



## OPERATIONAL MEMO

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<b>TITLE:</b>	<b>COUNTY CIVIL RIGHTS PLAN</b>
<b>SUPERSEDES NUMBER:</b>	<b>HCPF OM 22-014</b>
<b>EFFECTIVE DATE:</b>	<b>JANUARY 27, 2023</b>
<b>DIVISION AND OFFICE:</b>	<b>COMMUNICATIONS AND GOVERNMENT RELATIONS; POLICY, COMMUNICATIONS AND ADMINISTRATION OFFICE</b>
<b>PROGRAM AREA:</b>	<b>COUNTY RELATIONS AND ADMINISTRATION</b>
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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.

This memo has been reissued to provide the deadline for submitting Civil Rights Plans, attachments for the State and County Nondiscrimination Statements for posting as required by 10 CCR 2505-5 1.020.7.1.b, and information regarding informal and formal reviews for investigations.

### **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 develop a documented Civil Rights Plan. 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. Per 10 CCR 2505-5 1.020.7.1.a.:
  - a. who the county's designated Civil Rights Contact is,
  - b. the role of the Civil Rights Contact within the organization, and
  - c. whether the Civil Rights Contact meets all minimum requirements.
3. How applicants, members or the general public:
  - a. can submit Civil Rights complaints, and
  - b. how those complaints are tracked and monitored
4. How the county implements business processes and/or training conducted based on an analysis of complaints received.
5. If the county has a general complaint process, address how the general complaint process aligns with the Civil Rights complaints process.
6. State the location of their public postings of State and County Nondiscrimination Statements (to include both in-person services and county website).
7. How the general public, members, applicants, employees, and others can request assistance from the county's designated Civil Rights Contact Person.
8. How the county's staff is trained on the county's Civil Rights Plan.
9. How county staff 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.
10. What the county's non-discrimination investigation procedures are and what steps are taken to address discrimination complaints that are both founded and unfounded.

**Civil Rights Plans must be completed and submitted to the Department by March 31, 2023, as instructed below:**

Civil Rights Plans must be submitted to the [County Relations Request form ticket](#) or email [HCPF\\_CountyRelations@state.co.us](mailto:HCPF_CountyRelations@state.co.us).

- Submitted Civil Rights Plans will be reviewed and approved by the Department.
- The Department will communicate with the county's Civil Rights Contact Person when the Civil Rights Plan is approved or to follow up with steps to resubmit.
  - Reviews, approvals and/or feedback will be completed by April 28, 2023.
  - Civil Rights Plans must be reviewed and approved by the Department prior to posting
- Civil Rights Plans must be reviewed by the county and resubmitted to the Department on an annual basis if there are any changes to the Civil Rights Plan (for instance, if your Civil Rights Contact Person changes).

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

**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 Civil Rights Plan available upon request.

**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 Person

As the county's designated Civil Rights Contact Person ("Contact Person"), 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 (for instance, by working with a neighboring county to conduct the investigation and following 10 CCR 2505-5 1.010.24)
  - c. County attorney can also be used to conduct investigations as necessary
2. Act as the central point of contact for applicants, members, individuals and the Department pertaining to the county's Civil Rights Plan and federal and state civil rights requirements
3. Maintain up-to-date knowledge on changes in member related civil rights laws and requirements and communicate and share this information with county staff on a regular basis
4. Act as the first point-of-contact for applicant, member, and individual civil rights complaints.
  - a. Contact information must be available to the general public. Where possible, contact information should be a general or shared inbox or other shared method of communication, to account for continuity of operations.
5. Posts required Civil Rights Plan and State and County Nondiscrimination Statements in conspicuous locations 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 required.
8. The county must provide training on their own Civil Rights Plan and on any findings resulting from a civil rights investigation, including any necessary individualized staff training and feedback.

### County Non-Discrimination Investigation Procedures

1. The Civil Rights Plan must include a documented process for investigating complaints of discrimination received by the county. County departments of human/social services must cooperate fully with the federal and state investigative processes. The complaint process:
2. Can include two tiers of review: an informal review or formal investigation.

- a. Informal reviews take place when the complaint does not directly affect a member's eligibility or benefits.
  - b. Formal reviews are reserved for complaints that may affect the member or applicant's eligibility, such as a complaint that alleges a county did not allow them to apply because of their protected status.
    - i. The member/applicant has the discretion to determine whether they would like an informal or formal review.
    - ii. If a member/applicant does not specify, the county must treat that investigation as a formal review.
3. Must address the timeliness of investigations:
    - a. an informal review must be completed within sixty (60) calendar days,
    - b. a formal investigation must be completed within one hundred twenty (120) calendar days of receipt of the complaint.
  4. 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
  5. Must include how the county provides the results of the investigation to the complainant, which must be in writing. The results of the investigation must also be provided to the Department.
  6. Must include an opportunity for the complainant to appeal the initial decision rendered by the county.
    - a. Appeal decisions must be rendered within fifteen (15) calendar days, be in writing to the complainant, and provided to Department.
  7. Must include how the county tracks all investigations, both informal reviews and formal investigations, and how the county implements business process changes and/or trainings to address complaints received, whether founded or not.
    - a. This information must be submitted to the Department on a biannual basis to submit the [County Relations webform ticket](#):
      - i. Biannual due dates are January 31 and July 31 of each calendar year with the first submission to begin on January 31, 2024.
      - ii. The Department reserves the right to request this information at any time.

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, the Department 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 and/or directly to the state and/or federal government.

All 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. Use 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 the Department.
2. Use the Department's Civil Rights complaint process by submitting the [Discrimination Complaint Form](#) or contacting [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us)
3. Use the Colorado Civil Rights Division complaint process by completing the [CaseConnect Civil Rights form](#) or contacting [dora\\_ccrd@state.co.us](mailto:dora_ccrd@state.co.us).
  - a. 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](mailto:ocrmail@hhs.gov)

### 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 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 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 Division (SDD). 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 comply 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):**

Sample County Nondiscrimination Statement (Notice) - County template

State Nondiscrimination Statement (Policy)

#### **Department Contact:**

For questions for County Relations, please submit a [County Relations webform ticket](#): <https://hcpfdev.secure.force.com/HCPFCountyRelations>, or email [HCPF\\_CountyRelations@state.co.us](mailto:HCPF_CountyRelations@state.co.us)