarcerated persons, who after intake, develop a need for accommodations similar to needs identified at intake.
4. Clinical staff will update the jail management system (TracNet) if it is determined the incarcerated person has a disability or physical impairment that was not identified at intake and will make this information immediately available to classification and housing unit staff.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs Wellpath HCD-100-F-08 Verification and Accommodation of Disability – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update Wellpath HCD-110-F10- Durable Medical Equipment
Training	None Provided for Evaluation

Metrics	Special Conditions List
	Tours
	Grievances
	Interviews

Observations

As mentioned in Provision 2, the County and Wellpath have a process to identify and track disabled incarcerated persons at intake, but the policies are not as clear regarding identification and tracking those whose disability is identified after the intake process is complete; these policies and associated training should be updated. It is important for these policies and training to reiterate that reviews of sick call slips, adaptive support requests, grievances and every clinical encounter are opportunities to re-evaluate the population and follow up if ADA needs were not identified or did not manifest themselves at intake. Subsequent audits and clinical contacts should determine if clinical orders or were not facilitated (i.e., secondary testing for developmental disability) and to determine if the incarcerated person is experiencing any physical, mental health or cognitive challenges that require support, inclusion in the ADA program and documentation on the Special Conditions List.

In interviewing health care staff during the October 2022 tour, several staff articulated their responsibility to continually evaluate the population for ADA related supports and when a person subsequently should be added to the Special Conditions list to update the Special Conditions List and create a medical treatment order (MTO) to provide to classification. However, these Wellpath employees stated this is an area where consistency has not been established, which may be one of the reasons the Special Conditions List is incomplete as described further in multiple provisions.

The interdisciplinary workgroup discussed in Provision 2 should incorporate all identification and tracking provisions in their improvement plan.

Recommendations

1. See Provisions 2-4, 12, 18, 20-21, 24, 29 and 62-64 for further observations and recommendations.
5. Medical staff will document the incarcerated person's preferred method of communication if the person is hearing or speech impaired (i.e., ASL, written communication, etc.) or has a communication-related disability. This information will be documented both in the medical record and the jail management system.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy
	Custody 1110.00 – Inmate Classification – Requires Update
	Custody 731 – Inmate Health Care Communications – Requires Update
	Wellpath HCD-110-01B - Adaptive Support Needs
	Wellpath HCD-100-F-08 Verification and Accommodation of Disability – Requires Update
	Wellpath HCD-110-F-09 Effective Communication – Requires Update

Training None Provided for Evaluation

Metrics Special Conditions List
 Tours
 Interviews
 Observations

There are health care policies that provide support to this provision, but they require update to give specific directions concerning the Special Conditions List and what is required to be documented on that list. Custody's effective communication (EC) and Classification policies do not have sufficient language and require considerable revision. In several instances, the Special Conditions List does reflect the preferred method of communication for several incarcerated persons and this information is available both in the jail management system and health record.

The MDT process should look at the EC recommendations on the Special Conditions List and ensure the preferred method of communication is documented for the appropriate populations and if not, the MDT should direct clarification to the assigned clinician and monitor until complete.

If the associated policies are updated and the MDT and compliance audits address any quality control issues, this provision could reach substantial compliance in the next rating period.

Recommendations

1. Update associated policies to incorporate language designed to comply with provision.
 2. Provide copy of health care training for review.
 3. Incorporate review of Special Conditions List documentation of EC in the MDT meetings. The County may want to explore incorporating auditing in the Compliance Sergeant or commander reports.
6. A sign language interpretation (SLI) service contract will be in place and staff will be trained in how to access the services.

Expert Review

Partial Compliance

Policies Custody 602 - ADA Policy
 Custody 731 – Inmate Health Care Communications – Requires Update
 Wellpath HCD-110-F-09 Effective Communication – Requires Update

Training The ADA in State & Local Courts, law enforcement and detention facilities
 Health Care – Not provided for evaluation

Metrics Sign Language Interpreter Contract
 Interviews
 Grievances

Observations

A sign language contract is in place and custody staff have been trained in Custody's ADA course regarding their responsibility to ensure sign language services. Wellpath has not provided a copy of their training to demonstrate compliance. Custody and Health Care policies exist but they require update.

To assess the staff's understanding of the requirement, staff in the intake area were interviewed during the October 2022 tour. When interviewing both health care and custody staff, staff did not display an immediate understanding of how they would access those services and no easily available desk procedure to assist the staff was provided for review. It is recognized that SLI is infrequently utilized; therefore, maintaining a quality and highly visible desk procedure for staff to use when needing to provide SLI services during health care, due process situations and orientation is critical.

Assuming policies can be updated, and a desk procedure can be developed in a reasonable time period, this provision could reach substantial compliance in the next rating period.

Recommendations

1. Continue to maintain a SLI services contract.
 2. Update associated policies.
 3. Create a desk procedure and maintain updated desk procedures in commonly known locations in potential utilization areas.
 4. Retrain identified staff assigned to intake, clinics, classification, programs, disciplinary hearings, etc. where such services may be needed.
-
7. Medical will issue vests at intake for severe mobility, hearing and visually impaired incarcerated persons.
 8. Designated incarcerated persons must be instructed to wear their issued vests while outside of their assigned cell.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Wellpath HCD-110-F10- Durable Medical Equipment Post Orders/Duty Statements – Not Reviewed
Training	The ADA in State & Local Courts, law enforcement and detention facilities – Requires Clarification Health Care – Not provided for evaluation
Metrics	Electronic Unit Health Record Special Conditions List Tour

Observations

The Custody ADA policy and Wellpath Durable Medical Equipment policies both reference the issuance of vests, and vests are available for issuance at intake. As noted in the October 2022 tour, the intake nurse was aware of the requirement and various custody staff interviewed were aware of the purpose of the vests. In units where incarcerated persons were issued a vest, the staff were aware they had a vest, and the incarcerated person was wearing the vest outside the cell.

A review of the incarcerated person handbook reflects that the requirement to wear the vest is listed in the handbook and at least two (2) incarcerated persons were noted wearing vests during the October 2022 tour. However, the Special Conditions List does not reflect which incarcerated persons were issued a vest pursuant to policy and several staff thought only incarcerated persons with a vest fall under an ADA designation, which is a confusion of the local policy. It is also not clear that all incarcerated persons who require a vest are issued a vest and it is impossible to audit until the Special Conditions List is updated with an area to identify vest issuance.

The policy on which classifications of ADA incarcerated persons are issued a vest should be clearer to staff and affected incarcerated persons.

Recommendations

1. Update the Special Conditions List to identify all IPs issued a vest and maintain accurate and up-to-date information on the Special Conditions list.
 2. Retrain staff about which ADA classifications are issued a vest and clarify that not all ADA designated persons have a vest.
 3. Create a sign off form for those persons issued a vest to document their being advised the reason why vests are issued and require that classification or health care staff document in the jail management system or health record that a person issued a vest has been advised that it should be worn outside of the cell and the reason for issuance. The Compliance Sergeant or MDT should audit to ensure compliance.
9. Staff will assist disabled incarcerated persons, when necessary, in obtaining emergency care and routine health care and staff will assist incarcerated persons with completion of sick call slips when necessary.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy
	Custody 731 – Inmate Health Care Communications – Requires Update
	Custody Access to Care – Not Reviewed
	Wellpath HCD-110-01B - Adaptive Support Needs
Training	The ADA in State & Local Courts, law enforcement and detention facilities – Requires Clarification
	Health Care – Not provided for evaluation

Metrics	Sick Call Slips
	Interviews
	Accommodation Requests
	Grievances

Observations

The Wellpath policies are clear about supporting disabled persons with completion of a variety of documents, but the custody policy is lacking that requirement. All staff interviewed were aware of their responsibility to assist incarcerated persons with emergency and routine medical care and to direct the utilization of the sick call process either through the tablets or paper requests for non-emergent care. However, when interviewing custody personnel working in housing units, none of them stated they had a personal responsibility to assist with disabled inmates completing routine sick call slips. Most stated they would ask another incarcerated person to assist, if necessary, in helping fill out a sick call slip for a disabled person. A review of the ADA training outline reflects staff supporting access to care is clearly discussed in the class, but the outline does not have a specific learning outcome that staff understand it is their responsibility to assist with filling out a sick call slip, when necessary, rather than asking another incarcerated person to assist.

Assuming the update to policy and training, this provision could reach substantial compliance in the next rating period.

Recommendations

1. Update associated custody policies to make clear custody staff responsibility to assist disabled inmates accessing health care both from an emergent perspective and routine care.
2. Update associated training for all staff.
3. Provide proof of practice on retraining staff regarding this requirement.

Durable Medical Equipment (DME) Adaptive Devices

10. Adaptive devices in the possession of the incarcerated person upon intake will be evaluated and if adaptive devices are needed and not with the incarcerated person upon intake, the County or medical staff will issue such devices (i.e., wheelchair, canes, walkers)
11. Incarcerated persons will be allowed to keep medically approved prosthetics or other adaptive devices unless a legitimate security risk exists. If a medically necessary device is not approved due to safety and security reasons and the incarcerated person cannot reasonably function without the device, an alternative solution will be provided. If an incarcerated person requests adaptive support devices and the qualified medical profession denies the issuance of such a device, the denial will be documented in the unit health record.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Wellpath HCD-110-F10- Durable Medical Equipment
Training	Medical - None Provided for Evaluation The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Intake Forms Electronic Unit Health Record DME Inventory Reports Interviews Grievances

Observations

The County has appropriate policies on these provisions. However, based on tours, grievances and review of the Special Conditions List, this is an area that requires significant improvement. For example, while on tour, several incarcerated persons raised issues concerning not being able to maintain their previously issued DME upon intake to the jail and insufficient feedback was received from the clinical staff on why the DME was disallowed. Additionally, there were several incarcerated persons identified in the October 2022 tour who had DME assigned to them who were not listed on the Special Conditions List despite having walkers or medical braces.

Recently, the Compliance Sergeant recently conducted a jail wide tour to determine if other incarcerated persons were observed to have DME who were not on the Special Conditions List. During that review, several incarcerated persons were in possession of DME who were not identified on the Special Conditions List; these incarcerated persons were added to the Special Conditions List by Custody after the tour.

This is a critical example of a breakdown between Health Care and Custody regarding the identification and tracking of incarcerated persons who require DME which requires a focused and interdisciplinary approach to address.

Recommendations

1. Conduct an interdisciplinary problem-solving committee to determine how the breakdown in identification of this population is occurring and implement a corrective action plan to address.
 2. Consider referring to the MDT when previously approved DME is disallowed despite the IP stating they are still in need of the equipment to create a check and balance on clinical determinations.
 3. Recommend the identification of a single well-trained clinician to evaluate grievances regarding disallowance of requested DME to ensure consistency.
12. The County will maintain an accurate list of all issued/approved durable medical equipment as well as the assessment, repair and replacement history on all DME. The ADA Coordinator and Compliance Sergeant will conduct a documented monthly review of the list of DMEs.
 13. Medical staff will conduct a monthly review of all assigned wheelchairs and document this action in the medical record. The County will have a policy for the timely repair or replacement of adaptive support equipment.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy Wellpath HCD-110-F10- Durable Medical Equipment – Requires Update
Training	None Provided for Evaluation
Metrics	Intake Forms Electronic Unit Health Record DME Inventory Reports Special Conditions List Report from ADA Coordinator/Compliance Sergeant Interviews Grievances

Observations

As reflected in the response to Provisions 10 and 11, the County does not have an accurate list of all issued DME for the population, whether that equipment was in the incarcerated person's possession upon arrival or issued while in custody. The County does not have a good process to document repair and replacement of DME, including a consistent review of wheelchairs, which require routine repair and maintenance. It has been noted in at least one Compliance Sergeant's report that an IP was in possession of a wheelchair in need of repair and the Compliance Sergeant replaced the wheelchair, but this is not a systemic process and was reliant on the Compliance Sergeant to resolve.

Wellpath does not have a policy on the timely repair, replacement and maintenance of adaptive support equipment. For this report, it is unclear if Wellpath or the County has a trained expert in wheelchair repair or has a contract for such services. No monthly inventory of issued adaptive support equipment or reports for repair/replacement were provided for review.

Recommend including addressing these challenges in the interdisciplinary team referenced in Provisions 10 and 11.

Recommendations

1. See observations and recommendations for Provisions 10 and 11.
2. Develop a process for health care to review all assigned wheelchairs and employ trained staff or maintain a contract for monthly or emergent wheelchair repair services, including for wheelchairs that are the property of the incarcerated persons.
3. Create an auditable documentation of wheelchair maintenance services and provide to the ADA expert monthly.
4. Ensure adequate supply of assistive devices maintained in good repair.

14. The County will have a policy on the replacement and documentation of replaced hearing aid batteries.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	None Provided for Evaluation
Metrics	Electronic Unit Health Record Report Special Conditions List Interviews Grievances

Observations

While no policy was identified to memorialize the requirements, Wellpath does have a process in which Wellpath staff replace hearing aid batteries during medication delivery or work with the incarcerated person to charge hearing aid batteries as needed. The intake screening medical questionnaire does inquire about hearing aids but does not document whether the devices require charging or battery replacement. Wellpath provided an example report for December 2022, which reflected support for three incarcerated persons, one of whom required charging of the hearing aids.

However, the Special Conditions Lists provided does not have any person listed as having a hearing aid and no incarcerated persons encountered in the October tour were issued hearing aids to ask if the batteries had been replaced. However, several incarcerated persons interviewed complained of significant hearing loss and were not identified on the Special Conditions List. ADA accommodation requests provided for July – October 2022 do not have documented requests for batteries or hearing aids. A review of the Incarcerated Persons' handbook does have a section concerning the ADA and accessing services but does not advise the incarcerated person how to request battery replacements/charging for hearing aids.

With inclusion of the process in existing policy, inclusion of hearing aid information on the Special Conditions List, update to the incarcerated person handbook and monthly auditing, this provision could reach substantial compliance by the next rating period.

Recommendations

1. Update Wellpath policy to document how hearing aid batteries are replaced or how hearing aids are charged.
2. Update the IP Handbook to include requesting hearing aid batteries replacement/charging.
3. Update the Special Conditions List to include identification of incarcerated persons with hearing aids.
4. Prepare a report that demonstrates monthly battery replacement beginning January 1, 2023, and share with monitor to demonstrate compliance.

Developmental Disability

15. Wellpath will maintain a process to screen for potential developmental disabilities upon intake.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs
Training	None Provided for Evaluation
Metrics	Intake Questionnaire Electronic Unit Health Record Special Conditions List Interviews Grievances

Observations

The Wellpath policies do have a process for initial and secondary screening to identify and support potential developmentally disabled incarcerated persons. However, Wellpath leadership stated they were in the process of updating the intake screening form as the current developmental disability screening includes utilizing pictures of coins (money) as one method to pre-screen, but the increased utilization of ATMs and other non-cash alternatives renders the coin test less relevant in modern society. The updated screening tool will be reviewed during this next rating period.

Wellpath also stated that they utilize a contract psychologist when necessary to conduct a secondary screening. However, it is not clear that this process is well established or consistent. There is no tracking system to demonstrate initial identification of potential developmentally disabled populations at intake and then subsequent follow up. During the tour in October 2022, confusion existed with the team about the role of Wellpath in testing for developmental disabilities versus the role of the Program staff in arranging for testing of learning disabilities. The Special Conditions List also combines developmental disability and learning disability into the same section of the tracker, which adds to the confusion.

This process for identification and testing of potential developmentally disabled incarcerated persons requires clarification from all parties and remains an issue despite discussion in October 2022 as evidenced by the multidisciplinary treatment team (MDT) notes in November 2022 concerning two separate incarcerated persons.

- Referring to minutes from the MDT of November 15, 2022, one incarcerated person (E.D.) was noted as potentially autistic, developmentally disabled or learning disabled, but the referral was only to Programs for testing. There was no notation on the MDT notes about contacting the regional center regarding or ordering secondary testing for E.D., so it is unclear from the minutes if that occurred. Additionally, the MDT notes of

November 29, 2022, reflected that the Programs unit had not yet facilitated testing as noted on the November 15, 2022, MDT minutes.

- The second incarcerated person (M.A.) discussed at MDT on November 15, 2022, was listed as a regional center client and was pending testing by Programs.
- Neither M.A. nor E.D. had been tested by Programs within a 14-day period as required by Provision 21.

For the period of July 2022 through November 2022, there is only one mention in the MDT notes of secondary screening by Wellpath.

- Referring to the MDT notes of July 5, 2022, an incarcerated person (D.A.) required a secondary assessment for developmental disability which was ordered on or before May 26, 2022, but there are no further MDT discussions on D.A. as he was released.

As will be discussed in the provisions regarding identification and testing for learning disabilities,⁵ the process for initial and secondary testing for both categories requires a multidisciplinary team to chart out the difference and ensure that policy, testing processes, referrals, tracking and training are refined to ensure effective screening and testing protocols going forward.

