Created by:
Patrick Bair

ADA NEWS

"News Reviews to Peruse"

Volume 88
June 2001

Items regarding the Americans with Disabilities Act may be of interest to you. Please share this information with colleagues, supervisors and subordinates. The views and opinions expressed herein are solely those of the editor, except where noted, and do not represent the views of the Office of Chief Counsel or the Department of Environmental Protection. Comments, contributions, address changes and questions, including requests for accommodations needed to receive or apprehend this publication, should be addressed to Patrick H. Bair (Ed.) (PBair@state.pa.us). Current and past issues of this publication are archived at www.dep.state.pa.us/dep/deputate/chiefcounsel/ADA/adanews_index_2001.htm on the DEP Intranet website.

IN THIS ISSUE

Area Calendar
View Entire Newsletter

Index of Previous Issues

Email comments, contributions, address changes and questions, including requests for accommodations needed to receive or apprehend this publication, to Patrick H. Bair (Ed.)

"News Reviews to Peruse"

Number 88 June 2001

Items regarding the Americans with Disabilities Act which may be of interest to you. Please share this information with colleagues, supervisors and subordinates. The views and opinions expressed herein are solely those of the editor, except where noted, and do not represent the views of the Office of Chief

*Counsel or the Department of Environmental Protection. Comments, contributions or questions, including requests for accommodations needed to receive or apprehend this publication, should be addressed to Patrick H. Bair (Ed.) (**pbair@state.pa.us**). Current and past issues of this publication are archived at **http://intradep/ChiefCounsel/ADANews/adanews_index.htm** on the DEP Intranet website.*

UNEMPLOYMENT COMPENSATION DENIED - The Pennsylvania Commonwealth Court has affirmed the decision of the Unemployment Compensation Board of Review in denying compensation to a former Pizza Hut employee who quit her job, apparently in frustration over attempts to accommodate her visual and hearing disabilities. The employee, who was hired as an order taker, utilized several methods of accommodation provided to her by Pizza Hut, but became frustrated using a speech synthesizer, the method decided upon by management. The UC referee found that she did not have a compelling or necessitous reason for leaving her employment. The Board and the Court agreed, finding that Pizza Hut had made every effort to accommodate the claimant, and was still engaging in an interactive process with her at the time she resigned. Popoleo v. Unemployment Compensation Board of Review, Pa. Commonwealth Court No. 2770 C.D. 2000, 6/5/01 (http://www.courts.state.pa.us/OpPosting/CWealth/out/2770CD00.pdf).

SUPREME COURT SAYS "CASEY SHOULD RIDE" - On May 29th, the U.S. Supreme Court issued its much awaited and, for many, surprising decision in golfer Casey Martin's case against the Professional Golfers Association. The 7-2 decision was surprising to many because, contrary to expectations, the Court found in favor of the professional golfer, ordering the PGA to allow Martin to use a golf cart to ride between shots on the professional golf tour as an accommodation for his mobility disability. "Under the ADA's basic requirement that the need of a disabled person be evaluated on an individual basis, we have no doubt that allowing Martin to use a cart would not fundamentally alter the nature of PGA Tour tournaments," wrote Justice John Paul Stevens in the majority opinion. The Court ruled the walking requirement "is at best peripheral to the nature of the (PGA Tour's) athletic events, and thus it might be waived in individual cases without working a fundamental alteration." Stevens agreed with lower court rulings that Martin's rare circulatory disorder - Klippel-Trenaunay-Weber syndrome - causes more fatigue than walking due to the intense pain Martin experiences in his leg. The two dissenting votes came from Justices Antonin Scalia and Clarence Thomas. "In my view today's opinion exercises a benevolent compassion that the law does not place it within our power to impose," wrote Scalia in the dissent. "The judgment distorts the text of Title III, the structure of the ADA, and common sense." PGA Tour, Inc. v. Martin, USSCt, No. 00-24, 5/29/01 (http://a257.g.akamaitech.net/7/257/2422/29may20011200/www.supremecourtus.gov/opinions/00pdf/00-24.pdf).

