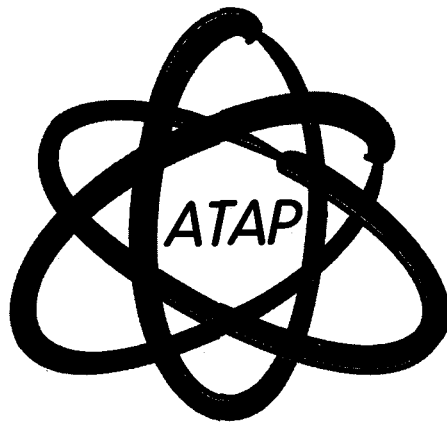


Policy Recommendations to Improve Access to Assistive Technology



**Association of Tech Act Projects
August, 2000**

Association of Tech Act Projects

The mission of ATAP is:

To collaborate with persons with disabilities and others at the national level to increase the availability and utilization of assistive technology devices and services for all individuals with disabilities in the United States and territories.

The Association's purposes are:

1. To promote public awareness of assistive technology at the national level.
2. To provide training and education about assistive technology on a national basis for stakeholders, including other national social service and business organizations, members of the insurance and healthcare industry, and public office holders/policy makers.
3. To develop positions on a full range of national assistive technology and disability related issues and to share these positions with other organizations or policy makers, as needed, to ensure that the views of the states and territories and their consumers with regard to assistive technology service delivery are adequately represented.
4. To provide a forum for exchanging information and promoting the system change accomplishments and activities of the Tech Act Projects.
5. To identify the need and opportunities for the development of nationally-conducted activities to increase access to assistive technology.
6. To develop and promote a national agenda.

Forward

The recommendations you will find in this report are the product of a number of work sessions of State Assistive Technology (AT) Programs across the country. State AT Program staff, along with consumer organizations and other collaborators, implement policy improvement initiatives on a day-to-day basis. As a result, they are a vast resource for recommendations regarding how to improve assistive technology policy at all levels — federal, state, and local. This resource was tapped through the Association of Tech Act Projects (ATAP) and recommendations gathered for specific policy improvement. The initial recommendations were refined, prioritized, edited and further refined by ATAP members to produce the final recommendations in this report. The current maze of public policies that govern access to assistive technology have much room for improvement. We hope this report will help chart a course for policymakers, consumers, advocates, and other interested parties to undertake and achieve assistive technology policy improvement at all levels.

ATAP Board of Directors

Introduction

Little disagreement exists among persons with disabilities, family members, disability service providers, and policy makers that assistive technology is beneficial. The independence, advancement and productivity of children and adults with disabilities is inextricably linked with access to assistive technology.

Unfortunately, many individuals with disabilities have no idea what assistive technology they need and no ready access to knowledgeable providers to assist them. For those consumers who do know what assistive technology they need, there is no comprehensive funding system, no "entitlement" to assistive technology; so frequently they go without.

The assistive technology marketplace consists of 30,000 plus items. A cursory glance at the array of devices available reveals that they cover all disability types and age groups. Furthermore, the current technological revolution improves or introduces hundreds of new devices into the market each year, some specifically designed for individuals with disabilities and others as mainstream technology that directly and indirectly benefits persons with disabilities.

It is not hard to envision a world in which whatever form of technology a person with a disability needs is readily available. However, if individuals with disabilities are unaware of these products, have no assistance in identifying those products that would best meet their needs, and have no funding source for the purchase of these products, the promise of independence, advancement, and productivity is simply unattainable.

The 25 recommendations in this report are designed to bring about more comprehensive access to assistive technology by targeting changes that should be made in policies at the federal, state, and local level. The recommendations address the need for increased information and technical support and the need for comprehensive access in the areas of health care, education, information technology and telecommunications, employment, community living, and alternative financing. The recommendations also provide suggestions for data collection to support documentation of assistive technology benefit.

Without improvement in the assistive technology system, individuals with disabilities will continue to find themselves without the devices and services they need. We can and must do better.