Recommendations

1. Convene an interdisciplinary team to clarify the roles in both intake screening and secondary testing for developmental and learning disabilities.
 2. Ensure standardized initial screening at intake for developmental disabilities and institute the new screening tool after providing training to staff.
 3. Explore the benefit of separating the Special Conditions List to clearly identify the developmentally disabled population from the learning-disabled population to make the populations more distinct.
 4. Update associated policies and training once the systems are more clearly defined.
 5. Create a tracking report for the MDT to monitor the status of tracking testing of the population, whether by Wellpath or Programs.⁶
-
16. Wellpath will maintain a policy and practice of contacting the regional center to assist with identifying a potential developmental disability of an incarcerated person and to assist with services and transitional re-entry.
 17. The County will have a process for a secondary screening if it is believed an incarcerated person may be developmentally disabled and was not identified as such by the regional center.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy
	Wellpath HCD-110-01B - Adaptive Support Needs

⁵ Provisions 21-23.

⁶ The Monterey County Office of Education (MCOE) conducts secondary testing for the learning-disabled population.

Training None Provided for Evaluation

Metrics Electronic Unit Health Record
Special Conditions List
Regional Center Contact Log
Interviews

Observations

The Wellpath policies require contacting of the regional center if an incarcerated person may show signs of being developmentally disabled, and it was reported by Wellpath that this occurs. A notation of the MDT notes of November 15, 2022, shows at least one incarcerated person at the time of the MDT was identified as a regional center participant.⁷ However, Wellpath admits that there is no tracking system in place to demonstrate proof of practice.

Recommendations

1. Create a tracking mechanism for proof of practice on contacting on potential developmentally disabled persons at intake that demonstrates proof of practice on contacting the Regional Center and referral to the contract psychologist for secondary testing.
2. See Provision 15 for observations and additional recommendations.

18. If an incarcerated person is identified as developmentally disabled or has an identified neurological/cognitive impairment, this information will be provided to classification and program staff and documented in the medical record and jail management system.

Expert Review

Partial Compliance

Policies Custody 602 - ADA Policy
Custody 1110.00 – Inmate Classification – Requires Update
Custody 731 – Inmate Health Care Communications – Requires Update
Wellpath HCD-110-01B - Adaptive Support Needs – Requires Update

Training Health Care – None Provided for Evaluation
The ADA in State & Local Courts, law enforcement and detention facilities

⁷ Incarcerated person M.A.

Metrics	Electronic Unit Health Record Special Conditions List Jail Management System Tours Interviews Grievances
---------	---

Observations

As previously mentioned, the County does have a process for identification of the developmentally disabled population. However, it is not clear if the initial intake system is capturing the population as effectively as it should be or whether contacting the regional center or secondary testing are occurring as required by policy and the provision. Additionally, a variety of policies require update, and the MDT process should be further refined to ensure timeliness of assessment for those identified at intake as developmentally or potentially developmentally disabled. As mentioned, and further discussed multiple provisions, consideration should be given to further refining the Special Conditions list and improving the quality of information contained therein.

Recommendations

1. Update associated policies and training.
2. See observations and recommendation for Provisions 15-18.

19. At least one time per month, the County will evaluate incarcerated persons with a developmental disability's access to commissary and review of their cell/dorm area to determine if any theft is occurring. This will be documented in the jail management system.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy – May require update Custody 1110.00 – Inmate Classification – Requires Update
Training	None Provided for Evaluation
Metrics	Special Conditions List Jail Management System Tours Interviews Grievances

Observations

The County has this provision requirement listed in ADA Policy #602 but admittedly does not conduct such assessments. Therefore, there is no documentation in the jail management system to reflect compliance as required by policy.

To address victimization concerns, reportedly the developmentally disabled persons are interviewed by social worker staff prior to the MDT process, where victimization and other concerns are discussed. However, the MDT minutes reviewed do not reflect these interviews occurred, document any information gleaned during these interviews or address potential victimization concerns. Perhaps the unit health record contains clinical notes regarding the interviews, but it is not clear how this information is or is not shared with the MDT committee for consideration.

Admittedly, it is difficult to look at commissary purchases compared to canteen items maintained in the cell to address victimization and manipulation by other incarcerated persons. However, there are methods to address victimization and pressuring of a vulnerable disabled person that could be incorporated into policy to replace this provision. The County should work with the Expert with feedback from class counsel to explore potential methods that address the underlying issue of victimization but perhaps in a different method.

Recommendations

1. Continue to interview DD population in preparation for MDT meetings and include notation of those interviews in the MDT minutes.
2. Discuss this provision with ADA Expert and class counsel to determine if modification of this provision is warranted.
3. Further recommendations may result from a modification to this provision.

Learning Disability

20. The County will have a process to identify learning disabled incarcerated persons and this information will be documented in the medical record and jail management system.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy
	Custody 1110.00 – Inmate Classification – Requires Update
	Custody 731 – Inmate Health Care Communications – Requires Update
	Custody 1000 Inmate Program and Services – Requires Update
	Wellpath HCD-110-01B - Adaptive Support Needs
	Wellpath HCD-100-F-08 Verification and Accommodation of Disability – Requires Update
Training	None Provided for Evaluation

Metrics	Special Conditions List
	Secondary Screening Lists
	MCOE Learning Disability Assessments
	Interviews
	Grievances

Observations

The County does have a process to identify learning disabled persons through a referral to the Programs unit, who then ask the Monterey County Office of Education (MCOE) to conduct a secondary assessment. However, this is not defined in policy and is a confused practice as described in Provision 15. There is no documentation on the Special Conditions Lists provided (May-November 2022) that a secondary assessment actually occurred on a potentially learning-disabled person and no tracking system for secondary testing has been provided. Additionally, there is existing conflict about the role of Wellpath during initial screening and whether mental health staff are conducting an initial screening for learning disabilities.

As previously mentioned, the Special Conditions list clusters the developmentally learning-disabled populations, making it difficult to decipher the appropriate category and testing protocols for each individual. According to the MDT notes provided (May-November 2022), referrals to Programs for learning-disability testing do occur but no MDT notes reviewed reflected the outcome of testing and several showed testing delayed beyond 14 days.

As with the developmental disability provision recommendations, the ADA implementation teams for Wellpath and the County should reassess current identification referral, testing, tracking protocols for this population and update associated policies, forms, tracking and training to improve outcomes and accountability.

Recommendations

1. Convene an interdisciplinary team to clarify the roles in initial screening and secondary testing for developmental and learning disabilities.⁸
2. Ensure standardized initial screening at intake for identification of potential learning disabilities with a referral process to the Programs Unit.
3. The Programs Unit should work with health care and housing unit staff in the identification of potentially learning-disabled populations based on available information (i.e., sick call slips, grievances, personal reports to staff during due process events, etc.).
4. Explore the benefit of separating the Special Conditions List to clearly identify the developmentally disabled population from the learning-disabled population.
5. Update associated policies and training once the systems are more clearly defined.
6. Create a tracking report for the MDT to monitor the status of testing of the population, whether by Wellpath or Programs.⁹

⁸ It is recognized that process revisions may require approval by counsel due to existing Implementation Plan language on this area and several others discussed in this report.

⁹ The Monterey County Office of Education (MCOE) conducts secondary testing for the learning-disabled population.

21. The County will have a secondary screening to identify learning-disabled incarcerated persons that occurs within fourteen (14) days of being notified of the need to conduct a secondary assessment.
22. The County will maintain a relationship with the Monterey County Office of Education (MCOE) to assist in identifying and supporting learning-disabled incarcerated persons in the jail.
23. If it is known that an incarcerated person has tested below the 4.0 reading level, utilizing the CASAS test, this information will be included in the special conditions list and the “Disability tracking system.”

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy – Requires update Custody 1000 Inmate Program and Services – Requires Update
Training	None Provided for Evaluation
Metrics	Special Conditions List MCOE Learning Disability Assessments CASAS Reading Level Testing List Tours Interviews Grievances

Observations

The Program staff has what appears to be a good working relationship with MCOE, who conduct CASAS testing on the program assigned population and also assist with conducting secondary assessments to identify learning disabled incarcerated persons. As proof of CASAS testing by MCOE, the County provided lists of CASAS tests conducted from FY 19/20 through FY 21/22 to demonstrate that testing has been occurring with the population. As would be expected, it is noted that there was a profound drop in testing from FY 19/20 in subsequent years as a result of managing the COVID-19 pandemic.

It is also noted that the MDT process discusses compliance with learning-disability tested as reflected in several MDT minute notes and discussed in Provisions 15.¹⁰ However, there is no section on the Special Conditions List for incarcerated persons who are identified with a CASAS reading level below 4.0. The County will need to strategize and decide how Programs will ensure this information is included in the Special Conditions List so that support can be provided regarding access to care and due process encounters when necessary. This cohort should not be clustered with the developmentally or learning-disabled population and should fall within their own grouping on the Special Conditions List.

¹⁰ December 6, 2022

Recommendations

1. Continue to utilize MCOE to conducting testing of potential learning-disabled persons.
2. Continue to monitor tracking of testing for learning disabilities through the MDT process.
3. More clearly define in the Special Conditions list which populations are developmentally, learning disabled or test below 4.0 grade level on the CASAS test.
4. Clarify in policy and/or practice the utilization of a “Disability Tracking System,” which is distinct from the Special Conditions List in Policy 602.
5. Update associated policies and forms.
6. Include tracking in the compliance sergeant and/or commander monthly and/or quarterly reports.

24. The County will accept the following as proof of a learning disability: probation officer report where the LD was confirmed with the school district, school transcript or IEP or other information received from MCOE.

Expert Review

Not Rated

Policies Custody 602 - ADA Policy
 Custody 1000 Inmate Program and Services – Requires Update

Training None Provided for Evaluation

Metrics Special Conditions List
 Secondary Screening Lists
 Interviews
 Grievances

Observations

The County reports this information is accepted as proof of a learning disability. However, there is no Program policy or proof of practice to support monitoring compliance. Will work with County in next monitoring period to update policy and review compliance with this provision.

Recommendations

1. Update Program policy to reflect compliance with this provision.
2. Create proof of practice regarding compliance.

Deaf/Hearing and Speech Impaired

25. The following equipment, supplies, and services will be available for the population: TTY/TDD machines, captioned telephones, volume control telephones, video relay services (VRS) and videophones.¹¹ Additional time will be afforded as necessary when an assistive device is utilized. At least one telephone in each housing unit will have a voice amplified telephone.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Equipment Inventory Report(s) Tours Interviews Grievances

Observations

The County has policies concerning access to adaptive support devices, but these policies require update to specifically comply with this provision. Adaptive equipment as described in the provision is available but there is no centralized tracking of where equipment is maintained or documentation demonstrating the equipment has routinely been tested to ensure operational. It is noted that amplified telephones are available in all housing units and visiting. The County has telecommunication devices for the hearing impaired/deaf in the intake area as well as ADA accessible tablets that can facilitate adaptive phone calls. Close captioning televisions are available as discussed in Provision 26.

As reflected in Provision 4, when intake staff were queried how to assist a new intake incarcerated persons with utilizing the TDD phone or the ADA tablets (Purple tablets) the staff were inexperienced, and the equipment was not demonstrated as operational.

It is recognized the type of services and equipment will evolve over time; therefore, ensuring the availability of an up-to-date and accurate inventory of all adaptive equipment as well as desk procedures to use the more complex systems is necessary. All staff should be aware of how to locate the inventory sheets and desk procedures for the wide range of services that may be necessary to facilitate access to care, due process and connection between the incarcerated

¹¹ The approved policy requires: TTY/TDD machines, Captioned telephones, VRS, Videophones and assistive listening devices (if available) may be provided to inmates upon request. Further discussion with counsel is required to clarify what is required by the agreement.

person with their attorneys, families and friends. Future reports will determine which equipment is or is not available and the staff knowledge of the location and how to utilize various adaptive equipment.

Recommendations

1. Update associated policies.
2. Create a desk procedure and maintain updated desk procedures in commonly known locations throughout the jail
3. Create a monthly inventory report of all equipment to be monitored by the Compliance Sergeant and/or ADA Monitor. This inventory should include a test to ensure the equipment is operational.
4. Retrain identified staff in how to access the services/equipment, focusing on staff who are assigned to intake, clinics, classification, programs, disciplinary hearings, etc.
5. Ensure tablet and telephones have directions for incarcerated persons to access.

26. At least one (1) television in intake and each housing unit that houses a hearing-impaired person will have active close captioning on the televisions.

Expert Review

Substantial Compliance

Policies	Custody 602 - ADA Policy
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List Tours Interviews Grievances

Observations

The Custody ADA policy 602 references this requirement and staff are trained to ensure access to close captioning televisions during the ADA training. All custody staff interviewed during the October 2022 tour concerning the requirement were aware of how to activate close captioning and their requirement to do so.

During the tour, it was noted at least one television in every housing unit toured had close captioning capability. Several of the televisions observed had close captioning activated but there were no hearing-impaired individuals noted on the Special Conditions List living in that housing unit. During that tour, only one person was identified as being hearing impaired and that person was in intake and not assigned to a unit, so it was difficult to assess on tour if compliance with the policy was actually occurring. ADA Accommodation Requests were reviewed for the period of July-October 2022 and none of the requests involved access to close captioning television. The Grievance logs and accommodation requests will be reviewed in the next rating period to determine if complaints are being generated concerning non-compliance.

One area of concern surrounds the fact that on the tour it was noted in two (2) units, the incarcerated persons controlled the remote controls to the televisions, not the staff, which could impact compliance. The incarcerated persons stated they left the close captioning active, but they are not subject to policy or monitoring, so this practice should be reconsidered and was likely not in alignment with leadership expectations.

One additional round of monitoring is recommended to determine if the below recommendations have been implemented and confirm no legitimate concerns arise during the monitoring period.

Recommendations

1. Identify all hearing-impaired IPs and include this information on the Special Conditions List.
 2. The Compliance Sergeant should include evaluation of compliance during the monthly compliance tours by assessing living units housing hearing impaired IPs to determine if the close captioning is activated on the television. This should be a component of the Compliance Sergeant's report.
 3. Staff, not incarcerated persons, should control the television remote controls.
27. The County will maintain a process to notify visually, hearing and developmental disability populations in the event of an emergency and staff will be trained in the protocols. The County will have emergency evacuation procedures to ensure the safe and effective evacuation of disabled incarcerated persons. Housing deputies will be aware of the disabled population in their assigned living units and be aware of the ADA accessible evacuations routes.

Expert Review

Partial Compliance

Policies	Custody 404 - Emergency Evacuation - Requires Update Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification
Metrics	Quarterly Drill Reports Special Conditions List Tours Interviews

Observations

Custody Policy 602 requires notification of the population in the event of an emergency. The staff have available to them the Special Conditions List and a process exists to issue vests to the population who will require assistance in an

emergency. The County has an evacuation policy with evacuation routes listed in the policy – routes that appear easy to navigate in an emergency. But the policy does not articulate how the staff would identify and support the disabled population during an evacuation and that should be remedied. The ADA training for custody should also be update with a section on emergency evacuation of disabled persons.

During the October 2022 tour, several deputies were interviewed about the process they would use to identify those persons who required assistance with evacuation and how they would support the evacuation. The staff generally had appropriate answers on how they would support evacuation, but confusion existed amongst the staff about how they could quickly know which incarcerated persons might require support. For example, most said they would rely on the incarcerated persons who had on a vest, but developmentally disabled incarcerated persons are not issued a vest, so they were not identified for support.

Recommendations

1. Update the evacuation policy to incorporate this provision.
2. Ensure the Special Conditions List is accurate and available to custody staff during emergencies.
3. Comply with the vest issuance and wearing policies.
4. Retrain staff regarding their responsibility to identify and support the ADA population during an emergency evacuation.
5. Run quarterly drills that test staff knowledge of the evacuation of ADA designated populations in their assigned housing units.

28. The County will maintain a process to notify visually, hearing and developmental disability for routine activities (i.e., meals, recreation time, court appointments, medication).

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy
	Custody 731 – Inmate Health Care Communications – Requires Update
	Wellpath HCD-110-01B - Adaptive Support Needs
	Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Lesson Plans
	Post Orders
	Tours
	Interviews
	Incident Packages
	Disciplinary Reports
	Grievances

Observations

The ADA training reiterates to staff their responsibility to know the ADA designated populations in their work locations and advises that support may be needed for the population. In interviewing housing unit staff, they routinely communicated that they understand their role in supporting the disabled population, but as with Provision 27, the staff were not clear about who the ADA population were and confused who is issued a vest. No staff maintained a Special Conditions List on their person or referenced that they could access the Special Conditions list on their hand-held Spartan device. Furthermore, custody staff rotate routinely and may not benefit from a long-term knowledge of the incarcerated persons in their units. Custody staff can and do serve as support to health care staff should a disabled person not be identified on the Special Conditions List; they should be notifying classification and the health care staff, but the rotation of staff likely inhibits that potential.

Many of the recommendations regarding support during an emergency also apply to routine supports for the disabled populations.

Recommendations

1. Update associated policies to comply with provision.
2. Ensure staff are retrained in who is issued a vest so they do not erroneously believe that the only ADA designated people in the units are issued vests.
3. Ensure custody staff are trained in how to access the Special Conditions list through the hand-held Spartan devices. The Spartan should also enable custody staff to view a photograph of the incarcerated person.

Seriously Mentally Ill

29. Seriously mentally ill (SMI) incarcerated persons will be identified, and the special conditions list will include incarcerated persons who have been determined by mental health staff to have a serious mental health illness (SMI).

