HHS Office for Civil Rights in Action



March 28, 2020

BULLETIN: Civil Rights, HIPAA, and the Coronavirus Disease 2019 (COVID-19)

In light of the Public Health Emergency concerning the coronavirus disease 2019 (COVID-19), the Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS) is providing this bulletin to ensure that entities covered by civil rights authorities keep in mind their obligations under laws and regulations that prohibit discrimination on the basis of race, color, national origin, disability, age, sex, and exercise of conscience and religion in HHS-funded programs.[1]

In this time of emergency, the laudable goal of providing care quickly and efficiently must be guided by the fundamental principles of fairness, equality, and compassion that animate our civil rights laws. This is particularly true with respect to the treatment of persons with disabilities during medical emergencies as they possess the same dignity and worth as everyone else.

The Office for Civil Rights enforces Section 1557 of the Affordable Care Act and Section 504 of the Rehabilitation Act which prohibit discrimination on the basis of disability in HHS funded health programs or activities. These laws, like other civil rights statutes OCR enforces, remain in effect. As such, persons with disabilities should not be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person's relative "worth" based on the presence or absence of disabilities. Decisions by covered entities concerning whether an individual is a candidate for treatment should be based on an individualized assessment of the patient based on the best available objective medical evidence.

"HHS is committed to leaving no one behind during an emergency, and this guidance is designed to help health care providers meet that goal," said Roger Severino, OCR Director. "Persons with disabilities, with limited English skills, or needing religious accommodations should not be put at the end of the line for health services during emergencies. Our civil rights laws protect the equal dignity of every human life from ruthless utilitarianism," Severino added.

[1] Due to the public health emergency posed by COVID-19, OCR is exercising its enforcement discretion in connection with the conditions outlined herein. This guidance is a statement of agency policy not subject to the notice and comment requirements of the Administrative Procedure Act (APA). 5 U.S.C. § 553(b)(A). For the same reasons explained above, OCR additionally finds that, even if this guidance were subject to the public participation provisions of the APA, prior notice and comment for this guidance is impracticable, and there is good cause to issue this guidance without prior public comment and without a delayed effective date. 5 U.S.C. § 553(b)(B) & (d)(3).

NOTE: The CDC has advised that the best way to prevent illness is to avoid being exposed to this virus: practice social distancing; clean your hands often; cover coughs and sneezes; and call your healthcare provider if you believe you may be infected. http://www.coronavirus.gov.

OCR remains in close coordination with federal partners to help ensure that the Nation's response effectively addresses the needs of at-risk populations. To this end and as resources allow, government officials, health care providers, and covered entities should not overlook their obligations under federal civil rights laws to help ensure all segments of the community are served by:

- Providing effective communication with individuals who are deaf, hard of hearing, blind, and visually impaired through the use of qualified interpreters, picture boards, and other means;

- Providing meaningful access to programs and information to individuals with limited English proficiency through the use of qualified interpreters and through other means;

- Making emergency messaging available in plain language and in languages prevalent in the affected area(s) and in multiple formats, such as audio, large print, and captioning, and ensuring that websites providing emergency-related information are accessible;

- Addressing the needs of individuals with disabilities, including individuals with mobility impairments, individuals who use assistive devices or durable medical equipment, and individuals with immunosuppressed conditions including HIV/AIDS in emergency planning;

- Respecting requests for religious accommodations in treatment and access to clergy or faith practices as practicable.

Some actions or accommodations may not be required on the basis that they may fundamentally alter the nature of a program, pose an undue financial and administrative burden, or pose a direct threat.

In addition, the Secretary's March 17, 2020, Declaration under the Public Readiness and Emergency Preparedness (PREP) Act may apply with respect to some private claims arising from the use or administration of a covered countermeasure and may provide immunity from certain liability under civil rights laws. Questions regarding the scope of PREP under this guidance document should be directed to the Office of the General Counsel.

Finally, covered entities should consider adopting, as circumstances and resources allow, the following practices to help ensure all segments of the community are served:

- Making use of multiple outlets and resources for messaging to reach individuals with disabilities, individuals with limited English proficiency, and members of diverse faith communities; and

- Stocking facilities with items that will help people to maintain independence, such as hearing aid batteries, canes, and walkers.

Being mindful of all segments of the community and taking reasonable steps to provide an equal opportunity to benefit from emergency response efforts, including making reasonable accommodations will help ensure that the emergency response is successful and minimizes stigmatization. https://www.cdc.gov/coronavirus/2019-ncov/about/related-stigma.html.

For information regarding how Federal civil rights laws apply in an emergency, please visit: https://www.hhs.gov/civil-rights/for-individuals/special-topics/emergency-preparedness/index.html

For information regarding Emergency Preparedness Resources for Persons from Diverse Cultural Origins, please visit: https://www.hhs.gov/civil-rights/for-individuals/special-topics/emergency-preparedness/diverse-cultural-origins/index.html.

COVID-19 and HIPAA

OCR issued a bulletin on February 3, 2020, providing information on the ways that covered entities and business associates may share protected health information under the HIPAA Privacy Rule during a public health emergency.

- February 2020 HIPAA and Novel Coronavirus Bulletin - PDF*

In order to ensure that healthcare providers can serve patients, including those who cannot or should not leave their homes during this emergency, OCR announced on March 17, 2020, that it will exercise its enforcement discretion and will not impose penalties for HIPAA violations against health care providers that in good faith provide telehealth using non-public facing audio or video communication products, such as FaceTime or Skype, during the COVID-19 nationwide public health emergency. This exercise of enforcement discretion applies regardless of whether the telehealth service is related to the diagnosis and treatment of health conditions related to COVID-19. OCR also issued guidance in the form of frequently asked questions in support of the good faith rendering of telehealth services.