REFUSAL TO ACCOMMODATE A COSTLY DECISION FOR G.E. - An ADA award of close to $600,000 was recently assessed against General Electric for its refusal to reasonably accommodate a machinist with a back injury. The machinist, who had injured his back on the job, was released to return to work following a functional capacity evaluation ("FCE") with a lifting restriction of twenty pounds. The employer rejected the restriction, sending the machinist to another doctor, who recommended his return to work with a restriction of fifty-pounds. GE also rejected this accommodation, and refused to return the machinist to work. The machinist filed for long-term disability benefits, then sued under the ADA. A jury awarded $1.2 million in damages, which the district court reduced to $300,000 in accordance with the statutory cap on ADA damages. The machinist was also awarded $141,110 in front pay and $150,837 in attorney's fees. GE appealed the verdict to the U.S. Court of Appeals for the Fifth Circuit (TX, LA, MS), arguing that the machinist was not a qualified individual with a disability ("QID") because he could not perform the essential functions of his job, and that his ADA claim conflicted with statements made on his application for disability benefits. The Appeals Court found that the machinist had adequately explained any conflicts in the two claims, and that he was a QID in that those tasks which he could no longer perform because of his disability - climbing, bending and lifting - were not listed as essential job functions on his job description. (The Court, which did not defer to the employer's written description of the essential job functions, made the following statement worthy of note regarding the job description: "In determining what constitutes the essential functions of a position, 'consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.") The Court affirmed the trial court's award, finding that the damage award was reasonable in light of the consequences suffered. Giles v. General Electric, CA5, No. 99-11059, 3/19/01 (http://www.ca5.uscourts.gov/opinions/pub/99/99-11059-cv0.htm).

INTERACTIVE PROCESS A REQUIREMENT, SAYS NINTH CIRCUIT - "Once an employer becomes aware of an employee's need for accommodation, it has a mandatory obligation under the ADA to engage in a continuing interactive process with the employee to identify and implement appropriate reasonable accommodations," according to a recent opinion written by Judge Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit (WA, OR, ID, CA, NV, AZ, AK, HI, GU). "The interactive process requires communication and good-faith exploration of possible accommodations between employers and individual employees, and neither side can delay or obstruct the process. … A party that obstructs or delays the interactive process is not acting in good faith. A party that fails to communicate, by way of initiation or response, may also be acting in bad faith. Employers, who fail to engage in the interactive process in good faith, face liability for the remedies imposed by the statute if a reasonable accommodation would have been possible." Humphrey v. Memorial Hospital Association, CA9, No. 98-15404, 2/13/01 (http://laws.lp.findlaw.com/9th/9815404.html).

EMPLOYER'S "100% HEALED RULE" OF RETURN VIOLATES ADA - The U.S. Court of Appeals for the Sixth Circuit (MI, OH, KY, TN) decided a case in April in which the Court was asked to review the case of a welder who claimed

she was discharged because she was regarded as having a disability. The welder injured her back in 1994, but attempted to return to work several months later with restrictions on bending and stooping. The employer refused to permit her return with restrictions, basing its decision on a company rule that required employees returning from injury leave to be "100% healed." The welder acknowledged that she did not have a disability under the Act, but said she was not reinstated because her employer regarded her as having a disability, *i.e.*, that the employer misperceived or treated her physical limitations as substantially limiting when, in fact, that was not the case. Her case was dismissed at the trial level, and she appealed it to the Circuit Court. The Appellate Court remanded the case, finding that genuine issues of material fact precluded the grant of summary judgment in favor of the employer on the issue whether the welder was regarded as disabled. On the question of the 100% healed rule, the Court followed the holding of other circuits, holding that such a rule is impermissible only as to a person with an actual disability. Henderson v. Ardco, Inc., CA6, No. 99-6407, 4/24/01 (http://pacer.ca6.uscourts.gov/cgibin/getopn.pl?OPINION=01a0133p.06).

MORE EVIDENCE NECESSARY FOR SUCCESSFUL 'REGARDED AS' CLAIM - According to the U.S. Court of Appeals for the Fifth Circuit, evidence that an employer knew about an employee's back problem and doubted her ability to perform some of her work duties alone is insufficient to prove that the employer regarded the employee as a person with a disability. Without evidence that the employer regarded the employee as substantially limited in any major life activity, the employee's claim fails. The Court dismissed the employee's contention that she had an actual disability, finding that her ability to sit or stand in one place for up to one hour at a time before having to walk around made clear, under the ADA, that the "condition, manner, or duration" under which she was able to sit or stand was not significantly restricted as compared with the average person. Dupre v. Charter Behavioral Health Systems of Lafayette Inc., 242 F.3d 610 (5th Cir. 2001) (http://www.ca5.uscourts.gov/opinions/pub/99/99-31378-cv0.htm).

