

State Mississippi

NONDISCRIMINATION

Currently approved methods of administration under the Civil Rights requirements are on file in the Regional Office for Civil Rights.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Mississippi

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METHODS OF ADMINISTRATION REGARDING COMPLIANCE WITH TITLE VI OF
THE CIVIL RIGHTS ACT OF 1964I. Assignment of Responsibility -- Responsible for overall
coordination of Title VI activities.

Medicaid Program Administrator (0019) - Assigned the specific duties of implementing policies and procedures approved by the Department of Health & Human Services, Office for Civil Rights (OCR), for monitoring all providers of Title XIX services to insure their compliance with Federal nondiscriminatory regulations. The Medicaid Program Administrator will delegate responsibilities to a Medicaid Program Development Specialist to perform tasks pertinent to the administration of this program.

For services based on the Title XVIII certification, this Agency accepts all Title VI certifications made by the Office for Civil Rights. After initial certification by OCR, compliance determinations for both the single State agency and Region IV OCR will be completed in keeping with approved procedures.

II. Dissemination of Information

Orientation sessions are conducted periodically for all new agency employees. These sessions are designed to acquaint the employee with all general areas of the Medicaid Program, including Title VI requirements. Those with more specific responsibilities in the area of Title VI are given more detailed instructions. Joint training has been done with staff of the Regional Office for Civil Rights.

All brochures, leaflets and other informational material for dissemination to the public contain appropriate statements relating to provisions of Title VI and instructions as to how and where complaints may be filed.

Vendors are advised of Title VI requirements through individual provider manuals, participation agreements, statements on claim forms, personal contact by agency staff in the routine performance of duty, and, in the case of nursing homes, through special regional meetings arranged through the nursing home professional associations.

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METHODS OF ADMINISTRATION REGARDING COMPLIANCE WITH TITLE VI OF
THE CIVIL RIGHTS ACT OF 1964

III. Maintaining and Assuring Compliance

Region IV OCR has approved the attached written procedures as acceptable for monitoring the compliance of Title XIX providers. These procedures were developed for their appropriateness to implementation in this specific State Agency and were developed with the guidance and assistance of Region IV OCR staff. Written procedures for handling complaints of discriminatory nature are also included in the approved procedures (see attached Exhibit "A").

The attached written procedures are currently being utilized by the appropriate Mississippi Medicaid staff in the on-going monitoring of State Title XIX providers.

IV. Recruitment and Training Programs

The policies, rules, and procedures governing personnel and position management with this agency are under the authority of the Mississippi Code of 1972, as Amended, Section 25-9-101, et seq., as approved by the Mississippi State Personnel Board, effective February 1, 1981.

All vacancies are filled through approved State Personnel Board procedures and this agency has a standing request that State Personnel Board advertisements of vacancies be made in such a way as to reach all segments of the community. Applicants certified by the State Personnel Board are considered on the basis of education, experience and personal interview with the single objective of filling vacancies with the best qualified persons. Race, sex and age are not determining factors, nor is a physical handicap if it does not impair the person's ability to do the work required. The make-up of our staff attests to the effectiveness of the policies as stated.

In-service training is provided all employees on an on-going basis through supervisory personnel and additional training outside the agency is made available to all employees with the only condition being relevance to the employees' duties with the agency.

Approved 9/24/82

effective 7/1/82

***OFFICE OF THE GOVERNOR
DIVISION OF MEDICAID***

METHODS OF ADMINISTRATION

FOR

***RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE
TITLE VI - CIVIL RIGHTS COMPLIANCE***

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DIVISION OF MEDICAID
METHOD OF ADMINISTRATION
TITLE VI - CIVIL RIGHTS COMPLIANCE

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OFFICE OF THE GOVERNOR
DIVISION OF MEDICAID
METHODS OF ADMINISTRATION
FOR
RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE
TITLE VI - CIVIL RIGHTS COMPLIANCE

A. PURPOSE

The purpose of this Methods of Administration is to provide a step-by-step guideline for Division of Medicaid personnel to monitor the Civil Rights and Section 504 compliance of the Program's providers of service. These procedures will help to implement an effective mechanism to reasonably insure that providers/vendors comply with the non-discriminatory requirements and guidelines of the Civil Rights Act and the Rehabilitation Act.