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy
	Custody 1110.00 – Inmate Classification – Requires Update
	Custody 731 – Inmate Health Care Communications – Requires Update
	Wellpath HCD-100-F-08 Verification and Accommodation of Disability – Requires Update
Training	Health Care - None Provided for Evaluation
	The ADA in State & Local Courts, law enforcement and detention facilities

Metrics Special Conditions List
 Tours
 Interviews

Observations

During this reporting period, the County did not identify any SMI incarcerated person on the Special Conditions List to assist with supporting this population with access to care, prompting for ADLs and during due process. There was a minor attempt to identify the SMI population when this expert toured in October 2022, but only three (3) SMI persons were placed on the list after questioning, which likely significantly understated the population in the jail based solely on a visual tour of the population. During the October 2022 tour, even a non-clinician could identify what appeared to be acutely mentally ill persons due to delusional and paranoid statements presented when they were interviewed, extremely poor ADLs, isolative nature, etc., but these individuals were not listed on the Special Conditions List as SMI.

During the reporting period, the Special Conditions List had no SMI incarcerated persons identified and this is a profound deviation from ADA compliance standards. It was recommended that this be remedied immediately and that the Mental Health Expert be contacted if Wellpath is having difficulty identifying the SMI population in the jail. Reportedly this has improved and will be evaluated in the next reporting period

Recommendations

1. County to work with the Mental Health Expert to identify the SMI population.
2. Document the known SMI populations on the Special Conditions List.
3. Unless counter indicated by the Health Care Monitor, include a process to review the SMI populations in the MDT meeting regarding their ADA support needs.
4. Include the SMI populations in the compliance reviews conducted by the Compliance Sergeant and the Commander.
5. Ensure appropriate provisions of ADA agreement apply to the SMI populations, including but not limited to access to programming, assistance with ADLs, assistance with forms, assistance in due process interactions, etc.

Classification/Housing

30. Classification will establish appropriate classification criteria for incarcerated persons with disabilities.
31. The County will utilize disability codes pursuant to policy (i.e., DH, DS, DV, DD, LD, DK, DOU, DU) and ensure appropriate staff are trained regarding these codes.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Wellpath HCD-100-F-08 Verification and Accommodation of Disability – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update
----------	--

Training	None Provided for Evaluation
----------	------------------------------

Metrics	Special Conditions List Population Lists Tours Interviews
---------	--

Observations

While the classification staff are heavily involved in housing and programming for disabled incarcerated persons, a review of Custody Policy 1110.00 – Inmate Classification, reflects there is no specific language regarding classification’s role or support in relation to incarcerated persons with disabilities. Additionally, County policy 602 requires the utilization of specialized codes in the ADA Policy 602, which are currently not in use. These codes mirror the codes used by the California Department of Corrections and Rehabilitation (CDCR) but have not been implemented in the County.

As the County begins the process of updating the classification policy to ensure the role of classification in compliance with the Settlement Agreement, the use of classification codes should be included. It is not clear at this point that it is helpful to utilize the CDCR codes at the county level but if they are not utilized, alternative methods to identify this population should be implemented following discussions with the ADA Expert with input from Class Counsel.

Recommendations

1. Revamp the classification policy and classification codes to comply with these provisions or implement alternative solutions more appropriate for the County.
 2. Update all associated custody and health care policies and forms.
 3. After policies and forms have been updated, provide training to staff.
 4. Where appropriate, update the incarcerated person handbook and orientation.
-
32. During intake, Classification will work with medical as needed to interview incarcerated persons needing accommodation to determine their accommodation needs and to determine if ADA accessible housing or lower bunk/lower tier housing is required.
 33. All incarcerated persons will have an assigned bunk and custody will monitor to ensure an incarcerated person is not displaced from their lower bunk/lower tier.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Wellpath HCD-100-F-08 Verification and Accommodation of Disability Wellpath HCD-110-F10- Durable Medical Equipment Post Orders
Training	None Provided for Evaluation – Regarding classification policy and codes The ADA in State & Local Courts, law enforcement and detention facilities – Regarding bunk assignments
Metrics	Special Conditions List Intake Documents Tours Interviews

Observations

The classification staff work closely with the medical department to attempt to house ADA identified persons in the most appropriate unit and all incarcerated persons are assigned a specific bed. Classification interviews the population at intake and reportedly also assists with the orientation of some of the ADA populations when assigned to a housing unit, but this has not been confirmed through documentation. Additionally, as mentioned in Provision 31, the classification policy requires update to clarify the role and expectations of classification in supporting the ADA identified population.

Despite real efforts for classification and health care to collaborate and ensure the proper housing of the disabled populations, it is clear there are breakdowns in communication between medical and classification regarding who is identified as requiring ADA accommodation as determined by medical personnel. As evidenced by Provisions 2-4, it is not unusual to find incarcerated people with assistive devices not identified on the special conditions list or disabled incarcerated persons being inappropriately housed as described below. The consequence of this lack of communication is that classification may be unaware of the special needs of the population when making housing decisions or when auditing housing locations for the ADA population.

Two areas reviewed further reflect a potential communication breakdown between health care and custody.

- During the October 2022, tour at least four (4) incarcerated persons raised a complaint about being assigned to an upper tier or upper bunk despite having medical or mobility issues that they believed made it unsafe for them to sleep in an upper bunk/tier having bed/tier – two of those people were identified after they were observed sleeping on the floor on their mattress.¹²
- During a review of the monthly “Hernandez ADA – Facilities Report” for periods of May-November, there were three (3) instances where a mobility impacted person on the Special Conditions List was in an inappropriate bed and required to be moved.¹³

¹² IP Varetta, FN2205030, Ostracick, FN2206601, Marino, FN2207641, Stewart, FN2206740.

¹³ May 12, 2022, May 26, 2022, September 1, 2022

Recommendations

1. Update the Classification policy and associated training to comply with the Settlement Agreement.
2. Conduct after action review of identified failures in housing or identification of ADA populations to address systemic challenges or individual training issues.
3. Create a daily review system by classification to review the Special Conditions list to rehouse an IP inappropriately housed the prior day.
4. Send out a reminder briefing to all staff about knowing their ADA identified populations and to immediately advise if they note a mobility impaired person apparently inappropriately housed.¹⁴
5. The Special Conditions List should be updated to reflect if an incarcerated person has signed a waiver to ADA assigned housing for ease of auditing and tracking.

34. ADA identified population will be assigned to ADA accessible living areas and units consistent with their individualized needs and classification levels. The County will ensure that it does not place disabled populations in higher classifications units or administrative segregation based solely on their disability.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List Population Lists Tours Interviews
Grievances	
Observations	

While the County does have a process to identify ADA populations, albeit with areas for improvement as described in various other provisions, there are serious concerns about the ability to provide ADA accessible living units for the female population and those in the current restricted housing units. The verification of whether a living unit meets ADA guidelines is under the jurisdiction of the physical plant monitor, but it was clear from the October 2022 tour that women are being housed in non-ADA compliant cells and there were no ADA complaint cells in the male units currently being utilized for restricted housing.

¹⁴ Examples include custody staff observing incarcerated persons sleeping on the floor, having difficulty navigating stairs or having cane and being housed on the second floor.

While it is a concern that will require monitoring and further review, it is important to note that no mobility impaired male was placed in a non-ADA identified restricted housing cell at the time of the October tour. Further, the County explained that should a mobility impaired male require restricted housing placement, the restricted housing status would occur in an ADA cell outside of the restricted housing unit. That issue will be monitored going forward. Furthermore, any placement of a mobility impaired person outside of an ADA designated cell or living unit should be tracked monthly by the Compliance Sergeant and included in the Commander reports.

The female population, however, is a more complex issue as there are no ADA identified *cells*, other than in the health care unit, with the limited ADA accessible housing for women in Q dorm, a unit that cannot house high security, seriously mentally ill or restricted housing females. During the October 2022 tour, there were two women who appeared significantly mobility impaired not housed in an ADA modified cell.¹⁵ One woman had a walker and was placed in a very isolative cell in the intake area the second woman required a wheelchair, but the wheelchair was not in the cell because there was insufficient room to maneuver. Pursuant to the ADA, both women were denied access to an ADA accessible living area, and one was being housed in a more restrictive environment than her classification level required. The County was encouraged to consider moving the female population to a unit with ADA accessible cells if the disabled female population cannot be accommodated in the current location.

Recommendations

1. Update the classification policy to reflect this provision and provide training to staff.
2. The policy should clearly articulate how restricted housing mobility impaired males will be housed in a non-restricted housing cell that is ADA accessible.
3. Develop a plan to house the mobility impaired females who require celled housing in an ADA accessible cell. This may require the conversion of a male housing unit for female incarcerated persons and should not overclassify the female ADA population by housing them in a more restrictive setting than their classification dictates.

35. The County and Wellpath will have voluntary and revocable waiver process when an incarcerated person knowingly waives ADA accommodations, such as housing, SLI or assignment to a program area that does not meet the ADA accommodation needs of the incarcerated person.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy – requires update
	Custody 1110.00 – Inmate Classification – Requires Update
	Wellpath HCD-100-F-08 Verification and Accommodation of Disability – Requires Update
	Wellpath HCD-110-F10- Durable Medical Equipment
	Incarcerated Person Handbook

¹⁵ IP Wilson, FN 2103349, IP Sarian FN2207561

Training None Provided for Evaluation

Metrics Special Conditions List
 Intake Documents
 Waivers
 Tours
 Interviews
 Grievances

Observations

While not codified in policy, the County does have a waiver that is utilized when an ADA designated incarcerated person does not wish to reside in an ADA designated bed, tier, or unit. Copies of waivers have been provided for review, with the majority being a waiver to be able to reside in A and B Dorms, rather than the celled units that have greater ADA accessibility but may be more restrictive than a dorm.

A policy should be developed that makes clear the process not just for the incarcerated person invoking and signing a waiver but for revocation of the waiver at any time. The policy should also guide further engagement with the incarcerated person to confirm he/she/they continue to request to reside in an alternate setting and the fact the incarcerated person signed a waiver should be noted on the Special Conditions List for ease of auditing. The waiver itself should be revamped to improve explanation of what accommodations are being waived, the reason for the waiver and how the accommodation needs can or cannot best be accommodated in the unit where the incarcerated person will reside. The incarcerated person handbook should also be updated to reflect the policy.

With revisions identified in this provision, the County should be able to reach substantial compliance in the next rating period.

Recommendations

1. Update the ADA waiver form.
2. Include waiver information in the Special Conditions List
3. Update associated policies and training.
4. Update the Incarcerated Person Handbook

36. Classification will interview developmental disability incarcerated persons who have a cellmate within a week of housing and monthly thereafter in a confidential setting to determine if any victimization or predatory behavior is occurring. This will be documented in the jail management system.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Post Orders
----------	--

Training	None Provided for Evaluation
----------	------------------------------

Metrics	Special Conditions List Jail Management System Incident Packages Tours Interviews Grievances
---------	---

Observations

The County does not comply with this provision, as required by County Policy 602. The County states that interviews are not conducted by classification and not documented in the jail management system as required by policy.

As an alternate approach, the County reports that developmentally disabled incarcerated persons are interviewed by clinical staff before MDTs in a confidential setting to determine if they are being victimized or have other needs, but no Wellpath policy was provided for review to memorialize this expectation. Additionally, a review of the MDT minutes provided fails to document the interview or discussion on victimization considered by the MDT or classification staff. The interview by clinical staff could be documented in the health record and the MDTs may discuss this issue, but as of this report, there is no proof of practice this is occurring.

The assessment and documentation of victimization concerns of developmentally disabled and other vulnerable populations is critically important. It is reasonable that the County adjusts the process as required by the current policy, but these adjustments must be discussed with the ADA Expert and Class Counsel. If approved, revisions to the current policy should be codified and proof of practice that victimization assessments are occurring must be readily available to the MDT and/or classification teams with permanent documentation in the jail management system. This is important so that easily victimized populations are not celled with more predatory incarcerated persons.

Recommendations

1. Update policies, training and documentation to memorialize feedback from the developmentally disabled population concerning victimization concerns.

Orientation

37. At least five (5) large print orientation handbooks will be available for visually impaired incarcerated persons.

Expert Review

Substantial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Intake Policy or Post Orders
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Tours Interviews Grievances

Observations

The County complies with this provision, but it does not appear to be codified in the Custody Effective Communication policy. While on tour, there were sufficient large print orientation handbooks available and English and Spanish for the population. The County also articulated a strategy to provide ADA accessible handbooks in alternate languages, as necessary. Additionally, incarcerated persons can access the handbooks on the tablets, where the font can be enlarged for reading purposes. However, the monitor did not observe whether the font and spacing met the parameters of the agreement and will do so on the next tour. Should the requirements on font, paper type and spacing not be in compliance when reviewed more closely, this provision could be reduced to partial compliance in the next rating period.

Interviews with impacted populations will occur in the next rating period to determine whether large print orientation and other materials are available to them. Assuming the County can update associated policies, post orders and training and no serious non-compliance issues are noted, this provision could reach substantial compliance in the next rating period.

Recommendations

1. Update all relevant policies, post orders and training.
2. Document in jail management system or Special Conditions list that an enlarged handbook has been provided at intake for visually impaired population and/or document training on the use of the tablet was completed for this population.

38. Housing unit staff will conduct a verbal orientation for incarcerated persons who have been identified or suspected of being developmentally disabled, learning disabled, significantly hearing or vision impaired and will document this orientation in the jail management system in the “Notes” section.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy – Requires Update Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Post Orders
Training	None Provided for Evaluation
Metrics	Special Conditions List Jail Management System Tours Interviews Grievances

Observations

Housing Unit staff currently do not conduct specialized orientation for the disabled population and therefore do not document the activity in the jail management system. The County recognizes that while this provision is required pursuant to the ADA Policy 602, the orientation that is occurring is being done by classification staff and may not be occurring routinely. However, during the October 2022 tour, when one of the newer classification staff was interviewed about this function, he was unaware of the requirement to do so. The County admits that when the orientation does occur by classification staff, it is not documented in the jail management system, so it was impossible to monitor for compliance. Additionally, there is no evidence to demonstrate that the orientation includes training on the use of the tablet, making ADA accommodation requests or regarding filing a grievance.

It is reasonable for the county to adjust the responsible staff from the housing unit officer to classification, but the County must update the local policy, ensure classification staff are trained and ensure the orientation and associated trainings are documented in the jail management system.

Recommendations

1. Update policies and classification post orders to comply with provision.
2. Ensure the orientation includes training on utilization of the tablet and submitting an ADA accommodation request or grievance.
3. Include auditing for compliance as a function of the Compliance Sergeant, ADA Coordinator or MDT committee.
4. Beginning January 1, 2023, provide copies of jail management system records that show orientation for this population occurred or provide MDT minutes that document that orientation occurred.

39. For deaf and/or hard of hearing inmates whose preferred method of communication is sign language, a sign language interpreter or sign language interpretive services will be utilized to assist with orientation of that individual.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-100-F-08 Verification and Accommodation of Disability – Requires Update Wellpath HCD-110-F-09 Effective Communication
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification
Metrics	Special Conditions List Intake Documents Jail Management System Interviews Grievances

Observations

It is unclear when the last time a sign language interpreter was summoned to assist a hearing-impaired incarcerated person and it is likely this has not occurred for orientation. The County has a sign language interpretive service contract and is aware of available computer programs that assist with communicating with hearing impaired individuals. The County is also in the process of creating a video that will provide orientation and that video will be close captioned, but this may not assist in the event a hearing-impaired person prefers sign language communication. SLI can also be incorporated in the orientation video.

The County has a policy requiring the documentation of the preferred method of communication in the unit health record and jail management system, but several policies need to be updated to reflect the responsibility to provide SLI when it is the preferred method of communication. The custody staff ADA training does address SLI as a potential effective communication support but does not specifically provide examples of when an SLI must be used; therefore, the training should be updated as well. When updating the policy, documentation of the provision of an SLI should occur in the jail management system or health record, depending on the purpose of the communication (i.e., access to care, orientation or due process).

Recommendations

1. Update associated policies and training to reflect the various engagements where an SLI must be summoned if that is the preferred method of communication, including but not limited to orientation, due process, grievances, health care.
2. Ensure documentation of the provision of SLI occurs depending on the purpose of the communication.
3. Beginning January 1, 2023, submit a monthly report documenting any person who meets with criteria and the events in which an SLI was summoned. This can be included in the monthly Compliance Sergeant or Commander report.

40. If County utilizes an orientation video, the video includes subtitles for hearing impaired incarcerated persons.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy – Will require update when video complete Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update
Training	Not Applicable
Metrics	Video Special Conditions List Tours Interviews Grievances

Observations

The County reports that an orientation video is not currently being utilized but is under development. This Expert has not yet reviewed the video to evaluate compliance with the ADA Provisions. It is important during the development stage of the video that recommendations from this report are included in the update. It is also important that the ADA Expert be given an opportunity to review the ADA aspects of the video and provide feedback before completion.

Recommendations

1. Finalize the Orientation Video and permit the ADA Expert to review before finalization.
2. Ensure the video is shown in close captioning while in intake or during housing unit orientation.
3. Embed SLI into at least one orientation video for use when necessary.

