

# Medicaid State Plan – Attachment 7

## *Non-Discrimination*

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## Plan for Title VI

## I. Introduction:

The Department of Social and Health Services has established and implemented an affirmative action program in the area of employment in accordance with Title VII of the Civil Rights Act of 1964, Executive Orders, and Regulations hereunder. The program, in general, has been successful. Since the program was initiated, the department, while lacking in some areas of the program, has made tremendous strides in other areas. Admittedly, there is still a distance to go in order to completely eliminate discrimination on the basis of race, color, religion, creed, sex, national origin, handicap, or age in employment and personnel matters. Such discrimination, however, cannot be overcome in a short period of time. The department is making and will continue to make progress in that area and will continue to vigorously take positive steps to remove discriminatory employment and personnel practices, and to accomplish the goal of providing equal employment opportunities.

While striving for equal employment opportunities is necessary and beneficial to the department, it does not touch on all forms of discrimination. The department, fully aware of the negative consequences of discrimination on individuals, institutions, and society, has a legal, social, and moral obligation to eliminate all forms of discrimination within the agency,

The Department of Social and Health Services has, therefore, formulated in the following pages a nondiscrimination plan consistent with Title VI of the 1964 Civil Rights Act. The general, long-range goal of this plan is to promote the full realization of nondiscrimination with regard to departmental programs and activities based on race, color, or national origin. The first part of the plan establishes the departmental policy and commitment; the latter portion establishes the methods of administration or procedures by which the agency will ensure nondiscrimination. This plan, like the affirmative action plan, will be revised and updated on a continuing basis to ensure that departmental practices comply with the goal of the policy.

This plan, along with the affirmative action program, augments the departmental Minority Community Service, Indian Affairs, and Asian Affairs Policies. As in the case of these policies and others, it is how they are implemented or put into operation that is of major importance and, pursuant to this; the department shall place the greatest effort into the implementation of the plan rather than into the plan itself as a statement or a programming concept. In view of the fact that the mission of the department is to provide services and programs to all eligible persons, the plan set forth within shall be vigorously pursued.

## II. Purpose

This plan is designated to establish a policy and specific procedures by which the Department of Social and Health Services (hereafter referred to as the

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Department) will ensure compliance in accordance with Title VI, Civil Rights Act of 1964 (42 USC 200 d. ct seq.) and the regulations issued there under by the US Department of Health, Education, and Welfare (45 Code of Federal Regulations 80).

## III. Policy

## A. General

In accordance with Title VI of the 1964 Civil Rights Act and the regulations issued there under by the Department of Health, Education, and Welfare, it is the policy of the Department that no person, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Department, or for which the Department has responsibility.

This policy applies to every aspect of departmental programs and activities. Its provisions are equally applicable to vendors, grantees, contractors, and subcontractors of the Department.

In establishing this policy, it is recognized that the important language in the federal regulation governing nondiscrimination is that it is the *effect* and not the *intent* of discrimination that counts. That is, the regulations prohibit the operation of any program in a manner which has "the effect of subjecting individuals to discrimination because of their race, color, or national origin, or has the effect of defeating or substantially impairing the accomplishment of the objectives of the program as respects individuals of particular race, color, or national origin," 45 CFR 80.3(b)(2).

## B. Practices of the Department

More specifically, but not limiting the above:

## 1. Provision of Services, Financial Aid, or Other Benefits

The Department will make no distinction on the ground of race, color, or national origin in providing to individuals any service, financial aid, or other benefit under state or federally assisted programs. As used here and elsewhere in this Statement of Compliance:

- (a) "Distinction on the grounds of race, color, or national origin" includes
- (1) Any type of segregation, separate or different treatment, or other discrimination on that ground;
  - (2) The imposition of any admission, enrollment, quota, eligibility, or other requirement or condition which individuals must meet in order to be provided any services, financial aid, or other benefit under the program or to be afforded an opportunity to participate in the program, if the race,

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color, or national origin of individuals is considered in determining whether they meet any such requirement or condition;

- (3) The use of membership in a group as a basis for the selection of individuals for any purpose if, in selecting members of the group, there is discrimination on the grounds of race, color, or national origin; and
  - (4) The assignment of personnel to provide services, or the assignment of time or places for the provision of services, on the basis of race, color, or national origin of the individuals to be served.
- (b) "Service, financial aid, or other benefit" under state or federally assisted programs includes any education or training, any evaluation, guidance, counseling, or placement service, any health, welfare, rehabilitation, housing, or recreational service, any referral of individuals for any of the foregoing services, any consultative, technical or information service, and any scholarship, fellowship, or traineeship stipend or allowance, and any loan or other financial assistance or benefit (whether in cash or in kind), which is made available
- (1) With the aid of state or federal financial assistance; or
  - (2) With the aid of nonfederal funds required to be made available for the program as a condition to the receipt of federal financial assistance; or
  - (3) In or through a facility provided with the aid of federal financial assistance or the funds referred to in (2) above.