Association of Tech Act Projects (ATAP)

Public Policy Recommendations to Improve Access to Assistive Technology (AT)

General

- 1. Public policies should provide or fund assistive technology based on clear, consistent coverage standards rather than device definitions or classifications.**

Such coverage standards are needed to eliminate the current confusion created by varying definitions of devices such as rehabilitation technology, medical technology, durable medical equipment, educational technology, instructional technology, information technology. Using these definitions for coverage decisions create an environment of inconsistent access to needed devices.

- 2. Assistive technology funding systems should eliminate policy conflicts and explore the possibility of creating true “blended” funding streams for assistive technology that would allow equipment to follow persons with disabilities across all life settings, as they age, and move between service systems.** In addition, public policies should invest equitably in all phases of assistive technology, that are used for prevention, cure, and adapting. In particular, this would apply to the funding systems of IDEA, Medicaid, Medicare, other public health care programs, Vocational Rehabilitation, and other public employment programs.

An example of policy conflict between funding systems can be found in Part C IDEA and Medicaid. Part C dollars can only be used after Medicaid dollars, which can only be used after private insurance. However, Part C IDEA prohibits requiring the use of private insurance dollars. As a result, one of the policies must be violated to get both Medicaid and IDEA funding for early intervention services.

Another example of policy conflict can be seen when trying to determine who is responsible for funding assistive technology needed by Vocational Rehabilitation (VR) eligible students in higher

education. The ADA requires the college or university to provide auxiliary aids and services needed for effective communication and access, yet report language from Section 504 indicates that Vocational Rehabilitation is expected to provide almost all of the accommodations needed by college students so that the financial impact of Section 504 on higher education is minimal. As a result, it is common for consumers to have assistive technology needs that VR says the college should provide under ADA and the college says VR should provide per the report language of Section 504 and the consumer goes without until the conflict is resolved.

A last example of funding responsibility conflict can be found with assistive technology that is both medically and educationally necessary. Such AT includes wheelchairs, hearing aids, eyeglasses, augmentative communication devices, and so on. For students who are both IDEA Part B and Medicaid eligible, these devices are the responsibility of both agencies and it is not uncommon for each to expect the other to pay first without any clear federal or state policy guidance to resolve the conflict.

To investigate the feasibility of a blended funding stream, states could be allowed to pilot policy alternatives under a waiver of current rules. The pilots could focus on innovative ways to maximize dollar usage to deliver assistive technology that can be utilized across all life areas including early intervention, education, health care, community living, recreation, etc.

3. A permanent network of State assistive technology programs (AT Act) should be maintained in each state and territory to provide a national structure for information dissemination, training, program development, and policy advocacy. *

State Assistive Technology Programs, funded under Title I of the Assistive Technology Act provide information dissemination and training services across all disciplines, all disability and technology areas, and all funding streams unlike any other assistive technology resource. States AT programs provide critical services including but not limited to: a) coordination of preservice and inservice level training designed to increase AT competencies across a variety of disciplines; b) coordination of community access centers that house equipment demonstration and short-term equipment loan programs

that provide persons with disabilities hands-on access to devices and information needed to make decisions about what will meet their needs; c) facilitation of public and private collaborations with telecommunications service providers to ensure development and implementation of adaptive equipment programs; d) delivery of individual advocacy to assist consumers navigate the complex policy system, and e) implementation of system change initiatives to increase access to assistive technology through supportive policies and service delivery systems. These programs are an integral part of access to assistive technology and should be maintained with stable federal and state funding sources.

Health Care

4. All new or expanded public health programs should provide comprehensive assistive technology coverage.

For example, the Balanced Budget Act of 1997 created the State Children's Health Insurance Program (CHIP). This new program expanded health care coverage for children who live in households with incomes below 200 percent of the poverty level in most states. States were given flexibility on what benefits to provide under CHIP. While the majority of states chose to expand their Medicaid package of benefits, some states created separate programs which do NOT adequately cover assistive technology under the durable medical equipment benefit. Public policy should require new health benefit programs such as CHIP's to provide adequate assistive technology devices and services in the amount, scope, and duration required to maximize functioning of individuals with disabilities.

