



— WASHINGTON GOVERNOR —
JAY INSLEE



Washington State
Health Care Authority



Guidance Relating to Non-Discrimination in Medical Treatment for Novel Coronavirus 2019 (COVID-19)

April 20, 2020

The Washington State Department of Health, the Washington State Department of Social and Health Services, and the Washington State Health Care Authority, along with the Washington State Human Rights Commission and the Governor's Committee on Disability Issues and Employment, are closely monitoring the evolving COVID-19 situation. As part of its oversight and legal enforcement obligations, the state of Washington continues to assess appropriate next steps as well as release guidance to ensure the safety and wellbeing of Apple Health (Medicaid) enrollees, health plan enrollees, health care providers, and all Washington communities.

The state of Washington understands that people with disabilities are concerned that health care providers might consider an individual's disability status when determining which patients to treat if hospitals or other health care facilities experience a surge of patients needing life-saving care. The state of Washington also recognizes that persistent and current inequities in health care access, delivery, and outcomes for many historically marginalized communities are rooted in structural and systemic barriers predating the COVID-19 pandemic. This joint bulletin reminds health care providers and payers that it is unlawful, under both federal and state law, to ration care on the basis of an individual's existing or perceived disability, in addition to other socio-demographic characteristics referenced below.

Recent Federal Guidance:

On March 28, 2020, the Office for Civil Rights at the U.S. Department of Health and Human Services issued [guidance](#) reminding covered entities of their federal legal obligations and responsibilities under **Section 1557 of the Affordable Care Act and Section 504 of the Rehabilitation Act** which "prohibit discrimination on the basis of disability in HHS funded health programs or activities." This guidance further emphasized that "persons with disabilities should not be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person's relative 'worth' based on the presence or absence of disabilities. Decisions by covered entities concerning whether an individual is a candidate for treatment should be based on an individualized assessment of the patient based on the best available objective medical evidence."

Discrimination in Access to Health Care is a Violation of Washington State Law:

In addition to the protections under federal law, the **Washington Law Against Discrimination (Chapter 49.60 RCW)** prohibits discrimination in places of public accommodation, including medical clinics and hospitals, based on a person's race, creed, color, sex, sexual orientation, gender identity, national origin, disability, use of a dog guide or service animal, status as a breastfeeding mother, and honorably discharged veteran or military status. Disability is defined broadly under Washington State law as the presence of a sensory, mental, or physical impairment that is medically cognizable or diagnosable, exists as a record or history, or is perceived to exist.

No person may be denied equal access to testing or medical treatment for COVID-19, or any other medical issue, due to a disability or a perceived disability, in the event of limited hospital or other health care facility resources and/or capacity.

If you have any questions or need additional information about this bulletin, please contact:

Washington State Department of Health
Attn: Shawn Murinko, Americans with Disabilities Act (ADA) Coordinator
Center for Facilities, Risk and Adjudication
PO Box 47890
Olympia WA 98504-7890
(360) 236-4010
Washington Relay Service Users 7-1-1
Civil.Rights@doh.wa.gov

Resource for Implementing Guidance:

[Accessibility at Drive-Thru Medical Sites from the Northwest ADA Center](#)

To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email civil.rights@doh.wa.gov.