U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES

# OFFICE FOR CIVIL RIGHTS

**Department of Health & Human Services**
Office of the Secretary

**THOMAS E. PEREZ**
Director, Office for Civil Rights

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**Health Care as a Civil Right: The Office for Civil Rights**
**Department of Health and Human Services**

Quality health care, quality housing and quality jobs are the foundation for economic prosperity for all families. All too frequently, discrimination prevents minorities, individuals with disabilities and immigrant populations from accessing quality health care and critical public benefits, such as Medicaid or CHIP.

The Office for Civil Rights (OCR) at HHS enforces civil rights laws in the health and human service setting. Through complaint investigations, compliance reviews, outreach and education, OCR oversees hospitals, managed care organizations, nursing homes, social service agencies, in short, anyone who receives HHS funding, to ensure compliance with civil rights laws. Although OCR enforces a wide array of civil rights laws, the bulk of OCR's activities center around enforcement of Title VI of the Civil Rights Act of 1964, which addresses racial discrimination in federally funded programs; and the Americans with Disabilities Act.

**Civil Rights Challenges In the Health and Human Service Context Are Growing:** The breadth and depth of the civil rights challenges confronting OCR continue to grow rapidly. OCR is focusing on the following areas:

- Eliminating racial and ethnic disparities in health through civil rights enforcement;
- Combating redlining in health care;
- Ensuring that individuals with disabilities can live in their communities;
- Addressing civil rights issues in the welfare to work context (e.g., steering of minorities and individuals with disabilities to dead end jobs; failure to accommodate individuals with disabilities; failure to provide language assistance);
- Fighting discrimination against minorities and individuals with disabilities in managed care;
- Removing discriminatory barriers to participation in Medicaid; CHIP and other critical benefit programs for legal immigrants;
- Preparing to enforce the landmark medical records privacy regulation.

**OCR's Budget-** OCR's FY 2000 budget is $22 million, which is the same as OCR's budget in 1980, when HHS was created, and the same as OCR's budget in 1993, when President Clinton entered office. The FY 1980 budget supported 550 employees, while today's budget supports 225. OCR's budget request for FY 2001 is $24 million. Approximately 50% of the requested budget increase is earmarked for overhead expenditures, such as salary increases, technology, rent, etc.

**OCR's Increasing Responsibilities-** OCR's enforcement responsibilities have increased substantially over the past ten years, with passage of the Americans with Disabilities Act, the Multi-Ethnic Placement Act (which prohibits discrimination in adoption and foster care), welfare reform, immigration reform and, most recently, the impending implementation of the medical records privacy regulation.

**OCR's Critical Need for Resources-** Access to health care is a civil right. OCR is the primary defender of the public's right to nondiscriminatory access to health and human services, and must have the necessary resources to ensure that vulnerable populations receive quality health care that is critical for economic self-sufficiency.

**Fighting Discrimination in Health and Human Services:**
**Background Information About the Office for Civil Rights (OCR) -**
**Department of Health and Human Services**

OCR plays a vital role in the Department's overall effort to ensure that all people have equal access to critical health and human services. Rooting out discrimination is critical to ensuring that all people can receive quality health care and vital public benefits. The civil rights challenges confronting OCR continue to expand rapidly, while OCR's FY 2000 budget of $22 million is the same as OCR's budget in 1980.

**Discrimination in Health and Human Services Remains a Critical Problem-** A brief sampling of OCR's recent cases illustrates the depth and breadth of the civil rights challenges in the health and human service setting:

- OCR reached a settlement with a national home health agency that had been engaged in medical redlining, that is, it refused to serve certain, predominantly minority areas of New Haven, Connecticut.
- OCR reached a settlement with a national pharmacy chain that had a franchise in Texas that repeatedly refused to fill the prescription of an African-American Medicaid patient.
- OCR reached a settlement with a large hospital in New York City that had segregated maternity wards;
- OCR reached an agreement with the District of Columbia to ensure that hearing impaired Medicaid recipients would be provided with sign language interpreters during visits to a doctor's office.
- OCR reached a settlement with numerous hospitals and social service agencies across the country to ensure that limited English proficient patients have meaningful access to essential programs and services.
- OCR recently cited New York City, New York State and Nassau and Suffolk Counties for violating Title VI and the ADA for failing to provide appropriate service to clients who are either limited English proficient or hearing impaired.

**Emerging Civil Rights Challenges-** In the coming year, OCR will be involved in the following types of specific activities:

- **Eliminating Racial and Ethnic Disparities-** OCR is investigating a number of hospitals to determine why so few critical, high tech medical procedures are performed on minorities, even though a large minority population resides within the hospital's service area. OCR will seek to identify and eliminate barriers that are inhibiting or preventing minority populations from obtaining this critical care.
- **Expanding Community Based Options for Individuals with Disabilities-** In over 20 states, OCR is investigating ADA complaints alleging that individuals with disabilities are being unlawfully confined to nursing homes and other institutions, and that states are violating their obligation under the ADA to ensure that eligible individuals with disabilities live in the most integrated setting appropriate to their needs.
- **Eliminating Redlining in Managed Care-** OCR is investigating reports that managed care organizations are refusing to serve communities containing large minority populations, and may be discriminating against minority physicians.