In another example, the Balanced Budget Act and Workforce Investment Act established an option for states to allow persons with disabilities to buy into Medicaid coverage. Public policy is needed to ensure that this new public health program will include comprehensive assistive technology coverage.

5. The Medicaid and Medicare definition and description of "medical care and medical necessity" and "durable medical equipment" should

be revised and assistive technology coverage should be a benefit coverage in addition to long-term care per diem. *

The new definitions and description of “medical care and medical necessity” should include consideration of function, habilitation and independent self-care and focus on increased functioning. The new definition and description of “durable medical equipment” in Medicaid and Medicare service categories should include assistive technology not currently included in the definition or should add AT as a separate category which must be provided if it increases, maintains, or improves functional capacity. In addition, the restrictive “home-based” portions of the definitions should be removed to eliminate the inappropriate limitation to assistive technology devices that are useful to individuals with disabilities outside the home. Restrictive regulations that discourage individuals with disabilities from pursuing work or involvement in the community should be revised to encourage independent living and community inclusion.

Medicaid and Medicare policies regarding responsibility for assistive technology purchase within long-term care per diems should be revised to clearly provide additional, adequate funding for AT for those Medicaid recipients whose services are “bundled” in long-term care rates.

These changes would pave the way for comprehensive coverage of assistive technology, such as hearing aids, power mobility, and augmentative communication devices, critical to the health, well-being and independence of individuals with disabilities. These changes would also affect private insurance plans as many defer to Medicare definitions in the interpretation of their covered services and would be one method of driving changes in private insurance without intrusive regulation.

6. Insurance plans should be prohibited from imposing arbitrary or unreasonable annual or lifetime reimbursement caps on assistive technology and should be required to utilize a definition of medical necessity which encompasses coverage of services that increase, maintain or improve the functional capabilities of an individual, including assistive technology.

Individuals with disabilities frequently face arbitrary and unreasonably low annual and lifetime reimbursement caps in the coverage of durable medical equipment and assistive technology as part of the habilitative or rehabilitative process. It is not uncommon for individuals to have severe limitations on the time frame (after an injury or accident) in which they can access durable medical equipment benefits. In addition, the emphasis of such care is frequently on meeting acute needs with limited access to devices needed for long-term or functional improvement.

7. The ERISA pre-emption that allows self-insured plans to be excluded from compliance with state insurance laws and policies should be reversed.

Currently, states who make strides in expanding AT coverage in private insurance plans through state laws can only impact a portion, frequently half or less, of all plans in their states. For example, some states have passed legislation requiring insurance coverage of hearing aids for children. However, the legislation only partially improves access to the devices because so many insured children are covered by plans not affected by the requirement. Lifting the ERISA pre-emption would allow states to implement coverage requirements in a consistent fashion with all plans in the state.

Education

8. Financial incentives should be made available to state and local education agencies to develop or improve AT infrastructure and for increasing teacher competency in AT.

For example, OSEP could require that IDEA State Improvement Grants for state education agencies address assistive technology infrastructure and personnel preparation needs as part of the grant application. Or OSEP could establish state grants specifically designed to encourage states to develop and integrate AT competencies into teacher certification procedures. SEA's could make grants available to LEA's to increase AT expertise and competencies and build an AT infrastructure.

9. Clear policy guidance should be provided at the federal, state and local level requiring the inclusion of assistive technology as part of the expenditure of public dollars for general educational technology deployment.

Policy guidance is needed to assure availability of federal, state, and local general educational technology dollars for the purchase and deployment of a full range of hardware, applications, and end-user equipment including assistive technologies. Many schools require special education budgets to bear the costs of all accessibility adaptations. This would be similar to requiring special education to fund the costs of an elevator for building accessibility. Accessibility costs should be part of the overall educational technology budgeting process, particularly as applied to public dollars.

10. Public policies should encourage, then require, instructional curricula developers and publishers and to make all products available in electronic format.

A first step in this initiative could be the establishment of an Advisory Committee on Accessible Educational Media. This Committee could provide recommendations for a national policy approach to accessible textbooks, accessible electronic/interactive educational media, and accessible assessment materials. Core representation on the committee should include representatives of the disability community; leaders in educational curriculum, instruction and assessment; representatives of textbook publishers, the educational software industry, and the educational testing and assessment industry; and leaders from states who have implemented access policies.