Support

41. Trained staff must be available to aid incarcerated persons to assist with activities of daily living and submission of ADA accommodation requests and grievances.
42. Incarcerated persons shall not be placed in the role of assisting with ADLs, but the County may train incarcerated persons to assist with other activities provided a policy is developed and adhered to.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs Wellpath HCD-110-F-09 Effective Communication – Requires Update Post Orders Incarcerated Person Helper Policy – If Implemented Incarcerated Person Helper Job Description – If Implemented
Training	Health Care - None Provided for Evaluation The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification
Metrics	Lesson Plan Training Tracking Special Conditions List Jail Management System ADA Accommodation Requests Tours Interviews Grievances

Observations

Custody's ADA policy 602 and Wellpath's Adaptive Support policy require compliance with this provision, but associated policies require an update. Custody staff ADA training also alludes to supporting the population but should be further refined to clarify the types of support where staff are required to assist. The policies should also be updated to make clear how these supports will be documented in the jail management system and/or health record. As with the sick call slip assistance discussed in Provision 9, the staff do not have a full grasp of what is required when supporting incarcerated persons with ADLs and submission of requests and grievances.

One example of an incarcerated person who requires significant support is currently residing in the jail and has been for months.¹⁶ This incarcerated person is legally blind and lost his vision while in custody. The jail system has been heavily reliant on his cellmate or other incarcerated persons to assist him with ADLs and completion of documentation and does not appear to have developed a quality individual support plan for this person. In actuality, a review of MDT notes dated November 15 and November 22, 2022, realize this incarcerated person is without a cellmate and will require staff support. The MDT should have developed a plan far before the loss of his cellmate as incarcerated persons are not authorized to be assigned to assist with ADLs and should not be relied upon to complete personal and confidential forms, such as sick call slips and grievances.

There are a variety of provisions concerning staff support for designated populations in completing grievances, sick call slips, accommodation requests, ADLs and during due process. A workgroup should be established to consider the various forms of support as new policies, forms and training are developed to ensure consistency in processes.

The use of incarcerated persons as helpers can be an effective support for non-ADL or clinical tasks but that help must be strictly limited, and the helpers must be pre-screened for potentially predatory behaviors with on-going screening by staff. Should the County desire to pursue a work program for inmate helpers, a policy, training and job description will need to be developed. There are examples from other jurisdictions that can assist.

Recommendations

1. Update associated custody policies to make clear staff responsibility to assist disabled inmates in completing forms and ADLs, as necessary. Ensure documentation of engagements is included in the procedures.
2. Update associated training for all staff.
3. Update the incarcerated person orientation to advise of the ability to seek assistance.
4. Provide proof of practice on retraining staff regarding this requirement.
5. Should the decision be made to implement an incarcerated person helper program, develop policies, training and job descriptions prior to implementation.

43. The county will have staff trained to assist incarcerated persons with disciplinary and other classification processes.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy - ADA Policy
	Incarcerated Person Disciplinary Policy/Forms – Requires Update
	Custody 1110.00 – Inmate Classification – Requires Update
	Custody 731 – Inmate Health Care Communications – Requires Update
	Wellpath HCD-110-01B - Adaptive Support Needs

¹⁶ IP Carmona, FN2204060

Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification None Provided on the Role of Staff Assistant
----------	--

Metrics	Lesson Plans Training Tracking Special Conditions List Disciplinary Reports Restricted Housing Placement Reports Tours Interviews Grievances
---------	---

Observations

The incarcerated person disciplinary policy has a provision concerning providing staff support for disciplinary hearing, but the classification procedure does not have a similar requirement. Reportedly the disciplinary hearing forms have been updated to guide the process and show proof of practice during the hearing but have not been submitted for review. Training has not been provided relative to how to serve as support during the disciplinary process or other classification matters or the policy requirements of ensuring staff assistance during due process events, such as discipline, increase in custody level or placement in restricted housing.

While requested for review, no completed disciplinary reports or restricted housing placement orders were submitted for review and analysis. Based on verbal discussions with the County, it is believed this is an area where substantial policy, form and training revision will be required, so it is not as critical for this report to see completed documents as it is assumed that the hearings and classification actions do not fully comply with the provision.

During this next rating period, the ADA Expert will make a concerted effort to work with the County to update policies, forms and training regarding these due process requirements as these can reflect significant liberty concerns for the incarcerated persons. It is believed that these policies, forms and training can be updated during this next rating period with implementation initiated within six (6) months of this report.

Recommendations

1. Work with the ADA Expert with feedback from Class Counsel on the refinement of policies, forms and training related to staff assistance in the disciplinary process and other important classification actions, including increase in custody and placement/retention in restricted housing.
2. Update the incarcerated person handbook to advise of the policy changes.

Programming

44. Equal access to programming will be available based on individualized assessments of the needs of each disabled person. The Program Unit will complete an Incarcerated Person Disability Evaluation form as appropriate to provide adaptive support in programming.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1000 Inmate Program and Services – Requires Update
Training	None Provided for Evaluation
Metrics	Special Conditions List Program List Employment List Basic Needs Questionnaire Tours Interviews Grievances

Observations

While the County Inmate Program and Services policy requires significant revision, the County does have a process for incarcerated persons to request to attend programming. It is reported that an ADA designation is not a barrier to inclusion in programming.

When the incarcerated person signs up for inclusion in a program, the Program staff complete a “Basic Needs Questionnaire” for at least some services and this document inquiries regarding ADA accommodation needs and prior inclusion in special education classes. Based on these assessments, adaptive support is provided in programming and often described in a variety of monthly reports generated by the program unit, Compliance Sergeant and commanders.

For this first monitoring tour, completed program assessments for incarcerated persons on the Special Conditions List were not requested but will be in future reports. Additionally, lists of individuals in programs was provided but the list did not identify the disabled population, which would be helpful for future monitoring reports, but the information is still auditable as the Special Conditions Lists can be used to cross reference the report.

The County also completes a monthly “ADA Program Access Audit,” and copies of those audits were provided for review. The Audits cover sheriff department programs, GEO transition services, Wellpath programming and the jail-based competency treatment (JBCT) program. The reports, while somewhat useful to determine point in time review,

but to be more meaningful as a systematic assessment, the reports should be refined as described in the recommendations section.

The County has not solidified the process for individual assessments in a local policy or procedure and that should occur. The County should also track statistics on the inclusion of the ADA populations in programming to assist in demonstrating compliance.

Recommendations:

1. Continue to encourage disabled incarcerated persons to be involved in programming, education and work assignments.
2. Update the program policy to incorporate all aspects of access to programming and individual assessment of the ADA population.
3. Update the individual assessment form to capture additional information about ADA accommodation needs and ensure it is used for all programming available to the ADA population.
4. Include auditing for compliance with provision in monthly ADA Program Access Audit. Include the following areas in the audits:
 - a. A trend analysis to include specific program assignments and adaptive support for the population identified on the Special Conditions List.
 - b. Number of individual engagements of incarcerated person identified on the Special Conditions List (Provision 44 and 45).
 - c. Status of learning-disability secondary assessments (Provisions 20-22)
 - d. Status of CASAS testing (Provision 23).

45. Hearing impaired individuals will be able to participate in programming through either a contract SLI or equivalent program on an accessible tablet if that is their preferred method of communication. If a tablet is used, the county shall discuss with the participant the efficacy of this alternative.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Custody 1000 Inmate Program and Services – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires update
Metrics	Special Conditions List Individual Program Status Reports Tours Interviews Grievances

Observations

While the County does have a contract for SLI services and the program staff do accommodate for disabled population, the effective communication policies require update to meet compliance. This actual utilization of SLI in programming was not assessed on the recent tour and will be addressed in the next reporting period. The assessment will include reviewing program notes to assess the engagement of hearing-impaired individuals as well as an interview of hearing-impaired individuals identified on the Special Conditions Lists. These interviews will occur remotely and not just on scheduled tours. For hearing impaired incarcerated persons engaged in programming, documentation on effective communication will be requested, including programming provided by mental health or contract staff.

The County should begin the update of policies to comply with this provision during this next rating period while the ADA Expert works with the County in monitoring effective communication in general and utilization of SLI or engagement of a participant who utilizes the tablet in lieu of in person programming.

Recommendations

1. Defer pending further analysis.

46. The Program Director is responsible for monthly tracking and documenting that inmates requiring accommodations have been offered participation in all programs and activities normally available to inmates in the County Jail.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1000 Inmate Program and Services – Requires Update
Training	None Provided for Evaluation
Metrics	Special Conditions List Monthly tracking reports Individual Assessment Reports Tours Interviews Grievances

Observations

This does not appear to be occurring as required by ADA Policy 602 as the current practice is that incarcerated persons have to submit a request to be considered for inclusion in programs, versus being engaged by staff and encouraged to participate. To comply with this provision, the Program staff would have to actively seek out participation from incarcerated persons identified on the Special Conditions List, which is both achievable and desirable.

The County does maintain a list of all participants in programming and that list reportedly does include ADA persons. A list was provided for review, but as mentioned previously, the lists do not identify disabled populations and the list was not cross referenced with the Special Conditions List for this rating period.

The Special Conditions list does not have a section to document involvement in a program, which could be desirable, but it is unknown how complicated that revision would be. Additionally, a review of MDT notes provided fails to demonstrate that a discussion occurred concerning any of the incarcerated persons involvement in programming other than discussion on pending tests for a potential learning disability. Discussion about program activities should be a function of the MDT process.

This provision specifically requires that the Program Director implement a strategy to offer program opportunities to the disabled population, which is achievable. An update to the policy and development of a tracking system could be achieved in this next rating period to support a substantial compliance rating.

Recommendations

1. Develop a Program policy and tracking mechanism to comply with provision.
2. Prepare a form that documents acknowledgement the program staff offered program participation, inquired concerning and advised of available and requesting accommodations.
3. See observations and recommendations Provision 44.
4. Consider the inclusion of program assignment status on the Special Conditions List.
5. Consider an opportunity in the MDT process to document ADA IP involvement in clinically approved programming.

47. The Compliance Sergeant will audit the Program Director tracking and documentation monthly and the Support Services Commander will generate a quarterly audit report.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy – Requires Update
	Custody 1000 Inmate Program and Services – Requires Update
	Post Order – Not Reviewed
Training	Not Applicable – Post Order
Metrics	Special Conditions List
	Compliance Sergeant Audit
	Commander Audit
	Tours
	Interviews
	Grievances

Observations

The County does not have a systematic process to track and audit program involvement by the disabled population. Regardless, the Compliance Sergeant does generate a monthly compliance audit and a Commander generates a monthly and quarterly report to discuss ADA populations assigned to programming. However, none of those audits serve as a full assessment of a program involvement of the entire ADA population, nor do these reports address trends of ADA involvement in programming or address barriers to involvement where they may exist. The reports discuss individual participants, which is good, but does not address systemic compliance with this provision, which would not be too complex to create.

As mentioned previously, there does not appear to be a single list of all disabled incarcerated persons assigned to programming and the development of such a list or inclusion in the Special Conditions list may assist in internal review of this provision by both the Compliance Sergeant and the assigned Commander. Policy 602 is also specific on which commander will complete the quarterly report, requiring the “Support Services Commander” to complete the report and the County may want to update that policy to be less specific about which commander completes the report.

Recommendations

1. Continue involving ADA populations in the myriad of programs available.
2. Create a single tracking list to show which ADA populations are involved in programming and those who are not clinically cleared to be involved in programming or waiving assignment to a program or work assignment.
3. Update the Program Policy and Policy 602 to reflect changes in the process and who completes the various audits.
4. See observations and recommendations in Provision 44.

48. Disabled incarcerated persons will have equal access to recreational areas consistent with their custody level and work/training assignment schedule.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy Custody 1000 Inmate Program and Services – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List Program List Employment List Individual Assessment Reports Tours Interviews Grievances

Observations

This area was not significantly reviewed during this review period as it was unclear if other monitors were monitoring access to recreation. This area will be addressed in future reporting periods.

Recommendations: Defer pending further analysis.

49. Females who require ambulation assistance will exercise in the Q pod yard and program in an appropriate and accessible space.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1000 Inmate Program and Services – Requires Update Recreation Policy – Not Reviewed Yard Officer Post Orders – Not Reviewed
----------	---

Training	Not Applicable
----------	----------------

Metrics	Tours Interviews Grievances
---------	-----------------------------------

Observations

The females with mobility limitations are permitted to access the Q pod yard for recreation, which does not have restroom facilities. However, an officer is assigned to the yard to ensure access and to afford access to a restroom, as necessary. Associated policies and post orders were not provided or exist to solidify this provision into policy, and that should occur.

Interviews with the female population revealed no major concerns about the access to the yard and all reportedly daily access and the ability to utilize the restroom if needed. One *IP* who has a seizure disorder stated she is afraid to use the rooftop yard in the event that she has a seizure and requested to use the yard associated with Q dorm. The staff on duty committed to accommodate that request but while thoughtful and responsive this type of issue should be addressed in a formal policy regarding which females on the Special Conditions List are permitted to utilize the Q pod yard.

Recommendations

1. Continue to allow mobility impaired females to access the Q pod yard if females continue to be housed in that area.
2. Update the Recreation Policy and/or post orders for staff working in the female unit to memorialize the expectation on access as well as mandate access to the restroom as needed while female incarcerated persons are on the Q pod yard.

3. Defer to ADA physical plant monitor regarding compliance with the physical plant aspects of Q Yard.

50. There will be a job description for all incarcerated person work positions. Disabled incarcerated persons must be considered for job assignments where they can perform the essential functions, with or without reasonable accommodation.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Custody 1000 Inmate Program and Services – Requires Update Wellpath Work Clearance Policy – None Provided for Review
Training	Not Applicable
Metrics	Special Conditions List Worker List Job Descriptions Request for Assignment Tours Interviews Grievances

Observations

The County reflects that this provision has not been implemented. As there are approximately 70 work assignments requiring a job description, it seems viable that this could be accomplished during the next rating period to reach substantial compliance.

Recommendations

1. Create job descriptions for all work assignments that describe the essential functions of the job.
2. Ensure policies are updated to reflect health care role in clearing disabled incarcerated persons for job assignments and prior to restricting a disabled incarcerated person from a particular job that the clinical staff are aware of the essential functions of the job.
3. Continue to identify work assignments that can be filled with disabled populations and to the extent possible, modify work assignments to accommodate ADA populations who desire to work.

51. Disabled persons will be permitted access to religious services available to other incarcerated persons.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy Custody 1000 Inmate Program and Services – Requires Update Religious Services Policy – Not Reviewed
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List Religious Services Report Tours Interviews Grievances

Observations

Custody ADA Policy 602 directs compliance with this provision and the ADA training for custody reiterates to staff that incarcerated persons with disabilities will be afforded access to religious services similar to non-disabled populations. The custody policy on Inmate Programs and Services did not have express language about access to religious services and that should be remedied.

No religious services tracking report was provided for review but interviews with incarcerated persons in various housing units demonstrated that if faith-based services were provided, the ADA population would have equal access. No ADA requests for accommodations were provided that demonstrated a complaint from an incarcerated person about access but as discussed in Provisions 53-59, the tracking system for both grievances and accommodation requests is insufficient at this point to be certain no complaints occurred during this rating period.

Assuming policies are updated, and proof of practice can be established, this provision could reach substantial compliance in the next rating period.

Recommendations

1. Recommend update to policy to reflect provision.
2. Establish or provide tracking system for faith-based services to demonstrate equal access.
3. Additional recommendations may result from further assessment.

52. Disabled persons have equal access to mail and assistance will be provided to developmentally and learning-disabled populations to ensure they personally receive their and have access to the mail system.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody Mail Policy – Not Reviewed
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires update
Metrics	Special Conditions List Tours Interviews Grievances

Observations

Custody ADA policy 602 requires that mail be personally delivered to this population. The specific custody mail policy was not reviewed but it is highly likely the policy does not reflect the ADA provisions as other individual policies have been silent on compliance with the ADA and Settlement Agreement as these policies are generally templates purchased to comply with state law and industry practices.¹⁷

Regardless, staff report that they hand deliver mail to all incarcerated persons and that would include developmentally and learning-disabled persons. The ADA training did not specifically advise staff of their responsibility relative to assisting this population with accessing mail services and to ensure hand delivery of mail to the population. A minor addition to existing training would likely facilitate this requirement as no incarcerated person on tour raised an issue about access to mail, inability to read or correspond externally or not receiving their mail personally. No ADA grievances or requests for accommodation provided for review were regarding mail for the ADA population but for the reasons stated, this cannot be relied upon at this point as a measure of compliance.¹⁸

Assuming policies and training can be updated, and no significant concerns are uncovered relative to delivery of mail as required by the provision, it is anticipated this provision could reach substantial compliance in the next rating period.

Recommendations

1. Recommend update to mail policy and post orders to reflect compliance with provision.
2. Recommend update to ADA training to reflect provision.

Visiting

53. Reasonable accommodations shall be afforded to incarcerated persons with a disability to ensure they are able to participate in visiting. Incarcerated persons shall be allowed to retain prescribed health care appliances/assistive devices during their assigned visit unless a legitimate documented threat is noted.

¹⁷ The majority of specific policies provided for review are off the shelf policies developed by Lexipol and have not been updated to reference Custody Policy 602 or the Settlement Agreement requirements.