- **Maximizing Participation in CHIP, Medicaid and Other Benefits-** OCR is negotiating an agreement with Georgia to ensure that applications for critical public benefits such as Medicaid and CHIP do not contain improper questions about immigration status that deter legal immigrants from applying for benefits. OCR will continue to identify and break down discriminatory barriers, such as language barriers, that are preventing or inhibiting immigrant populations from accessing critical health and human services.
- **Preventing Discrimination in Welfare to Work Programs-** OCR is investigating a complaint against Los Angeles county alleging that limited English proficient individuals enrolled in the welfare to work process are being denied equal opportunity to participate. OCR is investigating similar allegations elsewhere, as well as claims that minorities and individuals with disabilities are being improperly steered to dead end jobs and individuals with disabilities are facing other discriminatory barriers in welfare to work.
- **Expanding OCR's Testing Program-** Testing is an effective means of identifying and rooting out discrimination. OCR has used testing effectively to identify discrimination against limited English proficient persons seeking to access public benefits. OCR intends to expand its testing program to better investigate allegations of redlining in home health care, racial discrimination in nursing homes, and discrimination against individuals with disabilities and limited English proficient persons in managed care and social service settings.
- **Opening OCR Field Offices-** There are a number of large cities (Los Angeles, Houston, Miami) where OCR does not have a physical presence. Instead, issues arising in these cities are handled from field offices located elsewhere. In order to more effectively meet the growing civil rights needs of diverse populations in large cities such as Los Angeles, Houston, and Miami, OCR hopes to open up field offices.
- **Ensuring Effective Enforcement of the Privacy Regulation-** Protecting medical records privacy is a top Administration priority. As the agency tasked with enforcing the privacy regulation, OCR in short order must build the necessary infrastructure to carry out this critical responsibility. OCR will focus considerable energies initially on education and technical assistance designed to assist entities to design systems that will prevent violations from occurring.

**The Need For Sufficient Resources-** It is essential that OCR play a critical role in all of the civil rights issues outlined above if the Department is to achieve several of its key goals, including eliminating racial and ethnic health disparities, empowering individuals with disabilities, strengthening families, addressing the unique needs of immigrant populations, enhancing mental health services, and expanding health insurance coverage. Other federal civil rights offices have received large budget increases in recent years. For instance, the Civil Rights Division of the Justice Department received a 20% increase in FY 2000, and there is another 20% increase in the FY 2001 budget request. If enacted, the Division's budget will have almost doubled under the Clinton-Gore Administration. The budget of the Department of Education's Office for Civil Rights has risen approximately 30% in the past four years. HHS-OCR's FY 2000 budget of 22 million is the same as the OCR budget in FY1993, the first year of the Clinton-Gore administration. Like the education setting, civil rights challenges in the health and human service setting are indeed compelling. It is vital to ensure that OCR has the necessary resources to carry out this critical mission.

May 25, 2000

**FY 2001 Civil Rights Priority Initiatives and Additional Resource Requirements**

The Office for Civil Rights (OCR) at HHS enforces civil rights laws in the health and human service setting. Through complaint investigations, compliance reviews, outreach and education, OCR oversees hospitals, managed care organizations, nursing homes, social service agencies, in short, anyone who receives HHS funding, to ensure compliance with civil rights laws. Although OCR enforces a wide array of civil rights laws, the bulk of OCR's activities center around enforcement of Title VI of the Civil Rights Act of 1964, which addresses racial discrimination in federally funded programs; and the Americans with Disabilities Act.

**Civil Rights Challenges In the Health and Human Service Context Are Growing -** The breadth and depth of the civil rights challenges confronting OCR continue to grow rapidly. OCR is focusing on the following areas:

- Eliminating racial and ethnic disparities in health through civil rights enforcement;
- Combating redlining in health care;
- Ensuring that individuals with disabilities avoid unnecessary institutionalization and can live in their communities;
- Addressing civil rights issues in the welfare to work context (e.g., steering of minorities and individuals with disabilities to dead end jobs; failure to accommodate individuals with disabilities; failure to provide language assistance);
- Fighting discrimination against minorities and individuals with disabilities in managed care;
- Removing discriminatory barriers (e.g. language barriers) to participation in Medicaid, CHIP and other critical benefit programs for legal immigrants;
- Preparing to enforce the landmark medical records privacy regulation.

**OCR's Current Budget -** OCR's FY 2000 budget is $22 million, which is the same as OCR's budget in 1980, when HHS was created, and the same as OCR's budget in 1993, when President Clinton entered office. The FY 1980 budget supported 550 employees, while today's budget supports 220. OCR would need a FY 2000 budget of $40 million simply to keep pace with inflation.