## 2. Use of Facilities

The Department will make no distinction on the grounds of race, color, or national origin in making available the use of any facility provided under the state or federally assisted programs, including:

- (a) The use of any room, dormitory, or other space in the facility;
- (b) The use of any equipment in the facility;
- (c) The use of any office, waiting room, restroom, eating, recreational, concession, or other accommodation or convenience provided in the facility; and
- (d) The use of any facility not provided with the aid of state or federal financial assistance if the availability of such facility is required as a condition to the receipt of federal or state financial assistance.

## 3. Opportunities to Participate

The Department will make no distinction on the grounds of race, color, or national origin in affording opportunities to individuals to participate (other than as employees) in the program covered by the

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Statement of Compliance, including opportunities to participate:

- (a) As providers of any services, financial aid, or other benefit to individuals under the program;
- (b) As conferees, observers, consultants, or advisors, or as members of advisory or planning groups or of technical review committees; or
- (c) As volunteers (e.g., as voluntary workers) or as patients or other subjects of study in survey or like programs.

4. Employment Practices

The Department will make no distinction on the grounds of race, color, or national origin in its employment practices (including recruitment or recruitment advertising, hiring, layoff, or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation and use of facilities) with respect to individuals seeking employment or employed under state or federally assisted programs, where a primary objective of state or federal financial assistance for the program is to provide employment to such individuals, including programs under which the employment is provided to students, fellows, interns, residents, or others in training for related employment (including research associates or assistants in training for research work).

5. Advantages, Privileges, and Accommodations

The Department will make no distinction on the grounds or race, color, or national origin in making available to individuals provided any service, financial aid, or other benefit under state or federally assisted program, or to individuals afforded an opportunity to participate in any such program, any advantage, privilege, or accommodation (such as housing, eating, health, cultural, or recreational services, facilities, or accommodations, or the use of offices, waiting rooms, or restrooms) which the Department makes available, with or without the aid of state or federal financial assistance, to any such individuals.

6. Use of Criteria and Method of Administration

The Department in determining the types of activities, services, financial aid, or other benefits, or facilities which will be provided or included under any such program (including community planning and coordination of programs or activities), or the class of individuals to whom, or the geographic areas, sites, or situations in which such activities, services, financial aid, or other benefits, or facilities will be provided or included (or planned for) under any such program, or the class of individuals to be afforded an opportunity to participate in any such program will not use any criteria or methods of

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administration which result in or have the effect of distinction being made between individuals on the grounds of their race, color, or national origin, or which has the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

## 7. Application to Subgrantees

The Department will not approve any project for which state or federal financial assistance would be provided unless the Department has obtained from the applicant an assurance of compliance in a form approved for this purpose by the US Department of Health, Education, and Welfare or the Department. The Department will not approve any application for the provision of a facility, including the establishment of new or expansion of existing centers providing services, until it obtains from the applicant an Assurance of Compliance (HEW Form 44-1).

## 8. Agents and Contractors

The Department will require any individual, agency, organization or other entity which it uses or with which it contracts or otherwise arranges to provide services, financial aid, or other benefits under, or to assist it in the conduct of state or federally assisted programs or with which it contracts or otherwise arranges for the use of any facility purpose for which state or federal financial assistance was extended, to comply fully with Title VI, the Regulation and all policies and procedures contained in this Statement of Compliance.

## 9. Information to Beneficiaries, Participants, and Others

The Department will make available to beneficiaries, participants, and other interested persons such information regarding the provisions of Title VI and the Regulation, and made such information available in such manner, as may be required by the US Department of Health, Education, and Welfare to give adequate notice of the rights and remedies provided by Title VI, the Regulation and this Statement of Compliance.

