

State Plan Under Title XIX of the Social Security Act  
State: Massachusetts

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**SECTION 7: GENERAL PROVISIONS**

Citation

7.1 Plan Amendments

42 CFR 430.12 (c)

The plan will be amended whenever necessary to reflect new or revised federal statutes or regulations or material change in state law, organization, policy or state agency operation.

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Citation

45 CFR Parts  
80 and 84

7.2 Nondiscrimination

In accordance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et. seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 70b), and the regulations at 45 CFR Parts 80 and 84, the Medicaid agency assures that no individual shall be subject to discrimination under this plan on the grounds of race, color, national origin, or handicap.

The Medicaid agency has methods of administering to assure that each program or activity for which it receives federal financial assistance will be operated in accordance with title VI regulations. These methods for title VI are described in **Attachment 7.2-A**.

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**RESERVED**

AS OF 07/06/16

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TN  
Supersedes:

Approval Date:

Effective Date:

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Section 7: General Provisions

**OFFICIAL**

Citation

7.4 State Governor's Review

42 CFR 430.12 (b)

The Medicaid agencies will provide opportunity for the Office of the Governor to review State Plan amendments, long-range program planning projections, and other periodic reports thereon, excluding periodic statistical, budget and fiscal reports. Any comments made will be transmitted to the Centers for Medicare and Medicaid Services with such documents.

- Not applicable. The Governor —
- Does not wish to review any plan material.
- Wishes to review only the plan materials specified in the enclosed document.

I hereby certify that I am authorized to submit this plan on behalf of the

Executive Office of Health and Human Services  
Designated Single State Agency



\_\_\_\_\_  
Marylou Sudders

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Title

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December 30, 1969

Appendix B

Mr. Neil Fallon  
Regional Representative  
Bureau of Family Services  
Department of Health, Education, and Welfare  
John F. Kennedy Federal Building  
Boston, Massachusetts 02203

Dear Mr. Fallon:

I hereby certify that the **statement of compliance pursuant to title VI of the Civil Rights Act of 1964**, Form CB-PS 5002 signed and dated March 3, 1965 and the statements of the implementing methods of administration with amendments as approved on July 23, 1965 and April 12, 1966 and found acceptable for incorporation in the medical assistance title XIX program as of October 17, 1966 are also applicable to the administration of the Medical Assistance Title XIX program resubmitted on December 30, 1969.

The information pamphlet regarding the Medical Assistance title XIX program to be given to each applicant for medical assistance will carry the Civil Rights legend regarding the right to appeal any alleged discrimination. No other additional methods will be needed to assure compliance in the organization of the Medical Assistance title XIX program.

Robert F. Ott  
\_\_\_\_\_  
Commissioner  
Massachusetts Department of  
Public Welfare

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TO: BOARDS OF PUBLIC WELFARE  
FROM: STATE DEPARTMENT OF PUBLIC WELFARE  
RE: **The Civil Rights Act**

In accordance with Title VI of the Civil Rights Act of 1964 and the Department of Health, Education, and Welfare Regulation set forth in Title 45, Part 80 of the Code of Federal Regulations, all Boards of Public Welfare must immediately put into effect the following procedures related to non-discrimination in regard to race, color, or national origin in the federally aided public assistance program.

Written Statement

Attached is a written statement entitled "The Civil Rights Act of 1964" which includes information about the purpose of the Act, the protections afforded individuals by the Act, the rights of individuals under the Act, and the complaint procedure to be followed in the event of discrimination and non-compliance. This shall be referred to hereinafter as the Statement. All employees of the local agency are to be given a copy of the Statement.

Assurance of Compliance by Boards of Public Welfare

Enclosed is a statement entitled "Statement to Assure Compliance with the Civil Rights Act" which must be signed by the local Director of Public Assistance acting as the duly authorized agent of the Board of Public Welfare and returned to the Department. A copy of this statement shall be retained by the local agency.

Dissemination of Information to Applicants, Recipients and Others

A copy of the Statement must be mailed to every recipient of OAA, MAA, AFDC and DA immediately.

Each applicant for any of the federally aided categories must also be provided with a copy of the Statement. Usually this will be given with the Information Pamphlet.

The Statement must also be made available to any other persons who request information on the Civil Rights Act.