**OCR's Increasing Responsibilities -** OCR's enforcement responsibilities have increased substantially over the past ten years, with passage of the Americans with Disabilities Act, the Multi-Ethnic Placement Act (which prohibits discrimination in adoption and foster care), welfare reform, immigration reform and, most recently, the impending implementation of the medical records privacy regulation. OCR's complaint load in FY1999 increased by 26 percent from FY 1998. At the same time, OCR has taken a number of steps to improve the efficiency and quality

of its case processing. As a result, in FY 1999, it took 332 days on average to close cases that resulted in some form of corrective action, as compared with 462 days in FY 1998. In other ways, in terms of both efficiency and quality, OCR is showing substantial improvement.

**Effect of Smaller Budget and Increased Responsibilities** - In inflation adjusted terms, OCR's staff resources are less than 40 percent of what they were in FY 1980. The opportunities for addressing discrimination in health care and social services are enormous and combating discrimination and the discriminatory effects of facially neutral policies and practices can yield major improvements in both access and the quality of care for racial and ethnic minorities and persons with disabilities.

OCR has taken many actions during the past few years that have enabled shifting of some resources from complaint and pre-grant review-driven work so that reviews, investigations and outreach can focus on these priorities. However, despite increases in case-handling efficiency, OCR's resource limitations, coupled with increases in complaint workload, have left the office with extremely limited flexibility to address priority issues on an area-wide and systems-wide basis.

OCR's experience on the priority issues is that the system-wide nature of many of the problems uncovered requires considerably more staff time and other resources than routine case investigations require. For instance, eliminating racial and ethnic disparities in health through civil rights interventions requires a detailed analysis of the entire system of health care delivery in a given community. Similarly, in the disability context, ensuring that states are complying with their obligation under the Americans with Disabilities Act and the recent Olmstead decision to ensure care and treatment in the most integrated setting requires OCR to review entire state systems of delivery of long term care. That is, in order to evaluate an individual complaint alleging a violation of the ADA, OCR as a result of Olmstead must review the entire state system. This is a sensible standard, but it is extremely labor intensive.

**The President's Budget Request for FY 2001** - The President's FY 2001 budget request for OCR of $24,056,000 would support 237 FTE, which is approximately 17 more than the current budget supports. The budget is just under $2 million higher than the FY 2000 budget, with slightly more than $1 million of the increase covering increased salary and benefits and other mandatory expenses. As projected, just over $700,000 of the increase would support initiatives to address discrimination and the role it plays in racial and ethnic disparities in health care access and health status. OCR projected spending another $100,000 to add staff to a Los Angeles field office that should be established during the summer of 2000. However, in light of the previously unanticipated number and complexity of Olmstead cases, despite the best efforts of OCR to absorb the increased workload within its base resources, it is likely that these increases will be funneled away from the initially intended purposes and into addressing the myriad of issues raised in most integrated setting Olmstead cases.

**OCR's Unmet Civil Rights Compliance Needs** - OCR has identified that it would require an additional $9.3 million in FY 2001 (beyond the $24 million request) in order to address effectively all of the priority areas outlined above while simultaneously retaining a strong

commitment to addressing day-to-day enforcement responsibilities. OCR's needs are broken down as follows:

- **Eliminating Racial and Ethnic Disparities, Combating Redlining and Rooting Out Racial Discrimination in Managed Care ($2.3 million)**

OCR is involved in a host of enforcement-related activities designed to root out racial discrimination that may exist in health care delivery systems. The unique niche that OCR brings to the table in the Department's initiative to eliminate racial disparities in health is the authority under civil rights laws to investigate whether racial and ethnic health disparities are attributable to discrimination. These funds include:

- $1.1 million of these funds will support nationwide expansion of a pilot initiative begun in the New York region that addresses the extent to which racial and national origin discrimination results in disparities in health care quality and health outcomes for persons of color. The initiative supports the Administration's commitment to eliminating race and ethnic disparities in health and the Quality Improvement Initiative, which seeks to improve quality of care, especially for vulnerable populations. With these funds, OCR will hire ten new regional staff who would establish additional enforcement, outreach and coalition-building projects in at least ten additional major metropolitan areas.

  On average, each project would affect an estimated 500,000 to one million minority individuals who are less likely to be referred to facilities recognized as providing the highest quality specialized health care (e.g., cardiac care). Among other tasks, this new staff will initiate 20 systemic post-grant reviews of health care providers and four local task force/coalition-based outreach activities to address the role of discrimination in explaining racial and ethnic disparities. Based on initiatives undertaken by OCR to date in this arena, we can expect that reviews will cover at least 100 hospitals, hundreds of referring physicians, and more than 100 managed care plans nationwide. The four projected local task forces could reach as many as three to four hundred stakeholders in these communities. The reviews and outreach initiatives will address through a civil rights prism crucial questions such as (1) why is it that minorities are having difficulty accessing critical high tech medical procedures, such as cardiac catheterization and (2) why is it that certain hospitals with large minority populations within their service areas have low utilization rates among these populations. In the absence of such funding, thousands of minority patients nationwide, who might otherwise gain access to the highest levels of quality care will remain locked into patterns of limited access and lesser quality service.

