



Access to Health Care for People with Mental Health Disabilities

This fact sheet focuses on the rights of people with mental health disabilities when accessing health care, both from medical and mental health care providers. This includes rights to access facilities, services, and information offered by doctors' offices, other health care providers and insurance plans.

For many Californians, health care services are provided either by a public entity, such as a county, or through a managed care system, which is a network of providers managed by an umbrella corporation or agency. All health care providers are prohibited from discriminating against people with all types of disabilities, and must provide access to their services and facilities in a variety of ways.

1. What laws protect my right to access health care as a person with a mental health disability?

The main federal laws that protect your rights are the Americans with Disabilities Act ("the ADA") and Section 504 of the Rehabilitation Act ("Section 504"). These laws apply equally to people with mental health, physical, cognitive and communication disabilities. Privately owned and operated hospitals and medical offices are covered under Title III of the ADA because they are "public accommodations." Physical and mental health care facilities run by government bodies, such as county or other public hospitals, clinics and medical offices, are covered under Title II of the ADA because they are public entities. Section 504 covers health care providers that receive federal financial assistance, such as

Medicare or Medi-Cal. This fact sheet will focus on these federal laws, but similar protections are available under state law as well.

2. What kinds of protections do these laws provide?

Titles II and III of the ADA, and Section 504, all require that health care providers give individuals with mental and physical disabilities:

1. Full and equal access to their health care services and facilities;
2. Reasonable modifications to policies, practices, and procedures that are necessary to make health care services available to people with disabilities, but do not result in an undue financial burden on the provider or a fundamental alteration of the provider's services; and
3. Effective communication, including auxiliary aids and services, such as the provision of sign language interpreters or written materials in alternative formats.

State and federal regulations provide detailed requirements for physical accessibility to medical offices and services for people with mobility impairments. However, this fact sheet focuses on those legal protections that are particularly important to people with mental health disabilities.

3. What are some examples of disability-related discrimination by health care providers that might violate the ADA?

Examples of potentially discriminatory conduct include:

1. Requiring you to bring someone with you to a medical appointment because of your mental health disability, if you would prefer to go alone;
2. Refusing to provide you with services because of your disability, unless your treatment relates to your disability and is outside the area of that provider's expertise; or
3. Making disrespectful or harassing comments about your disability.

4. What kinds of accommodations can I request of my health care provider?

As discussed above, health care providers must make reasonable modifications in policies, practices and procedures, when necessary to avoid discrimination on the basis of disability. This means that entities must make changes to the way

that they do business in order to accommodate people with disabilities, and is sometimes known as providing “reasonable accommodations.” Health care providers are not required to provide reasonable accommodations if they would result in an undue financial or administrative burden, or would fundamentally alter the nature of their service.

Examples of reasonable accommodations that a health care provider might provide to a person with a mental health disability include:

1. Allowing you to bring a support person with you to a medical examination or consultation if you need this because of your disability;
2. Scheduling an appointment at a specific time if your disability makes it difficult to wait in a crowded waiting room; or
3. Taking extra time for a consultation, if your disability affects the amount of time it takes you to process information and ask questions.

5. Can I bring my service or emotional support animal with me to a medical appointment?

The ADA requires that public and private health care providers allow a person with a disability to be accompanied to a medical appointment or facility by a service animal. However, it does not provide the same protection to emotional support animals. For more information about psychiatric service and emotional support animals, see Disability Rights California’s publication, *Psychiatric Service and Emotional Support Animals* #5483.01.

6. Do I have a right to health care services that are provided in a language that I understand, and in a culturally appropriate manner?

Yes. If your health care provider does not speak your language, the provider must take reasonable steps to arrange for an interpreter or translator. Health care providers should also be responsive to diverse cultural health beliefs and practices, and other communication needs.

For more information, see Disability Rights California’s fact sheet, *Interpreters and Translators in Mental Health Care Settings*.

7. What can I do if I think that my health care provider may be discriminating against me due to my disability?

Here are some steps that you can take if you think that your health care provider may be discriminating against you because of your disability, including refusing to provide you with reasonable accommodations:

1. Start by talking to the provider directly. Some hospitals and other health care providers have ombudsman's offices that might be able to help.
2. Public health care providers and private managed care plans should have an ADA or 504 coordinator who is responsible for ensuring compliance with the law and processing consumers' complaints. If you are not able to work things out with the provider, you can call or file a complaint with the ADA coordinator for the entity. Contact information and instructions for how to file a complaint should be posted on the provider's website, contained in the provider's written materials, or available by calling member services.
3. If you are unable to resolve your problem with the public or private provider or the ADA or 504 compliance officer for the provider, you can file a complaint to any number of state and federal agencies that are responsible for enforcing the ADA and section 504. These are:

U.S. Department of Health and Human Services
Office of Civil Rights (OCR)
90 - 7th Street, Suite 4-100
San Francisco, CA 94103
Telephone: (415) 437-8310
TDD: (415) 437-8311
Fax: (415) 437-8329
www.hhs.gov/ocr/civilrights/complaints

California Department of Social Services (CDSS)
Civil Rights Bureau (CRB)
744 P Street, M.S. 15-70
Sacramento, CA 95814
Or call collect at (916) 654-2107
E-mail: crb@dss.ca.gov
www.dss.cahwnet.gov/cdssweb/PG49.htm

United States Department of Justice (DOJ)
950 Pennsylvania Avenue, NW

Washington, DC 20530
Disability Rights Section: (202) 514-4713
E-mail: www.askDOJ@usdoj.gov

You only have 180 days from the date of discrimination to file a complaint with the appropriate state or federal agency. You may also be able to file a lawsuit against the provider; however, you should consult an attorney for more information.

In addition, the California Department of Managed Care is responsible for regulating managed care plans. If you have a complaint about services or care, you can file a complaint, ask for an Independent Medical Review (IMR) or file for a fair hearing, (if about Medi-Cal). For more information about your rights and filing complaints, visit:

California Department of Managed Care
<http://www.dmhca.ca.gov/>.

8. How can I learn more?

If you have questions about your rights or obligations under state and federal laws that protect people with disabilities from discrimination, contact Disability Rights California:

Tel: (800) 776-5746
TTY: (800) 649-0154
www.disabilityrightsca.org

We want to hear from you! After reading this fact sheet please take this short survey and give us your feedback.

English version: <http://fs12.formsite.com/disabilityrightsca/form54/index.html>

Spanish version: <http://fs12.formsite.com/disabilityrightsca/form55/index.html>

The California Mental Health Services Authority (CalMHSA) is an organization of county governments working to improve mental health outcomes for individuals, families and communities. Prevention and Early Intervention programs implemented by CalMHSA are funded by counties through the voter-approved Mental Health Services Act (Prop 63). Prop. 63 provides the funding and framework needed to expand mental health services to previously underserved populations and all of California's diverse communities.