## 10. Records, Reports, and Access to Facilities and Sources of Information

The Department will keep such records and from time to time submit such reports as the US Department of Health, Education, and Welfare may require ensuring compliance with the Regulation and this Statement of Compliance. For the same purpose, all facilities of the Department and all records, books, accounts, and other sources of information pertinent to ascertainment of the Department's compliance with the Regulation, will be available for the inspection at any time during normal business hours by an officer or employee of the US

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Department of Health, Education, and Welfare authorized to make such inspections.

## IV. Methods of Administration

Set forth below are specific procedures to provide a framework for Departmental management and staff to follow in taking concrete measures to ensure nondiscrimination in all Departmental programs and activities

## A. Procedures to Ensure Nondiscrimination

## 1. Dissemination of Information and Training of Staff within the Department

The Department will inform and instruct its entire staff concerning their obligations under Title VI of the 1964 Civil Rights Act and the regulations there under, the Statement of Compliance filed by the Department, and the Minority Community Services Policy. The agency shall also ensure that members of its staff, who have contact with program beneficiaries, are aware of the ethnic, cultural, and language differences that may have important impact on the delivery of services to minority persons. This will be accomplished by:

- a. Making copies of all pertinent documents available to the entire staff;
- b. Issuing an "all staff" memo from the Secretary of the Department concerning Title VI, its intent and meaning, and the obligations there under;
- c. Issuing an informational article in the Departmental monthly publication, *An Overview*, concerning Title VI, departmental policy regarding nondiscrimination, the obligations there under;
- d. Providing, as part of a new employee's orientation training, information regarding the obligation, intent, and meaning of Title VI and the Department on discrimination plan.

## 2. Title VI and Departmental Nondiscrimination Compliance by Other Participants in the Departmental Programs

The Department recognizes that its obligation for compliance extends to its vendors, contractors, subcontractors, and other providers of services, financial aid, and other benefits under the Departmental program. The Department shall assure that such participants in its programs comply with Title VI and its regulations and the Departmental nondiscrimination policy by:

- a. Providing all vendors and other participants with a clearly

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written explanation of their responsibilities under Title VI and its regulations, and the Departmental nondiscrimination policy;

- b. Requiring all vendors and other participants to execute in writing an assurance that they will comply with Title VI and its regulations and the Departmental nondiscrimination policy;
- c. Recognizing that assurance of compliance serve primarily as notice to participants in the program that they must comply with Title VI and the Departmental nondiscrimination policy, and do not automatically indicate actual compliance with said policies;
- d. Conducting Title VI and the Departmental nondiscrimination compliance reviews of all vendors and other participants, at least once every two years and more frequently in those cases where discrimination is alleged or suspected;
- e. Requiring all vendors and other participants found to be not in compliance to take affirmative action to meet compliance;
- f. Requiring all vendors, grantees, and other participants to submit annually a report showing:
  - (1) The number of potential clients, actual clients, and staffing patterns according to program areas, by race and sex;
  - (2) The number of potential non-English-speaking clients, actual clients, and staff according to program areas, by race;
  - (3) The number of discrimination complaints.

## 3. Dissemination of Information to Beneficiaries and the General Public

The Department shall take steps to inform all beneficiaries, potential beneficiaries, and the general public of the fact that services, financial aid, and other benefits are provided on a nondiscriminatory basis as required under Title VI and the Departmental nondiscrimination policy. Further, such persons shall be notified of their right to file a complaint if they believe that they have been discriminated against on the basis of race, color, or national origin. This shall be accomplished by:

- a. Making copies of all pertinent documents available regarding the policy herein to all interested persons;
- b. Displaying in prominent places posters explaining the nondiscrimination policy of the Department in each of the Department's offices, institutions, and vendor facilities through out the state;



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- c. Including in all Departmental brochures which describe programs or services a statement of the Departmental nondiscrimination policy;
- d. Communicating through posters and translated literature regarding Departmental program and/or services information regarding the Departmental nondiscrimination policy in Spanish, Chinese, Japanese, Tagalog, Ilocono, Korean, and Indian languages;
- e. Notices with regard to their right to file a complaint and where and with whom to file such a complaint will be included in the aforementioned posters.