- $725,000 to support the development and implementation of testing methodologies in the health and human services arena, including the identification of potential discrimination in the health disparities context and to address redlining and discrimination issues in social service programs. Testing already has been used successfully in an investigation of whether public benefits offices in the New York City

area are adequately serving limited English proficient persons as well as individuals with hearing impairments. Successful resolution of this case will directly assist approximately 500,000 people in the city and surrounding areas. These funds would enable hiring of a national testing coordinator and five regional staff each of whom would cover two regions to serve as coordinators working with contracted testers to conduct between 135 and 150 tests nationwide.

- $450,000 of these funds would support establishment of a four-person national office staff, headed by a Chief Medical Officer, that would have the medical and health delivery system expertise required to address the complex interrelationship between discrimination and health disparities.

- **Enforcing the ADA and Implementing the Olmstead Decision ($3. 55 million)**

Ensuring that people with disabilities can live in their communities, and not in institutions, is one of the most pressing civil rights challenges confronting OCR. Since the Olmstead decision last year, OCR's complaints alleging Olmstead-type violations have increased exponentially. For instance, as of the end of November 1999, OCR had received 25 complaints. Within four months, that number had grown to 119, and is continuing to grow. These additional resources for Olmstead implementation would support 20 staff, including 17 in regional offices, while allocating $1.2 million of the $3.55 million increase to support a wide range of technical consultants needed to build comprehensive, effectively working plans in an additional 12 states. Consultants are needed with expertise in applying ADA civil rights knowledge, specialized experience in services to persons with disabilities, and knowledge of state systems to assist in assessing the relationship between ADA compliance and:

- clinical and non-clinical care needs of people with a wide array of physical and mental disabilities and how those needs differ for various age groups. Expertise is needed in the varied disciplines that provide care for people with a wide array of disabilities (e.g., mental health, mental retardation, brain injuries, geriatrics, neurology, etc.). Such experts will help OCR to understand the intricate systems of care for extremely vulnerable populations. They also will assist OCR's assessments of whether state systems are appropriately meeting, or how changes in the systems can best meet, the clinical and non-clinical care needs of people with disabilities consistent with the ADA.

- funding mechanisms in each state that pay for health care and human services for persons with disabilities and the limitations on those funding mechanisms. Experts will help OCR's collaborative initiatives with states to evaluate existing funding resources and work to develop new funding for needed services. In particular, OCR needs experts who are knowledgeable about housing and non-Medicaid funded sources.

- planning for the full range of health and human services needed to ensure that individuals with disabilities have meaningful opportunities to live in community-based settings. Although OCR and HCFA have provided states with guidance identifying six key principles of Olmstead implementation, our staff is not equipped to guide the

planning process. We seek to secure the services of experienced system planners who can work with us and the states to operationalize the planning process.

In the absence of additional resources, OCR will be unable to work with additional states on plan development as a resolution to complaints filed with OCR. This would result in delays for thousands of persons with disabilities who could otherwise move from institutional-based care into community settings

- **Addressing Civil Rights Challenges in Welfare to Work ($2.25 million)**

Welfare reform has opened up a new series of civil rights challenges for people of color, individuals with disabilities, and immigrants. $2.25 million would support expanded OCR initiatives to ensure nondiscrimination in TANF and welfare-to-work programs and in benefits access to a full range of health and social services programs in each of its ten regions. Problems that need to be addressed include ensuring that individualized assessments of disabilities are conducted or people may lose benefits due to failure to determine accommodation needs, in violation of the ADA. Further, some TANF participants may be steered to dead-end jobs on the basis of disability, race or national origin. Some service providers are not ensuring meaningful access to individuals who are limited English proficient or who have sensory disabilities, and others are deterring immigrants from access to critical health and other benefits due to impermissible questions raised on application forms.

The funds would enable OCR to hire one investigator each in its current ten regional offices and another eight investigators in three new field offices. In total, these investigators would conduct 40 TANF and/or welfare-to-work system-wide reviews, 55 system reviews of benefits access and limited English proficiency (LEP) and would initiate 50 TANF/welfare-to-work and benefits access outreach projects. Based on initial experiences in conducting such reviews, OCR estimates that each review would involve from ten to 15 service sites. The TANF and benefits access/LEP reviews, therefore, could cover from 950 to 1425 state and local sites to ensure nondiscrimination in TANF services.

- $1.25 million of the $2.25 million would support establishment of field offices in Houston and Miami and expansion of a Los Angeles office that OCR plans to open during the summer of 2000. These offices would enable OCR to hire five staff each in Houston and Miami and add two staff to a Los Angeles staff of five. Nearly twenty percent of the nation's minority populations reside in these three cities' metropolitan areas alone. OCR's current lack of a daily physical presence in these cities is substantially hindering our ability to serve the vulnerable populations in these areas effectively. These staff would support OCR's full range of compliance activities with an emphasis on ensuring that applicants for benefits are not asked impermissible questions concerning immigration status and that language proficiency issues do not inappropriately become barriers to receipt of needed services. These new field staff would initiate 15 welfare-to-work system-wide reviews, 25 systemic reviews of benefits access and limited English proficiency (LEP), and initiate 20 outreach projects focusing on welfare-to-work, LEP and benefits access issues.

