



COUNTY OF MONTEREY HEALTH DEPARTMENT

Elsa Jimenez, Director of Health

Administration Clinic Services Public Health
 Behavioral Health Emergency Medical Services Public Administrator/Public Guardian
 Environmental Health/Animal Services

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| Policy Number | 450 |
| Policy Title | Persons with Disabilities |
| References | <p>California Code of Regulations (CCR), title 9, § 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services; §§1820.205, 1830.205, and 1830.210, §§ 1810.345, 1810.326, and 1810.405</p> <p>Welfare and Institutions (W&I) Code §§ 14680-14685.1; §§ 14700-14726</p> <p>Chapter 7, Part 3, Division 9, W&I Code, to the extent that these requirements are applicable to the services and functions set forth in the Contract</p> <p>CCR, title 22, §§ 50951 and 50953; §§ 51014.1 and 51014.2</p> <p>45 C.F.R. § 160 and § 164</p> <p>Title 42 United States Code, to the extent that these requirements are applicable;</p> <p>42 C.F.R. Part 438, Medicaid Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHPs), except for the provisions listed in paragraph B of the Contract</p> <p>42 C.F.R. § 438.236(b -d)</p> <p>42 C.F.R. § 455 to the extent that these requirements are applicable;</p> <p>Age Discrimination Act of 1975</p> <p>California Code of Regulations, Title 9, §§ 526, 527;</p> <p>California Fair Employment and Housing Act, (Govt. Code § 12900, et seq.), and the administrative regulations issued thereunder, Cal. Code of Regulations, Title 2, § 7285, et seq.;</p> <p>California Government Code, sections 11135-11139.5 (Title 2, Div. 3, Part 1, Chap. 1, Art. 9.5) and any applicable administrative rules and regulations issued under these sections;</p> <p>Federal Civil Rights Acts of 1964 and 1991 (see especially Title VI, 42 U.S.C. § 2000(d), et seq.), as amended, and all administrative rules and regulations issued thereunder (see especially 45 C.F.R. Parts 80);</p> <p>Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 793 and 794); all requirements imposed by the applicable HHS regulations (45 C.F.R. Part 84); and all guidelines and interpretations issued pursuant thereto;</p> <p>Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq., and 47 U.S.C. §§ 225 and 611, and any Federal regulations issued pursuant thereto (see 24 C.F.R. Chapter 1; 28 C.F.R. Parts 35 and 36; 29 C.F.R. Parts 1602, 1627, and 1630; and 36 C.F.R. Part 1191);</p> <p>Unruh Civil Rights Act, Cal. Civil Code § 51, et seq.</p> <p>California Fair Employment and Housing Commission implementing Government Code § 12990 as set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations</p> <p>California Government Code section 12900 (A-F) and California Code of Regulations, Title 2, Division 4, Chapter 5.</p> <p>Section 1557 of the Patient Protection and Affordable Care Act</p> |

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| | Medicaid Managed Care Final Rule Network Adequacy Standards (July 19, 2017), Department of Health Care Services (DHCS) Monterey County Behavioral Health Polices Monterey County Code Chapter 2.80 Monterey County Health Department Policies |
| Form | none |
| Effective | December 6, 2017 |

1 **Policy**

2 Monterey County Behavioral Health (MCBH) and its contractors must comply with requirements
3 and ensure access to services by individuals with disabilities. These statutory and regulatory
4 requirements assist in ensuring persons with disabilities (PWD) are provided access to prevention,
5 treatment, and recovery services.
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7 Services must be made available to all individuals with mobility, communication, or cognitive
8 impairments as required by state and federal laws and regulations. Prevention and treatment
9 providers must take action to identify all physical and programmatic barriers to services and
10 develop plans for removing or mitigating the identified barriers. Failure by service providers to
11 initiate actions to correct identified deficiencies may result in civil penalties, and possible
12 suspension, or revocation, of licensure, certification or contract cancellation, as applicable.
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14 American with Disabilities Act (ADA) prohibits discrimination on the basis of disability in places of
15 public accommodation with respect to the accessibility of their physical facilities and with respect to
16 their policies and practices (Moeller v. Taco Bell Corporation, supra, 220 F.R.D. at p. 606.) In the
17 ADA's specific prohibitions section, discrimination is defined to include "a failure to make
18 reasonable modifications in policies, practices, or procedures, when such modifications are
19 necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to
20 individuals with disabilities, unless the entity can demonstrate that making such modifications
21 would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or
22 accommodations." (42 U.S.C. § 12182(b)(2)(A)(ii).)
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24 **Procedure:**

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26 MCBH and its Contractors shall comply with all applicable Federal, State and local laws and
27 regulations which prohibit discrimination including, but not limited to, the regulation set forth in this
28 policy.
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30 **Non-discrimination**

31 MCBH and its Contractors shall not unlawfully discriminate against any person because of race,
32 religion, color, sex, national origin, ancestry, mental or physical handicap, medical condition,
33 marital status, age, or sexual orientation, either in employment practices or in the furnishing of
34 services to recipients. MCBH and its Contractors shall insure that the evaluation and treatment of
35 its employees and applicants for employment and all persons receiving and requesting services
36 are free of such discrimination. The provision of services primarily or exclusively to such target
37 population as may be designated in in Agreements shall not be deemed to be unlawful
38 discrimination. In addition, MCBH and its Contractor's facility access for the disabled shall comply
39 with § 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).
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42 **Discrimination defined**

43 The term “discrimination,” as used in this Agreement, is the same term that is used in Monterey
44 County Code, Chapter 2.80 (“Procedures for Investigation and Resolution of Discrimination
45 Complaints”); it means the illegal denial of equal employment opportunity, harassment (including
46 sexual harassment and violent harassment), disparate treatment, favoritism, subjection to unfair or
47 unequal working conditions, and/or discriminatory practice by any Monterey County official,
48 employee or agent, due to an individual’s race, color, ethnic group, sex, national origin, ancestry,
49 religious creed, sexual orientation, age, veteran’s status, cancer-related medical condition, physical
50 handicap (including AIDS) or disability. The term also includes any act of retaliation.

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52 **Application of Monterey County Code Chapter 2.80**

53 The provisions of Monterey County Code Chapter 2.80 apply to activities conducted pursuant to
54 Agreements. MCBH and its Contractor and its officers and employees, in their actions under
55 Agreement, are agents of the County within the meaning of Chapter 2.80 and are responsible for
56 ensuring that their workplace and the services that they provide are free from discrimination, as
57 required by Chapter 2.80. Complaints of discrimination made by recipients of services against
58 MCBH staff may be pursued by using the procedures established by or pursuant to Chapter 2.80.
59 Contractors shall establish and follow its own written procedures for prompt and fair investigation
60 and resolution of discrimination complaints made against its own employees and agents or
61 recipients of services pursuant to the MCBH Agreement. MCBH Contractors shall provide a copy of
62 such procedures to MCBH contract monitor and on demand by MCBH.

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64 **Compliance with Applicable Law**

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66 Statutory and regulatory requirements to ensure PWD are provided access to prevention,
67 treatment, and recovery services shall remain as requirements in all MCBH contracts. All sites who
68 apply to become Medi-Cal certified will be required to meet the statutory and regulatory
69 requirements prior to certification.

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71 Monterey County Health Department staff are required, every two (2) years, to complete training
72 that support the implementation of the statutory and regulatory requirements for working with
73 people with disabilities.