



CORPORATE POLICY & PROCEDURE

Policy Name: MS13 - Section 1557 of the Patient Protection and Affordable Care Act and Members	
Department: Customer Care	Policy Number: MS13
Version: 2	Creation Date: 11/25/2019
Revised Date: 8/6/20	
Line of Business: <input type="checkbox"/> All	
<input checked="" type="checkbox"/> Umpqua Health Alliance	<input type="checkbox"/> Umpqua Health Management
<input type="checkbox"/> Umpqua Health - Newton Creek	<input type="checkbox"/> Umpqua Health Network
Approved By: Nancy Rickenbach (Chief Operating Officer) Date: 08/10/2020	

POLICY STATEMENT

Umpqua Health Alliance (UHA) and Umpqua Health Network (UHN), which provides UHA’s provider network, are committed to ensuring its members receive quality whole-person healthcare free from discrimination on the basis of race or ethnic background, culture, color, national origin, sex or gender, sexual orientation or gender identity, age, limited English proficiency (LEP), or disability (Code of Federal Regulation (CFR), Title 45, Part 90, Title VI of the Civil Rights Act of 1964 and the Age Discrimination Act of 1975).

PURPOSE

This policy demonstrates how UHA, and its provider network, comply with Section 1557 of the Affordable Care Act (ACA) to best meet the needs of its members under the Coordinated Care Organization (CCO) Contract with Oregon Health Authority (OHA).

RESPONSIBILITY

Clinical Engagement
 Member Services aka Customer Care
 Provider Network

DEFINITIONS

Americans with Disabilities Act (ADA): A federal law guaranteeing equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Culturally and Linguistically Appropriate Services (CLAS): The provision of effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs.

DCO: Dental Care Organization.

Integrated Care Coordination (ICC): Integrated person-centered care and services that assure that physical, behavioral, and oral health services are consistently provided to members in all age groups and all covered populations when medically appropriate and consistent with the needs identified in the community health assessment (CHA) and community health improvement plan (CHP) as defined in OAR 410-141-3860).



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Section 1557: The nondiscrimination provision of the Affordable Care Act (ACA). The law prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities.

PROCEDURES

General Requirements

1. Except as provided in Title I of the ACA, members shall not be excluded from participation in, or denied the benefits of, or be subjected to discrimination or segregation or separate treatment, under any UHA program or activity on the basis of race, color, national origin, sex, age, or disability. Discrimination of any form is strictly prohibited.
 - a. UHA may operate a sex-specific health program or activity, that is restricted to members of one sex only if it can demonstrate an exceedingly persuasive justification that the sex-specific health program or activity is substantially related to the achievement of an important health-related or scientific objective (e.g. UHA's New Day Program for pregnant women struggling with substance abuse).
2. UHA shall not restrict, in any way, a member's ability of any advantage or privilege obtained by other members who receive any service or benefit under UHA's health program or activity.
3. UHA shall not, on the basis of race, color, age, or national origin, aid or perpetuate discrimination against any person by providing significant assistance to any entity or person that discriminates on the basis of race, color, age, or national origin in providing any aid, benefit, or service to beneficiaries of UHA's health program or activity.
4. Member participation in UHA shall not be based on (or excluded by) basis of race, color, national origin, sex, age, or disability (MS1 – Member Assignment and Reassignment; MS2 – Nondiscrimination of Members; MS3 – Member Rights; and MS10 – Member Enrollment and Disenrollment).
5. UHA will not deny a member the opportunity to participate in an advisory body (e.g. Community Advisory Council) under UHA based on non-discrimination factors outlined in item 3 above.
6. UHA shall take appropriate steps to ensure that communications with members with disabilities are as effective as communications with others in health programs and activities in accordance with 28 CFR §§ 35.160 through 35.164.
7. UHA shall make certain that its employees, subcontractors, and facilities have the tools and skills necessary to communicate and provide services to meet the special needs of members who require accommodations because of a disability or LEP by ensuring all are trained in Culturally and Linguistically Appropriate Services (CLAS) standards as established by the US Department of Health and Human Services (DHS).
 - a. Health Equity Plan Training and Education will be provided and monitored to UHA staff and provider network on cultural responsiveness, implicit bias, trauma-informed care, and anti-discrimination laws, in accordance with the OHA's standards (OAR 410-141-3735 and 410-141-3860(12)(a)).



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- b. UHA’s non-emergent transportation (NEMT) provider shall also be versed in working with members who require assistance due to disabilities etc. (MS7 – Non-emergent Transportation).
- 8. To ensure not only provision of accommodations, but provider access as well, UHN, on behalf of UHA, continuously monitors its provider network, as outlined in the following policies: PN8 – Monitoring Network Availability; PN9 – Monitoring Network Access; and PN12 – Delivery System Network Workflow.
 - a. The policies listed above speak to how UHA monitors and ensures access; how its provider capacity is determined; its procedures for monthly monitoring of its capacity and access as well as areas for improvement and management during times of reduced provider capacity through its Network Performance Committee.
 - b. This access plan strategy includes how UHA will meet the accommodation and language needs of LEP and people with disabilities in its service area in compliance with state and federal rules including, but not limited, to Section 1557 of the ACA and the ADA (MS12 - Americans with Disabilities Act and Members; OAR 410-141-3515).
- 9. UHA’s grievance and appeals process (CE01 – Grievances and CE20 – Appeals and Hearings) is structured in accordance with Exhibit I of the CCO Contract as well as Title VI of the Civil Rights Act and ORS Chapter 659A.
 - a. As such, any member grievance concerning communication or access to covered services or facilities in relation to racial or ethnic background, gender identity, sexual orientation, socioeconomic status, culturally or linguistically appropriate service requests, disability, and other identity factors for consideration in improving service for health equity are reviewed and reported to OHA. All grievances are reviewed by UHA’s Grievance and Appeal’s Coordinator (45 CFR §92.7).
 - i. This process is also addressed if the grievance process is delegated to a subcontractor (CE01 – Grievances).
- 10. UHA, and its provider network, also utilize health information technology (HIT) for the purposes of care coordination to share medical information which is not only useful in diagnosis and treatment, but also empowers members to participate in their overall wellness and health. HIT’s information exchange also permits, among other things, the exchange of information between members, providers, and facilities regarding issues of health literacy, language interpretation, and electronic medical records (OAR 410-141-3860 and 45 CFR §92.204).