Sufficient copies of the Statement are being sent to Boards of Public Welfare. Additional copies, as needed, are to be obtained from the District Office.

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Other Agencies, Institutions, Organizations and Individuals

The Department is directly contacting by mail all vendors who are currently doing business with Boards of Public Welfare; or who are likely to be doing such business, informing them of the provisions of the Civil Rights Act. The Statement together with a transmittal letter is being sent to all vendors and they are required to sign and return to the Department an Assurance of Compliance with the Act in order to be eligible for payment for any aid, care, goods or services rendered to public assistance recipients of OAA, MAA, AFDC, or DA.

As soon as possible the Department will compile an approved master list of vendors who have given assurance of compliance and this list shall be made available to Boards of Public Welfare. Until such a list is available all vendors doing business with Boards of Public Welfare shall be presumed to be in compliance with the Act.

Complaint Procedures

As explained in the Statement any person aggrieved because of discrimination on the ground of race, color, or national origin or his representative may file a written complaint with the Board of Public Welfare, State Department of Public Welfare or the U.S. Department of Health, Education, and Welfare.

In addition when a complaint is made to the Board of Public Welfare and the complainant is not satisfied that proper action has been taken to correct conditions which are believed to be discriminatory, he is advised in the Statement to bring his complaint to the attention of the State Department of Public Welfare. In such instances the State Department will be ready to hear, investigate and act upon the complaint.

The State Department will review, supervise and give final approval to local agency methods of handling complaints and their actions to modify any areas of discrimination.

All complaints must be made in writing and signed by the complainant or his representative. If not so stated in the written complaint, the Board of Public Welfare must determine the type of alleged discrimination, the time and place, and all other pertinent facts related to the complaint. In addition, the Board of Public Welfare must indicate to whom and where the complaint was sent, what investigation was undertaken, what determination was made and by whom, whether written advice of the decision was given to the complainant and the type of corrective action that was taken.

A record of all of the foregoing information on each complaint must be kept by the Board of Public Welfare and made available to State and Federal personnel for review. Also, Boards of Public Welfare must keep confidential the identity of the complainant except to the extent necessary to carry out complaint procedures, and all complaints must be finalized as soon as possible but no later than ninety (90) days from the date the written complaint was received.

Complaints to Boards of Public Welfare or the State Department of Public Welfare will be processed in accordance with the procedures described in Chapter VI, Section A, page 1 of the Policy Manual.

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Each of the Department's invoices contains the following certification which must be signed by the provider of service.

"I hereby certify that the above services were rendered personally by me or under my direction, that I have not previously billed the Department of Public Welfare for any of the above services, and that services were not provided in compliance with Title VI of the Civil Rights Act of 1964. I hereby agree to keep such records as are necessary to fully disclose the extent of the service provided under the State's Title XIX Plan and to furnish such information regarding any payments claimed above as the state agency may request. Signed under the pains and penalties of perjury".

In addition, the Department has recently initiated an extensive sanction mechanism. (see attached sheets). Failure to comply with the Civil Rights Act is thus a sanctionable offense subject to those mechanisms.

OFF 07/10/61

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TO: MASSACHUSETTS DEPARTMENT OF PUBLIC WELFARE

RE: STATEMENT TO ASSURE COMPLIANCE WITH THE CIVIL RIGHTS ACT

In accordance with Title VI of the Civil Rights Act of 1964 and the rules, regulations, policies, procedures and standards established by the Massachusetts Department of Public Welfare relative thereto, the Board of Public Welfare named below will provide all public assistance applicants, recipients, and other interested persons with information concerning the provisions of the Act and will cooperate in carrying out complaint procedures established for the protection of individuals thereunder. In addition, all records and reports deemed necessary to assure compliance with provisions of the Act and rules, regulations, policies, procedures and standards relative thereto shall be maintained and submitted as required.

Distinction on the ground of race, color, or national origin will not be permitted in relation to the use of physical facilities, intake and application procedures, caseload assignments, determination of eligibility, the amount and type of aid, care, services, and other benefits under the public assistance programs and use thereof.

