



OPERATIONAL MEMO

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Purpose and Audience:

The purpose of this Operational Memo is to issue sub-regulatory guidance regarding the requirement for each county department of human/social services to have a Civil Rights Plan which addresses complaints, non-discrimination requirements and accessibility concerns. The Department of Health Care Policy and Financing (the Department or HCPF) is statutorily responsible for the oversight of the operations of the county department particular to the administration of the Medical Assistance Program.

Information:

In August 2021, the regulatory set that governs the Medical Assistance operations of each county department of human/social services was updated and modernized through the Executive Director rule-making process. These regulations, known as the Department's county administration rules, codified existing federal and state statutes regarding Civil Rights provisions for applicants and members of the Medical Assistance Program.

This Operational Memo will provide additional, clarifying guidance to county departments regarding the implementation of the civil rights requirements and the county's Civil Rights Plan as specified in 10 CCR 2505-5 1.020.6 and 1.020.7.

Development of a County Civil Rights Plan

Per 10 CCR 2505-5 1.020.7.1.d, each county department of human/social services is required to have a documented Civil Rights Plan. The development of the Civil Rights Plan should address the following, as well as any additional minimum requirements as outlined in this Operational Memo:

1. How the county's policies and procedures ensure equal access and opportunity for all members, applicants, employees, and others that intersect with their programs, services and activities without regard to race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, or disability.
2. Who the county's designated Civil Rights Contact is, per 10 CCR 2505-5 1.020.7.1.a., the role of the Civil Rights Contact within the organization and whether the Civil Rights Contact meets all minimum requirements as outlined.
3. How applicants, members or the general public can submit Civil Rights complaints, how those complaints are tracked and monitored, and how the county makes business process changes made and/or training conducted based on an analysis of complaints received.
4. What the county's general complaint process is and how the general complaint process aligns with the Civil Rights complaints process.
5. Where required public posting is located, both for in-person services and online.
6. How the general public, members, applicants, employees, and others can request assistance from the county's designated Civil Rights Contact.
7. How the county's staff is trained on the county's Civil Rights Plan.
8. How to access the county's processes to obtain auxiliary aids and services for individuals with disabilities and language services for individuals whose first language is not English.
9. What the county's non-discrimination investigation procedures are and what steps are taken to address discrimination complaints that are founded.

Protected Classes and Administrative Protection Against Discrimination

The county department of human/social services is required to ensure that protected classes are granted accommodations in the accessing, and granting of, programs, services and activities provided by the county. No discrimination against protected classes is permitted in relation, but not limited, to:

1. The use of the county's physical facilities
2. Intake or application procedures
3. Caseload assignments
4. Determination of eligibility

5. The amount and type of benefits extended to the applicant or member as part of the Medical Assistance Program

Approved Civil Rights Plans and Ongoing Updates

The county's initial Civil Rights Plan is subject to review and approval by HCPF. Once approved, the Plan must be updated by the county annually, if necessary, and submitted to HCPF for any updates to be approved. Requests for approval of the county's Civil Rights Plan can be submitted to the Department contact below.

Public Posting and Availability of County Civil Rights Plan

The county's Civil Rights Plan must be available to the public, whether requested by an individual seeking in-person services or available online, through the county's website. County staff must be trained on how to access the county's Civil Rights Plan and how to make the Plan available upon request. The county shall also provide instructions to the Department on where to access the county's Civil Rights Plan on an ongoing basis.

Retaliation and coercion are strictly prohibited. An applicant, member, or individual cannot be retaliated against for requesting access to or assistance from the county submission of a Civil Rights or discrimination complaint, per federal and state law.

Minimum Requirements for the County's Civil Rights Contact

As the county's designated Civil Rights Contact, the individual appointed to fulfill these duties must:

1. Be impartial and independent
 - a. The individual who had a complaint received against them cannot be the individual conducting the investigation
 - b. Conflict-of-interest processes can be leveraged if necessary
 - c. County attorney can also be used
2. Act as the central point of contact for applicants, members, individuals and HCPF pertaining to the county's Civil Rights Plan and federal and state civil rights requirements
3. Maintain up-to-date information on civil rights laws and requirements and disseminate this information to county staff on a regular basis
4. Act as the first point-of-contact for applicant, member, and individual civil rights complaints. Contact information should be available to the general public and, where possible, should be a general or shared inbox or other shared method of communication, to account for continuity of operations.
5. Posts required civil rights notices at designated physical locations and online

6. Manage the county's non-discrimination investigation procedures, conduct investigations and address issues of civil rights non-compliance through individual and systemic actions and improvements
7. Work with the county department to provide civil rights training and consulting, as needed, and beyond what the state and federal government require

County Non-Discrimination Investigation Procedures

As part of the county's Civil Rights Plan, a documented process for investigating complaints of discrimination received by the county must be created and approved by HCPF. County departments of human/social services must cooperate fully with the federal and state investigative processes. The complaint process:

1. Can include two tiers of review: an informal review or formal investigation.
2. Must address the timeliness of investigations; an informal review must be completed within thirty (30) calendar days, while a formal investigation must be completed within sixty (60) calendar days of receipt of the complaint.
3. Must address how the applicant or member, or individual who submitted the complaint, is expected to participate in the investigation.
 - a. The county is encouraged to have a separate, standalone shared inbox or online form for applicants and members to use
4. Must include how the county provides the results of the investigation to the complainant, which must be in writing and also provided to HCPF.
5. Must include an opportunity for the complainant to appeal the initial decision rendered by the county. Appeal decisions must be rendered within fifteen (15) calendar days, be in writing to the complainant and also provided to HCPF.
6. Must include how the county tracks all investigations, both informal reviews and formal investigations, and how the county implements business process changes or trainings to address complaints received, whether founded or not. This information must be submitted to HCPF on a biannual basis to the Department contact listed below.

