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Appendix A Form IG-CR-3

**300 OBJECTIVE**

This chapter is intended to set forth the procedures for compliance with certain federal and state laws regarding nondiscrimination by the Department of Health and Human Resources.

**310 DISCRIMINATION PROHIBITED**

**310.1** The West Virginia Department of Health and Human Resources shall not discriminate against any applicant or recipient of any program services for reasons of age, race, color, sex, disability, religion, or national origin. Disability is defined as a physical or mental impairment that substantially limits one or more of the major life activities of an individual (as defined by the Americans With Disabilities Act). A person is defined as disabled, for purposes of this policy as 1) someone having the aforementioned impairment, 2) a person who has a record of such an impairment, or 3) a person who is being regarded as having such an impairment.

Following is a list of applicable federal and state laws that apply to the Department:

- A. Title VI of Civil Rights Act of 1964;
- B. Title VII of the Civil Rights Act of 1964; as amended by the Equal Employment Opportunity Act of 1972;
- C. The Food Stamp Act;
- D. The Age Discrimination Act of 1967, as amended in 1974 and 1978;
- E. Pregnancy Discrimination Act of 1978;
- F. The Equal Pay Act of 1963;
- G. Title V, Section 504 of the Rehabilitation Act of 1973, as amended in 1974;

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- H. Sections 9-3-1 and 9-3-3 of the West Virginia Code;
  - I. The West Virginia Human Rights Act of 1967;
  - J. Americans with Disabilities Act of 1990;
  - K. Civil Rights Act of 1991;
  - L. Presidential Executive Order 11246 of 1980; and
  - M. The Age Discrimination in Employment Act of 1967.

**310.2** Intimidatory or Retaliatory Acts Prohibited – Neither the Department of Health and Human Resources nor any representative or agent of the Department nor any vendor, provider of services, or other person or entity providing public assistance benefits in cooperation with the Department shall intimidate, threaten, coerce or discriminate against any individual for the purposes of interfering with any rights or privilege because that individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning civil rights compliance. The identity of complainants shall be kept confidential except to the extent necessary to carry out the requirements of due process.

**310.3** The Department of Health and Human Resources, any employee acting as an agent of the Department, or any provider or services (through contract, license, or any other arrangement with the Department) shall not directly or indirectly, on the grounds of age, race, color, sex, disability, religion, or national origin:

- A. Deny any individual any type of assistance, service or other benefit(s), provided by or in cooperation with the Department of Health and Human Resources;
- B. Provide an individual any assistance, service or other benefit(s) which is different or is provided in a different manner from that provided to others;
- C. Subject an individual to segregation or separate treatment in any manner related to his or her receipt of assistance, services or other benefit(s); except in the case of persons with disabilities when such action is necessary to provide these individuals with assistance, services or other benefit(s) that are as effective as those provided to others;

- D. Restrict an individual in any way in the enjoyment of any advantage or any privilege enjoyed by others receiving assistance, services or their benefit(s);
- E. Treat individuals differently from others in determining whether they meet the eligibility requirements for assistance, services or other benefit(s);
- F. Deny an individual an opportunity to participate in any program through the provision of services or otherwise afford him or her an opportunity to do so which is different from that afforded others, including the opportunity to participate in any program as an employee, to the extent set forth in the section on employment practices (see Section 330); or
- G. Utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of age, race, color, sex, disability, religion, or national origin.

This list is not all inclusive of all discriminatory actions prohibited by the Department.

### **320 TRAINING**

Upon hiring, all Departmental employees shall be provided orientation on this policy as well as the applicable federal and state laws and regulations. Additionally, all employees working with public assistance programs shall receive, every two years, supplemental training on nondiscrimination laws, regulations and policies.

### **330 EMPLOYMENT PRACTICES**

The Department of Health and Human Resources, any employee of the Department acting as an agent of the Department, or any provider of services (through contract, license or any other arrangement with the Department) shall not directly or indirectly subject an individual to discrimination on the basis of age, race, color, sex, disability, religion, or national origin in its employment practices, including:

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- A. Recruitment, advertising, processing applications for employment;
  - B. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
  - C. Rates of pay or any other form of compensation and changes in compensation;  
or
  - D. Any other forms of remuneration, privileges and/or rights afforded to others,  
i.e., fringe benefits leave, training activities, etc.

