

BARRY COUNTY COMMUNITY MENTAL HEALTH AUTHORITY POLICY AND PROCEDURE MANUAL

Policy: Affordable Care Act Grievance 7-O		Application: BCCMHA Staff & Providers
Reviewed 10/4/2023	Revised 10/4/2023	First Effective 2/21/2017

I. PURPOSE

To assure that the appeal and/or grievance process for clients complies with federal and state laws including, but not limited to, Office of Recipient Rights, Social Security Act, Affordable Care Act, and Due Process Clause of the U.S. Constitution.

To set forth steps to ensure due process when an individual, while accessing and/or during the provision of services, believes they have been discriminated against based upon race, color, national origin, gender identity, age, or disability.

II. POLICY

It is the policy of BCCMHA not to discriminate on the basis of race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity), age, or disability. BCCMHA has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 1557 of the Affordable Care Act and its implementing regulations, issued by the U.S. Department of Health and Human Services.

III. DEFINITIONS

Covered Entity: An entity that operates a health program or activity, any part of which receives Federal financial assistance; any entity established under Title I of the Affordable Care Act that administers a health program or activity; and the U.S. Department of Health and Human Services

Discrimination: Illegal treatment, either intentional or unintentional, of a person or group based on race, color, national origin, language spoken, religion, certain age limitations, genetics, gender identity, marital status, physical or mental disability, or inability to pay for services. This includes the failure to remedy the effects of past discrimination.

Federal Financial Assistance: Any grant, loan, credit, subsidy, contract (other than a procurement contract but including a contract of insurance), or any other arrangement by which the Federal government provides or otherwise makes available assistance in the form of:

1. funds;
2. services of federal personnel; or
3. real and personal property or any interest in or use of such property.

Federal financial assistance, the U.S. Department of Health and Human Services provides or otherwise makes available including payments, subsidies, or other funds extended to a covered entity.

Limited English Proficiency: The inability to speak, read, write, or understand English at a level that permits effective interaction with behavioral healthcare providers.

Preponderance of Evidence: The greater weight of the evidence required to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. Preponderance of the evidence is required and is contrasted with "beyond a reasonable doubt".

Qualified Translator/Interpreter: A person who has been tested and certified by a recognized body to provide an accurate interpretation from English to the oral or written language of the recipient. The interpreter must be familiar with the terminology to be used and be committed to confidentiality.

Section 1557: Section 1557 is the nondiscrimination provision of the Affordable Care Act that prohibits discrimination on the basis of race, color, national origin, gender identity, age, or disability in certain health programs or activities.

Section 1557 Coordinator: Reference to the assignment of the Customer Service Representative and/or the Recipient Rights Officer to coordinate efforts to comply with and carry out responsibilities under Section 1557, including investigation of any grievance communicated alleging noncompliance with Section 1557 or alleging any action that would be prohibited by Section 1557.

Taglines: Short statements written in non-English language that include the availability of language assistance services free of charge.

IV. PROCEDURES

Section 1557 prohibits discrimination on the basis of race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity), age or disability in certain health programs and activities.

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity), age or disability may file a grievance. It is against the law for BCCMHA to retaliate against anyone who opposes discrimination, files a grievance, or participates in the investigation of a grievance.

Section 1557 and its implementing regulations may be examined in the office of the Customer Service Representative or Recipient Rights Officer, 500 Barfield Dr., Hastings, MI 49058, (269) 948-8041, TTY 7-1-1 (MI Relay Service), Fax (269) 948-9319, tiwilliams@bccmha.org or hohess@bccmha.org, who have been designated to coordinate efforts of Barry County Community Mental Health Authority to comply with Section 1557.

Grievances must be submitted to Section 1557 Coordinator within 60 days of the date the person filing the grievance becomes aware of the alleged discriminatory action. The complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.

The Section 1557 Coordinator shall conduct an investigation of the complaint. This investigation may be informal, but it will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 1557 Coordinator will maintain the files and

records of BCCMHA relating to such grievances. To the extent possible, and in accordance with applicable law, the Section 1557 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.

The Section 1557 Coordinator will issue a written decision on the grievance, based on a preponderance of the evidence, no later than 30 days after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies.

The person filing the grievance may appeal the decision of the Section 1557 Coordinator by writing to the Executive Director within 15 days of receiving the Section 1557 Coordinator's decision. The Executive Director shall issue a written decision in response to the appeal no later than 30 days after its filing.

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 (including pregnancy, sexual orientation, and gender identity), age or disability in court or with the US 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.

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.

BCCMHA will make appropriate arrangements to ensure that individuals with disabilities 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 voiced records of material for individuals with low vision, or assuring a barrier-free location for the proceedings. (See the Limited English Proficiency Policy). The Section 1557 Coordinator will be responsible for such arrangements.

