



## **DCH Civil Rights and ADA/Section 504 Complaint Process**

### **I. Purpose**

These procedures have been established to redress any violation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d (“Title VI”), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, (“Title IX”), Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 (“Section 504”), Title II of the Americans with Disabilities Act of 1990 (“ADA”) and the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et seq.*, the Age Discrimination Act of 1975, 42 USC § 6101 *et seq.*, (“Age Act”), and provisions, directives, and implementing regulations that govern DCH’s administration of child welfare and public assistance programs. To the extent these procedures conflict with applicable laws, regulations, or directives, such laws, regulations, and directives shall be controlling. This complaint Process does not apply to complaints of discrimination in employment under Title VII of the Civil Rights Act of 1964, as amended.

### **II. Right to File a Civil Rights or ADA/Section 504 Complaint**

All Georgia Department of Community Health (“DCH”) customers have a right to file a complaint of discrimination on the basis race, color, national origin, disability, age, sex, and religion. The U.S. Department of Health and Human Services (“HHS”) prohibits reprisal or retaliation for prior civil rights activity. No staff or contractor of the DCH shall retaliate against a complainant or his/her designee for filing a civil rights complaint or against anyone testifying or assisting in an investigation or engaging in any other protected Civil Rights activity. Furthermore, utilization of this complaint procedure is not a prerequisite to filing a complaint with the U.S. Department of Health and Human Services (“HHS”).

DCH must ensure that public notice(s) of right to file a discrimination complaint are posted in accordance with federal regulations and policy guidance.

**Note: A “complainant,” as used in this document, is a person who makes a verbal or written complaint alleging unlawful discrimination. DCH will not disclose or allow access to the complainant’s PII or PHI without the appropriate authorization. In situations where a companion or other individual requests a reasonable modification or communication assistance on behalf of a person with a disability, DCH will contact the person with a disability or authorized representative to clarify the request.**



### **III. Denials of Request for Reasonable Modifications under the ADA/Section 504**

A request for Reasonable Modification, auxiliary aid, or service for qualified individuals with disabilities may only be denied by the DCH Deputy Executive Director of the Policy, Compliance and Operations Office of Medical Assistance Plans or his designee.

### **IV. Procedure for Filing Civil Rights and ADA/Section 504 Complaints**

#### **A. Filing program complaint of discrimination with Federal Agencies**

Notify the public that any person or representative may file a verbal or written complaint of discrimination with HHS by mail, fax, or e-mail. See below for information on where to file your Civil Rights or ADA/Section 504 complaint:

U.S. Department of Health and Human Services  
HHS Director, Office for Civil Rights  
Room 515-F  
200 Independence Avenue, S.W.  
Washington, D.C. 20201  
(202) 619-0403 (voice)  
(800) 537-7697 (TTY)

#### **B. Filing Complaints of Discrimination in Child Welfare and Public Assistance Programs with DCH**

Any person or representative also may file a verbal or written complaint alleging unlawful discrimination **(including if a customer disagrees with decisions made regarding requests for reasonable modifications, auxiliary aids or services, or if a customer believes DCH failed to provide a requested reasonable modification or communication assistance under ADA/Section 504) by contacting:**

The Georgia Department of Community Health  
ADA/ Section 504 and Civil Rights Coordinator  
Policy, Compliance and Operations Office  
Medical Assistance Plans Division  
2 Peachtree Street, NW  
37<sup>th</sup> Floor  
Atlanta, GA 30303  
(404) 967-0401 (voice)  
[DCH.CivilRights@dch.ga.gov](mailto:DCH.CivilRights@dch.ga.gov)

***\*Individuals who have a hearing or speech disability may call 711 for an operator to connect with us.***



### **C. Communication Assistance**

Customers have a right to free communication assistance. DCH staff must provide interpreters and translated information when communicating with individuals with limited English proficiency and auxiliary aids and services for individuals with disabilities.

