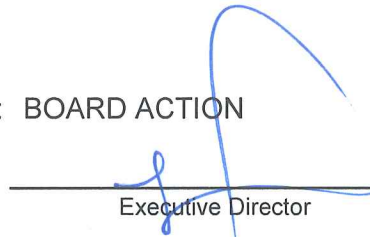

Category: **RECIPIENT RIGHTS**
Title: **GRIEVANCES ALLEGING DISCRIMINATION (CIVIL RIGHTS GRIEVANCES);
TITLE II ADA / SECTION 504 / SECTION 1557 COMPLIANCE**

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Approved by: BOARD ACTION


Executive Director


Date

I. Abstract

This policy establishes the standards and procedures of the Macomb County Community Mental Health (MCCMH) Board for compliance with Section 1557 of the Affordable Care Act, Title II of the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act, which collectively prohibit discrimination on the basis of race, color, national origin, sex, age or disability by public entities, recipients of federal financial assistance, and/or in certain health programs and activities.

II. Application

This policy shall apply to MCCMH administrative staff, directly-operated providers of the MCCMH Board, and Consumers of services provided through the MCCMH Prepaid Inpatient Health Plan (PIHP) or Community Mental Health Services Plan (CMHSP).

III. Policy

It is the policy of MCCMH not to discriminate on the basis of race, color, national origin, sex, age or disability, and to provide Consumers with a grievance procedure in order to attempt to resolve any related concerns.

IV. Definitions

A. Civil Rights Coordinator: A MCCMH staff member of the Community Relations Office who has been designated by the Executive Director, upon advice and mutual consent of the Compliance Officer, to coordinate MCCMH's efforts to comply with Title II ADA, Section 504, Section 1557, including:

1. Investigate any Civil Rights Grievance communicated to MCCMH alleging noncompliance with Title II ADA, Section 504, or Section 1557;
2. Investigate any Civil Rights Grievance communicated to MCCMH alleging any action that would be prohibited by Title II ADA, Section 504, or Section 1557; and

3. Provide prompt and equitable resolution of Civil Rights Grievances.

- B. Civil Rights Grievance: Complaint alleging noncompliance with Title II ADA, Section 504, or Section 1557, or alleging commission of any action that would be prohibited by Title II ADA, Section 504, or Section 1557
- C. Consumers: Broad, inclusive reference to an individual requesting or receiving mental health services delivered and/or managed by the PIHP, including Medicaid Enrollees, and all other recipients of services provided by the MCCMH Community CMHSP.
- D. Section 504: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 45 CFR part 84. Section 504 prohibits entities that receive Federal financial assistance from discriminating on the basis of disability.
- E. Section 1557: Section 1557 of the Affordable Care Act (42 U.S.C. 18116) and its implementing regulations at 45 CFR part 92, issued by the U.S. Department of Health and Human Services. Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities.
- F. Title II ADA: Title II of the Americans with Disabilities Act of 1990 and its implementing regulations at 28 CFR part 35. Title II ADA prohibits public entities from discriminating on the basis of disability.

V. Standards

- A. MCCMH shall not discriminate on the basis of race, color, national origin, sex, age or disability.
- B. MCCMH has adopted an internal grievance procedure providing for prompt and equitable resolution of Civil Rights Grievances.
- C. Title II ADA, Section 504, Section 1557, and their respective implementing regulations may be examined in the office of the Civil Rights Coordinator / MCCMH Ombudsman, 22550 Hall Road, Clinton Township, MI, (586) 469-7795, TTY (800) 649-3777, or MI Relay Service at 711, fax (586) 469-7958.
- D. Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, sex, age or disability may file a Civil Rights Grievance under this procedure.
- E. MCCMH shall not retaliate against anyone who opposes discrimination, files a Civil Rights Grievance, or participates in the investigation of a Civil Rights Grievance.
- F. MCCMH will post notice that it does not discriminate in violation of Title II ADA, Section 504 or Section 1557. Such Notice of Nondiscrimination will be provided as described in MCCMH MCO Policy 5-001, "Accessibility," and MCCMH MCO Policy 5-002, "Cultural and Linguistic Competency; Language Assistance Services," and will include

information about the applicability of Section 504, Section 1557, and Title II ADA to MCCMH, as well as information about the Civil Rights Grievance procedure and contact information for the Civil Rights Coordinator.

VI. Procedures

- A. Civil Rights Grievances must be submitted to the Civil Rights Coordinator within 60 days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
- B. A Civil Rights Grievance must be in writing, containing the name and address of the person filing it, and state the problem or action alleged to be discriminatory and the remedy or relief sought.
- C. The Civil Rights Coordinator (or her/his designee) shall conduct an investigation of the Civil Rights Grievance. This investigation may be informal, but it will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Civil Rights Coordinator will maintain the files and records of MCCMH relating to such grievances. To the extent possible, and in accordance with applicable law, the Civil Rights Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to grievances and will share them only with those who have a need to know.
- D. The Civil Rights Coordinator will issue a written decision on the Civil Rights Grievance, based on a preponderance of the evidence, no later than 45 days after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies. (Exhibit A)
- E. The person filing the grievance may appeal the decision of the Civil Rights Coordinator by writing to the MCCMH Deputy Director within 15 days of receiving the Civil Rights Coordinator's decision. The Deputy Director will issue a written decision in response to the appeal no later than 30 days after its filing.
- F. The availability and use of this grievance procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, sex, age or disability in court or with the U.S. Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint Portal, which is available at: <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at: U.S. Department of Health and Human Services, 200 Independence Avenue SW., Room 509F, HHH Building, Washington, DC 20201.
- G. Complaint forms are available at: <http://www.hhs.gov/ocr/office/file/index.html>. Such complaints must be filed within 180 days of the date of the alleged discrimination.

- H. MCCMH will make appropriate arrangements to ensure that individuals with disabilities and individuals with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed to participate in this grievance process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing taped cassettes of material for individuals with low vision, or assuring a barrier-free location for the proceedings. The Civil Rights Coordinator will be responsible for such arrangements.

VII. References / Legal Authority

- A. 29 USC 794 (Section 504 of the Rehabilitation Act of 1973)
- B. 42 USC 18116 (Section 1557 of the Patient Protection and Affordable Care Act)
- C. 42 USC 12131- 12134 (subtitle A of Title II of the Americans with Disabilities Act of 1990)
- D. 28 CFR Part 35 (Title II ADA implementing regulations); specifically, 28 CFR 35.107
- E. 45 CFR Part 92 (Section 1557 implementing regulations); specifically, 45 CFR 92.7 and 92.303 (Appendix C)
- F. 45 CFR Part 84 (Section 504 implementing regulations); specifically, 45 CFR 84.7

VIII. Exhibits

- A. Resolution of Grievance Claiming Discrimination Based on Race, Color, National Origin, Sex, Age or Disability