

**PARTNERSHIP HEALTHPLAN OF CALIFORNIA  
POLICY/ PROCEDURE**

<b>Policy/Procedure Number: CGA022</b>			<b>Lead Department: Administration</b>	
<b>Policy/Procedure Title: Member Discrimination Grievance Procedure</b>			<input checked="" type="checkbox"/> <b>External Policy</b> <input type="checkbox"/> <b>Internal Policy</b>	
<b>Original Date: 11/08/2016</b>		<b>Next Review Date: 10/12/2022</b> <b>Last Review Date: 10/13/2021</b>		
<b>Applies to:</b>	<input checked="" type="checkbox"/> <b>Medi-Cal</b>		<input checked="" type="checkbox"/> <b>Employees</b>	
<b>Reviewing Entities:</b>	<input checked="" type="checkbox"/> <b>IQI</b>	<input type="checkbox"/> <b>P &amp; T</b>	<input checked="" type="checkbox"/> <b>QUAC</b>	
	<input type="checkbox"/> <b>OPERATIONS</b>	<input type="checkbox"/> <b>EXECUTIVE</b>	<input type="checkbox"/> <b>COMPLIANCE</b>	<input checked="" type="checkbox"/> <b>DEPARTMENT</b>
<b>Approving Entities:</b>	<input type="checkbox"/> <b>BOARD</b>	<input type="checkbox"/> <b>COMPLIANCE</b>	<input type="checkbox"/> <b>FINANCE</b>	<input checked="" type="checkbox"/> <b>PAC</b>
	<input checked="" type="checkbox"/> <b>CEO</b> <input type="checkbox"/> <b>COO</b>	<input type="checkbox"/> <b>CREDENTIALING</b>	<input type="checkbox"/> <b>DEPT. DIRECTOR/OFFICER</b>	
<b>Approval Signature: Elizabeth Gibboney, CEO</b>			<b>Approval Date: 10/13/2021</b>	

**I. RELATED POLICIES:**

- A. CGA024 Medi-Cal Member Grievance System
- B. CMP10 Confidentiality
- C. CMP13 Permitted Use, Disclosure, and Minimum Use of Member Information
- D. CMP15 Amendment of Member’s Protected Health Information
- E. MC305 Distribution of Member Rights and Responsibilities
- F. MP316 Provider Request to Discharge Member & Assistance with Inappropriate Behavior
- G. MPPR200 PHC Provider Contracts
- H. MPQP1053 Peer Review Committee

**II. IMPACTED DEPTS:**

- A. All Departments

**III. DEFINITIONS:**

- A. Adverse Benefit Determination: is generally a benefit that has been denied, limited, or stopped. This also includes not paying for covered benefits. The Department of Healthcare Services (DHCS) formally defines it as encompassing all previously existing elements of “Action” under federal regulations with the addition of language that clarifies the inclusion of determination involving medical necessity, appropriateness, setting, covered benefits, and/or financial liability which includes the following:
  1. The denial or limited authorization of a requested service, including determinations based on the type or level of service, medical necessity, appropriateness, setting, or effectiveness of a covered benefit.
  2. The reduction, suspension, or termination of a previously authorized service.
  3. The denial, in whole or in part, of payment for a service.
  4. The failure to provide services in a timely manner.
  5. The failure to act within the required timeframes for standard resolution of Grievances and Appeals.
  6. For a resident of a rural area, the denial of the Member’s request to obtain services outside the network.
  7. The denial of a Member’s request to dispute financial liability.

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- B. Civil Rights Coordinator: is a specialized Grievance Coordinator trained in Civil Rights Laws. This person is responsible for handling end-to-end investigations of all Member Discrimination Grievances. This person answers questions related to State and Federal Civil Rights Laws, including disability related questions, for Partnership HealthPlan of California (PHC) staff and Members.
- C. Civil Rights Laws: includes section 1557 of the Patient Protection and Affordable Care Act (ACA). Section 1557 incorporates and enforces other Federal civil rights laws such as Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. California State laws that protect Members from Discrimination include California Government Code Section 12926, California Government Code Section 11135, and California Penal Code 422.56.
- D. Complaint: is the same as a Grievance.
- E. Discrimination: is when a person is treated unfairly, differently, or unequally from others, because of the reasons described in the Civil Rights Laws definition.
- F. Grievance: is generally a Complaint about the experience or services received while using your PHC Medi- Cal plan. DHCS formally defines it as an expression of dissatisfaction about any matter that is not an Adverse Benefit Determination.
- G. Member: is a person who is eligible for Medi-Cal and receives health care benefits through PHC.
- H. Provider: is a person, group, or facility that is licensed, accredited, or certified to treat or offer health care services to PHC Members. Some examples are a physician, a hospital, lab, ambulance, skilled nursing facility, or pharmacy.

**IV. ATTACHMENTS:**

- A. N/A

**V. PURPOSE:**

To ensure that all Members are aware of their Discrimination rights, how to report a violation, and the investigation process.