DISCHARGE FOR ABSENTEEISM - The federal district court for the State of Maryland has decided an interesting ADA Title I case in which the employee, who worked for the employer for less than three months as a "reimbursement specialist," was discharged for excessive absenteeism. The employee suffered from asthma that was affected by environmental conditions. At the time of her discharge, she had been absent in excess of 20% of her scheduled work days. (It was undisputed that regular attendance was an essential job function of her position.) The employee claimed that she had been fired because of an "erroneous stereotype" that her asthma limited her ability to work, in violation of the ADA's prohibition against "regarded as" discrimination. In dismissing the claim, the court first found that her asthma and allergies did not constitute a disability under the ADA, even if they were aggravated by conditions at her particular workplace. The court went on to find that the employer had discharged the employee because of her excessive absenteeism, not for a discriminatory reason, where her supervisor not only believed she could perform her normal duties, but also expected such performance from her. An employer's recognition of an employee's attendance history in making employment decisions does not necessarily support the conclusion that the employee was subject to unlawful discrimination decisions because of a perceived disability, concluded the court. Mayers v. Washington Adventist Hospital, USDC Md., CA No. AW-99-3549, 3/26/01 (http://www.mdd.uscourts.gov/Opinions/PDF/2001/March/mayers.pdf).

FEDERAL JUDGE GRANTS REQUESTED SANCTIONS AGAINST WAL-MART - As predicted last month, a federal judge has fined Wal-Mart $750,200 for violating an agreement to improve treatment and training of its deaf employees. In an order issued on June 13th, U.S. District Judge William D. Browning also ordered that the store chain produce a 30-second TV ad to be aired in Phoenix and Tucson every day for two weeks. The commercial must explain the ADA, state that Wal-Mart has violated it, and refer people who may have been discriminated against to the Arizona Center for Disability Law or the EEOC. Wal-Mart spokesman William Wertz said the company will seek another hearing with Judge Browning, contending that the company "complied with most of the provisions" of a consent decree it signed in January 2000. The consent decree required Wal-Mart to accommodate two deaf men who had alleged that the company violated the ADA in refusing to hire them at a Tucson store. Accommodations were to include interpreters for training and meetings and a TTY installed in the store. Wal-Mart was also ordered to train its managers in Arizona on complying with the ADA.

BLIND CLIMBER CONQUERS EVEREST - On May 25th, Erik Weihenmayer became the first blind climber to reach the summit of Mt. Everest, the world's highest mountain. Weihenmayer's Everest accomplishment bodes well for his quest to climb the seven highest peaks on each of the seven continents, a feat achieved by fewer than 100 climbers. With Everest under his belt, Weihenmayer has two remaining summits to go. He has already climbed Vinson Massif in Antarctica, Mount McKinley in Alaska, Mount Kilimanjaro in Africa, and Aconcagua in South America. Weihenmayer, an author, teacher, speaker and a high-school wrestling coach, was born with a rare eye disease called retinoschisis, which progressed into glaucoma. Since age thirteen, he has been totally blind. (Tom Whittaker, a single-leg amputee, became the first person with a disability to climb Everest in 1998.) Read more about Weihenmayer's historic feat at http://www.2001everest.com.

AUDIBLE CROSSWALK SIGNALS NOT UNIVERSALLY WELCOME - Most of us have become pretty comfortable with the chirps and beeps associated with municipal crosswalks in the past few years. Intended to aid blind pedestrians, the signals are commonplace in most cities. So it came as somewhat of a surprise to Baltimore city officials when they raised a firestorm of controversy with plans to install the devices at four city intersections a few months ago. The city officials quickly learned that the blind and vision-impaired community is far from unanimous in believing the signals are needed. In fact, the nonprofit National Federation of the Blind opposes installation of the signals as unnecessary, while the opposite position is assumed by the nonprofit American Council of the Blind. "It doesn't make it easy, from a public-policy perspective, when two groups of the blind differ drastically on these signals," says Sheila Dixon, Baltimore city council president. Both groups say they represent all blind people. Compared to the international community, America is well behind countries such as Japan and those in Europe, where audible signals are common.