¹⁸ Grievance and request for accommodation issues are discussed in Provisions 55-61.

54. Non-contact visiting booths shall be accessible for incarcerated persons with disabilities. Assistive devices such as volume control phones and writing materials shall be provided for effective communication for non-contact visits unless a legitimate documented threat is noted.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1010 – Inmate Visitation – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Incarcerated Person Handbook/Video – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires update
Metrics	Special Conditions List Visiting Logs Jail Management System Tours Interviews Grievances

Observations

Reportedly the incarcerated population are permitted to retain assistive devices during visiting and they have equal access to visiting. The ADA Physical Plant Expert will have to opine on whether the visiting rooms meet ADA physical plant requirements, but it is noted that there appears to be a path of travel and accessible booths in most visiting areas and there are volume-controlled phones in all visiting booth areas toured in October 2022.

However, Custody Policy 1010- Inmate Visiting does not comply with the agreement and requires an update. The ADA training for custody staff does address access to programming but does not mention in the overview that assistive devices can be retained and the implements to assist both the visitor and the incarcerated person should be afforded as appropriate. The IP Handbook should also be updated. During the next rating period, grievances and accommodation requests will be reviewed for any issues raised by the disabled population and the visiting records of designated disabled persons will be requested.

It is anticipated with an update to the policy and training, assuming no issues are identified by the population, that this provision could reach substantial compliance in the next rating period.

Recommendations

1. Update the Visiting Policy
2. Update ADA training
3. Update the Orientation Handbook and Video, if utilized.

Request for Accommodation

55. The County will implement policies and procedures for incarcerated persons and third parties (i.e., family) to make a request for ADA accommodation. The County will ensure a mechanism is in place to facilitate and advise the incarcerated person and third party how to submit an accommodation request.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy ADA Grievances/Requests for Accommodation (??VI) – Requires Update Incarcerated Person Handbook
Training	TBD
Metrics	Special Conditions List Accommodation Logs Accommodation Requests Website or other means to notify third party Tours Interviews Grievances

Observations

Though the incarcerated person handbook and policy require update, there is currently a mechanism to advise incarcerated persons how to submit an accommodation request either through a written request or the tablet. There is an effective tracking system on those requests and timely review from the ADA Coordinator attempting to resolve concerns. However, in reviewing accommodation requestions completed from the period of June – October 2022 it is believed significant focus is required to ensure meaningful and timely responses to the incarcerated requests or more thorough documentation of resolution given is required, particularly when the accommodation request is associated with access to medical care. The next report will include actual data from a review of accommodation requests beginning January 1, 2023.

The County also has not yet established a formalized process and documentation system for a third party to submit an accommodation request on the behalf of an incarcerated person. Third parties can contact the Ombudsperson for support and follow up, but this is not formalized in policy or proof of practice documentation. Creating a website page on the Sheriff's website creating a mechanism to contact the Ombudsperson with an associated form and email address for families to contact could help accomplish this. Additionally, posters in the visitor processing areas advising of the availability to contact the Ombudsperson would support this effort.

The ADA Expert will work with the County in this next rating period to develop and begin implementation of a strategy to support external and improve internal responsiveness to requests for accommodation.

Recommendations

1. Implement an internal multidisciplinary team to review prior responses to accommodation requests and implement a strategy for timely and thorough responses to requests.
2. Create a mechanism for third parties to submit a formal accommodation request on behalf of an incarcerated person. Ensure this is formalized in policy and publicly available to access.
3. Update the ADA Grievance/Requests policy and staff training and incarcerated person orientation as appropriate.

56. ADA accommodation requests shall be reviewed by a supervisor within 24 hours. Emergency requests should be handled by the housing deputies as needed.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy ADA Grievances/Requests for Accommodation (??VI) – Requires Update Incarcerated Person Handbook Post Orders
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires update
Metrics	Special Conditions List Accommodation Logs Individual Accommodation Requests Tours Interviews Grievances

Observations

The ADA Accommodation Policy does not reflect either requirement and should be updated to match the actual practices that are designed to comply with the Settlement Agreement. A review of the ADA accommodation requests for the period of June-October 2022 demonstrates that there was no supervisory review and no formal report or analysis of accommodation requests reviewed by a supervisor was submitted for consideration. No trend report capturing ADA accommodation requests has been submitted for consideration and to assist management in addressing potential systemic issues that are generally found during supervisory and trend analysis reviews. A review of the Compliance Sergeant and commander's audits reflect accommodation requests are not reviewed at that level. The policy does not require and practices to not involve the housing deputy responding to emergency requests for accommodation and there is no mechanism on the forms or the tablet for an accommodation request to be marked by the incarcerated person as an emergency. The ADA Coordinator does review the requests in a timely manner and addresses urgent issues, which is excellent, but that is not a sustained policy approach.

A review of the ADA training did not reflect clarity on housing officers immediately assisting with emergency accommodation requests. A review of a variety of ADA Accommodation files did not reflect a single review by a supervisor but consistent review or response by the ADA Coordinator had occurred.

Recommendations

1. Update the ADA Accommodation policy to reflect quality supervisory reviews of individual requests and the development and analysis of trend reports.
2. Ensure ability to designated accommodation requests as emergent is available to the incarcerated person as well as the ADA Coordinator.
3. Ensure paper requests for accommodation are included in the tracking mechanism and are identified as a paper submission in the tracking report.
4. Provide training as appropriate.

57. Medical personnel shall conduct a timely health record review and/or interview as needed with an incarcerated person who has made an ADA accommodation request.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy ADA Grievances/Requests for Accommodation (??VI) – Requires Update Wellpath Grievance Policy – Not Provided
----------	--

Training	None Provided for evaluation
----------	------------------------------

Metrics	Special Conditions List Electronic Unit Health Record Accommodation Logs Individual Accommodation Requests Tours Interviews Grievances
---------	--

Observations

Wellpath did not present a policy concerning responding to grievances or accommodations for review and that should be remedied. The ability to monitor medical responses to ADA accommodation requests is not supported by a solid system and there are no timeframe guidelines in the ADA accommodation request policy regarding health care responses. The ADA monitor does respond to ADA accommodation requests by instructing the incarcerated person to submit a sick call request or by advising the incarcerated person that the ADA Monitor has referred the issue to medical. When reviewing several months of ADA accommodation requests, no responses from medical were uncovered, so it is unknown when or if medical responded in a timely manner using the ADA request tracking system.

Beginning January 1, 2023, the ADA expert will monitor, track and data analyze medical staff responses to accommodation requests to determine the timeliness and responsivity. It is clear from the initial audit of accommodation requests that medical will require a significantly enhanced system to provide a timely and thorough response to the population as the few responses uncovered during the initial review shed little light on timeliness and responsivity to the accommodation request. During this next rating period, it is incumbent on medical leadership to improve responsivity and oversight of this process.

Recommendations

1. Update the ADA Accommodation request policy for both Custody and Wellpath to comply with the provision.
2. Ensure adequate health care resources are available to respond to accommodation requests and resolve legitimate ADA concerns.
3. Utilize the existing tracking system to internally monitor responses.
4. Update forms and computer systems as necessary to comply.
5. Provide updated training, as necessary.
6. Additional recommendations likely following data analysis.

ADA Grievances

58. The County will have an ADA grievance policy and the County will respond to ADA grievances in a timely and accurate manner. The ADA grievance policy will have an emergency appeal process and emergency grievances will be responded to in a timely manner.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy ADA Grievances/Requests for Accommodation (??VI) – Requires Update Wellpath Grievance Policy – Not Provided Incarcerated person handbook – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires update Health Care – Not provided for evaluation
Metrics	Special Conditions List Electronic Unit Health Record Grievance Logs Individual Grievances Tours Interviews

Observations

The County does have an ADA custody grievance policy with an emergency grievance provision. However, the custody policy does not have dedicated timeframes for responses at all levels and that should be remedied. Wellpath did not provide a policy governing responsiveness to grievances and that should be remedied. The grievance system itself does not have a mechanism for an incarcerated person or staff responding to the grievance to identify the grievances as “emergency,” and as with accommodation requests, which should be resolved. Incarcerated persons are advised of the grievance policy in the incarcerated person handbook, but this will require an update.

In reviewing the grievance tracking system, it was uncovered that the system did not have the ability to specifically identify a grievance as an ADA grievance, either by the incarcerated person or the staff reviewing and responding to grievances. As a result, it was difficult to cull through hundreds of grievances to identify which complaints are an ADA grievance or involved a disabled incarcerated person. Recently the system has been updated to specifically identify ADA grievances by the incarcerated person filing the grievance or the staff responding; this will assist in responsiveness and evaluation in the next rating period and going forward.

In a random review of health care grievances for the period of July-November 2022,¹⁹ timeliness and accuracy of response is a significant issue. This is similar to the initial findings of responsiveness to ADA requests for accommodation. Beginning January 1, 2023, the ADA expert will monitor, track and data analyze responses to ADA grievances to determine the timeliness and responsivity by custody and health care staff. It is clear from the initial review of grievances that the County and Wellpath will require a significantly enhanced process to provide timely and thorough responses to the population.

During this next rating period, it is incumbent on custody and medical leadership to improve responsiveness and oversight of this process.

Recommendations

1. A multidisciplinary team should be established to review current practices and develop oversight and monitoring for grievance trends and responsivity.
2. Sufficient resources should be allocated to ensure timely and effective resolution of grievances.
3. The compliance audits should include information on ADA grievances and requests for accommodation.
4. Update the ADA grievance and ADA request for accommodation policy to clearly define the two processes for the incarcerated population and the staff responding. Include timeframe requirements for response.
5. Ensure the Incarcerated Person Handbook reflects changes in policy.
6. Ensure staff are trained in the changes in policy.
7. Evaluate current tracking system to ascertain necessary adjustments to tracking.

¹⁹ It appears during this rating period the majority of ADA grievances have been categorized as health care grievances.

59. The incarcerated population will be informed of the grievance process during the orientation process.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy ADA Grievances/Requests for Accommodation (??VI) – Requires Update Incarcerated Person Handbook – requires update Post Orders
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List Tours Interviews Grievances

Observations

The incarcerated person handbook and tablet version of the handbook has a section on grievances but nothing specific on ADA grievances or emergency grievances is in the handbook. There is also no language in the handbook about requesting assistance from staff if an incarcerated person is unable to access the grievance system or file a grievance.

The County is in the process of creating an orientation video and it is recommended that the grievance policy, handbook and video all be updated to reflect the provision of this agreement and that clear timeframes on staff responses at the emergency, first and second level of review be established and closely monitored. For those incarcerated persons who require more personalized orientation, as referenced in Provision 38, ensure staff conducting the orientation are trained in this provision.

Recommendations

1. Update the incarcerated person handbook, orientation and orientation video to reflect any changes that occur because of recommendations from Provisions 58-61.

60. The County will have ADA grievance access readily available.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy ADA Grievances/Requests for Accommodation (??VI) – Requires Update Incarcerated Person Handbook Post Orders
Training	The ADA in State & Local Courts, law enforcement and detention facilities –
Metrics	Special Conditions List Tours Interviews Grievances

Observations

Incarcerated persons can submit a grievance either by paper or by tablet. While the majority of grievances are submitted by tablet, it is important that paper forms are also available. When touring in October 2022, several units did not have grievance forms readily available. The staff articulated they had the form on their computer and would simply print a grievance form when needed. However, there is no mechanism on a computer printed grievance for the incarcerated person to have a copy of the grievance.

As evidenced by the October 2022 tour, not every incarcerated person has daily or continued access to a tablet or is comfortable with technology, which is why it is required that the system also maintain paper grievances. In discussion with the population, most stated they had access to file a grievance, but many reported little faith in a fair or thorough resolution to their grievance, particularly health care grievances.

In reviewing the grievance tracking system, it was unclear which grievances were submitted in paper form and the policy does not reflect how paper grievances will be included in the tracking and response system. Reporting on the number of grievances submitted via paper and tracking those grievances will be important going forward.

The Compliance Sergeant does monitor for availability of grievances when conducting audits and this is an excellent internal auditing and reporting system.

Recommendations

1. Update policies, training and lesson plans as appropriate.
2. Ensure adequate pre-printed grievances are routinely available in all living units.
3. Address any barriers to access to tablets that exist in units, particularly restricted housing units.
4. Ensure the grievance tracking system identifies paper grievances submitted and those are responded to with the same sense of urgency and accountability as tablet grievances.
5. Develop a system where unit supervisors are responsible for daily monitoring on access to grievances and sick call slips.
6. Continue internal monitoring and reporting by Compliance Sergeant.

61. The ADA Coordinator will review ADA grievances/requests to ensure timely, accurate responses.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy – Requires update ADA Grievances/Requests for Accommodation (??VI) – Requires Update Duty Statement – Not Reviewed
Training	Not Applicable – Duty Statement
Metrics	Grievance and Accommodation Logs Individual Grievances/Accommodations Special Conditions List Tours Interviews

Observations

The Custody ADA and ADA Grievance policies both document the ADA Coordinator’s role in reviewing grievances for timely responses. The policies do not, however, have specific timeframes for review and response and it is recommended that be resolved. The ADA Coordinator is actively involved in the review of both grievances and requests for accommodation as she also serves as the Grievance Coordinator.

The ADA Coordinator does submit reports to leadership concerning overdue grievances in an attempt to bring resolution. However, it does not appear the ADA Coordinator nor any other leader conducts an analysis of the timeliness or thoroughness of grievance responses and it not clear that the ADA Coordinator would have the time based on other commitments to do deep reviews of grievance responses, which appear on first review as needing significant focus and effort by both custody and medical leadership.

As previously mentioned, significant focus and review on the quality of the entire grievance system is required. The ADA Coordinator certainly plays a role in that process, but it is incumbent on leadership for custody and health care to be accountable to the system improvements in the process.

Recommendations

1. See observations and recommendations from Provisions 55-60.

Tracking

62. The county will maintain a real time and accurate tracking system for the ADA population and individual ADA accommodation needs will be recorded in the tracking system.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List MDT Reports Tours Interviews Grievances
Observations	

As referenced in previous provisions, the County does have a tracking system to capture the ADA population both at intake and when it is subsequently determined the incarcerated person has a disability requiring an ADA designation. However, as noted by the prior experts, the tracking report appears limited in the number of incarcerated persons captured on the Special Conditions List and there are serious concerns about the identification of the population and consistent tracking. Examples of incongruent information include:

- No Serious Mentally Ill (SMI) population routinely or currently identified on Special Conditions List.²⁰
- Lack of clear practice in identification and tracking of developmentally disabled.
- Lack of clear practice in identification and tracking of learning disabled or those whose CASAS reading score is below 4.0.
- Incarcerated persons who should be on the Special Conditions List are not on the list or were not added by health care. Examples include:

²⁰ There are two persons identified on the December 7, 2022, Special Conditions List as “Behavioral Health,” one who may have autism (IP Duarte, FN2208744) and the other who may be developmentally or learning disabled (IP Aragon, FN 2208814) with no clarity on current status of testing.

- During October 2022 tour, three (3) persons were noted to have a walker or cane and their names were not on the October 13, 2022, Special Conditions list.²¹
- The Special Conditions List dated December 7, 2022, lists four (4) incarcerated persons who had a walker or cane per custody who were not added to the Special Conditions list by health care.²²
- One incarcerated person is listed on Wellpath's December 2022 battery replacement report but does not show up on the December 7, 2022, Special Conditions List.²³

These examples represent a process breakdown on multiple levels and should be addressed immediately. This also provides explanation concerning why the prior monitors were concerned about the overall percentage of incarcerated persons reflected on the Special Conditions List as apparently significantly below what would be expected in a comparable size jail in California.

Recommendations

1. See observations and recommendations for Provisions 2-4, 12, 18, 20-21, 24, 29, 63-64.

63. Adaptive support needs will be recorded in the tracking system to include but not be limited to adaptive equipment, assistance with reading/writing, assistance with ADLs and/or prompting for ADLs, preferred method of communication for communication related disability, assistance with grievances and due process procedures, assistance with commissary, visiting, programming and accessing recreational activities.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	Health Care – Not Provided for evaluation The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List MDT Reports Tours Interviews Grievances

²¹ IPs Guatemala FN 2206203, IP Pain (FN Unk), IP Stewart, FN 2206740.

²² IP Herrero, FN2208768, IP Johnson, FN2208968, IP Malrose, FN2205563, IP Rose, FN2201500

²³ IP Dering, FN2209418

Observations

The County has a variety of policies that address this provision, and the Special Conditions Lists are noted to have adaptive support recommendations in several instances, mostly concerning the developmentally disabled and learning-disabled populations. However, even in those instances, the guidance generally surrounds speaking slowly and little guidance on the various forms of effective communication, assistance with ADLs, due process or other important processes the IP may require assistance with.

There are other examples on the December 7, 2022, Special Conditions List where additional information is necessary:

- A blind incarcerated person is not listed as requiring assistance with ADLs, completion of forms, support in due process, etc.²⁴
- No persons are noted requiring prompting or assistance with ADLs despite during the October 2022 tour, several incarcerated persons were noted to be living in less than clean conditions or were noted with very poor personal hygiene.
- No documentation on a hearing-impaired person or clarity on preferred method of communication.²⁵
- One note states an incarcerated person is “ADA per Armstrong Advisement” but does not provide specifics other than “may use a single point cane” so unclear if visual or mobility impairment and no requirement for lower bunk/lower tier documented.²⁶

As previously mentioned, this is an area that is foundational to a meaningful ADA program and simply has not met the standard for compliance. It is critical important, as previously stated, that this be addressed in meaningful, clear-eyed manner to address the barriers to quality provision of and tracking of the effective communication, prompting, adaptive and other supportive needs for the disabled populations.