### **340 ASSURANCE REQUIREMENTS**

Every application by the Department of Health and Human Resources for Federal matching funds shall contain or be accompanied by a statement of assurance that the pertinent civil rights requirements shall be met. This assurance will obligate the Department for the period during which federal financial assistance is received. These statements may include methods of administration which give reasonable assurance that any noncompliance shall be corrected. These statements shall dictate that the Department shall withhold payment to any vendor or provider of service or other benefit in participation with the Department programs until such noncompliance has been corrected.

All forms signed by vendors and/or providers of services in cooperation with the Department in its federally matched programs, which are used to secure payment from the Department, shall contain the assurance that the services or other benefits were provided without regard to the recipient's age, race, color, sex, disability, religion, or national origin.

The Department is responsible for seeking the cooperation of vendors and providers of services or other benefits in complying with all nondiscrimination laws and regulations. The Department shall provide assistance and guidance to such vendors and providers of services or other benefits to help each of them comply voluntarily with nondiscrimination laws and regulations.

### **350 PERIODIC COMPLIANCE REVIEWS**

- A. The Office of Inspector General shall make regular reviews of the practices of the Department, field offices, vendors and providers of services to determine whether they are in compliance with all pertinent nondiscrimination laws and regulations.

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Notice to Public – All Departmental offices shall prominently display posters that describe the nondiscrimination policies of the Department including, but not limited to posters that note the availability of free aids and other assistances to help customers with speech/hearing, visual, mobility, and mental health impairments.

B. Compliance Reports

Upon request of the U.S. Department of Health and Human Services, or the U.S. Department of Agriculture, the Department will provide all information necessary to determine that it and its vendors or service providers are in compliance with all pertinent nondiscrimination laws and regulations.

C. Access to Sources of Information

Each field office and each vendor or provider of services or other benefits participating in Departmental programs shall permit access by the duly appointed representative of the Office of Inspector General during normal business hours to books, records, accounts, and other sources of information and to its facilities as may be pertinent to ascertain compliance.

In the event a field office or vendor, provider of services or other benefits refuses to furnish this information, the Office of Inspector General shall so certify in its compliance report and shall indicate what efforts were made to obtain this information.

D. Information Available to Interested Persons

The Department shall make available to interested persons information regarding the provisions of this chapter and its applicability to the assistance, services, or other benefits of the Department.

### **370 COMPLAINTS OF DISCRIMINATION**

Any person expressing a desire to file a complaint shall be informed by the Department of his or her right to file such complaint with the Department, the appropriate federal agency or both. Any person desiring to file a complaint concerning the Food Stamp program shall also be informed that any complaint filed with the Department shall be forwarded immediately to the USDA as set forth in Section 380 A of this chapter.

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A. Complaints Filed with the West Virginia Department of Health and Human Resources

Any person who believes he or she has been subjected to discrimination based on age, race, color, sex, disability, religion, or national origin may personally or by representative file a written complaint in the local Department office or with the Civil Rights Compliance Director, Office of Inspector General. The complaint must be filed no later than 180 days from the date of the alleged discrimination unless an extension of the filing time is requested by the complainant and approved by the Department.

Such complaints should be on Form IG-CR-3 and must include the following information (see form at the end of this chapter):

1. Complainant's name, address, phone number or any other means of contacting the person alleging discrimination;
2. Reason for the complaint and type of discrimination (age, race, color, sex, disability, religion, or national origin);
3. Name and location of the office and/or person against who the charge is being filed;
4. A description of the incident or activity which led to the alleged discrimination charge; and
5. Date(s) of alleged discrimination act.

If an oral complaint is received, it must be reduced to writing by the complainant or an employee of the Department and submitted on Form IG-CR-3.

All discrimination complaints will be forwarded to the West Virginia Department of Health and Human Resources, Office of Inspector General, Civil Rights Compliance Director, for investigation and disposition.

