

## Administrative Policy Manual

### LD.15 Federal Civil Rights /Nondiscrimination

#### Purpose

To ensure compliance with Federal civil rights laws and Section 1557 of the Affordable Care Act (ACA).

To ensure agency does not discriminate based on race, color, national origin, sex, age or disability; enhances language assistance for individuals with limited English proficiency; and protects individuals with disabilities.

#### Policy

- A. This agency complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex.
- B. This agency does not exclude people or treat them differently because of race, color, national origin, age, disability, or sex.
- C. A notice of consumer civil rights (nondiscrimination) will be posted in a visible location in office, provided to patients, applicants, community and staff.
- D. A Nondiscrimination statement for significant publications and significant communications that are small-size include the following: This Agency complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. E. All staff are responsible for ensuring they do not discriminate against individuals.

#### Procedure

- A. Agency prohibits sex discrimination including, but not limited to
  - 1. Discrimination based on an individual's sex, including pregnancy, related medical conditions, termination of pregnancy;
  - 2. Gender identity and sex stereotypes (Gender identity means an individual's internal sense of gender, which may be male, female, neither, or a combination of male and female); and
  - 3. Sex stereotypes (Sex stereotypes means stereotypical notions of masculinity or femininity).
- B. Individuals will not be denied health care based on their sex, including their gender identity and sex stereotyping.
- C. Women will be treated equally with men in the health care they receive.
- D. Individuals must be treated consistent with their gender identity.
- E. Agency will not discriminate based on sexual orientation.
- F. Employers will not discriminate in their Health Insurance Plans (if an agency participates in a healthcare plan/insurance).

#### Ensuring Effective Communication with and Accessibility for Individuals with Disabilities A.

Protections for Individuals with Disabilities include, but are not limited to:

- 1. Taking appropriate steps to ensure that communications with individuals with disabilities are as effective as communication with others by:
  - a. Providing appropriate auxiliary aids and services for effective communication;

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- b. Posting a notice of individuals' rights, providing information about communication assistance among other information;
  - c. Providing all programs and activities provided through electronic and information technology accessible to individuals with disabilities, unless doing so would impose undue financial or administrative burdens or would result in a fundamental alteration in the nature of the Agency's health program or activity.
- B. For Agencies that provide health insurance, the Agency will ensure the following actions are prohibited on the basis of race, color, national origin, sex, age, or disability, on a discriminatory basis:
  - 1. Deny, cancel, limit or refuse to issue or renew a health-related insurance plan or other health-related coverage;
  - 2. Deny or limit a claim or impose additional cost-sharing or other limitations or restrictions on coverage;
  - 3. Engage in discriminatory marketing practices or adopt or implement discriminatory benefit designs in health-related insurance or other health-related coverage;
  - 4. Deny or limit coverage or a claim, or impose additional cost-sharing or other limitations or restrictions on coverage, for sex-specific health services provided to transgender individuals just because the individual seeking such services identifies as belonging to another gender; and
  - 5. Categorically exclude coverage for all health services related to gender transition, and may not deny or limit coverage or impose additional cost-sharing or other limitations or restrictions on coverage for specific health services related to gender transition if those result in discrimination against a transgender individual.
- C. Agency will not exclude, deny or limit benefits and services based on an individual's age.
- D. Agency may base its actions on age for the following:
  - 1. When it is a factor necessary to the normal operation, or achievement of a statutory objective of a program or that is authorized under Federal, State, or local law; or
  - 2. When different treatment is justified by scientific or medical evidence.
- E. Agency will not delay or deny services or benefits based on an individual's race, color or national origin.
- F. An individual may not be excluded or denied benefits or services because of a disability and Agency will take the following steps, unless they would result in an undue financial burden or would fundamentally alter the program:
  - 1. Make reasonable changes to policies, procedures and practices where necessary to provide equal access for individuals with disabilities.

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2. Make all health programs and activities provided electronically (e.g., electronic billing, email contact or reminders of scheduled visits, etc.) accessible to individuals with disabilities.
- G. Ensure newly constructed and altered facilities are physically accessible to individuals with disabilities.
- H. Provide effective communication with individuals with disabilities, including patients and their companions.

#### Federal Enforcement

- A. The U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) enforces Section 1557 of the Affordable Care Act.
- B. OCR investigates and resolves complaints from the public alleging discrimination in health services and health coverage.
- C. When OCR finds violations, the Agency will be required to take corrective actions, which may include revising policies and procedures, and implementing training and monitoring programs and may also be required to pay compensatory damages.
- D. If the Agency refuses to take corrective actions, OCR may undertake proceedings to suspend or terminate Federal financial assistance from HHS. OCR may also refer the matter to the U.S. Department of Justice for possible enforcement proceedings.
- E. Individuals have the right to sue the Agency in court for discrimination.

Section 1557 of the Affordable Care Act (ACA) (81 FR 31376, 45 C.F.R. Part 92) is effective July 18, 2016.

Section 1557 does *not* apply to employment practices such as hiring or firing. An employer may be subject to other discrimination laws.