Recommendations

1. See observations and recommendations from Provisions 2-4, 12, 18, 20-21, 24, 28, 62-63.

64. Information received from CDCR will be included in the medical record, jail management system and Special Conditions List if deemed necessary following a medical evaluation. The medical evaluation will not unnecessarily delay the provision of necessary adaptive services and equipment.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update
----------	--

Training	Not Provided
----------	--------------

²⁴ IP Carmona, FN2204060

²⁵ IP Lanoue, FN2205563

²⁶ IP Percival, FN2207967

Metrics	Special Conditions List
	MDT Reports
	Tours
	Interviews
	Grievances

Observations

The County has a process to receive information from the California Department of Corrections and Rehabilitation (CDCR) for consideration for ADA designation while in county custody. However, neither custody nor medical policies have any specific reference to this process or identify which entity is responsible for reviewing this information and including the information in the Special Conditions List. The health care policy, therefore, does not have any guidance on reviewing clinical decisions of the Armstrong class members upon arrival to the jail and it is unclear if the Wellpath staff have access to the CDCR medical notes to determine the rationale for the original designation on the Armstrong list as the Wellpath clinicians determine the health care and adaptive support needs of the incarcerated person in the Monterey County jail.

There is evidence that the County is considering CDCR notification with the current jail population. There are multiple entries in MDT notes regarding receiving information from the CDCR and the inclusion of the incarcerated person in the Armstrong class while in CDCR.

During the October 2022 tour, at least two (2) incarcerated persons report that they were received from CDCR with adaptive equipment, but both reported the equipment was not approved upon arrival. Neither were listed on the October 10, 2022, Special Conditions List. Those names were forwarded to the County and Wellpath following the visit, but no feedback was received concerning the denial of on-going disability designation or possession of adaptive supports while in county custody.

During this reporting period, a mechanism to track the receipt of CDCR notifications for a review against the Special Conditions List was not explored but will be in the next reporting period. Additionally, a review of all grievances and requests for accommodation will be reviewed to determine if complaints arise from the denial of a prior Armstrong class member to remain with an ADA designation or maintain adaptive support equipment. Those complaints will be forwarded to the Medical Expert for consideration as the ADA Expert is not a clinician.

It is recommended that before denying an Armstrong class member utilization of adaptive support equipment, unless there are significant security concerns that fall under Provision 10, that the CDCR health record be reviewed and a designated Wellpath clinician(s) be involved in making the decision.

Recommendations

1. The County should offer *Armstrong* class members DME and housing accommodations listed in the CDCR notice unless determined by a County clinician to be no longer necessary, associated with documented and legitimate safety concerns or a significant administrative burden.
2. See observations and recommendations in Provisions 2-12.

65. The tracking system will be reviewed weekly by the ADA Coordinator and Classification and monthly by the Compliance Sergeant.
66. The Medical Liaison Commander will review the completed Jail Management System special conditions report on a monthly basis.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Duty Statement/Post Orders
Training	Not Applicable
Metrics	Special Conditions List MDT Report Commander Report Tours Interviews

Observations

The ADA Coordinator, Compliance Sergeant, Classification and a commander all monitor the Special Conditions List. However, there are significant challenges with the Special Conditions List as described in several provisions that are not being adequately resolved with this level of compliance review. A thorough analysis and cross check of available information to determine if the Special Conditions List is accurate and meaningful has not yet reached fruition with the County. The challenges identified in this first review period demonstrate that an interdisciplinary team should be cross checking information and deeply exploring to ensure the Special Conditions List is tracking all of the appropriate persons, the report is accurate, and the report provides clear guidance to staff in how best to support the ADA population.

Frankly stated, the current process simply is not addressing the under identification of the ADA population as reported by the prior ADA experts and confirmed in the first review of this expert. The custody staff identified in this provision are well intentioned and committed, but they are not clinical staff and cannot designate persons as disabled by policy or practice. The clinical leadership team must lean into this challenge and begin to resolve the under identification and insufficient document of adaptive support needs during this next rating period. Then and only then can the County determine who should be monitoring the list and how the invariable discrepancies that are found during quality reviews are addressed both from individual training needs and systemic challenges.

Recommendations

1. Establish an Interdisciplinary team to implement a quality assurance auditing process of the Special Conditions List.
2. Once that process is refined, update policies, procedures and training to implement.
3. Once the auditing process is refined, update these provisions to reflect the new process.

Effective Communication (EC)

67. The County will have an Effective Communication Policy for custody and medical personnel.

68. Custody and medical personnel will be trained in the EC Policy.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-01B - Adaptive Support – Needs Update Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities Health Care – not provided for evaluation.
Metrics	Policies Interviews

Observations

The County has both health care and custody effective communication policies. The health care policies are more refined than the custody policy, which requires a substantial revision. The policies should be reviewed in alignment with the Provisions and recommendations listed in this report and all associated policies should be updated to ensure that the requirements are implemented. As with policy revision, the associated forms and incarcerated person handbook should be updated in a coordinated approach.

The custody staff have received training on ADA but based on the October 2022 tour, it is clear that both health care and custody staff require refresher training. The ADA Expert will work with the County and Wellpath during this next rating period to improve the policies, forms, training and auditing associated with this and all provisions.

Recommendations

1. Update health care and custody Effective Communication policies.
2. Update associated policies where effective communication is required (i.e., intake orientation, due process events, health care consults, visiting).
3. Update associated forms where appropriate.

4. Update incarcerated person handbook where appropriate.
5. Update training for custody and health care staff where appropriate.

69. The preferred method of communication for designated population will be documented in the medical record and jail management system. The County will have a process to provide EC accommodations during medical/mental health appointments and the EC accommodation will be documented in the medical record. The County will provide the preferred method of communication the incarcerated person indicates unless the request is unreasonable for specific articulated allowable reasons or poses a significant safety or security threat.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	Health Care – Not Provided for review The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Special Conditions List Electronic Unit Health Record Tours Interviews Grievances

Observations

Prior provisions discuss the policies, quality of the Special Conditions List and documentation of the preferred method of communication in the Special Conditions List. The ADA Expert is unaware of a quality assurance review conducted by the ADA Coordinator or health care leadership to audit the quality of documentation in the health care record regarding the provision of effective communication, where necessary, in clinical encounters. A review of actual clinical engagements as document in the electronic unit health record were not accomplished during this rating period but will be addressed in the next report.

Recommendations

1. See recommendation on Provisions 2-12 on the Special Conditions List.
2. Work with ADA Expert to monitor the provision of effective communication provided beginning January 1, 2023.
3. Engage in internal quality assessment of effective communication in clinical encounters.
4. Following audit of electronic health records in the next rating period, additional recommendations may be forthcoming.

70. The County will provide EC accommodations as necessary when disabled incarcerated persons are engaged in due process events (i.e., disciplinary process, classification, administrative segregation placements/retention grievances) and the EC will be documented in the due process record. The County will provide the preferred method of communication the incarcerated person indicates unless the request is unreasonable for specific articulated allowable reasons or poses a significant safety or security threat.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Custody 731 – Inmate Health Care Communications – Requires Update Incarcerated Person Disciplinary Policy/Forms – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	Health Care – Not Provided for evaluation The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification
Metrics	Special Conditions List Electronic Unit Health Record Disciplinary Reports Classification Actions Tours Interviews Grievances

Observations

Custody has an effective communication policy (Custody 731 – Inmate Health Care Communications) but it requires substantial update. The Inmate Disciplinary policy has been more appropriately updated but the policy and disciplinary hearing forms require update to comply with the provision. The Classification policy has not been updated and classification forms also require update to comply with this provision. The custody ADA training provided is good but too general to ensure the specialized staff that conduct disciplinary hearings and classification actions, including restricted housing and retention actions, receive the depth of training required to comply with the Settlement Agreement. Additional training must be created and approved for specialized staff.

Copies of monthly disciplinary logs and completed disciplinary actions for the ADA designated populations were not facilitated for this report and must be for future reports. However, the County already advised the disciplinary hearing

documentation does not include documentation of EC in the hearing, so it is assumed that reviewing the disciplinary reports would reflect non-compliance in documenting the provision of EC. The policy does require provision of EC in the hearing and the County states it is occurring; however, this must be documented on the hearing form and that is not the current practice.

Copies or placement of classification actions and restricted housing placement and retention were not requested for this audit based on the statement by the County that effective communication is not being documented by the classification staff. However, documentation review will need to begin effective January 1, 2023.

It is believed some staff do attempt to ensure effective communication during disciplinary hearing and classification actions based on conversations with staff. However, without clear policies and documentation, it is impossible to monitor for compliance. It will be critical during this next rating period that the County works with the ADA Expert to update policies, forms and training to comply with this provision and provide proof of practice to assist with monitoring. Beginning January 1, 2023, the ADA Expert will conduct data analysis on disciplinary and classification actions involving persons who require effective communication to complete a quantitative/qualitative evaluation. It is strongly encouraged that the County engage in a similar internal review for quality improvement and training purposes.

Recommendations

1. Update the Effective Communication, Inmate Discipline and Classification policies to comply with provision.
 2. Update all associated forms to include identification of when an incarcerated person requires support with effective communication and how EC was facilitated.
 3. Train designated staff in policy revisions and utilization of newly developed forms.
 4. Ensure designated staff are trained in how to access SLI, translation services and other adaptive supports.
 5. Begin internal quality evaluations of the provision of EC in orientation, program involvement, classification actions, disciplinary actions and health care engagements.
 6. Provide ADA Expert copies of monthly disciplinary logs and any discipline involving a disabled person beginning January 1, 2023.
 7. Provide ADA Expert copies of classification actions involving a disabled person beginning January 1, 2023. This includes any placement or retention of a disabled person in restricted housing.
 8. Additional recommendations may result from document reviews.
71. The County will provide EC accommodations as necessary for the incarcerated person to participate in assigned programs and EC will be documented as appropriate. The County will provide the preferred method of communication the incarcerated person indicates unless the request is unreasonable for specific articulated allowable reasons or poses a significant safety or security threat.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs Wellpath HCD-110-F-09 Effective Communication – Requires Update Custody 1000 Inmate Program and Services – Requires Update
----------	---

Training	None Provided for evaluation
----------	------------------------------

Metrics	Special Conditions List Individual Program Reports Grievances Tours Interviews
---------	--

Observations

The Inmate Program and Services policy requires update to incorporate this provision. However, based on interviews with program staff and reviews of monthly reports by the Compliance Sergeant and commanders, it is clear the Program staff do engage in effective communication strategies with the population. However, as previously identified, the Special Conditions List requires update, the identification of the populations who require placement on the Special Conditions List must improve and overall training and improvement in the documentation of the provision of effective communication is required and that includes for incarcerated programming.

During this rating period, program files and jail management system documentation were not requested for populations requiring effective communication support. However, beginning January 1, 2023, that information will be requested to monitor compliance. The ADA Expert will work with the County and Program Director during the next rating period to update policies, procedures, training and documentation. It is believed with updates to these areas, the County can reach substantial compliance in the provision in the next rating period.

Recommendations

1. Update the Inmate Program and Services policy, training and documentation relative to this provision.
2. Internal monitoring on this provision should occur from the Program Director with oversight of the Compliance Sergeant.
3. See further recommendations in Provision 45

Notices, Announcements and Alarms

72. All written materials available to the population are also accessible to incarcerated persons with disabilities.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update Custody 1000 Inmate Program and Services – Requires Update
Training	Health Care – Not Provided for evaluation The ADA in State & Local Courts, law enforcement and detention facilities – requires update
Metrics	Special Conditions List Law Library Tablets Title 15 Incarcerated Person Handbook – requires revision Disciplinary Reports Request Forms ADA Accommodation Forms Grievances Classification Actions Tours Interviews

Observations

The Custody ADA policy has been updated to reflect this provision; however, the Wellpath and Custody EC policies do not specifically articulate ensuring equal access to written materials or how this should be facilitated. The Custody ACA training alludes to the requirement but does not have a section on where staff would go to assist an incarcerated person who is seeking equal access to written material. The incarcerated person handbook does not advise the population how to seek assistance with access forms pursuant to this provision.

Fortunately, many of the forms are on the tablet, where the font can be enlarged, and the County articulates the ability for translation services and enlarged printing when necessary. The handbook is already available in English and Spanish in enlarged print (see Provision 37), so it appears there is an understanding regarding the importance in ensuring equal access to forms. However, the tablet access services and provision of other forms were not significantly evaluated during this tour but will be reviewed in subsequent tours.

A review of accommodation and ADA grievances will be monitored in the next rating period to evaluate whether there are unresolved issues with the population regarding access to written materials, but no incarcerated person raised an issue about access during the October 2022 tour, other than the legally blind incarcerated person interviewed who had substantial legitimate access issues associated with his vision impairment.

Assuming associated policies and training can be updated, and no systemic issues are identified during the next rating period, this provision could reach substantial compliance.

Recommendations

1. Update the EC policies for custody and health care.
2. Update the incarcerated person handbook.
3. Update training for custody and health care staff
4. See observations and recommendations for Provision 37.

73. Accommodation supports, such as magnifiers, enlarged photocopies, computer assisted devices, audiotapes and Braille materials will be available when requested and appropriate to provide.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 731 – Inmate Health Care Communications – Requires Update Wellpath HCD-110-F-09 Effective Communication – Requires Update Custody 1000 Inmate Program and Services – Requires Update
Training	Health Care – Not Provided The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Inventory of Available Equipment Special Conditions List Incarcerated Person Handbook ADA Accommodation Forms Grievances Tours Interviews

Observations

The County does have this type of equipment available based on discussions with Program staff and monthly reports regarding programming accommodations that reflect utilization of adaptive equipment. The Custody ADA training advises staff of their responsibility to ensure access to this type of equipment, but it is not clear the training advises staff where to go to collect such equipment if necessary. As with Provision 25, the policies and training should be updated to inform staff how to access this equipment, where it is located, and a monthly inventory should be maintained. The incarcerated person handbook should be updated to advise of the availability of this type of equipment and how to ask for support.

Updates to policy and training should occur in conjunction with Provision 25. It is assumed this provision could reach substantial compliance in the next rating period.

Recommendations

1. Update associated policies and training.
2. Create a monthly inventory report of all available equipment to be monitored by the Compliance Sergeant and/or ADA Monitor. This inventory should include a test to ensure the equipment is operational.
3. Create a desk procedure and maintain updated desk procedures in commonly known locations throughout the jail to assist with the utilization of the more complex equipment.
4. Retrain identified staff in how to access the services/equipment who are assigned to intake, clinics, classification, programs, disciplinary hearings, etc.

Disciplinary Procedure

74. The county will have a policy to aid incarcerated persons with supportive needs during the disciplinary process. The policy and practice must prohibit the issuance of a disciplinary report for involuntary medication, transfer to a mental health treatment setting, transfer to seclusion or restraint, self-mutilation or a suicide attempt.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy
	Incarcerated Person Disciplinary Policy/Forms - Requires Update
	Custody 404 – Inmate Discipline – Requires Update
	Custody 601 – Disciplinary Separation – Requires Update
	Custody 731 – Inmate Health Care Communications – Requires Update
	Wellpath HCD-110-01B - Adaptive Support Needs
	Wellpath HCD-110-F-09 Effective Communication – Requires Update

Training	None Provided
Metrics	Special Conditions List Disciplinary Reports Interviews Grievances

Observations

The County disciplinary policy has been updated to reflect the majority of this provision, including the responsibility to provide staff assistance. However, the policy requires update to fully comply. One example where the policy requires update is the current ability to issue a disciplinary report for self-mutilation if the mental health clinician does not designate the behavior as a suicide attempt. While the policy does not prohibit issuing a disciplinary report for these types of incidents, it is unknown if any such disciplines have been issues during this rating period as a copy of the disciplinary log was not provided for review. The Custody Policies 404 – Inmate Discipline and 601 – Disciplinary Separation also require substantial revision to comply with the Settlement Agreement ADA section.

A quality review of the disciplinary process did not occur during this rating period other than a discussion with leadership in the jails concerning the disciplinary process. Based on that conversation, it was agreed that a revision to the policy, disciplinary hearing forms and training is necessary despite the County’s assignment to staff assistants during the disciplinary process. The training lesson plans for the disciplinary hearing officers and staff assigned to serve as a staff assistant was not provided for review.

The incarcerated person disciplinary process, policy, forms, documentation and training will require focused revision during this rating period. Additionally, beginning January 1, 2023, the ADA Expert will review the disciplinary hearing forms for any discipline or restricted housing placement/retention of a person identified on the Special Conditions List or those who receive consistent disciplinary reports despite not being on the Special Conditions List.

Recommendations

1. Update the associated policies, forms and staff training.
2. Begin internal quality assurance monitoring for compliance with all incarcerated person disciplinary provisions.
3. Beginning January 1, 2023, provide the ADA Expert with the monthly disciplinary logs and all completed disciplinary reports and restricted housing placements involving disabled populations.