B. Complaints Filed With the Federal Agency

Complaints may be filed with the federal agency charged with oversight of the benefit or program in question. Any complainant desiring to file a complaint with the federal agency must do so no later than 180 days from the date of the alleged discrimination. The time for filing may be extended by the federal agency.

Food Stamp Complaints – If an applicant or recipient of food stamp benefits desires to file a complaint, he or she may submit the complaint to: United States Department of Agriculture in Washington, DC.

Other Public Assistance Complaints – If an applicant or recipient of any other public assistance benefit desires to file a complaint, he or she may submit the complaint to: United States Department of Health and Human Services in Washington, DC.

### **380 PROCESSING AND INVESTIGATING CIVIL RIGHTS COMPLAINTS**

- A. Complaint alleging discrimination is filed, in writing using Form IG-CR-3, at the local office and is forwarded within five (5) working days to the Office of Inspector General.
- B. Office of Inspector General shall acknowledge to the complainant receipt of the complaint. Such acknowledgement shall be made within five (5) working days of receipt of the complaint.
- C. If warranted, complaint is investigated by the West Virginia Department of Health and Human Resources, Office of Inspector General, Division of Civil Rights Compliance.
- D. Investigation, remedy and disposition shall be completed within sixty (60) calendar days of receipt of the Office of Inspector General and is communicated to the complainant with a copy to the office where the complaint originated. For complaints concerning the Food Stamp program, the investigative report shall be forwarded to the Regional Director, Civil Rights, USDA Food and Consumer Services office.
- E. Complainant may have a right of appeal of the West Virginia Department of Health and Human Resources, Office of Inspector General's action. Notification of these appeal rights will be included in the disposition/notification letter to the complainant.
- F. The investigative file shall remain confidential except where otherwise permitted by law.



**West Virginia Department of Health and Human Resources  
Civil Rights Discrimination Complaint Form**

Date \_\_\_\_\_

COMPLAINANT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ SSN: \_\_\_\_\_

BASIS OF COMPLAINT: \_\_\_\_\_

*(Race, Color, Disability, Sex, Age, National Origin, Religion or Political Affiliation)*

NAME AND LOCATION OF AGENCY AGAINST WHOM COMPLAINT IS FILED:

\_\_\_\_\_

\_\_\_\_\_

DESCRIPTION OF ALLEGED DISCRIMINATION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Complainant (Signature if available): \_\_\_\_\_

ACCEPTED BY (Signature): \_\_\_\_\_

*Send this form within five (5) working days of the date the complaint is received to the West Virginia Department of Health and Human Resources, Office of Inspector General, State Capitol Complex, Building 6, Room B-817, Charleston, West Virginia 25305. For Food Stamp benefits send a copy to the Regional Civil Rights Director, Food and Nutrition Services, Mercer Corporate Park, 300 Corporate Boulevard, Robbinsville, New Jersey 08691-1598. For Social Service Programs, WV WORKS, Food Stamp benefits and Medicaid Programs, it is option to send a copy to the Secretary, Department of Health and Human Services, Washington, DC 20201.*

**INSTRUCTIONS ON BACK**

**IG-CR-3 (Rev. 5/06)**

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**INSTRUCTIONS FOR COMPLETING THE IG-CR-3**

1. Complaint may be made by letter, telephone or in person, and must be filed within 180 days of the incident.
2. Employees who receive civil rights complaints must complete the IG-CR-3.
3. If the complainant is available and agrees, the form should be signed. However, a signature is not required.
4. Send the original to the West Virginia Department of Health and Human Resources, Office of Inspector General, State Capitol Complex, Building 6, Room B-817, Charleston, West Virginia 25305.
5. A copy of the IG-CR-3 must be kept in the case file.
6. For Food Stamps Only complaints, send a copy of the form to the Regional Civil Rights Director, Food and Nutrition Services, USDA, Mercer Corporate Park, 300 Corporate Boulevard, Robbinsville, New Jersey 80691-1598.
7. A written response to the complaint will be sent to the complainant and the originating office.