11. Clear policy guidance should be provided to State Education Agencies (SEA's) and local education agencies (LEA's) regarding the assistive technology "special factor consideration" and the "medical treatment" exclusion in IDEA.

Policy guidance from OSEP is significantly lacking in these areas, leaving SEA's with little direction for supporting and ensuring implementation in LEA's. As a result, SEA's have been reluctant to

provide policy guidance for LEA's and confusion and misunderstanding about the requirements abounds.

Information Technology and Telecommunications=====

12. Policies for all public agencies should ensure the procurement and development of accessible information technology in a fashion parallel to that required by the federal government under Section 508 of the Rehabilitation Act. *

Currently, the requirements of Section 508 for information technology accessibility apply only to Federal agencies. Section 508 requirements do not extend to recipients of Federal funds, and do not regulate the private sector. However, states which receive Federal funds under the Assistive Technology (AT) Act of 1998 are required by that Act to provide an assurance of compliance with Section 508. Currently all 50 states and all territories receive AT Act dollars and all have some form of Section 508 assurance.

These state Section 508 assurances most frequently take the form of a simple statement. Few, if any, provide specifics such as: what state entities are subject to the requirements, what accessibility standards will be used to determine product compliance, what procedures will be used to review products prior to purchase, who is responsible for oversight and compliance, what recourse is available for enforcement, and so on. In addition, phased down and sunset of the Assistive Technology Act grants makes these assurances a poor incentive for development of extensive policies and procedures to assure state compliance.

With tenuous applicability of Section 508 beyond the federal government, public policies are needed to support the development and procurement of accessible information technology in all public entities, including state, county and local governments and schools. Development of these public policies should include active participation of those affected stakeholders, e.g., states, local governments, colleges and universities, schools, etc.

13. Public policies should ensure universal access to basic telecommunication services for individuals who cannot utilize traditional telecommunication equipment due to disability. *

Access to basic voice calling has become a necessity for Americans. Universal access to telephone service has been supported through a number of efforts, ensuring coverage in rural areas, providing lifeline programs and comprehensive relay services, etc. Fewer comprehensive efforts have been made to provide adaptive telephone equipment for all individuals who need such devices to utilize telephone and/or relay services. Public policies are needed to ensure that all citizens have the necessary adaptive devices to place and receive telephone calls needed for basic health, safety, and well-being.

With the rapid expansion of telecommunications, it is conceivable that forms of telecommunication other than voice calling will become a necessity in the near future. Public policymakers should be cognizant of this evolution and stand ready to implement policies that ensure access to adaptive equipment needed for other types of telecommunication forms as they become a basic need.

Employment

14. Coordinated financial incentives should be provided to state vocational rehabilitation agencies and workforce development agencies to establish and enhance AT infrastructure and to increase AT competencies in employment/rehabilitation personnel.

Such incentive dollars could be specially allocated for this purpose and/or dollars could be required to address the issue as part of core state plan funding within a variety of employment systems. For example, RSA could require a discussion of the AT infrastructure in a state, plans for improvement, and even required dollars allocated to such activities, within the VR state plan. The Department of Labor could require similar discussion and/or require similar set-aside funding in the state plans for WIA.

15. Policy guidance should be issued to assure reasonable delivery of accessible information technology and telecommunications equipment used in core “one-stop” employment center services.

Such directive should require access to information and telecommunication technology that is integral to the core employment services offered by one-stop centers through delivery of an appropriate range of assistive technology. Many states have begun initiatives to address accessibility at the one-stop employment center, but absent clear directive for formal state policy such activities will be slow moving and inconsistent nationally. The policy directive should encourage adoption of standards for information technology and telephony access rather than utilization of a generic assurance statement.

16. New or expanded incentives should be developed to encourage employers to purchase/provide assistive technology necessary for the employment of persons with disabilities.

Tax credits and/or deductions could be made available for private employers who provide assistive technology as a job accommodation beyond that currently available only for small business. Other types of incentives would need to be created for public employers since they would not qualify for tax credits.