### **V. Time Period for Submitting Complaints**

A complaint is filed timely if it is filed within 180 calendar days of the alleged discriminatory act or if it alleges the discriminatory act is ongoing. The Secretary of Health and Human Services may accept complaints filed after the 180-calendar day deadline if the complainant can provide a 'good cause' explanation for the delay. Therefore, the DCH Civil Rights Program will forward any complaint that does not meet the 180-calendar day deadline to the appropriate federal agency for consideration. The time for filing a complaint with HHS is not governed by this policy.

#### **A. Submission of Written Complaints**

Written complaints may be submitted to DCH via hand-delivery, facsimile, e-mail, US mail, or other delivery service utilizing DCH Form 724 (i.e., the DCH Civil Rights, ADA/Section 504 Complaint Form). DCH staff are required to provide a Form 724 to a DCH customer who requests such form. The DCH Form 724 is not required to make a written complaint. A complaint may also be submitted via letter or e-mail if that is the complainant's/representative's preferred method of communication. Additionally, notify the complainant that they may file a complaint with HHS.

#### **B. Submission of Verbal Complaints**

If a complainant or representative makes the allegations verbally or in person, the DCH staff person to whom the allegations are made must write up the elements of the complaint using DCH Form 724. At a minimum, the DCH staff person must obtain the following information:

1. Name, address, and telephone number or other means of contacting the person alleging discrimination;
2. The location and name of the county, regional or other office delivering the service or benefit;
3. The nature or the incident or action that led the complainant or his/her representative to feel that discrimination was factor, and an example of



- the method of administration that is having a disparate effect on the public, potential eligible persons, applicants, or participants;
4. The basis on which the complainant believes discrimination exists;
  5. The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action; and
  6. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

**NOTE – The DCH staff person to whom the allegations of discrimination are made are required to assist a person or his/her representative (if requested) in navigating through the complaint process, which includes completing the DCH Form 724 and providing information in alternative formats and languages upon request. DCH must ensure translated complaint forms, qualified interpreters, and auxiliary aids and services are available free of charge to DCH customers and their companions.**

## **VI. Civil Rights and ADA/Section 504 Complaint Processing Oversight and Referral**

DCH is responsible for ensuring all discrimination complaints filed with DCH for any HHS program are processed in accordance with the HHS complaints processing regulations, directives and guidance.

This subsection describes the process for Civil Rights, ADA/Section 504 complaint intake, complaint referrals, processing, investigations, and decisions (including a complainant's right to appeal). The process for complaints is described below.

### **A. Complaint Intake**

All Civil Rights and ADA/Section 504 complaints must be forwarded within five (5) business days of receipt to the DCH Civil Rights, ADA/Section 504 State Coordinator. Complaints must be logged in a manual or computerized tracking system and kept separate from program complaints. Anonymous complaints must be processed as any other complaint, to the extent feasible, based on available information.

The DCH Civil Rights, ADA/Section 504 Coordinator or designee will review a complaint to see if it contains an allegation of discrimination on the basis of a protected class or retaliation or reprisal. Complaints that do not contain such allegations forwarded to the appropriate office that logs and processes program complaints.

### **B. Complaint Referrals**



## 1. Complaints Alleging Discrimination Based on Age in HHS

Federal regulations implementing the Age Discrimination Act of 1975 require that all complaints alleging violations of the Act be referred for mediation. DCH must forward all complaints alleging age discrimination to HHS Office of Civil Rights for processing.

Forward all complaints alleging unlawful discrimination on the basis of age, regardless of whether other bases are alleged, to the HHS Regional Office for Civil Rights within five (5) working days after receipt.

If the Federal Mediation and Conciliation Service (“FMCS”) mediation is successful, FMCS will notify the appropriate federal agency so that the case can be closed. DCH will receive notification of the closure of the complaint. If mediation is unsuccessful, FMCS will refer the complaint back to HHS for processing through the established complaint processing system.

DCH must participate in mediation on a good faith basis to resolve complaints alleging unlawful discrimination on the basis of age in accordance with 45 CFR 90 and 7 C.F.R. § 15c(7)(d). The representative designated by DCH to participate in mediation must be a neutral party. A person named in the complaint is not a neutral party.

