

# Types of Discrimination and Discrimination Remedies

*\*Note: During this unprecedented time, many courts are closed and state and federal agencies are working with limited resources. Therefore, you must document every aspect of your healthcare treatment. If any healthcare (for example, a hospital admission) is verbally denied, ask for written confirmation of a denial. Keep a record of all medical care, with the goal of preserving your rights to file a complaint at a later date, if not immediately.*



Maryland Center for Developmental Disabilities  
at Kennedy Krieger Institute



## **1. Discrimination on the basis of disability: File a complaint with the Office of Civil Rights (OCR) online (or in writing).**

Section 504 of the Rehabilitation Act of 1973 is a federal law that protects individuals from discrimination based on disability. Section 504 applies to entities that receive financial assistance from any federal department or agency. Under this law, individuals with disabilities may not be excluded from or denied the opportunity to receive benefits and services from certain programs. These entities include **many hospitals, nursing homes, mental health centers and human service programs.**

In a **March 28, 2020** press release, OCR announced its issuance of a **bulletin** on civil rights laws and HIPAA flexibilities that apply during the COVID-19 emergency.



## **2. Workplace discrimination: File a complaint with the Equal Employment Opportunity Commission (EEOC).**

Workplace discrimination occurs when an employer or other entity covered by the Americans with Disabilities Act (ADA) treats a qualified individual with a disability who is an employee or applicant unfavorably because the individual has a disability. Disability discrimination also occurs when a covered employer or other entity treats an applicant or employee less favorably because the applicant has a history of a disability.



## **3. Discrimination on the basis of disability: File an ADA complaint with the Civil Rights Division of the U.S. Department of Justice (DOJ).**

You may file an ADA complaint alleging disability discrimination against a state or local government or a public accommodation (e.g., a private business such as a restaurant, doctor's office, retail store, hotel, etc.). (You may also file a complaint of discrimination with your state or file suit in U.S. district court. See below.)



## **4. Discrimination in employment, housing, public accommodations or state contracts: File a complaint with your State Office of Attorney General.**

If you believe that you have been the victim of discrimination in **employment, housing, public accommodations or state contracts** because of your **physical or mental disability, genetic information** (employment only), and/or **familial status** (housing only), you may also file a complaint of discrimination with your state. (The time from the incident to file a complaint differs by state.)



## **5. Contact your state Protection and Advocacy System (P&A).**

Protection and Advocacy Systems (P&As) work at the state level to protect individuals with disabilities by empowering them and advocating on their behalf. (Find your P&A agency at the bottom of this [link](#).)



## **6. Hire an attorney.**

The Disability Rights Bar Association (DRBA) is an online network of attorneys specializing in disability civil rights law. You may always hire a civil rights attorney and file a complaint in State Court (or U.S. District Court—depending on the complaint; time limits apply). \*See note at the beginning.



## **7. Healthcare facility grievance process: File a complaint with the Centers for Medicare & Medicaid Services (CMS).**

Healthcare facilities are required to have grievance processes under the patient's rights section of the Conditions of Participation for Medicare and Medicaid. These rights include participation in one's own treatment, the right to privacy, the right to be free from restraint and seclusion, the right to safety, etc.



## **8. Discriminatory denial of care in the emergency room (ER) and a potential violation of the Emergency Medical Treatment & Labor Act (EMTALA).**

If there is discriminatory denial of care in the ER, there may be an EMTALA violation. Both CMS and the Office of Inspector General (OIG) have administrative enforcement powers with regard to EMTALA violations. **File a complaint online through the OIG hotline.** To contact **CMS**, select your state, then select "Complaints about my care or services."