**VI. POLICY / PROCEDURE:**

- A. How PHC Communicates Members' Rights
  - 1. PHC includes our notice of non-discrimination in the PHC Member Handbook. The PHC Member Handbook is available on our website 24 hours a day 7 days a week at [www.partnershiphp.org](http://www.partnershiphp.org). It is also available by calling PHC Member Services department at 1-800-863-4155 (TTY: (800) 735-2929 or 711).
  - 2. PHC expects our Members to be treated fairly and to treat their providers fairly. Your rights and responsibilities are outlined in the PHC Member Handbook. It is also explained in PHC Policy MC305 titled Distribution of Member Rights and Responsibilities.
- B. How PHC Practices Non-Discrimination
  - 1. PHC follows all State and Federal Civil Rights Laws. PHC does not discriminate, exclude people, or treat them differently because of any reasons below.
    - a. *Disability* – a person with a physical or mental problem that limits major life activities. Some examples are seeing, hearing, and sleeping.
    - b. *Basis of Sex* – a person's gender identity and sex stereotypes. It also includes a person who is or has a medical condition related to pregnancy, false pregnancy, abortion, or childbirth.
    - c. *Gender* – a person who is male, female, neither, or both.

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- d. *Gender Identity* – a person’s belief about their gender. This could be different from a person’s gender assigned at birth.
  - e. *Gender Expression* – a person’s appearance and behavior, whether or not it is commonly accepted according to the gender they were born with.
  - f. *Sex Stereotypes* – a person who represents or communicates their masculinity or femininity in uncommon ways.
  - g. *Sexual Orientation* – a person who is heterosexual, homosexual, or bisexual.
  - h. *Nationality* – where a person is born, their citizenship, cultural, or language characteristics.
  - i. *Race or Ethnicity* – a person’s ancestry, color, or ethnic background.
  - j. *Religion* – a person’s religious belief, practice, or things observed.
  - k. *Language Assistance Services* – interpretation services that help people with a Limited English Proficiency communicate in English.
  - l. *Limited English Proficiency* – a person whose first language is not English and has trouble reading, writing, speaking, or understanding English.
  - m. *Group or Character Association* – a person who identifies with or is associated with a specific group or club. The person or group has characteristics protected under Disability, Gender, Nationality, Race, Ethnicity, Religion, or Sexual Orientation.
  - n. *Auxiliary Aids & Services* – services used by a person who is deaf, blind, hard of hearing or seeing to help them communicate. These services include sign language, text telephones, or other such devices to get information. This also includes any effective method to improve reading such as large print.
  - o. *Age* – a person because of how old they are.
  - p. *Genetic Information* – a person or family members requesting genetic tests, receiving genetic tests, or joining a clinical research about genetic tests. This also includes symptoms of a disease or disorder in a family member.
2. PHC investigates all allegation(s) of Discrimination because Members should not have unlawful barriers to healthcare while using their PHC Medi-Cal benefits.
  3. PHC Members have the right to receive healthcare services through PHC Medi-Cal plan free from Discrimination.
    - a. A Member should not be denied any covered services or availability of a service because of a reason defined in Section VI.B.1, except where medically indicated.
    - b. A Member should not be provided any covered service differently from another Member because of a reason defined in Section VI.B.1, except where medically indicated.
    - c. A Member should not be separated from others or subjected to a different treatment in order to receive any covered service because of a reason defined in Section VI.B.1., except where medically indicated.
    - d. A Member should not be restricted in receiving any covered service because of a reason defined in Section VI.B.1, except where medically indicated.
    - e. A Member should not be treated differently from others to determine whether s/he satisfies any requirement or condition to be provided any covered service because of a reason defined in Section VI.B.1, except where medically indicated.
    - f. A Member should not be assigned a time or place to receive covered services because they have characteristics associated with any reason defined in Section VI.B.1., except where medically indicated.
    - g. A Member should not be discriminated against because of their health status during enrollment, reenrollment, disenrollment, or termination

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4. It is against the law for PHC to retaliate against any person who files a Grievance or participates in the investigation of a Grievance.

C. What a Member Should Do If Discrimination Occurs

1. As a Member, you will file a Grievance if you believe PHC or a provider discriminated against you.
2. As a Member, you will file a Grievance if you believe PHC or a provider did not treat you fairly.
3. As a Member, you will file a Grievance by phone, writing, online, or in person.
  - a. *Phone* – Call PHC Member Services at 1-800-863-4155. TTY/TDD 1-800-735-2929 or 711.
  - b. *Writing* – Write and mail a letter to:  
Partnership HealthPlan of California  
ATTN: Grievance & Appeals Department  
4665 Business Center Drive  
Fairfield, CA 94534
  - c. *Online* – Visit Grievance & Appeals section under Members at [www.partnershiphp.org](http://www.partnershiphp.org)
  - d. *In person* – Visit your doctor’s office or a PHC local office. Say you want to file a Grievance.
4. Your Grievance must describe how you were discriminated against, the result of the Discrimination, and how you want it fixed.
5. As a Member, you have the right to submit any evidence.
6. As a Member, you will support the Grievance process by sharing your experience with the Civil Rights Grievance Coordinator. You will be available for any questions.
7. As a Member, you have the right to pursue other legal or administration remedies, while filing a Discrimination Grievance with PHC. This includes filing a Grievance with the U.S. Department of Health and Human Services, Office for Civil Rights.

