

ElderONE Non-Discrimination and ADA Grievance Process

Policy Statement

In accordance with Section 1557 of the Affordable Care Act and Title VI of the Civil Rights Act, and Section 504 of the Rehabilitation Act, the Age Discrimination Act, Title IX as incorporated by Section 1557, the Americans with Disabilities Act, and implementing regulations at 45 C.F.R. Part 92, it is the policy of ElderONE not to discriminate in its health programs, services, activities, transportation services, or facilities on the basis of race, creed, color, national origin (including limited English Proficiency and primary language), sex (including gender identity or status of being transgender), sexual orientation, age, disability, type of illness or condition, or source of payment.

ElderONE has adopted an internal grievance procedure providing for prompt and equitable resolution of grievances alleging any action prohibited by Section 1557 of the Affordable Care Act (42 U.S.C. § 18116) and its implementing regulations at 45 C.F.R. pt. 92, issued by the U.S. Department of Health and Human Services. Section 1557 prohibits discrimination on the basis of race, color, national origin (including limited English Proficiency and primary language), sex, age, or disability in certain health programs and activities.

Any participant, prospective participant, family member, caregiver, representative, or member of the public who believes someone has been subjected to discrimination, or denied access to ElderONE services, programs, activities, transportation services, or facilities, on the basis of race, creed, color, national origin (including limited English Proficiency and primary language), sex (including gender identity or status of being transgender), sexual orientation, age, disability, type of illness, or condition or source of payment may file a grievance under this procedure. It is against the law for ElderONE to retaliate against anyone who opposes discrimination, files a grievance, or participates in the investigation of a grievance.

Definitions and Abbreviations

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment, as defined and construed in the Rehabilitation Act, 29 U.S.C. 705(9)(B) which incorporates the definition of “disability” in the ADA, 42 U.S.C. 12102, as amended and adopted at 28 CFR 35.108.

Procedure

Section 1557/ADA Coordinator

ElderONE has designated the following individual to coordinate compliance with Section 1557 and 45 C.F.R. Part 92:

Section 1557/ADA Coordinator: Brittany Boyd, Quality Supervisor
Mailing Address: ElderONE, 330 Monroe Avenue, Rochester, New York 14607
Phone: (585)922-2800
TTY/TDD or Relay Information: (800)662-1220
Email: ElderONESection1557Coordinator@RochesterRegional.org

The Section 1557/ADA Coordinator, or designee under the Coordinator's oversight, is responsible for receiving, reviewing, and processing discrimination grievances; coordinating grievance recordkeeping; coordinating implementation of language access procedures; coordinating effective communication procedures; coordinating reasonable modification procedures; and coordinating training of relevant team members.

Internal Filing Options:

1. Grievances related to claims of discrimination will be submitted to the ElderONE Quality Department for processing by the Section 1557/ADA Coordinator, within sixty (60) days of the date the person filing the grievance becomes aware of the alleged discriminatory action to facilitate prompt investigation and resolution. ElderONE may accept grievances submitted after 60 days when reasonable cause exists or when necessary to ensure meaningful access to the grievance process.
2. No person shall be subjected to intimidation, threats, coercion, retaliation, or discrimination for filing a grievance, requesting an accommodation, providing information, or participating in an investigation under this process.
3. A complaint may be submitted orally or in writing.
 - a. When submitted in writing, the complaint should contain the name and address of the person filing it.
 - b. Individuals who need assistance with submitting a grievance due to disability, language barrier, literacy limitation, or other access need will be provided appropriate assistance free of charge.
 - c. The complaint should be as specific as possible and include the date and location of the alleged incident; the service, program, activity, transportation service, or facility involved; and names of involved persons or witnesses, if known; as well as the nature of the problem or action alleged to be discriminatory and the remedy or relief sought.
4. The Section 1557/ADA Coordinator, or designee, shall conduct an investigation of the complaint. This investigation may be informal, but it will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint.
5. All records related to grievances of discrimination will be maintained by the Section 1557/ADA Coordinator or designee. ElderONE will retain records related to grievances

filed for no less than three (3) calendar years from the date ElderONE resolves the grievance. The records will include the grievance; the name and contact information of the complainant (if provided by complainant); the alleged discriminatory action and alleged bias (or bases) of discrimination; the date the grievance was filed; the date the grievance was resolved; grievance resolution; and any other pertinent information.

6. To the extent possible, and in accordance with applicable law, confidentiality of files, identity, and records relating to grievances will be preserved, and will be shared only with those who have a need to know to the extent necessary to conduct and resolve the investigation.
7. The complainant will be issued a written decision on the grievance, based on a preponderance of the evidence, no later than 30 days after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies. The written notice will include the right to an appeal and a copy of ElderONE's Grievance and Appeals Fact Sheet.
8. Participants, prospective participants, family members, caregivers, representatives, or members of the public filing grievances of discrimination have the right to an appeal of the nondiscrimination grievance resolution.
9. Internal appeals must be received within 15 days of receiving ElderONE's grievance resolution. The Section 1557/ADA Coordinator, or designee, will facilitate a review of the appeal and issue a decision no later than 30 days after its filing.

External Filing Options:

1. Participation in ElderONE's internal grievance process does not preclude a participant, prospective participant, family member, caregiver, representative, or member of the public from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, sex, age or disability in court or with the U.S. Department of Health and Human Services, Office for Civil Rights.
2. Participants, prospective participants, family members, caregivers, representatives, or members of the public can file a complaint of discrimination electronically through:
 - a. The Office for Civil Rights Complaint Portal, which is available at:
<https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>
 - b. By mail or phone at:
U.S. Department of Health and Human Services Office for Civil Rights
200 Independence Avenue SW
Room 509F, HHH Building

Washington, D.C. 20201 Phone: 1-800-368-1019
TDD: 1-800-537-7697

- c. Complaint forms are available at: <https://www.hhs.gov/civil-rights/filing-a-complaint/complaint-process/index.html>
 - d. Such complaints must be filed within 180 days of the date of the alleged discrimination. ElderONE will make appropriate arrangements to ensure that individuals with disabilities and individuals with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed to participate in this grievance process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing taped cassettes of material for individuals with low vision, or assuring a barrier-free location for the proceedings. The ElderONE Section 1557/ADA Coordinator, or designee under the Coordinator's oversight, will be responsible for coordinating such arrangements. Members of the ElderONE interdisciplinary team will support such arrangements as appropriate.
3. Participants may file external ADA complaints regarding accessibility or disability discrimination related to ElderONE transportation services with the New York State Department of Transportation or the Federal Transit Administration:

New York State Department of Transportation
Office of Diversity and Opportunity
50 Wolf Road, 6th Floor
Albany, NY 12232
(518) 457-1129 Fax (518) 549-1273
OCR-TitleVI@dot.ny.gov

Federal Transit Administration Office of Civil Rights
Attention: Title VI Program Coordinator
East Building, 5th Floor – TCR
1200 New Jersey Avenue SE
Washington, DC, 20590

Monitoring and Tracking of Grievances Related to Non-Discrimination:

- 1. The Section 1557/ADA Coordinator, or designee, will monitor and track these grievances in the same manner as all other grievances filed through the Quality Department.