The county is required to promptly investigate Civil Rights complaints. If a complaint of discrimination or Civil Rights violations is investigated by the county and the investigation finds that the complaint is founded, the Department will require the county to take all necessary steps to correct the violation. The Department must be provided a detailed description of actions taken and modifications made within three (3) calendar days from the completion of the investigation. Upon receipt of the county's investigation findings and description of its corrective action, HCPF will work with the county on any additional required steps.

Submission of Civil Rights Complaints

Per state and federal law, individuals can submit a discrimination or civil rights complaint to the county or directly to the state or federal government. All of the options listed below for the submission of civil rights complaints must be publicly posted within lobbies and high-traffic areas within the county. To submit a complaint, the applicant or member can:

1. Utilize the county's Civil Rights/Non-Discrimination complaint process, required as part of the county's Civil Rights Plan, operationalized by the county and approved by HCPF.
2. Utilize the Department's Civil Rights complaint process by submitting the [Discrimination Complaint Form](#) or contacting hcpf504ada@state.co.us
3. Utilize the Colorado Civil Rights Division complaint process by completing the [CaseConnect Civil Rights form](#) or contacting dora_ccrd@state.co.us. The Colorado Civil Rights Division (CCRD) is the State of Colorado's authority for the Colorado Anti-Discrimination Act (CADA).
4. Reach out directly to the U.S. Department of Health and Human Services, Office of Civil Rights

U.S. Department of Health and Human Services Office for Civil Rights
1961 Stout Street, Room 08-148
Denver, CO 80294-3538
Voice Phone: (800) 368-1019
FAX: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov

Retaliation and coercion are strictly prohibited. An applicant, member or individual cannot be retaliated against for submission of a Civil Rights or discrimination complaint, per federal law.

State Determination of County Compliance with Civil Rights Requirements

As detailed in 10 CCR 2505-5 1.020.6.f.ii, if the Department receives or is notified of a complaint of discrimination against the county, or the county, through its own investigation of a civil rights or discrimination complaint, and the complaint is founded and an applicant, member or individual was found to be discriminated against by the county or its staff, the Department will initiate corrective actions as specified in 10 CCR 2505-5 1.020.11 until the county rectifies the issue. Non-compliance with corrective actions will result in sanctions as stated in 10 CCR 2505-5 1.020.12.

Requirement for County Training on County Civil Rights Plan

The county is required, per 10 CCR 2505-5 1.020.7.1.a, to provide training to all county staff regarding the County Civil Rights Plan. Such training shall be offered annually to all county staff that have direct contact with applicants and members or county staff who supervise those who have applicant/member direct contact. 100% of county staff shall complete the annual training, with documentation on completions maintained by the county. To demonstrate compliance, the county shall provide, to the Department and upon request, records of the training given to county staff and the supporting documentation.

Expenses incurred in developing or providing the county's training on the County Civil Rights Plan are eligible for federal and state reimbursement per 10 CCR 2505-5 1.010.15.4.e. and are considered non-enhanced match activities per [Agency Letter 15-006](#).

Requirement for State Training on Civil Rights and Non-Discrimination

10 CCR 2505-5 1.020.3.b requires all county staff appointed to fulfill duties relating to the administration of Medical Assistance and who have direct contact with applicants and members or supervise staff who have direct contact shall complete, on an annual basis, trainings related to Civil Rights and Non-Discrimination. This training is provided by the Staff Development Center. 100% of county staff must complete the required training on an annual basis. Failure to complete the training annually may result in loss of access to the Colorado Benefits Management System (CBMS).

County Contractor, Vendor and Partner Compliance with Civil Rights Provisions

As specified in 10 CCR 2505-5 1.020.6.1.c, the county department shall assure that any contractors, vendors, partners or other parties that do business on behalf of the county, are paid using federal and state Medical Assistance funds, or who have contact with applicants or members are in compliance with federal and state civil rights laws and the provisions within this Operational Memo. If the county is alerted to discriminatory activity, the county must notify the Department, using the Department contact below, within three (3) calendar days.

At the Department's direction, if the county, state or federal government finds that any of the county's contractors, vendors or partners are in violation of federal and state civil rights provisions, the county may be required to terminate any payments or association with that party, per 10 CCR 2505-5 1.020.6.1.d. Termination must occur immediately upon notification from the Department to the county.

Accessing Support from the U.S. HHS Office of Civil Rights (OCR) and the Colorado Civil Rights Division (CCRD)

The U.S. Department of Health and Human Services (HHS), [Office of Civil Rights](#) (OCR) has numerous resources and technical assistance available to local governments.

Resources include:

1. [Provider Obligations for Health Care and Social Services](#)
2. [Compliance and Enforcement](#)
3. [Training](#)
4. [Civil Rights Laws, Regulations and Guidance](#)

In addition, the [Colorado Civil Rights Division](#) (CCRD) within the Colorado Department of Regulatory Affairs (DORA) is responsible for enforcement of the Colorado Anti-Discrimination Act (CADA). Resources include:

1. [How the CCRD Complaint Process Works](#)
2. [Education and Division Resources](#)
3. [Regulatory Information](#)
4. [Non-Discrimination Notices](#)
5. [Common Civil Rights Questions](#)

Attachment(s):

None

Department Contact:

HCPF_CountyRelations@state.co.us