The revised document reestablishes written policy, procedure and guidance relative to non-discrimination by the Office of the Governor, Division of Medicaid in the administration of its federal financial assistance programs.

B. AUTHORITY

Title VI of the Civil Rights Act of 1964 prohibits federally assisted programs from discriminating on the basis of race, color or national origin (including persons with limited English proficiency). Pursuant to this Act: "No person in the United States shall, on the ground of race, color, or national origin (including persons with limited English proficiency) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies."

Additionally, Title VI Regulations requires that State Agencies, receiving funds from Department of Health and Human Services (DHHS), develop and maintain Methods Of Administration (MOA).

**** *Reference Title VI of the Civil Rights Act of 1964
(45 Code of Federal Regulations (CFR) Part 80).*

As part of the Rehabilitation Act of 1973 (Public Law 93-112) Congress enacted Section 504, which provides that, "No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance (including persons with HIV/AIDS)."

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******Reference Section 504 of the Rehabilitation Act of 1973
(45 Code of Federal Regulations (CFR) Part 84)**

Both of these regulations cover the provisions of services and employment practices.

C. POLICY

The Division of Medicaid is committed to assuring that all program benefits are made available to all persons and provided to all eligible individuals, without regard to age, religion, disability, political affiliation, veteran status, sex, race, color or national origin (including persons with limited English proficiency).

PART I
Assignment of Responsibility for Implementation
of Title VI and Section 504

Division of Medicaid has assigned the responsibility of the Civil Rights and Section 504 Compliance to the Beneficiary Relations Bureau. The related duties of this assignment shall be:

- a. Responding to complaints of discrimination through investigation and written documented replies;
- b. Preparation of Compliance Reports and participation data for submission to the Office for Civil Rights upon request;
- c. Conducting compliance reviews of providers and providers' facilities;
- d. Acting as a liaison between the Division of Medicaid and the Office of Civil Rights;
- e. Acting as a liaison between the Division of Medicaid and minority and disability groups or other community groups concerned with the delivery of services;
- f. Monitoring essential records and files relative to civil rights and the civil rights program under the Division of Medicaid.

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PART II
Title VI and Section 504 Compliance by Other
Participants in Division of Medicaid Programs

Division of Medicaid shall recognize that its obligations for compliance extends to providers and their contractors of services and other providers of services, financial aid and other benefits under the Division of Medicaid program. Division of Medicaid will provide assurance that such participants in its programs comply with the Title VI and Section 504 regulations by:

- a. Furnishing all providers and other participants with a clear written explanation of their responsibilities under the Title VI and Section 504 regulations;
- b. Requiring all providers and other participants to execute, in writing, an assurance that they will comply with Title VI, Section 504, and the implementation of related regulations (such assurances may take the form of a statement printed on the vouchers submitted by the vendor for reimbursement by Division of Medicaid);
- c. Recognizing that assurance of compliance serves primarily as notice to participants of the program that they must comply with Title VI and Section 504, and does not automatically indicate actual compliance with Title VI, Section 504, and the implementation of related regulations;
- d. Conducting periodic Title VI and Section 504 compliance reviews of designated providers and other participants at least yearly is recommended, and more frequently in those cases where discrimination is alleged or suspected.

PART III
Dissemination of information to Beneficiaries
and the General Public

Division of Medicaid will 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 non-discriminatory basis as required by Title VI and Section 504. In addition, such persons shall be notified of their rights to file a complaint if they believe they have been discriminated against on the basis of race, color or national origin (including persons with limited English proficiency), physical or mental disability. Such persons will be informed that they have the right to file a complaint with Division of Medicaid or the Office of Civil Rights, Atlanta, Georgia. This may be accomplished by:

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- a. Including the Division of Medicaid Title VI and Section 504 non-discrimination policy in all brochures, pamphlets, communications radio and TV announcements, etc. which are designed to acquaint potential beneficiaries and members of the general public with the Division of Medicaid programs and services;
- b. Printing such communications, as described above, in languages other than English for those in service areas which have a significant representation of persons whose dominant language is other than English.
- c. Notifying all customary referral sources of the Division of Medicaid that services and benefits are provided in a non-discriminatory manner; and
- d. Displaying in prominent places in all its offices, and in its provider facilities, posters indicating the Division of Medicaid non-discriminatory policy under Title VI and Section 504.

