

Civil Rights Compliance and Assisted Living Providers

**David Durán, Civil Rights Compliance Officer
Office of Affirmative Action and Civil Rights
Compliance**

Department of Health Services

1 W. Wilson Street, Room 561

Madison, WI. 53707

(608)-266-9372 (Voice), (608)-267-2147 (Fax)

(888)-701-1251 (TTY), David.Duran@Wisconsin.gov

Civil Rights Compliance Laws Applicable to Assisted Living Facilities

- ◆ **Employment**
 - Federal
 - State
- ◆ **Service Delivery**
 - Federal



Applicable Employment Laws

◆ Federal

- Title VII of the Civil Rights Act of 1964
- Equal Pay Act of 1963 (ERA)
- Age Discrimination in Employment Act of 1967 (ADEA)
- American with Disability Act of 1990 Title I & Title V
- Civil Rights Act of 1991

Applicable Employment Laws

◆ State

- Wisconsin Fair Employment Law, Sections 111.31 – 111.395 of the Wisconsin Statutes
- Non-Discriminatory In Contracting, Wisconsin Statute 16.765 & ADM 50



Applicable Service Delivery Laws

◆ Applicable Federal Civil Rights Laws:

- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975 as amended
- Age Discrimination Act in Public Health and Welfare, 42, U.S.C. s. 6103 1996 Amendments
- Civil Rights Restoration Act of 1987



Applicable Service Delivery Laws Cont,

- **American with Disability Act of 1990 Title III, Title IV, and Title V**
- **Education Amendments of 1972 Title IX as amended**
- **Omnibus Budget Reconciliation Act of 1981**
- **Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (PRWORA)**



Affirmative Action & Civil Rights Compliance Plan Requirements

- ◆ **AA/CRC requirements apply to all entities receiving Federal financial assistance or State funds through**
 - **Department of Health Services (formerly DHFS) and/or**
 - **Department of Workforce Development, Division of Family Support**
 - **New Department of Children and Family Services**

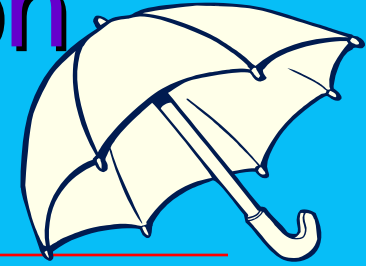


What Constitutes Federal Assistance



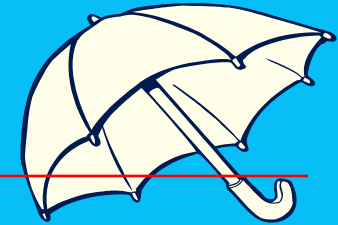
- **Loans**
- **Grants**
- **Grants or loans of federal property**
- **Use of equipment & donations of surplus property**
- **Training**
- **Details of Federal personnel**
- **Any other agreement or contract to provide assistance**

Examples of Common *Recipients*



- ◆ Hospitals
- ◆ Nursing Homes
- ◆ Home Health Agencies
- ◆ Managed Care Organizations
- ◆ Medicaid Providers
- ◆ Other private and not for profit entities
- ◆ State, county & local welfare agencies
- ◆ Universities
- ◆ Technical Colleges
- ◆ School districts
- ◆ Municipalities
- ◆ Other Health or Social Service
- ◆ Research programs
- ◆ Programs for families, youth and children

More Examples of *Recipients*



- ◆ **Head Start**
- ◆ **Physicians & other Providers who receive Federal financial assistance from HHS like Medicaid**
- ◆ **CBRF & other Assisted Living Facilities**
- ◆ **Mental and Substance Abuse Programs**
- ◆ **Community Based Organizations**
- ◆ **Certain independent Consultants under Contract or Agreements**
- ◆ **Contractors & their Sub-Contractors**

What Must I File & When

- ◆ **Entities with more than 25 employees and/or receive more than \$25,000 in Federal assistance must submit a complete CRC Plan**
- ◆ **Entities with less than 25 employees and/or receive less than \$25,000 in Federal assistance must submit a Letter of Assurance (LOA)**

Plan/LOA Templates & Instructions

- ◆ **TA Web-cast for completing the Plan or LOA:**
<http://dhs.wisconsin.gov/civilrights/Index.HTM>
- ◆ **CRC Plan and LOA Template and Instructions:**
http://dcf.wisconsin.gov/civil_rights/default.htm

Where Should I Submit my CRC Plan or LOA



- ◆ Entities with direct contracts or direct agreement with DHS, DWD or DCFS must Complete a Plan or LOA
- ◆ Entities who contract with a County or Counties, must submit the Plan or LOA to those County
- ◆ Entities who have contracts with Counties and DHS must submit their Plan or LOA to DHS

Current CRC Period

- ◆ **A Plan/LOA Covering the period from January 1, 2007 to December 31, 2009 must be on file with the County or DHS**
- ◆ **Entities with County only contracts should file with the County.**
- ◆ **Entities mutually funded by DHS/County agencies must submit the Plan/LOA to OAA/CRC**