**Covering Kids-- Eliminating Civil Rights Barriers to Enrollment for SCHIP, Medicaid and other Critical Public Benefits ($1.2 million)**

Many children, especially children of color, are eligible to receive public benefits, but are not accessing them for a variety of reasons. OCR has identified a number of potential civil rights barriers that may be inhibiting eligible people, especially immigrant populations, from enrolling in critical public benefits programs. One million dollars in additional funding would enable OCR to hire additional staff in each region to conduct compliance reviews and technical assistance designed to identify and eliminate civil rights barriers that may be suppressing enrollment. A substantial portion of these activities will be a civil rights review of the application process in each state for public benefits. OCR has already reviewed the application forms for public benefits in all states, and has identified a number of problematic practices in virtually every state. These practices may be having the effect of deterring eligible legal immigrants from applying for benefits that they are entitled to receive. These practices may constitute a violation of Title VI of the Civil Rights Act of 1964. OCR has reached a tentative agreement with one state that has agreed to revise its application form to eliminate certain problematic practices. However, due to severe staffing constraints, OCR has been unable to correct similar problems in other states. This additional funding will enable OCR to play an important role in the critical policy challenge of reducing the roles of the uninsured, especially children.

**OCR's Critical Need for Resources** - Access to health care is civil right. OCR is the primary defender of the public's right to non-discriminatory access to health and human services, and must have the necessary resources to ensure that vulnerable populations receive quality health care that is critical for economic self-sufficiency. Support for the initiatives delineated above would require $9.3 million above the $24 million FY 2001 request. This enhanced budget would support 73 FTE, 64 of which would be located in OCR's regions to conduct frontline investigative and outreach initiatives.

**Miscellaneous Facts about Budgets of Federal Civil Rights Agencies Under Clinton-Gore**

- The Civil Rights Division of the Justice Department received a 20% budget increase in FY 2000, and there is another 20% budget increase in the FY 2001 budget request. If enacted, the Division's budget will have almost doubled under Clinton-Gore.

- In the past four years (FY 97-FY00), the budget of the Office for Civil Rights at the Department of Education has risen almost 30%.

- HUD's Fair Housing Office received a 10% budget hike in FY 2000 and has requested another 14% hike in the FY 2001 budget request.

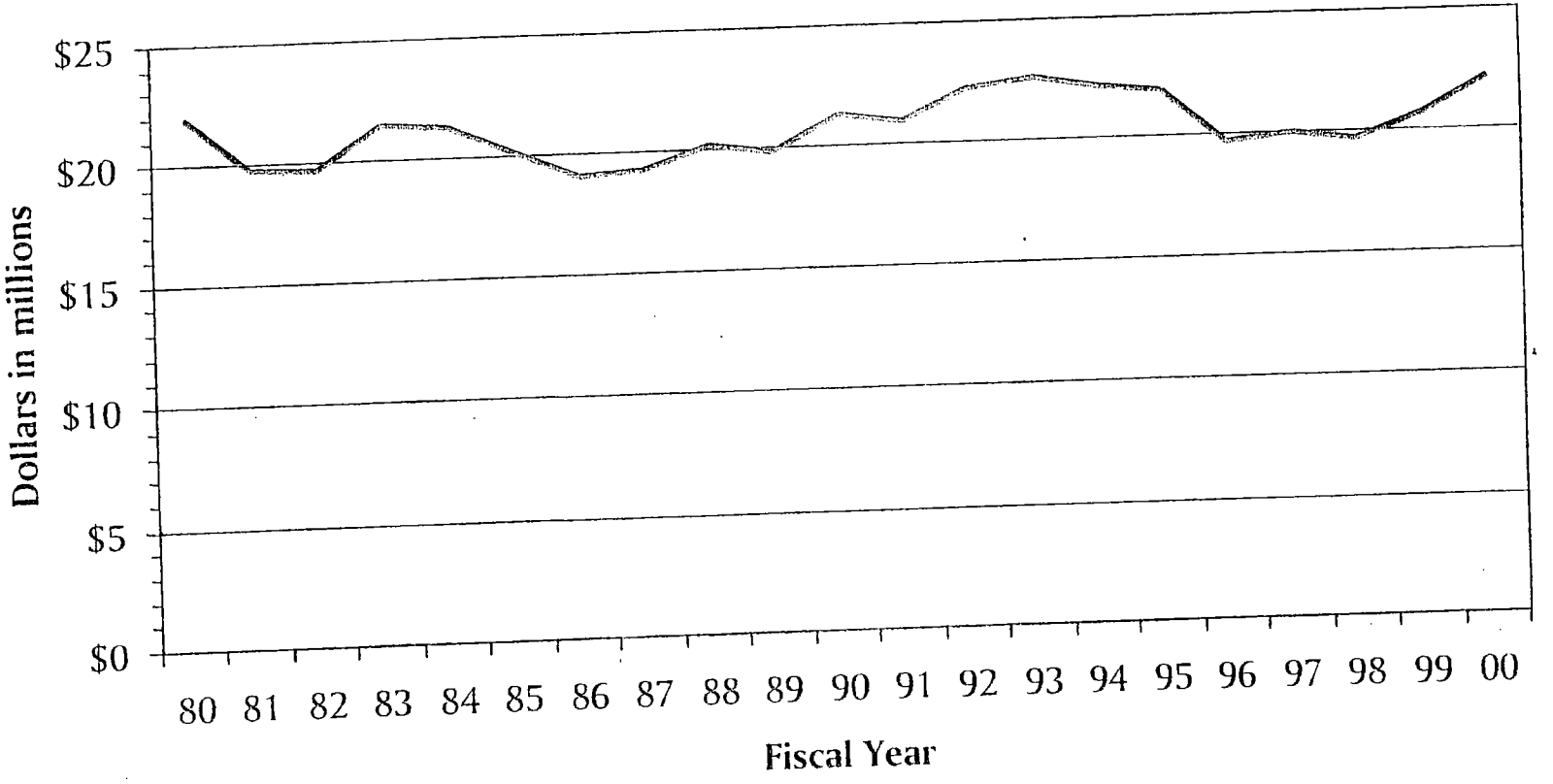
- The EEOC FY 2001 budget request is 322 million, a 15% hike over FY 2000.