These prohibited discriminatory practices will extend also to services purchased or otherwise obtained by the Board of Public Welfare named below from other agencies, organizations, institutions and individuals for beneficiaries of the public assistance program, and to treatment of clients in facilities in which services are provided, except in case of medical emergencies.

In the operation of any community work and training program or work-experience program under Title V of the Economic Opportunity Act, requirements regarding non-discrimination will include selection of participants for the program, assignment and reassignment to projects, promotions, demotions, rates and form of compensation, separate use of facilities and other treatment of participants.

All non-employees of the Board of Public Welfare who are participating in a public assistance program as trainees, observers, participants in institutes, consulting and members in advisory groups shall likewise be subject to these provisions.

_____ Signature	_____ Title	_____ Board of Public Welfare	_____ Date Signed
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Return to:

Civil Rights Unit, Mass. Dept. of Public Welfare, 600 Washington St., Boston, 02111

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Commonwealth of Massachusetts  
Department of Public Welfare

In **conformity with the provisions of Title VI of the Civil Rights Act of 1964**, you are hereby advised of the purpose of the Act and the rights and protection it affords as well as the procedures for filing any complaints in connection with discriminatory conditions or practices.

Purpose of the Civil Rights Act

Under the Civil Rights Act no person shall, on the ground of race, color, or national origin be excluded from participation in, be denied any aid, care, service, or other benefits of, or be otherwise subjected to discrimination in the programs of Old Age Assistance, Medical Assistance for the Aged, Disability Assistance, Aid to Families with Dependent Children, or the program administered by the Division of Child Guardianship, either directly by the agencies administering these programs or by those through whom they provide care or service through contracts or other arrangements.

Protection of Rights

In order to protect the rights of all applicants for or recipients of assistance under the above programs against discrimination on the ground of race, color, or national origin, the following discriminatory practices are prohibited:

1. denying any individual or family any aid, care, services, or other benefits under those programs
2. providing any aid, care, services, or other benefits to an individual which is different, or is provided in a different manner, from that provided to others under these programs;
3. subjecting an individual or family to segregate or separate treatment in any matter related to his receipt of any aid, care, services, or other benefits provided under these programs;

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4. restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, or other benefits provided under these programs;
5. treating an individual or family differently from others in determining whether he satisfies any eligibility or other requirement or condition which individuals or families must meet in order to receive any aid, care, services, or other benefits provided under these programs;
6. denying any individual or family an opportunity to participate in these programs through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under these programs (including the opportunity to participate in the programs as an employee where the primary objective of the program is to provide employment, including a program under which the employment is provided to reduce employment).

Method of Filing Complaints

Any individual aggrieved because of discrimination on the ground of race, color, or national origin by any of the above individuals, agencies, institutions or organizations such as hospitals, nursing homes, physicians, druggists, etc., may file a written complaint either through his representative or directly with the Board of Public Welfare, the State Department of Public Welfare, or the U.S. Department of Health, Education, and Welfare. If a complaint is made to a Board of Public Welfare and the complainant is not satisfied that proper action has been taken to correct the conditions which are believed to be discriminatory, he should forward his written complaint to the State Department of Public Welfare. In such instances the State Department of Public Welfare will be ready to hear, investigate, and act on the complaint.

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**Methods of Administration**

Chapter 118E, Section 1B of the General Laws requires that the Department establish administrative sanctions against providers for any violation of the rules, regulations, standards or laws governing the Medical Assistance program.

As used in this section, the following terms and phrases shall, unless the context clearly requires otherwise, have the following meanings:

1. Department — the Department of Public Welfare.
2. Commissioner — the Commissioner of Public Welfare.
3. Assistant Commissioner — the Assistant Commissioner for Medical Assistance.
4. Division — the Division of Medical Assistance.
5. Medical Assistance Program — the program operated by the Department to provide medical services and care to individuals and to make payment to providers for such medical services and care. This includes all medical services purchased by the Department.
6. Provider — any institution, agency, person, or group qualified under the laws of the Commonwealth to perform or provide the medical care or services enumerated in Chapter 118E, Section 6, and who seeks payment therefore from the Department under Massachusetts General Laws, Chapter 117 or Massachusetts General Laws, Chapter 118E.
7. Statutory Prerequisites — any license, certificate, or other requirement of Massachusetts law which a provider must have in full force and effect in order to qualify under the laws of the Commonwealth to perform or provide the medical care or services enumerated in Chapter 118E, including but not limited to certificates required by the Department of Public Safety, licenses required by the Departments of Public Health or Mental Health, and certificates issued by the applicable Board of Registration.