WEMEDIA DEBUTS FIRST "TALKING BROWSER" - Designed specifically to help people with low vision and people with

learning disabilities use the Internet more easily, the "talking browser" has been developed by WeMedia. The browser is making news around the world and is available to interested persons for free. The browser can be downloaded from http://www.wemedia.com/talking_browser. (Your editor would be very interested in reviews of the WeMedia browser from readers. Please try it out, especially if you are a reader with low vision, and send your evaluation to pbair@state.pa.us.)

THIRD CIRCUIT FINDS HIV INFECTION IS DISABILITY UNDER ADA - According to the U.S. Court of Appeals for the Third Circuit (PA, NJ, DE, VI), a child's HIV infection clearly constituted a "disability" under the ADA and the Rehabilitation Act, since it was a physical impairment that substantially limited several of the child's major life activities, such as talking, walking, and digestion. Further, the adoptive parents of the child were "qualified individuals" entitled to protection from disability discrimination under the ADA because of their relationship to their son. Punitive damages, however, are not available according to the Court under either Title II of the ADA or the Rehabilitation Act against municipal entities for disability discrimination because the statutes lack any indication of Congressional intent to override settled common law immunity of municipalities, and because such damages might threaten financial integrity of local governments. Doe v. County of Centre, PA, 242 F.3d 437 (3rd Cir. 2001) (http://www.ca3.uscourts.gov/ opinions/003195.txt).

NEW YORK TIMES RUNS SERIES ON AIDS - Two decades have passed since the onslaught of the AIDS epidemic. The quest for a cure continues, but more remains to be done on the prevention front. The New York Times' "AIDS at 20" is an ongoing series that examines this disease in all its aspects, looking closely at patient rights, the vaccine search and public policy, as well the origin of the disease. "Voice of the Epidemic" examines the lives of AIDS patients of all ages, ethnicities and sexual orientations. It reiterates the fact that this disease does not discriminate and all people are susceptible. The series includes charts, video, in-depth reports and nearly a thousand articles from the past 20 years. You can find the article online at http://www.nytimes.com/library/national/science/aids/aidsindex.html?stcell=37073&rd=http://172.16.172.122/cgibi

DISABILITIES WEBSITE OF THE MONTH - "Wired on Wheels" ("WOW!") is an organization that describes itself as "a not-for-profit internet organization dedicated to accessibility. Our mission is to empower people with disabilities so we can all can make better decisions about the places we visit. Restaurants are our first frontier. Whether you're a person with a disability or just someone who cares, we ask you to participate as we rate America for accessibility. WOW! provides an open forum where you can read restaurant accessibility reviews and contribute reviews of your own." The website provides a forum for people to "rate America for accessibility," as well as a resource of reviews for those who want information about accessibility of particular places. What a terrific idea! Anyone may participate so, the next time you are planning to go out to a restaurant, go here first, print the review form to take with you, and submit your rating later on. You'll be providing important help to folks to whom accessibility is really a way of life.

THIRD CIRCUIT LOOKS AT INDEPENDENT MEDICAL EXAMS - In a case of first impression, the U.S. Court of Appeals for the Third Circuit recently issued an opinion deciding whether requiring that an employee submit to an independent medical examination (IME) can indicate that the employer regards the employee as a person with a disability. The Court concluded that an employer's request for an IME, without other evidence, does not demonstrate that the employer regards the employee as having a disability, and cannot, by itself, form the basis for the conclusion that the employee is protected under the ADA. The Court interpreted the ADA as permitting medical examinations upon a showing of job relatedness and business necessity. The request for an IME, however, merely establishes that the employer harbors doubts (not certainties) about the employee's readiness to return to work, her ability to perform the physical demands of a particular job, or that the employer needs more information to make appropriate accommodations. The Court reasoned that a request for an IME could be improper if the examination became an overall evaluation of physical and mental debilitation instead of an evaluation of potential impairments that initially occasioned the examination. Such a request could be improper if the employer did not have a reasonable basis for harboring doubts about the employee's ability to perform. Tice v. Centre Area Transportation Authority, CA3, No. 00-1753, 4/23/01 (http://www.ca3.uscourts.gov/opinions/001753.txt).