- The Department of Agriculture Office for Civil Rights received a 12% budget hike in FY 2000 and has requested a 17% hike for FY 2001.

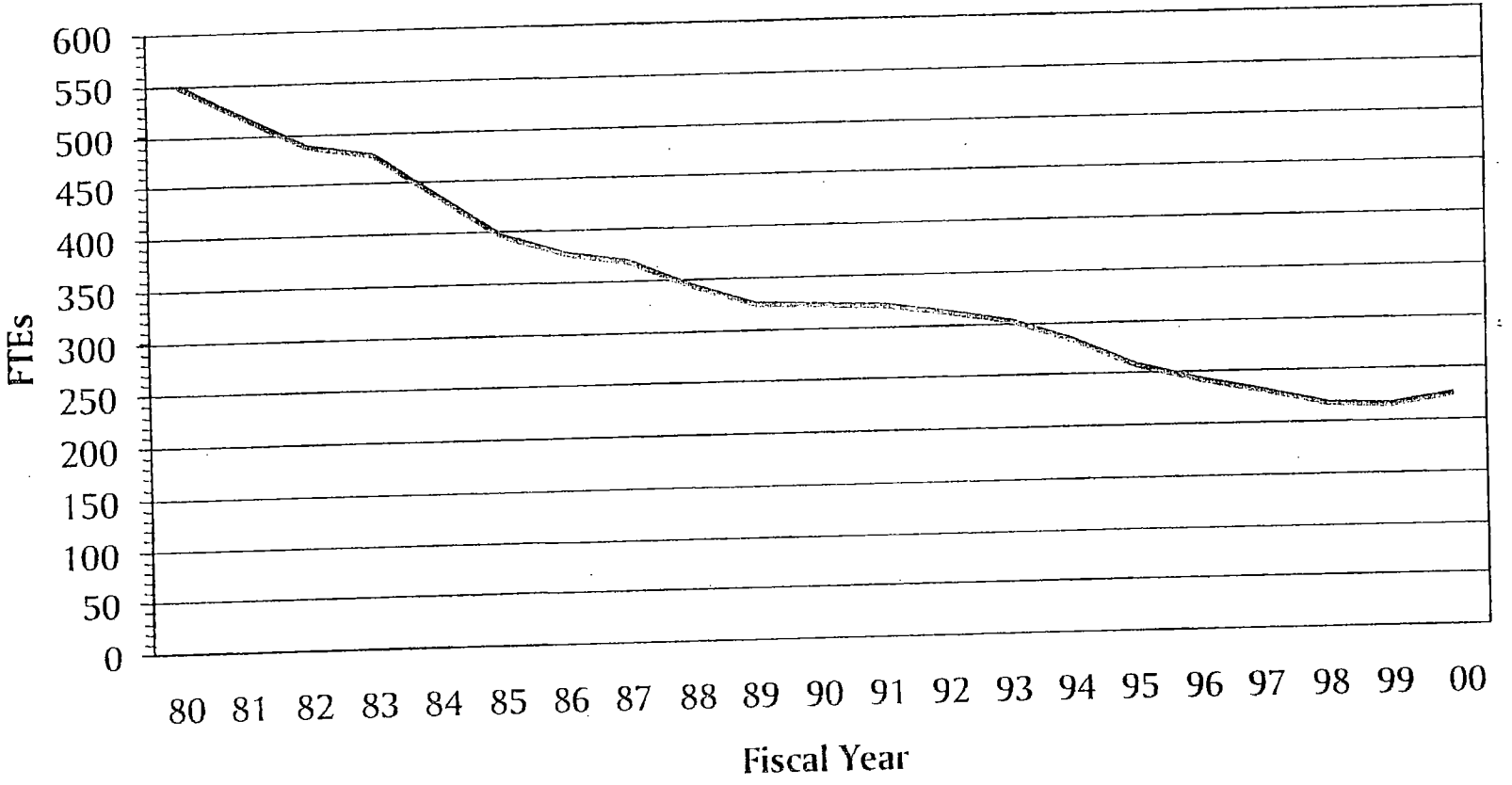
- The budget of HHS OCR at the beginning of the Clinton-Gore administration was $22 million. The FY 2000 budget is $22 million. The FY 1980 budget was $22 million. The FY 2001 budget request calls for a 9% increase over FY 2000.