Violations

All providers are subject to the laws and rules and regulations governing the Medical Assistance program. Following are examples of the violations of these laws, rules, or regulations that may result in the imposition of sanction.

1. Charges in excess of the fee schedule.
2. Charges for services not rendered.
3. Overutilization of goods and services.
4. Any practice, act, or condition that violates the conditions of participation or the rules and regulations of the Department.
5. Any practice or act which constitutes false representation.
6. Services not meeting professional standards.
7. Violation of state or federal law.
8. Failure to have a statutory prerequisite.

If the provider wished to have the imposition of the sanction stayed pending appeal, he may request in his claim of appeal and shall give his reasons why the Commissioner should grant a stay. The Commissioner shall grant a stay for good cause shown and not otherwise. In no event shall a stay be granted unless the Commissioner is satisfied that the granting of a stay will not adversely affect the health or safety of any person receiving

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assistance under the Medical Assistance program.

Every appeal shall be conducted on the record, except that, where there is a genuine dispute as to material focus, the Commissioner shall afford the provider a hearing at which time he may contest each disputed finding of violation. Such hearing shall be before the Commissioner or his designee and shall be conducted in accordance with the rules of evidence

and procedure applicable to hearings held under General laws, Chapter 30A, Sections 10 and 11.

If the Division has information that a provider has committed a violation, the Assistant Commissioner may impose such sanction under this regulation as he considers appropriate. Before imposing a sanction, he shall mail written notice to the provider, which notice shall include:

1. A statement of the alleged violation.
2. A statement of the proposed sanction and effective date thereof, except, however, that, in the case of violation under 8 above, the sanction shall take effect immediately upon receipt of this notice.
3. A copy of this regulation.

Except as provided herein, no sanction shall be imposed until after the affected provider has had an opportunity to petition the Assistant Commissioner.

Any provider in receipt of a notice of proposed sanction may petition the Assistant Commissioner in writing not to impose such sanction. Such written petition shall be filed, within ten (10) days of the date of the notice, with the Assistant Commissioner at the offices of the Division in Boston.

Said written petition shall state the provider's objections to the statement of violation, if any, or to the proposed sanction or effective date thereof. The provider shall set forth with specificity any allegation of fact or argument of law which he wishes the Assistant Commissioner to take into consideration and shall attach to the written petition any documentary evidence he wishes considered.

A conference before the Assistant Commissioner or his designee shall be permitted within the discretion of the Assistant Commissioner. If the provider wishes to have a conference either in person or through counsel, he shall so request in his written petition. The Division shall notify the provider in writing of the action of the Assistant Commissioner upon his written petition not less than fifteen (15) days after the filing of such petition in accordance with this regulation. Whenever the Assistant Commissioner imposes a sanction, or whenever he continues a sanction already imposed for violation 8 above, the notice to the provider shall set forth findings of fact and rulings of law in support of such action and the basis for rejecting any allegation or argument presented in the provider's written petition.

#### Appeal

Any provider dissatisfied by the action of the Assistant Commissioner, in whole or in part may appeal to the Commissioner; provided, that he files a chain of appeal with the Commissioner not later than thirty (30) days after notification of such action. Such claim of appeal shall set forth with specificity each respect in which the provider is dissatisfied with the final action of the Assistant Commissioner. The claim of appeal may be accompanied by written argument.

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An appeal shall be concluded by a decision of the Commissioner, which shall include a determination of each material issue of fact or law in dispute. The Department shall promptly notify the affected provider in writing of the Commissioner's decision. Where a stay has been granted, it shall terminate upon notification of said decision.

Sanctions

Sanctions may include, but shall not be limited to, any one or more of the following:

1. An order to make restitution as a condition of continued participation in the Medical Assistance program.
2. Suspension from participation in the Medical Assistance program for a period of

Notice of Sanction

The Department shall, in an appropriate case, notify the appropriate professional society, Board of Registration, Federal or State agency, or other law enforcement agency of the Department's finding and decision.