

Visit [cdc.gov/coronavirus](https://www.cdc.gov/coronavirus) for the latest Coronavirus Disease (COVID-19) updates.

# HHS.gov

U.S. Department of Health & Human Services

**FOR IMMEDIATE RELEASE**

**April 16, 2020**

**Contact: HHS Press Office**

**202-690-6343**

**[media@hhs.gov](mailto:media@hhs.gov)**

## OCR Resolves Civil Rights Complaint Against Pennsylvania After it Revises its Pandemic Health Care Triage Policies to Protect Against Disability Discrimination

Today, the Office for Civil Rights (OCR) at the U.S Department of Health and Human Services (HHS) is announcing that it has resolved a complaint filed against the Pennsylvania Department of Health (PDH) after PDH revised its Interim Pennsylvania Crisis Standards of Care for Pandemic Guidelines (CSC Guidelines) to ensure that persons will not be discriminated against based on disability if providers in the state were to begin triaging life-saving health care services. This is the second enforcement action OCR has taken since OCR [issued a Bulletin](#) reminding covered entities of the continued applicability of civil rights laws during the COVID-19 public health emergency.

OCR enforces federal civil rights laws, including Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and Section 1557 of the Patient Protection and Affordable Care Act, among others.

On April 3, 2020, OCR received a complaint from a number of disability rights advocates, including Disability Rights Pennsylvania, alleging that Pennsylvania's CSC Guidelines were not in compliance with Section 504, Title II, and Section 1557. The complaint alleged that the CSC Guidelines unlawfully singled out and authorized the denial of treatment to individuals with disabilities when prioritizing access to critical care and ventilators. The CSC Guidelines listed specific impairments or disabilities that would lead to greater deprioritization. The complaint also alleged that the guidelines did not require an individualized assessment, but instead used "preexisting conditions that are disabilities" to determine a priority score.

OCR has reviewed the complaint and determined that, as a recipient of HHS funds, Pennsylvania is required to comply with the civil rights statutes listed above. OCR has been in communication with PDH, which has agreed to accept technical assistance from OCR and has revised its CSC Guidelines by:

- removing criteria that automatically deprioritized persons on the basis of particular disabilities,
- requiring individualized assessments based on the best available, relevant, and objective medical evidence to support triaging decisions, and
- ensuring that no one is denied care based on stereotypes, assessments of quality of life, or judgments about a person's "worth" based on the presence or absence of disabilities.

Based on Pennsylvania's responsive actions and the revisions it has made to its guidelines, OCR is closing its complaint investigation as satisfactorily resolved without a finding of liability. This result does not, however, preclude future OCR enforcement in cases of potential discriminatory implementation of Pennsylvania's policies by any covered health care provider.

"We commend Pennsylvania for working quickly with our office to end the singling out of persons with disabilities for deprioritization," said Roger Severino, Director of OCR. "Triage decisions must be based on objective and individualized evidence, not discriminatory assumptions about the prognoses of persons with disabilities." Severino added. "We must ensure that triage policies are free from discrimination both in their creation and their application, and we will remain vigilant in achieving that goal." Severino concluded.

###

### **Additional Resources**

On April 14, 2020, the Health Care Resilience Taskforce (composed of HHS, FEMA, and the Army Corps of Engineers) issued a document entitled "Crisis Standards of Care and Civil Rights Laws":

<https://files.asprtracie.hhs.gov/documents/crisis-standards-of-care-and-civil-rights-laws-covid-19.pdf> - PDF.

For more OCR announcements related to COVID-19, please visit: <https://www.hhs.gov/hipaa/for-professionals/special-topics/hipaa-covid19/index.html>

For more resources on civil rights and emergency preparedness during COVID-19, please visit:  
<https://www.hhs.gov/civil-rights/for-individuals/special-topics/emergency-preparedness/index.html>.

For general information regarding COVID-19, please visit: <https://www.coronavirus.gov/>.

To learn more about non-discrimination on the basis of sex, race, color, national origin, age, and disability; conscience and religious freedom; and health information privacy laws, and to file a complaint with OCR, please visit [www.hhs.gov/ocr](http://www.hhs.gov/ocr).

Follow OCR on Twitter at [@HHSOCR](https://twitter.com/HHSOCR).

###

---

Note: All HHS press releases, fact sheets and other news materials are available at <https://www.hhs.gov/news>.

Like [HHS on Facebook](#), follow HHS on Twitter [@HHSgov](#), and sign up for [HHS Email Updates](#).

Last revised: April 16, 2020

---