- There were over 300 employees at OCR at the beginning of the Clinton-Gore administration. There are now 215 FTE.

# Office for Civil Rights Budget
# FY 1980 - FY 2000



# Office for Civil Rights FTE
# FY 1980 - FY 2000



# United States Senate

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

May 11, 2000

The Honorable Arlen Specter
711 Hart Senate Office Building
Washington, DC 20510

The Honorable Tom Harkin
731 Hart Senate Office Building
Washington, DC 20510

Re: Office for Civil Rights at U.S. Department of Health and Human Services

Dear Arlen and Tom:

As you mark up the Labor-HHS Appropriations bill, we are writing to seek your support for a $10 million budget increase for the Office for Civil Rights (OCR) at the Department of Health and Human Services. OCR enforces civil rights laws in the health and human services field. Through complaint investigations, compliance reviews, outreach and education, OCR oversees recipients of HHS funding to ensure compliance with federal civil rights laws. The bulk of OCR's activities center around enforcement of Title VI of the Civil Rights Act of 1964, which addresses racial discrimination in federally funded programs, and the Americans with Disabilities Act.

The breadth and depth of OCR's activities continue to grow, and all of OCR's activities enjoy bipartisan support. For instance, OCR has a key role in the welfare-to-work effort, combating discrimination against individuals with disabilities and people of color to increase their ability to make a successful and permanent transition to the workforce. OCR also has a lead role in combating medical redlining; these cases involve health care providers who refuse to serve, or provide any limited service, to predominantly minority areas. OCR has an important role in the overall bipartisan effort to eliminate racial and ethnic disparities in health. OCR has a lead role in ensuring that individuals with disabilities can live in their communities, instead of being unnecessarily placed in institutions in violation of the ADA.

OCR is also heavily involved in the overall effort to increase enrollment in critical benefits programs, such as the State Children's Health Insurance Program (SCHIP). OCR has discovered that some of the barriers inhibiting eligible children from participating in SCHIP are civil rights hurdles. As a result, OCR has led the effort to identify and eliminate these civil rights barriers. It's education and outreach efforts will help ensure that more children have a healthy start – a benefit that will pay increasing dividends in the future, since the children will miss less school, and will be better prepared for productive work and careers.

Despite a substantial increase in responsibilities, OCR's budget has not grown to keep pace. OCR's FY 2000 budget of $22 million is the same as OCR's budget in 1980, the last year of the Carter Administration. Inflation has undermined the budget. The staff has declined from 550 in 1980 to less than 225 today. OCR would need a $40 million budget for FY 2001 simply to keep pace with inflation since 1980.

The success of many of the programs over which the Health, Education, Labor and Pensions Committee has jurisdiction depends heavily upon ensuring that these programs are administered in a manner that complies with civil rights laws. OCR is demonstrating the vision to develop new, cooperative solutions for many of the health problems we face. Unfortunately, OCR is currently so overburdened and underfunded that it is unable to implement these solutions and fulfill its critical mission.

We urge you to support a $10 million budget increase for OCR in FY 2001. This increase will enable OCR to handle more effectively the civil rights challenges in the health and human service area.

Sincerely,

Senator James M. Jeffords

Senator Edward M. Kennedy

OCR UPdate

United States Department of Health & Human Services ◆ Office for Civil Rights ◆ Fall 1999

# Greetings from Thomas E. Perez, OCR National Director

I am very pleased and proud to introduce to you the very first issue of "OCR Update." We hope that this twice-yearly newsletter will give you a useful snapshot of everything the Office for Civil Rights at the Department of Health and Human Services (HHS) is working to achieve.

I have been at the helm of OCR for approximately six months. One of my basic goals is to raise OCR's profile, both internally within the Department and externally across the nation. This newsletter is another way for us to communicate OCR's mission—and OCR's results—to the public at large, especially to those who have been so instrumental in our efforts to safeguard the civil rights of vulnerable populations.