Community Living

17. National “visitability” and “universal design” standards should be developed that can be used by state and local policy makers to encourage or require accessibility in residential construction.

Many state and local entities are using some form of “visitability” standards as a requirement for receipt of housing funding or are offering tax incentives for compliance with such standards. In addition, there is a handful of local ordinances that requires some type of universal design standard be included in new construction. A set of national consensus standards is needed at this time to support and further these efforts and to provide consistent direction for the home building industry.

18. A portion of Community Development Block Grant (CDBG) funds should be set-aside for home modification activities and/or accessible housing initiatives.

Severe limitations in accessible housing create barriers to community living for many people with disabilities. Currently there is no incentive or requirement for any portion of CDBG funding to be used to support development of accessible housing. Such policy change could make a significant difference in access to accessible housing.

Incentives, Loans, and Other Access Supports=====

19. Tax credits should be provided to companies who design and deploy products which meet universal design standards for access. Tax credits or other incentives could also be explored for supporting for the transfer of assistive technology from research to application.

20. Public policy should ensure sufficient funding to establish and maintain comprehensive, alternative financing programs, to allow individuals with disabilities to borrow money to purchase assistive technology or utilize other unique financing mechanisms. *

Only about half of the states have low interest loan programs in place and in many of these states the scope of the program is not sufficient to meet consumer needs. In addition, Title III of the Assistive Technology Act of 1998 has never received direct appropriations, and as a result there has been no direct federal financial support for these programs. With the ever-changing landscape of the banking industry, national coordination and federal funding is needed to support the existing state programs and to develop, expand and maintain others so that all individuals with disabilities have access to low interest loans when they are needed. In addition, other unique financing options could be explored such as making individual development accounts available for savings for assistive technology. (See also recommendation three with regard to funding needed for Title I agencies to develop, coordinate and maintain alternative financing programs.)

21. Tax credits or deductions should be provided to encourage accessibility in residential property.

Such tax credits or deductions could be made available at a federal and/or state level for property owners who modify homes with basic accessibility features. In addition such credits or deductions could be provided for builders who construct homes with built-in accessibility. (See also recommendation 17 for standards for accessibility.)

22. A personal tax credit or deduction should be established for out-of-pocket expenditures for qualified assistive technology purchases and public policy should ensure that all such purchases are sales tax exempt.

For those individuals who must purchase assistive technology themselves because there are no other funding source, tax credits, deductions and exemptions from sales and use taxes are important benefits. Such tax credits or deductions should be more inclusive than the current medical expense deduction in range of equipment qualified and should be without a percentage income threshold. In addition, a tax credit would be preferable to a deduction so that it is usable by individuals who do not itemize deductions. Currently sales tax exemptions for assistive technology vary dramatically between states and local areas where sales taxes are levied. Comprehensive sales tax exemptions are needed to relieve consumers of the added burden of paying sales tax, especially on assistive technology that can cost many thousand dollars, such as van lifts, stair lifts, electronic enlarging equipment, braille embossers, augmentative communication devices, etc.

Research

24. All public agencies that fund assistive technology should design and implement a data collection system, using appropriate sampling, to gather information on assistive technology usage, costs, and benefits.

Of particular importance are those major funding systems of: special education (IDEA and state dollars), employment (Vocational Rehabilitation, federal and state match dollars), and health care (Medicaid, federal and state match dollars and

Medicare). Currently these funding systems have inadequate or nonexistent data systems regarding assistive technology usage, costs, and benefits. As a result, opportunities for data-based planning are severely limited.

25. Targeted research should be undertaken to document the effectiveness of AT usage and its relationship to desired consumer outcomes, e.g., educational, employment, independent living, health status, quality of life, etc.

There continues to be a lack of quality research that documents the effectiveness of AT. As a result, it is frequently difficult to convince policy makers to address AT needs.

* Notes five recommendations that overlap with those in the National Council on Disability (NCD) report, *Federal Policy Barriers to Assistive Technology*, May 31, 2000. The recommendations here are similar in content, but are more broadly focused than those in the NCD report with attention to federal, state and local policy improvement.

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