CRC Plans & LOA Requirements

- ◆ **Data Collection – Employment & Service Delivery**
- ◆ **Workforce Analysis – Affirmative Action Plan**
- ◆ **Customer Service Population Analysis – Equal Access to programs, services and activities**
- ◆ **Limited English Proficiency (LEP) & Customer Data Analysis for Oral & Written Translation of Vital Documents – Equal Access to LEP patients/residents**

Equal Opportunity Policies & LEP Policy & Notification

- ◆ **Post Employment & Service Delivery EOP Statement, included in other LEP languages**
- ◆ **Incorporate policies into subcontract language, internal policy manuals, outreach material and websites.**
- ◆ **Posted & available in alternative formats upon request i.e., large print, brille or audio tape, other languages.**
- ◆ **Provide notifications to all referral sources in the community.**
- ◆ **Review Policies & Procedures annually by high top management and revised if needed**

Designation of Equal Opportunity Coordinator & LEP Coordinator

- ◆ **EOC & LEPC must be a management level employee.**
- ◆ **EOC/LEPC must have direct access to the entity's CEO, President or ED**
- ◆ **EOC/LEPC must receive CRC training within 6 months of appointment**
- ◆ **Handle employment, service delivery, and/or language access complaints**
- ◆ **Act as liaison between DHS, Federal OCR, community and the Entity**
- ◆ **Responsible for providing CRC training, self-assessments, monitoring & providing feedback to managements on CRC matters**

Access To Services

- ◆ **Wisconsin Physical and Program Access Self-Assessment.**
- ◆ **Insuring Services are equally available and provided to everyone without discrimination.**
- ◆ **Insuring physical, visual, audio, sign-language, and LEP services are accessible and provided.**
- ◆ **Insuring patients, residents are treated with respect, courtesy, dignity, and culturally appropriate in a non-discriminatory manner.**

Access To Services Cont,

- ◆ Insuring staff are fully training on civil rights laws at least once every three years
- ◆ Insuring equal opportunity and language access policies are provided to the community and other partners
- ◆ Provide notices to LEP communities that language assistance is available to LEP patients/residents at no cost to the client

Discrimination

Complaint/Grievance Procedures

- ◆ **Must have written informal/formal complaint/grievance procedures to address discrimination complaints**
- ◆ **Complainant must be allowed to file a formal complaint with State/Federal Offices for Civil Rights.**
- ◆ **Complaints must be filed within 180 days from the date the discriminatory action took place investigated and resolved within 90 days**
- ◆ **Complaints must be acknowledged within 5 working days from date of filing**
- ◆ **Maintain a discrimination complaint log**

Training Requirement

- ◆ All employees must be informed of the AA/CRC policies and procedures during orientation or during in-service training
- ◆ All employees must receive training on equal employment and service delivery CRC laws, & entity's policies and procedures
- ◆ CRC refresher training and updates must be provided to all staff once every three years
- ◆ Make available copies of CRC laws and regulations to employees
- ◆ Keep a log with employees names who received training with dates a copy of curriculum and name of trainer/facilitator

Self-Assessment

- ◆ **Must conduct annual self-assessments;**
 - **Employment practices & AA Plan goals, objectives**
 - **Service Delivery includes physical and language accessibility**
 - **Analyze customer data to determine if equal access is being provided to protected groups the service area**
- ◆ **Reviewing policies, procedures, postings, notifications to clients, applicants and others in the community concerning equal access to services.**

Self-Assessment Cont,

- ◆ **Is entity providing opportunities to people protected by CR laws to participate on advisory groups, boards, councils, etc.,?**
- ◆ **Making reasonable and necessary improvements to facilities to provide physical accessibility to persons with disabilities and language needs?**
- ◆ **If entity subcontracts, are you monitoring CRC of subcontractors/providers?**

Protected Classes Under Federal And State Laws

- ◆ Age (1952 - protection provided by WI law)
- ◆ Race (1945)
- ◆ Creed (1945)
- ◆ Color (1945)
- ◆ Sex (1961)
- ◆ National Origin/Ancestry (1945)

Protected Classes Under Federal And State Laws (Continued)

- ◆ Disability (1965)
- ◆ Arrest Or Conviction Record * (1977)
- ◆ Sexual Orientation * (1982)
- ◆ Marital Status Or Pregnancy * (1982)

Protected Classes Under Federal And State Laws (Continued)

- ◆ Military Participation * (1987)
- ◆ Use or Non-use of Lawful Products Off of the Employer's Premises During Working Hours * (1992)

* means protected from employment discrimination

Employment Protected Groups Cont,

- **Use or nonuse of lawful products off the employer's premises during nonworking hours**
- **Employees may not be harassed or retaliated against for filing a complaint at the workplace**

Where can Complaints be filed?

- ◆ DWD Division of Family Support Equal Opportunity Officer or Equal Rights Division
- ◆ DHFS Office of Affirmative Action and Civil Rights Compliance

Filing Complaints

- ◆ U.S. Department of Health and Human Services
- Office of Civil Rights - Region V, Chicago, IL
- ◆ U.S. Department of Justice - Civil Rights Division
- Washington, D.C.

Filing Complaints

- ◆ U.S. Department of Labor - Civil Rights Center, Washington D.C.
- ◆ For Food Stamp Program Complaints - Food and Consumer Services - Civil Rights Program - U.S. Department of Agriculture - Chicago, IL