AREA CALENDAR -

- Americans with Disabilities Act Workshop; October 1, 2001; New York, NY; sponsored by National Employment Law Institute (NELI), (303) 861-5600, or http://www.neli.org

- Employment Discrimination Law Update; August 2-3, 2001; Washington, D.C.; sponsored by NELI

- Americans with Disabilities Act Workshop; September 24, 2001; Washington, D.C.; sponsored by NELI

- Advanced Employment Law and Litigation; November 29-December 1, 2001; Washington, D.C.; sponsored by American Law Institute-American Bar Association Committee on Continuing Professional Education (ALI-ABA), (800) 253-6397, or http://www.ali-aba.org

ABILITY TO DRIVE NOT A MAJOR LIFE ACTIVITY - The U.S. Court of Appeals for the Eleventh Circuit (AL, GA, FL) has held that an employee's inability to drive herself to and from work for six months did not constitute an impairment that substantially limited a major life activity under either the ADA or the Rehabilitation Act.

The Court pointed out that the employee's driving restriction, which was due to her taking medication for epilepsy, was a temporary limitation. Additionally, the Court noted that driving differs from the major life activities that are covered under the ADA, pointing out that it would be an oddity for a major life activity to be regulated by the state. Specifically, the Court stated that while driving is important in our society, the inability to drive could not sensibly be compared to the inability to see or to hear. Chenoweth v. Hillsborough County, CA11, No. 00-10691, 5/10/01 (http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=11th&navby=case&no=0010691OPN&exact=1).

EEOC SUES NORTHWEST AIRLINES - The EEOC, on April 25th, announced the filing of a nationwide class lawsuit against Northwest Airlines, Inc. (NWA), based in Eagan, Minnesota, under Title I of the ADA. The suit charges NWA with disability discrimination through the adoption of a company-wide "zero acceptability" policy prohibiting the hiring of persons for certain laborer positions if they have seizure disorders or other disabilities that may pose the risk of a loss of consciousness, regardless of how remote the risk may be. Also alleged in the lawsuit is that NWA violated the ADA by refusing to individually assess applicants' ability to perform essential job functions, in addition to failing and refusing to individually assess whether the applicants posed a direct threat that could be reduced with reasonable accommodations. (http://www.eeoc.gov).

GEORGIA COURT CLARIFIES ARREST PROCEDURE FOR HEARING IMPAIRED - This February, the Georgia Court of Appeals overturned the DUI conviction of a deaf man because the arresting officer failed to follow procedures for communicating with hearing-impaired detainees. According to Charles Harbin, the man's lawyer, the ruling is important because the procedures apply to any situation where law enforcement is detaining someone who is hearing-impaired, and sets a new standard for what constitutes hearing impairment under the law. Yates v. The State, 248 Ga. App. 35, 2/12/01 (http://www.appeals.courts.state.ga.us/opinions/readnew.cgi?openval=A00A2245.71.htm&pattern=yates&year=2000).

SUPREME COURT WILL NOT HEAR PARKING CASES FOR NOW - The U.S. Supreme Court will not get involved for now in the question of whether drivers with disabilities may be made to pay some of the government's cost to accommodate them, such as a fee for special "handicapped" parking tags. Only days after the Court denied state employees substantial rights under the ADA in its Garrett decision in February, the Court without comment turned aside three cases involving fees under the ADA, cases which could have had an even broader effect on the law. The justices looked at appeals arising from fees charged in North Carolina, California and Texas, but chose not to consider any of them. At issue was the Act's ban on any state surcharges for the cost of providing special services, and the larger 11th Amendment constitutional and ideological question whether Congress had the authority to force states to do certain things under the ADA. Opponents of the fees claim they discriminate against persons with disabilities and thus violate the ADA. Federal appeals courts have reached different conclusions about fees for services under the ADA. Appellate courts in North Carolina, Texas and California have differed on the interpretation of the Act; a difference that, for now, will continue.