75. The reporting deputy will review the special conditions list and review pertinent information prior to authoring the report.

Expert Review

Non-Compliance

Policies	Incarcerated Person Disciplinary Policy/Forms - Requires Update Custody 404 – Inmate Discipline – Requires Update Custody 602 - ADA Policy – Requires Update
----------	--

Incarcerated Person Disciplinary Policy/Forms – Requires Update

Training	None Provided
Metrics	Special Conditions List Disciplinary Reports Interviews Grievances

Observations

While the ADA Policy 602 and Inmate Disciplinary Process for Disabled Inmates policy requires that the reporting staff review the Special Conditions List prior to authoring a disciplinary report, that is not the current practice and not the direction the County would like to pursue. In conversations with the County, it appears they would like the report written but then a reviewing supervisor would review the special conditions list prior to issuing a disciplinary report or beginning the disciplinary process. This appears to be a reasonable approach and should be explored further and discussed with Class Counsel. Policies and training should be updated following further discussion.

Recommendations

1. Explore changing this policy to require that prior to a disciplinary report being issued for adjudication a reviewing supervisor review the special conditions list pursuant to Provision 78. This should be discussed with Class Counsel.
2. Upon determination of above, update policies, procedures, forms and training.

76. The hearing officer will review the special conditions list and review pertinent information prior to issuing discipline.

Expert Review

Not Rated

Policies	Incarcerated Person Disciplinary Policy/Forms Custody 404 – Inmate Discipline – Requires Update Custody 601 – Disciplinary Separation – Requires Update Custody 602 - ADA Policy Incarcerated Person Disciplinary Policy/Forms – Requires Update
Training	None Provided
Metrics	Special Conditions List Disciplinary Reports Interviews Grievances

Observations

A review of the Inmate Disciplinary Process for Disabled Inmates policy reflects that there are considerable requirements directing the role of the hearing officer when conducting disciplinary hearings involving the ADA population. While reviewing the Special Conditions List is certainly implied in this policy, it is not specifically outlined. Based on other recommendations regarding the incarcerated persons disciplinary process policy, it is recommended this requirement be more clearly articulated in the next revision. As mentioned, the two other disciplinary policies, 404 and 601, lack any meaningful reference to compliance with the ADA Settlement Agreement.

As articulated previously, a meaningful review of completed disciplinary hearings to evaluate compliance with this provision was not conducted based on reviews of completed disciplinary reports. This will occur in the next rating period.

Recommendations

1. See provision 74-75 observations and recommendations.

77. The hearing officer shall document the need for effective communication and staff support prior to adjudicating a disciplinary report and the method for facilitating effective communication. This will include reviewing the reading level below 4.0 list to ensure support is provided to the incarcerated person, as necessary.

Expert Review

Non-Compliance

Policies	Custody 602 - ADA Policy
	Incarcerated Person Disciplinary Policy/Forms - Requires Update
	Custody 404 – Inmate Discipline – Requires Update
	Custody 601 – Disciplinary Separation – Requires Update
	Custody 731 – Inmate Health Care Communications – Requires Update
	Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	None Provided
Metrics	Special Conditions List
	Disciplinary Reports
	Interviews
	Grievances

Observations

The County is in non-compliance with this provision as the Special Conditions List does not identify incarcerated persons below 4.0 reading level²⁷ and the hearing officers are not documenting EC on the hearing forms.

A review of the policy, Inmate Disciplinary Process for Disabled Inmates, reflects there is language requiring staff assistants and effective communication but there is insufficient specific language to completely address this provision. During the October 2022 tour, the County shared that the disciplinary policy, training and associated forms require update to comply with this provision.

Reportedly, while some hearing officers might be ensuring effective communication during the process, there is not currently a process to identify the range of population who should be supported in the hearings,²⁸ a clear training for staff on how to facilitate EC and no section on the forms to document the provision of effective communication during the disciplinary process.

As mentioned, requests to review completed disciplinary reports and disciplinary logs were not facilitated for this report but will be required for subsequent reports.

Recommendations

1. Ensure that the Special Conditions List accurately reflects the population who may require effective communication support during the disciplinary process.
2. Update the disciplinary policies, forms and training to comply with this provision.
3. Create an internal auditing process to measure compliance with this provision and include the information in the Compliance Sergeant and/or Commanders' reports.
4. Refer to Provisions 5-6, 43, 67-70 for additional observations and recommendations.

78. The Commander will review the completed disciplinary report within 30 days and make any recommended changes to the finding.

Expert Review

Not Rated

Policies	Incarcerated Person Disciplinary Policy/Forms (III??) – Requires Update Custody 404 – Inmate Discipline – Requires Update Custody 602 - ADA Policy Custody 601 – Disciplinary Separation – Requires Update
----------	---

Training	None Provided
----------	---------------

²⁷ Refer to Provision 23

²⁸ SMI populations for example

Metrics	Special Conditions List
	Disciplinary Reports
	Interviews
	Grievances

Observations

The Inmate Disciplinary Process for Disabled Inmates policy requires that a commander review the disciplinary report within 30 days and the County reports that the commander reviews are timely. The other disciplinary policies (404 and 601) require update to comply.

Unfortunately, several requests for disciplinary logs and completed disciplinary reports were not fulfilled to rate this provision. The ADA Expert will work with the County in the next reporting period to address the barriers that exist to providing this information.

Recommendations

1. Update Policies 404 and 601 to comply.
2. Work with ADA Expert to provide copies of completed disciplinary reports to monitor for compliance.
3. Further recommendations pending future review.

79. Wellpath mental health staff will be involved in the disciplinary process for mentally ill and developmentally disabled populations in the following manner:

- Provide feedback on whether the disability may have contributed to the action.
- Make recommendations concerning post adjudicated sanctions if the incarcerated person is found guilty.
- Accept and follow up on custody referrals if a mentally ill or developmentally disabled exhibits ongoing behavioral problems.
- Addresses complex cases in the Multidisciplinary Team meetings.

Expert Review

Non-Compliance

Policies	Incarcerated Person Disciplinary Policy/Forms - Requires Update
	Custody 404 – Inmate Discipline – Requires Update
	Custody 601 – Disciplinary Separation – Requires Update
	Custody 602 - ADA Policy
	Wellpath Policy – None Provided

Training	None Provided
Metrics	Special Conditions List Disciplinary Reports Interviews Grievances

Observations

The Inmate Disciplinary Process for Disabled Inmates policy requires that mental health provide feedback to the hearing officer during the disciplinary process regarding a range of issues. Custody Policies 404 and 601 require updates to comply. Wellpath did not provide a policy directing the clinician's role in the disciplinary process for review.

As noted, requests for disciplinary logs and completed disciplinary reports were not fulfilled. The ADA Expert will work with the County in the next reporting period to address the barriers that exist to providing this information.

Recommendations

1. Work with the ADA Expert and Mental Health Expert as necessary to update policies, forms and training to comply.
2. Provide copies of completed disciplinary reports involving disabled populations, including the mentally ill, beginning January 1, 2023.
3. Further recommendations may arise from reviews.

Multidisciplinary Team (MDT)

80. The County will maintain an MDT process and the MDT meetings will occur on a regular basis. The MDT will include, at minimum, the assigned clinical staff, mental health staff, the ADA Coordinator, Classification Staff and command staff as needed.
81. The MDT meeting will be documented with information on any changes to an incarcerated person's programming, status, classification, etc.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Wellpath Policy - TBD
Training	TBD

Metrics
Special Conditions List
MDT Reports
Interviews

Observations

The County has an MDT process and documents minutes of the MDT, but it does not appear to be required or codified in Wellpath policy but is addressed in Custody ADA Policy 602. Copies of MDT minutes were shared for the months of July – November 2022 and these notes reflect the meeting often occurs weekly and generally no less than bi-weekly. It is excellent the meeting continues to occur and that individual incarcerated persons are discussed, and continuous monitoring of the population is occurring, but several recommendations regarding the MDT process are included in this report.

Generally, the attendees are listed in the report but there were incomplete minutes submitted.²⁹ It is not clear from the minutes the attendees routinely comply with the required provisions pursuant to Custody Policy 602.³⁰ It is not clear how the MDT recommendations are documented on the medical record and/or treatment plans but admittedly no health records were requested to evaluate how the MDT considerations were ultimately documented in the health record. Besides policy considerations, it is not clear how or if the Special Conditions list gets refined following the meeting. It does not appear current grievances or requests for accommodations are addressed in the MDT and that should be an important function of the meeting.

Because there is such a strong commitment to build upon, improvements in policy refinement and documentation of compliance during the next rating period should result in a finding of substantial Compliance.

Recommendations

1. Refine the MDT policy and documentation of MDT actions. Include concepts from this report, such as:
 - a. Include discussion of outstanding ADA accommodation requests and grievances for the population being discussed.
 - b. Review the Special Conditions List for accuracy, such as ensuring effective communication, prompts for ADLs, etc. are clear on the tracking system.
 - c. Consider discussing and adding program assignments.
 - d. Consider discussing ADA related supports for SMI population.
 - e. Consider discussing and adding housing waiver information on the tracker.
2. Provide training once policy and documentation templates are complete.

82. Developmental disability incarcerated persons will be evaluated within the first two weeks through the MDT process. Ongoing reviews will occur, at a minimum, on a monthly basis by Wellpath or custody staff.

83. The MDT should also review the associated adaptive support logs. The MDT will utilize the “Developmental Disability/Intellectual Disability Screening Results” form to document all decisions, actions, recommendations or

²⁹ Missing attendees September 5, 2022, November 1, 2022, and November 8, 2022

³⁰ It is unclear if the assigned clinician attended, and classifications of staff are not listed to evaluate compliance.

modifications to an incarcerated person’s developmental/intellectual disability level or need for accommodations or adaptive supports.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Custody 1110.00 – Inmate Classification – Requires Update Wellpath HCD-110-01B - Adaptive Support Needs – Requires Update
Training	TBD
Metrics	Special Conditions List Adaptive Support Logs Disability Screen Results Unit Health Records MDT Reports Interviews

Observations

As mentioned in the above provisions, the County does maintain an MDT meeting in which potential and diagnosed developmentally disabled incarcerated persons are discussed. This occurs within the first 2 weeks of arrival/designation and then no less than bi-weekly afterward. The Custody Policy 602 references the MDT committee reviewing Adaptive Support Logs and Screening results, but insufficient documentation has been provided for review and none are listed in the MDT meeting notes. However, the Special Condition List is integrated into the meeting minutes and is utilized as required by policy.

It is positive that the MDT meetings are routine and consistently documented. However, a refinement in policy and practice is recommended to make the meetings more meaningful and to improve proof of practice for compliance with the provision.

Recommendations

1. Refer to Provisions 79 and 80 and ensure the role of the Adaptive Support Log and Screening results are included in the policy revisions, training and documentation of actions of the MDT.

Transportation/Restraints/Searches

- 84. The County will establish appropriate transportation procedures for incarcerated persons with limited mobilities and staff responsible to transport mobility impaired individuals will be trained in the policy. The policy and associated training include securing wheelchairs in accessible vans.
- 85. Transportation staff will review the special conditions report before engaging in a transport to determine the needs of the incarcerated persons. Approved assistive device shall be maintained by the incarcerated person during the transport unless safety and security reason prohibit retention.
- 86. Adequate and appropriate transportation vehicles will be utilized to transport mobility impaired individuals. The County shall accommodate for disabilities when restraining for transport within and outside of the facility.

Expert Review

Not Rated

Policies	Custody 602 - ADA Policy County 517 – Transportation of Inmates – Requires Update Transportation Post Orders – Not Reviewed
Training	The ADA in State & Local Courts, law enforcement and detention facilities Transportation Unit Training – Not Reviewed
Metrics	Transportation Logs Tours Interviews Grievances

Observations

A review of the County transportation policies shows that none of the ADA requirements have been incorporated in the written policy. However, discussions with staff and a review of the ADA training reflect aspects of the Agreement that have been incorporated into practices and into the general ADA training for custody. On-site and direct review of transportation practices and interviews with transportation staff did not occur during this rating period but will be a key focus of the next tour. In the interim, the County should begin revision of the policies and training to comply with the agreement.

Recommendations

1. Update all associated policies, training and post orders to comply with Provisions.
2. Provide a list of transports of all mobility impaired incarcerated persons for the month beginning January 1, 2023. This should include which vehicle was used for transport.
3. Provide inventory of accessible vehicles used beginning January 1, 2023.

87. Inmates who have a disability that prevents standard search methods shall be accommodated in a safe and secure manner under the direction of a supervisor. If a search includes the removal or disassembly of an assistive device, it shall be conducted in a clean setting and a compliant person should be permitted to remove the appliance to provide to staff to search. If forcible removal of the device is necessary, it must be done in consultation with health care staff and documented. Medical staff will assist custody in the search of mobility impaired persons or adaptive support devices when necessary.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Wellpath HCD-110-F10- Durable Medical Equipment – Requires Update County 517 – Transportation of Inmates – Requires Update Intake Policy – Not Reviewed Restraint Policy – Not Reviewed Post Orders (Transportation and Intake) – Not Reviewed
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification Specific Transportation Training – Not Reviewed Restraint Application Training – Not Reviewed
Metrics	Transportation Logs Tours Interviews Grievances

Observations

Wellpath does have existing policy regarding the role of health care staff in assisting searching disabled persons when necessary. However, the Custody inmate search or intake policy, post order or lesson plan were not reviewed to assess compliance and make recommendations. Those will be requested and reviewed in the next rating period.

During the October 2022 tour, the intake staff identified the location and method for searching mobility impaired persons. The intake nurse also described how he would assist, as necessary. However, there was insufficient safe equipment and/or an appropriate location to conduct a search for a mobility impaired person in the intake area. The staff recognized the challenge and implemented interim measures to conduct the search, but in the manner currently being used, there is a possibility that the incarcerated person or staff could be inadvertently injured during the transition due to lack of transition boards, ADA accessible tables, etc.

The update to policies and identification of more a more appropriate search location or more appropriate equipment to conduct searches in the current location could lead to substantial compliance in the next rating period.

Recommendations

1. The County should convene a multidisciplinary team to discuss how to comply with this provision safely and collaboratively, which may include changing the location of the search from the intake area to a clinic area if necessary or the purchasing of ADA adaptive support equipment or benches to facilitate safe transition from a wheelchair to a stable sitting location.
2. Once the team determines how best to comply with this provision, update all associated policies, post orders and training.

Work Orders

88. The County will have an ADA work order system in place with a mechanism for expedited repairs for ADA fixed features. The work order system is tracked by the Compliance Sergeant and monitored electronically. The ADA coordinator will be aware of all pending ADA related work orders submitted and involved if there is a delay in resolving the issue. The ADA coordinator will receive a copy of open and closed work orders by the 10th of the month.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Post Orders/Duty Statements – Not Reviewed
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Work Order Logs Compliance Sergeant Report Tours Interviews Grievances

Observations

The County does have a work order system in place and the custody staff are trained in the ADA training to assess their work areas and submit work orders, as necessary. A review of the “Hernandez ADA Facilities Report” from the period of May 2022-September 2022, reflects the County averaged approximately 70 work orders submitted per month.³¹ Additionally, this report documents routine audits of ADA accessible rooms, bathrooms and showers with work orders submitted during the compliance check.

³¹ It is not clear from the report that these are all ADA related work orders.

Unfortunately, the County has not developed a system for the Sheriff's staff to monitor the status or completion of the work orders, despite the local policy requiring that the system be tracked by the ADA Coordinator and Compliance Sergeant. There is currently no work order system list available to the Sheriff's department, and it is unprecedented that a custody system does not track the status of work orders. This issue is likely this is due to bureaucratic barriers, rather than no report being available, as the Sheriff's department personnel do not complete the work orders. But there is no communication on status of open work orders from County General Services back to the Sheriff's department for monitoring purposes, and this should be immediately remedied.

It is assumed that if the County departments can communicate on status or work orders, the Compliance Sergeant and command staff can begin monitoring for compliance. This provision could reach substantial compliance in the next rating period if resolved.

Recommendations

1. Address the communication barrier that inhibits Sheriff department personnel from reviewing status of work orders.
2. Once that is addressed, ensure proof of practice regarding the Compliance Sergeant and ADA Coordinator monitoring outstanding ADA work order.

89. Staff will conduct rounds in their areas to ensure ADA accessible features are operational and, if not, they will submit an ADA work order. A mobility impaired incarcerated person will be moved from any living area when the ADA feature renders the living area unoccupiable if the repair cannot occur in a timely manner, and the area sergeant notified and involved.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Post Orders
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification
Metrics	Work Order Logs Tours Interviews Grievances

Observations

As mentioned in Provision 88, policy and training exist to comply with this provision and staff do monitor their areas and submit work orders. Additionally, staff interviewed during tours articulated their responsibility to submit work orders. Most staff also articulated that if a work order impacted the living conditions in a cell that they would contact the classification unit to relocate the incarcerated person pending repair.

While this may be largely accurate in celled units, two issues arose during this rating period that demonstrate the staff require additional training regarding their responsibilities.