## 4. Complaint Policy and Procedures

- a. *Policy:* Any person who believes and he/she, or any specific class of persons, is subjected to discrimination on the basis of race, color, or national origin may, or by a representative, file a written complaint. The time period for filing a complaint is no less than 180 days from the date of the alleged discriminatory act(s). The Chief of the Office of Minority Affairs, however, may extend the time for filing a complaint. Further, no person who has filed a complaint, testified, assisted, or participated in any manner in the investigation of the complaint, shall be intimidated, threatened, coerced, or discriminated against.
- b. *Procedure:* All complaints concerning discrimination because of race, color, or national origin shall be filed in writing, shall describe the type of discrimination alleged, and shall indicate when and where such discrimination took place, and describe any pertinent facts and circumstances surrounding the alleged discrimination. The complaint shall be signed by the person(s) making it. All complaints shall be addressed to the Chief of the Office of Minority Affairs who will assign them for prompt and thorough investigation and he/she shall bring the complaint to the attention of the Secretary of the Department.

After the complaint has been investigated, the Chief of the Office of Minority Affairs shall determine whether or not any discriminatory practice has been carried on and if he/she determines that one has, he/she will take such action(s) as may be necessary to correct past practices and to prevent the recurrence of such discrimination.

The complaint shall be advised in writing, in a timely manner, as to the findings of the Department regarding the complaint. If the complainant is not satisfied with the results of the Departmental investigation, he/she may request an opportunity for a hearing before a committee appointed by the Secretary of

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the Department at which time, the complainant and/or his or her representative may present any pertinent information for consideration by this committee. The Department will maintain adequate records to show the nature of the complaint and the action taken as a result of each complaint and will make such information available to interested persons.

## 5. Recruitment and Employment Practices

Where the primary objective of the federal financial assistance to the Department is to provide employment and where the primary purpose of assistance is not to provide employment, the Department shall establish measure to assure that recruitment and employment practices do not discriminate and that the delivery of services and benefits provided do not have the effect of discrimination on the basis of race, color, or national origin. This will be accomplished by:

- a. Effective compliance with the Department's Affirmative Action Program with regard to employment and personnel matters;
- b. The employment of representative numbers of bilingual and/or bicultural workers (Blacks, Spanish, Chinese, Japanese, Philipino, Korean, Vietnamese, and Native American) in all social service delivery positions distributed according to the geographic distribution of each of the above ethnic groups throughout the state (see appendix);
- c. The employment of representative numbers of each of the minority groups (Asian, Blacks, Chicano, and Native American) in all social service delivery positions in all offices and institutions as reflected in their respective clientele and geographic distribution throughout the state;
- d. The translation and distribution of all the major program and services brochures of the Department to Spanish, Chinese, Japanese, Tapalog, Ilocano, Korean, and Vietnamese (see appendix);
- e. The provision of outstation services to each of the four major minority groups mentioned above.

## 6. Planning, Advisory, and Policy Boards

The Department shall assure that the opportunity to participate as members of planning, advisory, and policy boards, which are integral parts of its programs, is available to all persons in a nondiscriminatory manner. This will be accomplished by having members of each of the four major minority groups represented on the boards (see appendix).

## 7. Continuing Compliance with the Department

The Department shall establish procedures for the monitoring and

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evaluation of all aspects of its operation to assure that no policy or practice is, or has the effect of, discriminating against beneficiaries or other participants on the basis of race, color, or national origin. Further, the Department shall collect and maintain racial/ethnic data, and information on its operation, which will show the extent to which minority persons are participating in all aspects of the Departmental programs and activities.

## 8. Corrective Requirements and Action

The Department shall take affirmative action to overcome the effects of prior discrimination in instances where the Department, or the participants in its programs have discriminated against persons on the grounds of race, color, or national origin.

## B. Responsibility

The overall responsibility for the implementation of the policy and plan herein lies with management, from the Secretary to the first-line supervisors of the Department. The Secretary of the Department, however, has the ultimate responsibility for implementing this plan and assuring that the Department complies with Title VI and its regulations, and the nondiscrimination policy and plan herein.

