

HHS Office for Civil Rights Enforces Section 504 and the ADA

Article By:

U.S. Department of Human & Health Services

The U.S. Department of Health and Human Services, Office for Civil Rights (OCR) has entered into several settlement agreements and issued letters of findings as part of its ongoing efforts to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act of 1990 (ADA).

Section 504 prohibits disability-based discrimination by all health care and human services providers that receive federal financial assistance and Title II of the ADA prohibits discrimination on the basis of disability by state and local governments. Taken together, these laws provide protection against discrimination for a group of individuals who routinely experience exclusion and segregation.

“People with disabilities should have an equal opportunity to benefit from programs funded by federal dollars and to participate and live in their communities,” said OCR Director Leon Rodriguez. “Laws such as Section 504 and the ADA exist to ensure that these rights are not violated and that individuals do not face discrimination.”

Within recent settlement agreements, entities agreed to take steps to come into compliance with Section 504 and ADA, including: review and revision of policies and procedures; training staff on their non-discrimination obligations; providing a grievance procedure for patients; and other corrective actions specific to each entity’s violations.

Examples of OCR’s recent enforcement actions include settlement agreements in two cases, Citizen’s Medical Center and Bertrand Chaffee Hospital, and a letter of findings sent to Georgia’s Medicaid agency:

Citizen’s Medical Center

OCR entered into a settlement agreement with CMC in Victoria, Texas, after finding violations of Section 504 and the ADA, when it rejected a child with autism for enrollment in a program based on its concern that the child would need one-on-one care as a reasonable modification. The evidence was insufficient to support the conclusion that the child needed one-on-one care. OCR determined that even if the child did need one-on-one care, CMC had not demonstrated that providing such a reasonable modification would fundamentally alter the nature of the program or pose a direct threat to the health or safety of other children in the program. OCR found that CMC’s blanket policies of excluding children with “special needs” and excluding children who need one-to-one care, discriminates against children with disabilities.

Bertrand Chaffee Hospital

OCR entered into a Settlement Agreement with Bertrand Chaffee Hospital in Springville, New York to correct potential compliance issues with Section 504 and the ADA. The Agreement follows a complaint alleging that the Hospital engaged in unlawful discrimination on the basis of disability by failing to provide a patient who was deaf with a sign language interpreter while she was treated at the Hospital. The complainant further alleged that there was no TTY service available to her while she was receiving treatment. Section 504 and the ADA require that covered entities provide auxiliary aids and services, including sign language interpreters, to people with disabilities, when necessary for effective communication.

Georgia Department of Community Health

In a letter of findings to the Georgia Department of Community Health, OCR found the entity failed to assist the complainant in moving out of a nursing home and back into the community as required by the [Olmstead decision](#). In Olmstead, the Supreme Court held that the ADA requires public entities to provide community-based services to persons with disabilities when such services are appropriate; the affected persons do not oppose community-based treatment; and community-based services can be reasonably accommodated. This complainant has lived in a nursing home for 17 years and has been very clear about her desire to move to the community. She has been determined by her doctor to be appropriate for community placement and the state has made no showing that such services cannot be reasonably accommodated.

People who believe that an entity receiving federal financial assistance has discriminated against them (or someone else) on the basis of disability, may file a complaint with OCR at:

<http://www.hhs.gov/ocr/civilrights/complaints/index.html>.

Summaries of each of these enforcement efforts can be found on OCR's website: www.hhs.gov/ocr/civilrights/activities/agreements/. For more information on community living and Olmstead please visit:

<http://www.hhs.gov/ocr/civilrights/understanding/disability/serviceolmstead/index.html>.

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