### C. Complaint Processing and Investigation

Each decision issued by DCH shall include a notice of appeal rights. The appeal rights language appears under Section E.

Within (14) business days of receipt of a complaint, the DCH Civil Rights, ADA/Section 504 Coordinator will work with management to assign a qualified staff person to investigate the case. The assigned investigator must complete the investigation within 45 business days of the date of the complaint. The investigator must gather and evaluate facts that will either support or refute the complainant’s allegation(s), ensuring that all relevant sources of information are investigated, which includes a review of the complainant’s case file.

The investigator must send the investigative findings to the DCH Civil Rights, ADA/Section 504 Coordinator, who will evaluate the report for completeness and soundness of conclusions. If the findings do not contain sufficient information to support the investigative conclusion, the DCH Civil Rights, ADA/Section 504 Coordinator will return the findings to the investigator with a time frame for revising the findings.



Within 90 days of accepting the complaint for investigation, DCH will draft a letter of decision that applies the appropriate law to the relevant facts.

#### **D. Complainant's Right to Appeal DCH Final Decision Regarding a Civil Rights or ADA/Section 504 Complaint**

The DCH Civil Rights, ADA/Section 504 State Coordinator must send the complainant a letter advising him/her of the investigative findings. The letter must also inform the complainant that if he/she does not concur with the results of the investigation, an appeal may be filed with the U.S. Department of Health and Human Services' Office for Civil Rights. The letter must also include the Appeal Rights for each office.

In each final decision letter, DCH will notify the Complainant of his/her right to appeal such decision (including decisions on ADA/Section 504 complaints made regarding requests for auxiliary aids and services or reasonable modifications or failing to provide a requested auxiliary aid and services or reasonable modification). Appeals information must be provided in an alternative format or language that the Complainant can understand.

##### **1. Appeals Language for HHS Complaints**

To appeal decisions involving DCH services, programs, or activities funded by the U.S. Department of Health and Human Services ("HHS"), the Complainant may appeal to the HHS Office for Civil Rights within 90 days of receiving the final decision letter from DCH. The appeal should be addressed to:

Office for Civil Rights Centralized Case  
Management Operations  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Room 509F HHH Bldg.  
Washington, D.C. 20201

#### **E. Resolution of Noncompliance/Corrective Actions**

Upon completion of the investigation, the investigator will work with County and/or District or Regional Management to recommend corrective action (if appropriate). If it is determined that the complainant was discriminated against on the basis of one of the protected classes, or that DCH personnel violated state or federal requirements, the DCH Civil Rights, ADA/Section 504 Coordinator will work with management to ensure that a corrective action plan is prepared, implemented, and monitored to address the violations. DCH will abide by applicable HHS regulations and directives when ensuring the required corrective actions are achieved in a timely manner.



## **F. Tracking Complaints and Maintaining Complaint Files**

The State Civil Rights Office shall maintain a central file on all Civil Rights and ADA/Section 504 complaints processed by DCH. All Civil Rights complaints must be kept confidential and only accessible by authorized individuals.

## **VI. Other Procedures**

The procedures provided herein are in addition to, and not in lieu of, any other remedies available under federal or state law.

## **REFERENCES:**

Title VI of the Civil Rights Act of 1964 (42 USC §2000d)  
Section 504 of the Rehabilitation Act of 1974 (29 USC §794)

Title IX of the Education Amendments of 1972, Public Law 92-318, as amended (20 U.S.C. §1681 *et seq.*)

Age Discrimination Act of 1975 (42 USC § 6101)

Title II of the Americans with Disabilities Act (ADA) of 1990 (42 USC §12132) at 28 C.F.R. Part 35 and 28 C.F.R. § 35.107

Title II of the ADA Amendments Act of 2008 (Public Law 110-325)

U.S. Department of Health and Human Services regulations at 45 C.F.R. Parts 80, 84, and 91

R.H. et al. v. Rawlings et al., CAFN: 1:17-CV-01434-TWT (N.D. Ga. 2019) (Consent Order, entered on June 4, 2019)

This list is not exclusive.