The implementation and operation of the plan will be accomplished as follows:

1. The Chief of the Office of Minority Affairs shall be appointed Civil Rights Coordinator for the Department. The Chief of the Office of Minority Affairs, with the assistance of his/her staff, shall be responsible for:
  - a. Handling of complaints of discrimination;
  - b. Dissemination of Title VI information to agency staff, beneficiaries, and interested members of the general public;
  - c. Preparation of compliance reports for submission to the Office for Civil Rights;
  - d. Conducting compliance reviews of vendors and vendor facilities;
  - e. Acting as liaison between the agency and the Office for Civil Rights
  - f. Acting as liaison between the agency and minority groups or other

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community groups concerned with the delivery of services;

- g. Providing training and technical assistance to the agency staff on Title VI and cultural awareness;
  - h. Monitoring essential records and files relative to civil rights and the civil rights program of agency.
2. The following chart is a task matrix and timetable for the implementation of the plan: (see appendix)
  3. The Secretary of the Department shall be responsible for implementing corrective action measures within a reasonable amount of time. Each of Minority and Women's Desks or the Minority Affairs Office shall directly notify the Secretary when discrimination occurs, and determine the corrective actions needed to eliminate and to prevent further discrimination.

C. Monitoring and Evaluation

The Department will conduct annual reviews of its compliance with the policy and procedures contained herein to reaffirm and substantiate compliance. This will include both an internal and external review or a review of the Departmental program and activities and those of vendors, contractors, subcontractors, and grantees. Generally, the reviews will consist of a statistical analysis and on-site visits. This procedure will assure Departmental use of minority vendors, contractors, subcontractors, and grantees.

1. Internal Reviews

a. Statistical Report and Analysis

- (1) Statistical information and analysis of the Department and selected units by race and sex of:
  - (a) Potential participation in programs;
  - (b) Actual participation in programs;
  - (c) Staffing patterns or use;
  - (d) Membership in advisory boards;
  - (e) Number of discrimination complaints regarding discrimination;
  - (f) Number of non-English speaking persons, clients, and staff;
  - (g) Referral of clients to other agencies and facilities.
- (2) Analysis
  - (a) Comparative analysis of present and past situations according to the above factors;
  - (b) Comparison of the ratio of potential to actual participation;

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- (c) Comparison between client and staff patterns according to ethnic background and sex.
- b. Review of policies and provision of services with regard to discrimination.
  - (1) Criteria for acceptance into the agency's program.
- c. On-site visitation to review practices that will include but no be limited to the following areas:
  - (1) The geographical location of the office or unit in comparison to other similar program units and the distribution of minorities;
  - (2) Dissemination of information and understanding among staff regarding nondiscrimination policy;
  - (3) Display of nondiscrimination posters(s);
  - (4) Availability and distribution of program brochures in languages other than English;
  - (5) Treatment of clients as indicated by their responses;
  - (6) Manner of assignment of applicants or clients to staff;
  - (7) Participation in clubs, organizations, etc.;
  - (8) Number of non-English speaking clients in comparison to staffing pattern;
  - (9) (1) and (2) under 1a above.
  - (10) Identification of problem areas and corrective actions needed to eliminate and prevent further discriminatory practices;
  - (11) Implementation of minority policies.

The on-site reviews will be conducted by the Operations Review Unit which will forward its findings regarding discrimination to the Minority Affairs Office for final determination. They will be assisted by the Minority Affairs staff when and where necessary. The Minority Affairs staff will also review certain units independent of the reviews conducted by the Operations Review teams, especially where discriminatory practices are suspect. Corrective actions, based on the findings of the Minority Affairs Office or one of its desks, will be taken where discrimination is found.

## 2. External Reviews

- a. Statistical information and analysis by race and sex of:
  - (1) Us of vendors;
  - (2) Use of paid consultants and volunteers;
  - (3) Use of contractors and subcontractors;
  - (4) Comparison of vendors, contractors, subcontractors; and

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grantees agreeing (signing) written assurances of nondiscrimination;

- (5) Number of on-site- visitations regarding compliance with nondiscrimination;
- (6) Available number of potential clients, participants, and the staffing pattern by grant, contract, etc.;
- (7) Available number of potential non-English speaking clients, clients, and staff by grant, contract, etc.;
- (8) Number of discrimination complaints by grantee, contractors, etc.

b. On-site visitations (same as a (3)).

3. Noncompliance:

Any unit, program activity, vendor, contractor, or other participant which refuses to furnish assurances of nondiscrimination or fails to comply with the policy herein may be refused state or federal financial assistance. Such action, however, will be taken after an opportunity for a hearing before departmental officials and after a reasonable amount of time has been provided to comply with the policy. All incidences of noncompliance in program areas will be forwarded to DHEW, Office of Civil Rights, in a timely manner.