PART IV
COMPLAINT POLICY AND PROCEDURE

Division of Medicaid has established a complaint policy and procedure which provides that :

- a. Any person who believes that he or she, or any specific class of persons, is subjected to discrimination on the basis of race, color, national origin (including persons with limited English proficiency), physical or mental disability may or by a representative, file a written complaint;
- b. The time period for filing a complaint is no more than 180 days from the date of the alleged discriminatory act (s);
- c. The Civil Rights/Section 504 Coordinator may extend the time for filing a discrimination complaint;
- d. No person, who has filed a complaint, testified, assisted or participated in any manner in the investigation of a complaint, shall be intimidated, threatened, coerced or discriminated against;
- e. Complaints will be brought to the attention of the Executive Director of the Division of Medicaid;

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- f. Division of Medicaid will conduct a prompt and thorough investigation of complaint;
- g. The Civil Rights/Section 504 Coordinator will, based on the complaint investigation, determine whether or not discrimination did, in fact, occur;
- h. If discrimination has occurred, Division of Medicaid will take all necessary action to correct the discriminatory practice(s);
- i. The complainant will be advised, in a timely fashion of the findings of Division of Medicaid regarding his or her complaint and advised of the right to appeal to the Office of Civil Rights if not satisfied with Division of Medicaid decision;
- j. Records will be maintained, which show the nature of the complaint, the details of the investigation, and the actions taken by Division of Medicaid; and
- k. In those cases where the complaint is initially filed with the Office of Civil Rights, the latter office may proceed to investigate the complaint utilizing its own resources or it may request Division of Medicaid to conduct the investigation.

PART V
WRITTEN NON-DISCRIMINATION POLICY

Division of Medicaid will have a written non-discrimination policy which effectively communicates that the services, financial assistance and other benefits of its program(s) are provided in a manner that does not discriminate on the basis of race, color, national origin (including persons with limited English proficiency) or disability.

PART VI
CONTINUING COMPLIANCE

Division of Medicaid will have procedures for monitoring all aspects of the providers 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, national origin (including persons with limited English proficiency) or disability.

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The monitoring procedures of Division of Medicaid shall include a review of the following providers in the stated manner:

Hospitals	Shall be reviewed once every two years
Long-term Care Facilities	Shall be reviewed once every two years
Physicians and Dentists	Shall be reviewed annually through a random selection ratio of 10% of participating providers

Providers who have completed their compliance with the Medicare Program will be requested to submit copies of their current Medicare certification approval letter and shall not be required to complete the prescribed Medicaid compliance review forms. Medicare compliance mirrors the Medicaid compliance review requirements, as both programs are recipients of federal financial assistance and are monitored by the Office of Civil Rights for non-discrimination.

PART VII **CORRECTIVE REQUIREMENTS**

Division of Medicaid will take affirmative action to overcome the effects of prior discrimination in instances where the agency or the participants in its programs have previously discriminated against persons on the grounds of race, color, national origin (including persons with limited English proficiency) or disability.

Even in the absence of such prior discrimination, Division of Medicaid may, on its own motion, take affirmative action to overcome the effects of conditions which result in limiting participation of persons of a particular race, color, national origin (including persons with limited English proficiency) or disability.

PART VIII **COMPLIANCE RECORDS**

Division of Medicaid will collect, review, analyze and maintain racial, ethnic and disability data and information on its operation, which will show the extent to which minorities and persons with disabilities are participating in all aspects of its programs. Such data will also include the number of persons served, having Limited English Proficiency. Division of Medicaid will require such data and information from providers and other participants of its programs.

Division of Medicaid will make available to the Office of Civil Rights all data and information necessary to determine its compliance with Title VI and Section 504 and the respective implementing regulations as it pertains to the compliance status of its providers and other participating service providers.

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Long Term Care Facilities Compliance Reviews

A. General Procedure Description

Once every two (2) years each long term care provider of Medicaid services will receive a desk compliance review. Each Long Term Care Facility will be requested to submit to this office information necessary to determine provider compliance. This information shall include: 1. a current one-day resident bed census, 2. copies of the facility's current written Title VI policies, 3. copies of the facility's advertisement to the general public of the facility's non-discriminatory policies.