REFERENCES

Affordable Care Act – Section 1557 (42 USC § 18116)

Rehabilitation Act

Deaf Persons' Interpretation Act (PA 204 of 1982) Amended by PA 23 and 24 of 2007

CARF

Balance Budget Act of 1997

Americans with Disability Act

Centers for Medicare and Medicaid Services

Office of Civil Rights
APPROVED BY:

Richard Thiemkey
Executive Director

Date

Barry County Community Mental Health Authority

Barry County Community Mental Health Authority complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or gender identity. Barry County Community Mental Health Authority does not exclude people or treat them differently because of race, color, national origin, age, disability, or gender identity.

Barry County Community Mental Health Authority:

- Provides free aids and services to people with disabilities to communicate effectively with us, such as:
 - Qualified sign language interpreters
 - Written information in other formats (large print, audio, accessible electronic formats, etc.)
- Provides free language services to people whose primary language is not English, such as:
 - Qualified interpreters
 - Information written in other languages

If you need these services, contact Tina Williams, Customer Service Representative, or Holly Hess, Recipient Rights Officer.

If you believe that Barry County Community Mental Health Authority has failed to provide these services or discriminate in another way on the basis of race, color, national origin, age, disability, or gender identity, you can file a grievance with:

Tina Williams, Customer Service Representative
500 Barfield Drive
Hastings, MI 49058
Phone: 269-948-8041
Fax: 269-948-9319
TTY: 711

You can file a grievance in person, by mail or fax. If you need help filing a grievance, Holly Hess is available to help you. You can also file a civil rights complaint with the U.S. Department of Health and Human Services, Office for Civil Rights electronically through the Office for Civil

Rights Complaint Portal, 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
1-800-368-1019, 1-800-537-7697 (TDD)

Complaint forms are available at <http://www.hhs.gov/ocr/office/file/index.html>

ATENCIÓN: Si habla **español**, hay servicios gratuitos de asistencia con el idioma para usted.

Llame al 1-800-890-3712 (TTY: 711)".

"انتبه: إن كنت تتحدث العربية، فتوجد خدمات مساعدة لغوية، مجانية، ومتاحة لك. اتصل بـ 1-800-890-3712 (رسالة مبرقة: 711)."

"ACHTUNG: Sollten Sie **deutsch** sprechen, steht Ihnen ein Sprachenhilfe-Service kostenlos zur Verfügung. Sie können uns unter folgender Telefonnummer erreichen: +1-800-890-3712 (TTY: 711)." "请注意: 如果您说中文, 您可以利用我们免费提供的语言帮助服务。详情请致电1-800-890-3712 (TTY: 711) 。”

"OBAVJEŠTENJE: Ako govorite srpsko-hrvatski, usluge jezičke pomoći dostupne su vam besplatno. Nazovite 1-800-890-3712 (TTY- 711)."

"UWAGA: Jeśli mówi Pan/Pani **po polsku**, oferujemy bezpłatną pomoc językową. Proszę zadzwonić pod numer 1-800-890-3712 (TTY/tel. dla niesłyszących: 711)."

"VINI RE: Në qoftë se flisni **shqip**, keni në dispozicion shërbim falas për t'ju ndihmuar me gjuhën. Telefononi 1-800-890-3712 (TTY-teletext: 711)."

"ATTENZIONE: Si parla **italiano**, servizi gratuiti di assistenza linguistica, sono a vostra disposizione. Chiamare 1-800-890-3712 (TTY: 711)."

"TALA: Kung kayo ay nagsasalita ng **Tagalog**, ang serbisyo ng tulong sa wika (language assistance services), ay available upang magamit ninyo, nang walang bayad. Tumawag sa 1-800-890-3712 (TTY: 711)."

"**ध्यान दें:** यदि आप **हिन्दी** बोलते हैं, तो आपके लिए भाषा सहायता सेवाएँ मुफ्त में उपलब्ध हैं। 1-800-890-3712 (TTY: 711) पर कॉल करें।"

"주의: 귀하가 **한국어**를 할 경우, 한국어 언어 지원 서비스를 무료로 사용할 수 있습니다. 1-800-890-3712 (TTY 문자 전화기: 711)로 전화하십시오."

"LƯU Ý: Nếu quý vị nói **tiếng Việt**, các dịch vụ hỗ trợ ngôn ngữ được cung cấp cho quý vị miễn phí. Vui lòng gọi số 1-800-890-3712 (TTY: 711)."

"**আপনার দৃষ্টি আকর্ষণ করছি:** আপনি যদি বাংলাভাষী হন এবং যদি আপনার ভাষাগত সাহায্যের প্রয়োজন হয়, তাহলে নিখরচায় সাহায্য পেতে ফোন করুন: ১-৮০০-৮৯০-৩৭১২ (TTY: 711) 1-800-890-3712 (TTY: 711)."

ご注意: **日本語**で対応しているアシスタンスサービスを無料でご用意しております。1-800-890-3712 (TTY: 711)へお電話下さい。

«ВНИМАНИЕ! Если вы говорите на **русском** языке, вам предоставляется бесплатное языковое обслуживание. Звоните по тел.: 1-800-890-3712 (телефон с текстовым выходом: 711)». LB 8/2017