

U.S. Dept. of Justice: United States reaches settlement with Columbia St. Mary's Hospital regarding allegations of ADA violations

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Gregory J. Haanstad, United States Attorney for the Eastern District of Wisconsin, announced that on May 22, 2023, the United States had settled a claim that Columbia St. Mary's Hospital Milwaukee Inc. ("CSM") failed to provide sign language interpretative services to a patient who is deaf, in violation of the Americans with Disabilities Act ("ADA"). CSM, located on North Lake Drive, Milwaukee, Wisconsin, is a short-term acute care facility with approximately 400 staffed beds.

Title III of the ADA requires public accommodations to take those steps necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently because of the absence of appropriate auxiliary aids or services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the services being offered or result in an undue burden. A public accommodation must also furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities and with companions of patients who are individuals with disabilities.

As set forth in the Agreement, the Government's investigation determined the following:

- In 2017, CG developed a serious medical condition requiring her to undergo surgery at CSM on December 18, 2017. CG was initially hospitalized at CSM from

December 18 to December 21, 2017, for the surgery and initial recovery period. On December 29, 2017, CG was re-admitted to CSM after experiencing complications from the surgery, including an infection of her surgical site. During her first hospital admission, CSM furnished CG with a qualified ALS interpreter for her pre-operative consultation. However, following the surgery, CG did not receive the services of a qualified ALS interpreter during several subsequent, important interactions with medical staff, including critical phases of her recovery period and staff assessments of her neurological status, in part because CSM staff did not adequately consult with CG about her desire for these services. In addition, no interpreter was provided during her discharge consultation.

- Rather than providing a qualified interpreter or other appropriate auxiliary aids or services, CSM staff relied on CG's mother, or other auxiliary aids or services that did not provide effective communication, to attempt to facilitate communication with CG about post-operative medical information. As a result, CG did not fully understand the nature of the care and medical decisions being considered for her.
- On December 29, 2017, CG was re-admitted to CSM after experiencing complications from the surgery, including an infection of her surgical site. She was treated successfully and discharged on January 1, 2018. During her second hospital admission, CSM again failed to provide a qualified interpreter or other appropriate auxiliary aids or services, for any part of the entire stay. Instead, hospital staff once again impermissibly relied upon CG's mother or other ineffective means including lip reading and written notes, to facilitate communication with CG. As a result, CG again did not fully understand the nature of the care and medical decisions being considered for her.

Based on these findings, the United States determined that CSM denied CG appropriate auxiliary aids and services necessary for effective communication during significant facets of her treatment at CSM in December 2017 and January 2018.

Under the settlement agreement, CSM will pay \$35,000 to the patient. In addition, CSM has reviewed and revised, as appropriate, its existing policies. CSM has conducted and will conduct additional training on the ADA, and CSM has agreed to report any future complaints of possible ADA violations to federal authorities. This matter was handled by Assistant United States Attorney Chris Larsen. For more information on the ADA, visit www.ada.gov/aids. Those interested in finding out more about the obligations of healthcare providers under the ADA may call the

Justice Department's toll-free ADA information line at 800-514-0301 or 833-610-1264 (TTY), or access its ADA website at www.ada.gov. ADA complaints may be filed with the Department of Justice at File a Complaint | ADA.gov.