All information submitted will receive a desk review by appropriate Mississippi Division of Medicaid personnel. Certain practices and submitted information could require an explanation from the provider facility because discrimination may be involved. These specific indications will be "spelled out" in writing to each provider and an explanation will be requested of that same provider. Suggestions by the Mississippi Division of Medicaid personnel to correct possible discrimination practices will also be included. If significant problems exist, Mississippi Medicaid personnel may find it necessary to conduct on-the-site reviews in the provider facilities. These on-site reviews will consist primarily of the same information requested in the desk review with, additionally, administrative and employee interviews.

In order to insure facility commitment toward change, follow-up reviews will be conducted with each provider where problems exist. These reviews will be either desk or on-site reviews and will be initiated within six (6) months from the date of the review where significant problems were identified.

B. Specific Procedure

1. Each month requests for information will be sent to individual Long Term Care provider. (Tickler file will show which provider should be sent information requests

during which month.) This request will include a cover letter and blank census forms.

2. This compliance information should be returned to the Mississippi Division of Medicaid office in a timely and complete manner. Information should be returned within a 30-day time frame. Authorization for such compliance information and this office's access to that same information are clearly outlined in Part 80.6 of the Civil Rights Act.

3. Upon receipt of this information, Mississippi Division of Medicaid Title VI personnel will review its content to determine if the Long Term Care provider practices any procedures which might suggest the presence of discrimination.

4. The requested census data should indicate to Title VI personnel if discriminatory practices are existent at the long term care facility. Specific attention should be directed to total percentage of minority residents (compared to the percentage of minority in the service area) and percentage of minority residents living in biracial accommodations. Residents must also be assigned to wards, floors, sections, buildings, or other areas without regard to race, color, or national origin.

5. Written policy statements should be compared with the Office of Civil Rights guidelines to insure compatibility. Once copies of written policy statements have been secured and placed in Mississippi Division of Medicaid files, future request for written policies will only be necessary if there has been a change in provider written Title VI policy.

Specific written Long Term Care policies should address: a. room assignments, b. admissions, c. patient records, d. staff privileges, e. patient services, f. referrals, g. notification of services available, and h. courtesy titles.

6. Once the material has been reviewed, the long term care provider will be notified in writing of the review findings. The responsible Mississippi Division of Medicaid staff should also make suggestions to the Long Term Care Facility concerning the action necessary to correct the alleged discrimination. It is not necessary for the provider to

accept the Mississippi Division of Medicaid suggestions; however, it is necessary that the Long Term Care Facility submit an acceptable plan of correction to the Mississippi Division of Medicaid within thirty (30) days after receipt of the written review findings.

7. When the office receives the provider's plan of correction, the Title VI staff members should review it and make a determination as to whether it meets Civil Rights' guidelines and expectations. If the worker has some concerns about the acceptability or feasibility of the plan, he should direct them to the specific provider in writing.

8. If significant problems exist between Title VI guidelines and provider practices, an on-site visit will be scheduled. The problem areas will be discussed with the responsible administrative personnel and actual Civil Rights' regulations will be clearly outlined and explained to the responsible staff. Employees should also be interviewed in efforts to determine discrimination either in client or employee practices.

A brief narrative regarding this on-site review will be placed in the provider's record along with the other compliance information and correspondence.

9. When the review of each provider has been completed, summary form will be filled out and placed in the appropriate section (Title VI) of that provider file.

10. Where problems of possible discrimination practices are cited, follow-up reviews will be conducted within six (6) months following the conclusion of the primary review. These reviews may be either desk or announced on-site and will address the provider's plan of correction and that plan's implementation into provider practices. A record of that review will be placed in the provider's compliance file.

11. Each provider will be notified in writing of his current compliance status.

with Section 80.8 of the Civil Rights Act and could suspend, terminate, or refuse to grant Federal Financial Assistance to the provider pending referral to the Division's legal services. However, every effort to persuade the provider to comply with Civil Rights Regulations will be undertaken.

Federal Regulation

§ 80.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this regulation, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 80.4.* If an applicant fails or refuses to furnish an assurance required under § 80.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall

be limited to the particular political entity, or part thereof, or other applicant or recipient to whom such a finding has been made and shall be limited in its effect to the particular program or part thereof in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

(Sec. 601, 502, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1, Sec. 182, 80 Stat. 1299; 42 U.S.C. 2000d-8) (29 FR 16228, Dec. 4, 1964; as amended at 32 FR 14558, Oct. 19, 1967; 38 FR 14982, July 8, 1973)

45 CFR Part 80