Meaningful Access for Individuals with Limited English Proficiency (45 CFR § 92.201)

- 1. UHA shall take reasonable steps to provide meaningful access to each individual with limited English proficiency eligible to be served or likely to be encountered in its health programs and activities (MS12 - Americans with Disabilities Act and Members).



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2. The Director of the Office for Civil Rights (OCR) may evaluate UHA’s compliance with Section 1557 by:
 - a. Evaluating, and giving substantial weight to, the nature and importance of the health program or activity and the particular communication at issue, to the individual with LEP; and
 - b. Taking into account other relevant factors, including whether UHA has developed and implemented an effective written language access plan, that is appropriate to its particular circumstances, to be prepared to meet its obligations in 45 CFR §92.201(a).
3. UHA shall provide LEP accommodations free of charge, be accurate and timely, and will protect the privacy and independence of the member.
4. Certified or qualified health care interpreter services shall be offered to a member with LEP when oral interpretation is a reasonable step to provide meaningful access for that member.
5. Services of a qualified translator shall be provided when written content in paper or electronic form is needed for the member’s whole-person healthcare benefit.
6. UHA shall not do the following:
 - a. Require LEP members to act as their own interpreters;
 - b. Rely on an adult accompanying an individual with LEP to interpret or facilitate communication, *except*:
 - i. In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no certified or qualified health care interpreter for the member with LEP immediately available; or
 - ii. Where the member with LEP specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances;
 - c. Rely on a minor child to interpret or facilitate communication, *except* in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no certified or qualified health care interpreter for the individual with LEP immediately available; or
 - d. Rely on staff other than qualified bilingual/multilingual staff to communicate directly with members with LEP.
7. In the event UHA provides video remote certified or qualified health care interpreter services for members with LEP in its health programs or activities it shall provide:
 - a. Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;



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- b. A sharply delineated image that is large enough to display the certified or qualified health care interpreter's face and the participating individual's face regardless of the individual's body position;
 - c. A clear, audible transmission of voices; and
 - d. Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the video remote interpreting.
8. Members with LEP are not required under 45 CFR § 92.201 to accept language assistance services.

Notice Requirements (45 CFR § 92.8)

1. UHA notifies members and potential members of the following through the Member Handbook, as well as other means as appropriate, that it:
 - a. Does not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs and activities;
 - b. Provides appropriate auxiliary aids and services, including certified or qualified health care interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure an equal opportunity to participate to individuals with disabilities;
 - c. Provides language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited English proficiency (LEP);
 - d. How to obtain the aids and services listed above;
 - e. Availability of the grievance procedure and how to file a grievance pertaining to Section 1557 (i.e. acts of discrimination); and
 - f. How to file a discrimination complaint with the Office for Civil Rights (OCR).
2. UHA will post a notice informing members, and potential members, of all information stated in item (1) above as follows:
 - a. This notice will be conspicuously placed in physical locations where UHA interacts with the public;
 - b. It will be clearly posted on the UHA website accessible from the home page;
 - c. Publications and communications will utilize taglines, including at least the top 15 languages spoken by individuals with LEP within Oregon and any other relevant states as applicable. The taglines will be done in an obviously-visible font size.
3. A non-discrimination statement shall also be posted conveying that UHA does not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs and activities. Taglines, as stated above, will also be utilized in obviously-visible font size and quantity.



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4. In significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures, UHA will post taglines in at least the top two (2) languages spoken by individuals with LEP within Oregon and any other relevant states as applicable. The taglines will be done in a conspicuously-visible font size.
5. UHA may choose to combine the content of the notice required in item (1) above with the content of other notices if the combined notice clearly informs individuals of their civil rights under Section 1557.

Enforcement

1. Any internal personnel found in violation of this policy will be subject to disciplinary actions, up to and including termination (CO19 – Disciplinary Process for Compliance Infractions).
2. UHA providers and subcontractors will be monitored for compliance. Risk response plans and/or termination of contracts will be the consequences for violations (CO18 – Risk Response Process and CO21- External Risk Response Process).
3. UHA will comply with requests from the OCR for information regarding any received complaints. Materials will be supplied in a timely, complete, and accurate manner (CO16 – Cooperating with Investigations).

Department	Standard Operating Procedure Title	SOP Number	Effective Date	Version Number
Customer Care	Interpreter Alternative Format Process	SOP MS5-1 CIM	7/15/20	3
Customer Care	Written Documentation Translation Services	SOP MS5-2	7/15/20	3