PHRC CHARGED WITH DISABILITY DISCRIMINATION - The Pennsylvania agency charged with responsibility for enforcing law prohibiting discrimination against persons with disabilities has been charged with violating the ADA in the manner in which it responded to complaints filed with it by a Maryland woman. The woman said that in response to a complaint she filed with the Pennsylvania Human Relations Commission regarding a Gettysburg College event, she was subjected to twenty-five pages of irrelevant personal questions from the Commission about her employment and medical history. As a result, she filed a complaint against the agency with the U.S. Department of Justice, charging that the PHRC's procedures discourage persons with disabilities from filing complaints. A Commission spokeswoman said the questions are necessary to give investigators a complete picture of the complaint.

ACCOMMODATION IN CONFLICT WITH SENIORITY PROVISION IS UNREASONABLE PER SE - An accommodation of a disability under the ADA that impairs the seniority rights of other employees as set forth in a collective bargaining agreement is unreasonable *per se*, according to the U.S. Court of Appeals for the Ninth Circuit (WA, OR, ID, CA, NV, AZ, AK, HI, GU). An employees' proposal that their employer transfer them to permanent light duty work positions as accommodation for their disabilities is *per se* unreasonable under the ADA where a collective bargaining agreement provides that employees with greater seniority are eligible for any opening before they are. Willis v. Pacific Maritime Association, 244 F.3d 675 (9th Cir. 2001) (http://www.ca9.uscourts.gov/ca9/newopinions.nsf/DE6488C83F42EE9988256A1C005D455E/$file/9716778.pdf?openelement

HARRISBURG PASSES ACCESSIBLE TAXI ORDINANCE - On June 12th, Harrisburg city council unanimously passed into law a measure that requires taxi companies operating within city limits to treat passengers with disabilities the same as passengers without disabilities. Under the law, taxi companies must have accessible vehicles, and may no longer place special requirements on passengers with disabilities

FEDS LAUNCH ACCESSIBILITY EFFORT - A broad federal government initiative to drive the development of more information technology products and services for people with disabilities was launched June 21st. As of that date, all vendors selling to the federal government must have equivalents for the products and services they offer that allow agencies to accommodate people with disabilities. As the largest single customer of many vendors, the federal government is using its muscle to highlight the importance of including all users when designing technology, said Olga Grkvac, executive vice president of the enterprise solutions division of Arlington, Va.-based ITAA (Information Technology Association of America). "Because of other federal procurement laws in place, this will really change commercial products," Grkvac said. Government agencies must adhere to a set of laws and regulations designed to discourage vendors from coming up with one set of products for the government and another for private sector customers. The new government regulations were passed by Congress several years ago as an amendment to Section 508 of the Rehabilitation Act of 1973. The regulations force agencies to offer federal employees use of information and data that is comparable to that used by other

agency personnel unless undue burden is placed on the agency in doing so. Starting June 21st, federal employees with disabilities are able to file complaints if not properly accommodated.

HHS Secretary Tommy G. Thompson in February announced new grants for states to involve consumers and other partners in developing new programs for persons with disabilities in support of President Bush's "New Freedom Initiative." These initial $50,000 awards - available to all states and territories that request one - represent the first payment in a new $50 million grant program aimed at improving the home and community-based services available to children and adults living with disabilities. Under the "Real Choice Systems Change Grant Program," the start-up money will go to every state that completes a request form, with no requirement for matching funds. The funds will help pay for the development of public-private partnerships, including consumer task forces, in each state to advise on the use of future federal grants that will increase services and supports to people with disabilities. Details of the initiative are available at http://www.whitehouse.gov/news/freedominitiative.

DISABILITY ADVOCATES CONTINUE ACCESSIBILITY FIGHT AGAINST RETAIL STORES - Disability Rights Advocates, a non-profit legal center, is presently litigating ADA class actions against Mervyn's stores, J.C. Penney stores, and Robinson-May stores, charging the major retailers with failure to remove store barriers to accessibility as required by Title III of the ADA. The barriers at issue include congested and blocked in-store pathways, architectural barriers, and inadequate customer service. The Colorado Cross-Disability Coalition is also maintaining a class action lawsuit against Kmart for accessibility issues.

NCD TECHNOLOGY REPORT RELEASED - The National Council on Disability released a new report on the future of accessible technology June 21st. Titled "The Accessible Future," the report takes a look at various federal agencies responsible for implementing laws designed to aid person with disabilities, including the ADA. Copies of the report can be order by fax at 202-272-2022, or via the Internet at http://www.ncd.gov/newsroom/publications/01publications.html.