- One example occurred during the October 2022 site visit. The shower identified for use by mobility impaired persons in A dorm was not usable due to a broken shower chair. The deputy assigned to the unit was aware and had submitted a work order but stated it had been several days. In the meantime, there were several incarcerated persons living in the unit that either used a wheelchair or a walker. Two of them complained they could not safely shower. There did not appear to be understanding from the deputy about the importance of pushing for an immediate replacement of the chair or bringing in a chair from another unit for a designated time period each day to afford showers for the mobility impacted population living in the unit.
- In the second example, in the ADA Hernandez Facilities Report, an audit conducted on August 3, 2022, reflects that the A dorm ADA toilet was inoperable. While the Special Conditions List for that period has not been reviewed to determine if an ADA identified person was housed in that dorm, this is one of the locations where the County routinely houses mobility impaired persons, and an inoperable ADA toilet would be a significant concern.

The County has a process for work orders but not an efficient monitoring system to review if any unresolved work orders may be seriously impacting the population. The remedies identified in Provision 89 will support compliance, but staff must be routinely reminded of the importance of advocacy for humane living conditions for the population.

Recommendations

1. Address the work order tracking system barriers identified in Provision 89.
2. Retrain sergeants and staff working in ADA identified housing locations of their responsibility to move mobility impaired incarcerated persons if access to services is a barrier due to an unresolved work order.

90. The ADA Coordinator, in conjunction with Classification, will assist in relocating a disabled incarcerated person if the ADA work order cannot be fixed in a timely manner.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Duty Statement – Not Reviewed
----------	---

Training	Not Applicable
----------	----------------

Metrics	Tours Interviews Grievances
---------	-----------------------------------

Observations

The ADA Coordinator and Classification both assist with housing decision of the ADA population. Should either entity become aware of the inappropriate housing of an incarcerated person or insufficient access and accommodation are

impacting the population, they immediately become involved in assisting. Unfortunately, as mentioned there is not a current system where outstanding workorders are monitored; therefore, it is currently structurally impossible for either entity to externally monitor the retention of an incarcerated person in a cell with a significant unresolved work order.

This provision does not seem viable at this point with the existing system and likely best handled by unit sergeants and the watch commander being responsible to move any inmate, ADA identified or otherwise, if there is a critical unresolved work order for the living area.

Recommendations

1. Work with ADA Expert and Class Counsel on the underlying check and balance assumed in this provision and adjust as appropriate.

Training

91. Training will be provided to custody and medical staff regarding policies, procedures, forms and resources for the disabled incarcerated person
92. Staff will be trained in the ADA policy and their responsibility to assist incarcerated persons with completing requests, grievances and sick call slips, as necessary.
93. Housing unit staff will be trained to access the special conditions list to identify any disabled incarcerated persons in their housing unit. This training will include how to review the adaptive support needs of each disabled person in their housing unit.
94. Housing Unit staff will be trained to assist developmental disability populations regarding their responsibility in effectively prompting for activities of daily living and socialization/recreation.

Expert Review

Partial Compliance

Policies	All Associated with other Provisions
Training	Medical Staff ADA Training – Not Provided The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification
Metrics	Lesson Plans Training Records Interviews

Observations

The custody staff have received training regarding requirements under the ADA and the County's ADA policy. A review of the ADA Lesson plan reveals that many aspects of the agreement are discussed. There are likely more areas covered in this training than given credit for in this review as the training evaluated was based on an outline, and not direct

observation of the training. However, it is critical that the Lesson Plan have key learning domains that cover the requirements of the Agreement, and a minor update to the training is warranted.

All custody staff interviewed stated they had attended the training and seemed to understand the importance of compliance with the training and policy. However, during the October 2022 site tour, several queries from the staff on a range of issues demonstrated an incomplete or erroneous understanding of the policies. Examples include:

- Most custody staff interviewed said they would ask another incarcerated person to help a disabled person to fill out a grievance or sick call slip.
- No staff interviewed understood their responsibilities to document ADL prompting or specialized intake orientation.
- No staff interviewed served in the role of staff assistant in a disciplinary or restricted housing placement process.
- Because the staff rotate between units, several could not name immediately the incarcerated persons in their unit unless they had a walker, cane, wheelchair or wore a vest and no custody staff member provided a copy of a special conditions list or demonstrated the use of the hand-held Spartan as proof they were informed on who needed support on their tiers.
- Many staff thought only those incarcerated persons with a yellow vest are considered disabled and no staff interviewed knew who the developmentally/learning disabled persons in their units were.

While the staff may not have articulated the nuances of the myriad of policies, there was no staff interviewed who did not articulate a basic understanding of the ADA policy or the responsibility for the system to provide support. The ADA Coordinator reported that additional training is pending, and it would be important to ensure routine annual retraining to avoid forgetting the various requirements.

Recommendations

1. Update the ADA Lesson Plan to incorporate all aspects of the implementation plan and ADA related policies.
2. Provide one-time updated training for custody, medical and mental health staff in a meaningful format to support retention.
3. Establish or implement a training plan that requires a meaningful annual refresher training on ADA.
4. The Compliance Sergeant should add a questionnaire for staff when completing monthly audits to reinforce learnings and to assist in evaluating staff retention of the information.
5. The County may want to reconsider less frequent rotation of staff to increase familiarity with the ADA population in all of the housing units or require the daily printout of the Special Conditions List for the housing unit staff to review.
6. The County may consider a “pocket guide” for staff to understand their responsibility under ADA.

95. Custody and medical staff will be trained regarding accessing SLI, utilizing telephone interpretive services, TDD equipment and accessing interpreters.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Wellpath ADA Policy Wellpath HCD-110-F-09 Effective Communication – Requires Update
Training	The ADA in State & Local Courts, law enforcement and detention facilities – requires clarification
Metrics	Lesson Plan Training Records Interviews

Observations

During the October 2022 site visit, a request for staff to demonstrate accessing a sign language interpreter service and utilizing TDD equipment revealed that additional training is needed. It is recognized the need for such services is rare, which is likely the reason the staff were not familiar with how to adequately provide access, but infrequency can be addressed by quality training and desk manuals.

When interviewing the intake nurse, the intake nurse advised they would use an online sign language service if needed but when asked to demonstrate utilizing the website, the website was not accessible. The intake nurse, while thoughtful and appearing very competent, did not mention the sign language interpretive services contract the county currently employs and appeared unaware of that option.

When interviewing the intake custody staff, a request was made to demonstrate accessing both the TDD phone system and the tablet available to assist disabled inmates. While the equipment was available, the staff were unable to demonstrate how to use either system. The staff were aware of the location for the systems and showed them during the tour, but if they were required to assist an incarcerated person in using the systems, they were not trained to do so, and a written procedure was either not readily available or was not intuitive enough to assist the staff.

Creating simple to understand desk procedures to be located near the equipment and training for staff on where to find the desk procedures could result in substantial compliance in the next rating period.

Recommendations

1. Update ADA lesson plan to remind staff of the availability of SLI contract and how to access those services.
2. Create written procedures clearly designed to assist staff when needing to provide interpreters, SLI, TDD equipment or other equipment as technology improves. Those procedures should be easily located in an area where staff can access and do not get misplaced or filed in a drawer or on a shelf.

96. The ADA coordinator will be properly trained in overseeing an ADA program in a correctional setting.

Expert Review

Substantial Compliance

Policies	Custody 602 - ADA Policy
Training	Certificates of Training – Received
Metrics	ADA Coordinator Duty Statement – Not Reviewed ADA Coordinator Training Schedule Interviews

Observations

The ADA Coordinator is a committed leader for the County and has invested in receiving nationally recognized training regarding ADA requirements in correctional settings, recently attending a National Institute of Corrections (NIC) specialized course for ADA Coordinators.³² Because the ADA Coordinator has been in this role over two (2) years, she has also benefited from the expertise of Class Counsel and the various monitors who have been working with the County on compliance.

The ADA Coordinator assumes a leadership role in all aspects of ADA compliance and clearly is relied upon by the supervisors and managers to assist with implementation and training of policies. She also serves in the role of engaging others to discuss ADA challenges to assist with local compliance. While she can certainly benefit from on-going training, there is little doubt that the ADA Coordinator understands her role as advocate and problem solver.

The County should continue to invest in the development and training for the ADA Coordinator, Compliance Sergeant and command staff responsible for implementation of the Settlement Agreement.

Recommendations

1. The County and ADA Monitor should continue to ensure the ADA Monitor attends local and national training in compliance with the ADA in correctional systems.
2. Unless there is a change in the employee assigned to serve as the ADA Monitor, recommend consideration that this provision no longer be subject to monitoring.

Miscellaneous

97. The County will have a designated ADA Coordinator. The ADA Coordinator will maintain an accurate list of all housing units and common areas with fixed ADA accessible features or assets.

Expert Review

Substantial Compliance

Policies	Custody 602 - ADA Policy
----------	--------------------------

³² Provided by the “Great Plains ADA Center” on November 1-2, 2022.

ADA Coordinator Duty Statement – Not Reviewed

Training Not Applicable

Metrics Interviews
List of housing units/common areas – ADA Accessible Features

Observations

The County has a committed and experienced ADA Coordinator who serves as both the ADA Coordinator and Ombudsperson. The ADA Coordinator is aware of the ADA accessible units and cells and the housing placement of the ADA identified populations. The ADA Coordinator oversees ADA grievances, ADA Requests for Accommodation, the MDT process and oversees training on the ADA provisions.

Recommendations

1. Continue to maintain an ADA Coordinator position and ensure adequate time, training, resources and executive support to assist the ADA Coordinator in their role.
2. Unless there is a change in the employee assigned to serve as the ADA Coordinator, recommend consideration that this provision no longer be subject to monitoring.

98. The County will have an Ombudsperson and the County's Ombudsperson will assist disabled persons with completion and understanding of forms use for medical, classification, due process and other programs.

Expert Review

Partial Compliance

Policies Custody 602 - ADA Policy

Training Not Applicable

Metrics ADA Coordinator Duty Statement
Interviews
Accommodation Request Responses

Observations

The County has a competent and committed employee serving as the Ombudsperson and ADA Coordinator. This employee is known to a segment of the disabled population and is responsible for assisting disabled persons with a broad range of needs. However, the workload of assisting the population with grievances, sick call slips, requests, due process etc., cannot fall on one person and the County intends on retraining all custody sworn personnel in their responsibility to assist in these areas. Once that training has been complete or the County establishes a standalone

Ombudsperson position and there is proof of practice that a broad range of staff are available to assist the ADA population, this provision should reach substantial compliance.

A review of the Ombudsperson's response to ADA accommodation requests provides proof of practice when responding to the incarcerated population's needs, routinely in a timely and respectful manner but a series of those requests there was no final resolution documented. This is likely due to workload issues, or the issue was resolved but the documented record does not reflect the resolution.³³ Will work with the Ombudsperson in this next rating period to improve documentation of final outcomes when requests for support come to her from the population.

Recommendations

1. Continue to employ a competent and committed Ombudsperson.
2. Ensure adequate support is given to the Ombudsperson to provide timely, accurate and effective support to the population.
3. Ensure staff are trained and required to assist disabled persons with completion of forms, accessing care and programming.
4. Ensure staff are trained and required to assist disabled persons when engaged in classification and due process events.
5. Improve documentation of final outcomes for inmate accommodation.
6. As many of these issues are addressed in other provisions, recommend consideration to discontinue monitoring this provision unless the position becomes vacant or ineffective.

99. The Hernandez Settlement information will be clearly posted in living units. The ADA coordinator's name and contact information will be clearly posted in living units and alternately available to incarcerated persons whose disability and/or language barriers inhibit their ability to read a posted notice.

Expert Review

Substantial Compliance

Policies	Custody 602 - ADA Policy
Training	The ADA in State & Local Courts, law enforcement and detention facilities
Metrics	Tours Interviews Monthly Compliance Sergeant Reports

Observations

During the October 2022 site tour, the Hernandez Settlement and ADA Coordinator information was posted in most housing units, but it is common that this type of paper notification is torn from the walls and requires constant replacement. Several general population incarcerated persons interviewed were aware of the documentation and

³³ Examples: 178874192, 180054662, 180765882, 188428782, 188460822, 19661402, 196661522

placement of the posters. Most of the disabled populations interviewed were aware of the notification, the name of the ADA Coordinator and how to access the ADA Coordinator. The staff continue to explore alternatives or securing the notices, but those solutions may present security challenges. The notification information is also available on tablets in English and Spanish.

The monthly Compliance Sergeant report has a section every month addressing auditing for the posting of the document, which is an excellent mechanism to ensure replacement when the forms have been removed.

Recommendations

1. Continue to post notifications with auditing by the Compliance Sergeant.
2. Ensure extra copies of notification are provided to housing staff for replacement in the event staff become aware the notices have been removed.
3. If other monitors are assessing this provision, recommend ADA Monitor discontinues monitoring this provision.

100. The Compliance Sergeant will conduct a random audit of two incarcerated persons per month who require accommodation and generate a report of the findings.

Expert Review

Substantial Compliance

Policies	Custody 602 - ADA Policy Duty Statement – Not reviewed
Training	Not Applicable – Duty Statement
Metrics	Monthly Compliance Sergeant Audit Report

Observations

The Compliance Sergeant consistently conducts and documents monthly ADA compliance reviews which include interviews with disabled persons. In the reviews, the Sergeant is clear and direct about the findings and if the disabled person has a need that has not been addressed, the Sergeant works immediately to resolve the issue. The Sergeant also completes a follow up interview in the next month to determine if there are new concerns or the previously identified issues were resolved.

During this rating period, it has not been established how the selections of the population are randomized by the Sergeant and a revamp of the report will be required in the next rating period to ensure all requirements of the audit are systematically documented in the report.

The following reflect information from the Compliance Sergeants reports from May through September 2022:

Initial Meeting				Follow Up		
	Incarcerated Person	Housing	Comments	Incarcerated Person	Housing	Comments
May	J.C.	V101	No Issues	J.S.	UBF-01	Issue Resolved
	S.R.	V212	No Issues	V.M.	R109	Released
June	B.S.	A Dorm	W/C Issues - Replaced	J.C.	V101	No Issues
			C Collar Confiscated - No medically approved			
	C.G.	V202		S.R.	V212	No Issues
July	A.C.	X102	Medical, Tablet, visually impaired supports – F/U w HC team, provide radio	B.S.	A Dorm	No Issues
			medical/dental - F/U with HC team			Removed from special conditions list. Appears temporary medical issue
	J.F.	V212		C.G.	V202	
August	H.G.	Z104	medical/dental - F/U with HC team	A.C.	X102	Numerous unresolved medical problems and lack of support for visually impaired. F/U w HC team. Attempt tablet replacement.
			No Issues. Previous interviews May, June			
	S.R.	Z114		J.F.	A Dorm	Issues Resolved
Sept	S.M.	A Dorm	No Issues	A.C.	X102	Tablet, lack of training to use cane, lack of supports - FU with GTL and HC
	J. S.	V118	No Issues	H.G.	Z104	Released
				S.R.	Z114	No Issues

Recommendations

1. Continue the Compliance Sergeant Monthly reports and consider augmentations as recommended in several provisions.
2. Establish a system where at least one of the incarcerated persons interviewed each month has recently submitted an ADA grievance or complex accommodation request.
3. Update audit sheet to reflect method for random selection and check box to show all required audit items were complete.³⁴
4. After one additional round of monitoring, if it remains in Substantial Compliance, recommend discontinuing monitoring unless concerns of future noncompliance are raised by Class Counsel.

101. A Jail Commander will review the Compliance Sergeant's monthly audits and generate a quarterly report.

Expert Review

Partial Compliance

Policies	Custody 602 - ADA Policy Post Order – Not Reviewed
Training	Not Applicable – Post Order
Metrics	Monthly Commander Audit Report

Observations

The County has a monthly report that is generated by a jail commander. This report has been provided for the months of May through October for review. In general, the reports reflect the following: Status of Compliance Sergeant Monitoring, ADA Yard Access, ADA Accommodation Requests, ADA maintenance issues, access to grievances and sick call slips, posting of the Hernandez lawsuit.

While this is a positive self-auditing system, the Commander report does not cover some of the most significant ADA requirements, which should be included. Areas that should be addressed in a commander report include but are not limited to: Incarcerated person discipline; grievances; requests for accommodation; restricted housing placement; ADA populations by category and housing locations, etc. The Commander report also should have an active corrective action plan attached to show the areas that have been targeted month over month for improvement and the status of the corrective actions.

³⁴ Examples include Work order issues addressed, access to ADA accessible features, evaluation of Special Conditions List and jail management system documentation.

It is believed that if the County refined the data and reporting systems, the Commander reports can be improved to succinctly identify areas where the County is doing well and those areas that require focus. These reports can begin to show quality internal monitoring and assist with demonstrating increasing compliance in these provisions. This is ultimately how court ordered monitoring diminishes as the jurisdictions demonstrate self-evaluation and self-correction. The ADA Expert will work with the County with feedback from Class Counsel on how to build upon the existing report to continue to improve the process.

Recommendations

1. Continue with the Commander Report and update Policy 602 to be less prescriptive on which Commander is assigned to generate the report.
2. Work with the Expert to refine the ADA aspect of the report to include additional aspects of the ADA policy and Settlement Agreement.
3. A corrective action plan should be attached to Commander's reports and outstanding items should be updated with each new commander report.