Office for Civil Rights  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

1-800-368-1019  
TDD Toll-Free: 1-800-537-7697  
Email: [1557@hhs.gov](mailto:1557@hhs.gov)  
Website: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)

8. Any person filing a Discrimination Grievance on behalf of a Member
  - a. Any person who believes a PHC Member has been subjected to Discrimination may file a Grievance. Per PHC Policy CMP15 titled Amendment of Member’s Protected Health Information, PHC will ask the Member for their authorization in order to begin the investigation.
  - b. PHC has the right to open a Grievance on the Member’s behalf if we suspect Discrimination has occurred.
  - c. A Member has the right to withdraw their Grievance case.
  - d. If the case is withdrawn, PHC reserves the right to continue the investigation. This may occur if PHC decides the allegation(s) is dangerous, grossly inappropriate, threatening, or unlawful.

D. Understanding the Investigation Process

1. Free assistance with communication

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- a. PHC offers free aids and services to a person with a disability to help them communicate better so s/he can participate in the Grievance process.
- b. PHC offers free language services to a person whose primary language is not English so s/he can participate in the Grievance process.
2. Safeguarding your information
  - a. PHC will monitor confidentiality of all files and records. Our practice is defined in PHC Policy CMP10 titled Confidentiality.
  - b. PHC will share information only with those who have a need to know during the investigation process. Our practice follows the requirements identified in PHC Policy CMP13 titled Permitted Use, Disclosure, and Minimum Use of Member Information.
3. The investigation process for alleged Discrimination
  - a. Discrimination Grievances follow the investigation process defined in PHC Policy CGA024 titled Medi-Cal Member Grievance System, with a few additional steps.
  - b. All Discrimination Grievances are assigned a Civil Rights Coordinator who oversees the investigation of the case.
  - c. The Civil Rights Coordinator will assess the allegation(s) to determine if the Member's Rights and Responsibilities were violated, as defined in the PHC Member Handbook. If the investigation finds the Member was unfairly treated, the offending party will be educated on PHC Member's Rights and Responsibilities. Furthermore, PHC will request the supervisor of the employee be notified of the grievance and take appropriate corrective action, in accordance with that organization's human resources policy.
  - d. The Civil Rights Coordinator will further assess the allegation(s) to determine if it falls under any category identified in Section VI.B.1. If so, the case will be referred to PHC's Health Education, Cultural & Linguistic (HEC&L) unit to review the case evidence and determine if unlawful Discrimination occurred. To comply with All Plan Letter (APL) 21-004, the Civil Rights Coordinator will forward the following information to DHCS within 10 calendar days of mailing the Notice of Resolution Letter:
    - i The Civil Rights Coordinator's contact information
    - ii The contact information of the Member
    - iii The problem as stated by the member or authorized representative
    - iv The accused party's response to the Grievance and their contact information
    - v All correspondence to and from the member, including the final Notice of Resolution Letter  
vi Copies of any corrective action plan(s) taken in response to the Grievance
  - e. The Member will receive a Notice of Resolution Letter describing the results of the investigation. It will include additional information about their rights to pursue further administrative or legal solutions. In the event the Member is dissatisfied with PHC's outcome of the Discrimination Grievance, the Member can ask for a Second Level Grievance. A different Civil Rights Coordinator, who was not involved in the original decision, will reinvestigate the case. A new decision will be made and communicated to the Member in a second Notice of Resolution Letter.
  - f. Allegations of Discrimination against any PHC provider are subject to review by PHC's Peer Review Committee. Information about this committee can be found in PHC Policy MPQP1053 titled Peer Review Committee.

## VII. REFERENCES:

- A. 45 CFR 92 et. seq.,(Section 1557 of ACA);
- B. California Government Code Section 12926 (sex, gender expression);

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- C. California Government Code Section 11135 (sex, race, color, disability, national origin, age);
- D. California Penal Code Section 422.56;
- E. 42 U.S.C. § 2000d et seq., Title VI of the Civil Rights Act of 1964 (race, color, national origin);
- F. 20 U.S.C. § 1681 et seq., Title IX of the Education Amendments of 1972 (sex);
- G. 42 U.S.C. § 6101 et seq., the Age Discrimination Act of 1975 (age);
- H. 29 U.S.C. § 794, Section 504 of the Rehabilitation Act of 1973 (disability);
- I. DHCS Contract 08-85215, Amendment 19, Attachment 2

**VIII. DISTRIBUTION:**

- A. [www.partnershiphp.org](http://www.partnershiphp.org)
- B. PHC Provider Manual
- C. PHC Department Directors

**IX. POSITION RESPONSIBLE FOR IMPLEMENTING PROCEDURE:**

Director, Grievance & Appeals

**X. REVISION DATES:**

03/14/18; 06/12/19; 10/14/20; 10/13/21

**PREVIOUSLY APPLIED TO:** N/A