- Notice of Enforcement Discretion for Telehealth
- FAQs on Telehealth and HIPAA

OCR also issued guidance on when the HIPAA Privacy Rule permits a covered entity to disclose the protected health information of an individual who has been infected with, or exposed to, COVID-19, with law enforcement, paramedics, other first responders, and public health authorities without the individual's authorization.

- Guidance on Disclosures to Law Enforcement and Other First Responders

Filing a Complaint with OCR

If you believe that a covered entity violated your civil rights, conscience and religious freedom, or health information privacy rights, you may file a complaint at https://www.hhs.gov/ocr/complaints.

Other Resources

You may send inquiries to OCRMail@hhs.gov or call the OCR toll-free phone line at (1-800–368–1019), (TTY: 1-800-537-7697) for further information.

For a list of other Federal civil rights enforcement agencies and how to file a complaint with them, please visit: https://www.justice.gov/crt/fcs/Agency-OCR-Offices

For resources provided by the Administration for Community Living, please visit: https://acl.gov/COVID-19

COVID-19 resources are now available in American Sign Language (ASL) on CDC's YouTube page: https://www.youtube.com/user/CDCStreamingHealth/videos

To see CDC updates on COVID-19, please visit: https://www.cdc.gov/coronavirus/2019-ncov/whats-new-all.html

For the U.S. Department of Education's COVID-19 statement addressing stereotyping, harassment, and bullying, please visit: https://content.govdelivery.com/accounts/USED/bulletins/27f5130

If you would like to learn more about Civil Rights, Conscience and Religious Freedom, the HIPAA Privacy Rule and the HIPAA Security Rule subscribe to the OCR Civil Rights Listserv at: https://www.hhs.gov/ocr/list-serv.

For copies of OCR documents in alternative formats, please call (800) 368-1019 or (800) 537-7697 (TDD).

If you speak a non-English language and need help with this document, call 1-800–368–1019 (TTY: 1-800-537-7697), and you will be connected to an interpreter who will assist you at no cost.

Español (Spanish)
ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

- Hojas de datos - sobre las leyes en contra de la discriminación
- Derechos sobre la confidencialidad de la información sobre su salud

繁體中文 (Chinese)

注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電 1 (800) 368-1019（TTY　文字電話：1 (800) 537-7697）。

- 事實紙頁- 關於反.視的法律
- 您的健康資訊隱私權
- 您的健康信息隐私权

Tiếng Việt (Vietnamese)

CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

- T Thông Tin - v các ðiu lut chng phân bit ði x
- Quyền Bảo mật Thông tin Sức khỏe của Quý vị

한국어(Korean)

주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. 1 (800) 368-1019번 (TTY: 1 (800) 537-7697번)으로 전화하십시오.

- 정보 안내서 -- 차별 금지법에 관한 정보
- 개인의 의료 정보 보호 권리

Tagalog (Tagalog)

PAUNAWA: Kung nagsasalita ka ng Tagalog, may mga libreng serbisyo para sa tulong sa wika na maaari mong gamitin. Tumawag sa 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

- Paunawa - tungkol sa mga batas laban sa diskriminasyon
- ANG IYONG MGA KARAPATAN SA PAGKAPRIBADO NG IMPORMASYONG PANGKALUSUGAN

Русский (Russian)

ВНИМАНИЕ! Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните по номеру 1 (800) 368-1019 (телетайп: 1 (800) 537-7697).

- Информационные листки о законах, запрещающих дискриминацию
- ВАШИ ПРАВА НА ЗАЩИТУ КОНФИДЕНЦИАЛЬНОСТИ МЕДИЦИНСКОЙ ИНФОРМАЦИИ

العربية (Arabic)

ملحوظة: إذا كنت تتحدث العربية، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان. اتصل على الرقم 1019-368 (800) 1 (هاتف الصم والبكم: 7697-537 (800) 1)

Kreyòl Ayisyen (French Creole)

ATANSYON Si w pale Kreyòl, gen sèvis èd pou lang gratis ki disponib pou ou. Rele 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

Français (French)

ATTENTION : Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement. Appelez le 1 (800) 368-1019 (ATS : 1 (800) 537-7697).

Português (Portuguese)

ATENÇÃO: Se fala português, encontram-se disponíveis serviços linguísticos, grátis. Ligue para 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

Polski (Polish)

UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej. Dzwoń pod numer 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

- Strony informacyjne na temat ustaw o przeciwdziałaniu dyskryminacji
- PRAWA DO OCHRONY PRYWATNOŚCI DANYCH ZDROWOTNYCH

日本語 (Japanese)

注意事項：日本語を話される場合、無料の言語支援をご利用いただけます。Call 1 (800) 368-1019 (TTY:1 (800) 537-7697).

Italiano (Italian)

ATTENZIONE: In caso la lingua parlata sia l'italiano, sono disponibili servizi di assistenza linguistica gratuiti. Chiamare il numero 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

Deutsch (German)

ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung. Rufen Sie uns an unter 1 (800) 368-1019 (TTY: 1 (800) 537-7697).

Persian (Farsi)

توجه: اگر به زبان فارسی صحبت می کنید، خدمات یاری رسانی زبانی، بطور رایگان، در دسترس شما می

1019-368 (800) 1 با شماره باشد. ، (TTY: 1 (800) 537-7697) تماس بگیرید.