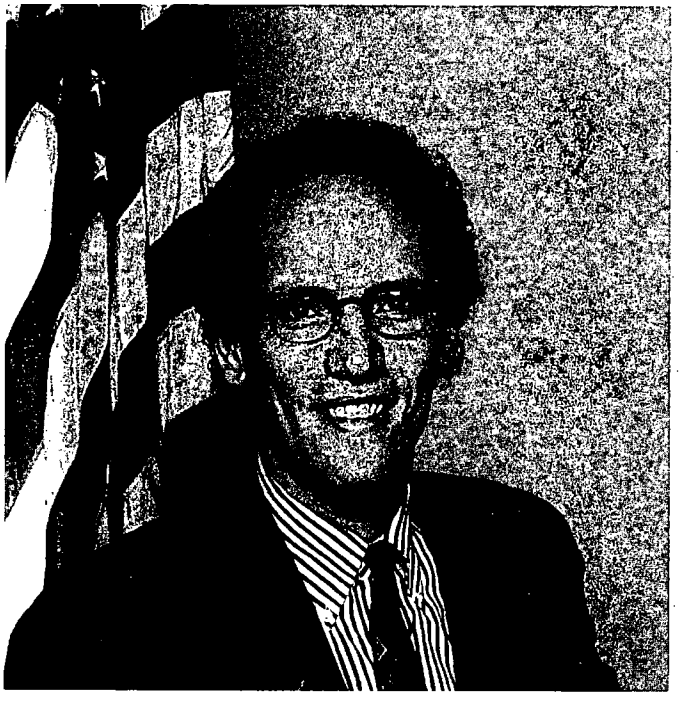
My first six months have been exciting and productive, as we have accomplished a number of important tasks:

- We have established a Racial Disparities Task Force within OCR, which is focusing on ensuring that OCR plays an integral role in the Department's Initiative to Eliminate Racial and Ethnic Disparities.
- We have also established a working group on limited English proficiency that is clarifying our policy regarding the obligations of health and human service providers to ensure that individuals who are limited English proficient (LEP) have meaningful access to HHS-funded programs and activities.
- I am co-chair of the Department's Immigration Working Group, which is addressing critical immigration issues such as "public charge."
- I am also co-chair of the Working Group coordinating the Department's response to the Olmstead decision.
- We have coordinated the development and recent release of civil rights guidance for state agencies in the welfare reform context. We appreciate the constructive feedback that we received from advocacy organizations and state agencies.

Along with our regional managers and other OCR personnel, I continue to be on the road frequently. I have visited every regional office at least once, and have met with over 200 advocacy groups nationwide, as well as numerous providers and state and local government officials. These outreach activities—aside from raising OCR's profile—have provided substantial insights into the most pressing problems confronting the vulnerable populations that OCR serves.

It is through these outreach activities that we identified the following substantive areas that will be the primary focus of our proactive enforcement agenda in the upcoming months:

- racial disparities;
- redlining;
- limited English proficiency;



- ♦ disability rights, especially "most integrated setting" enforcement;
- ♦ civil rights enforcement in the welfare reform context; and
- ♦ ensuring nondiscrimination in adoption and foster care.

I have an ambitious agenda for OCR because I believe that OCR can and should be a strong voice for the civil rights of millions of vulnerable people. Strengthening our ability to investigate, resolve and prevent civil rights violations will require input from advocacy groups, from citizens, and from the public and private entities that receive HHS funds. To that end, please feel free to call me if there are issues you wish to pursue with this office, or if your organization is planning a conference, workshop or meeting where you believe OCR's participation would be useful. I look forward to working with all of you.

### Spotlight on: Thomas E. Perez

- Civil Rights Division, U. S. Department of Justice (DOJ), 1989-1999
- Deputy Assistant Attorney General for Civil Rights, 1998-1999
- Special Counsel to Senator Edward Kennedy (detailed from DOJ), 1995-1998
- Deputy Chief, Criminal Section, Civil Rights Division, DOJ, 1994-1995
- Trial Attorney, Criminal Section, Civil Rights Division, DOJ, 1989-1994
- 1996 Attorney General's Award for Distinguished Service
- Law Clerk for Judge Zita L. Weinshienk, U.S. District Court, Denver, Colorado
- J.D., *cum laude*, Harvard Law School; Masters in Public Policy, Harvard; B.A., Brown University

# In this issue...

# OCR Assumes Active Role in Developing Department's Response to *Olmstead v. L.C.*

On June 22, 1999, the Supreme Court issued its ruling in Olmstead v. L.C. The Court held that unjustified institutionalization of people with disabilities violates the Americans with Disabilities Act (ADA). In its ruling, the Court said that institutionalizing a person with a disability who can benefit from and wants to live in the community constitutes discrimination because it severely diminishes the individual's ability to interact with family and friends, work and make a life for him or herself. While the decision acknowledges that states have limited resources, it also requires states to move at a reasonable pace to provide community-based alternatives for providing services to people with disabilities in more integrated settings.

The Court also set out a roadmap for complying with the "most integrated setting" requirement of the ADA. The Court indicated that states may demonstrate compliance with the ADA by showing that they have comprehensive and effective plans for placing qualified individuals with disabilities in less restrictive settings, and waiting lists that move at a reasonable pace.

Major components of HHS have come together to coordinate implementation of the principles established in the decision. Secretary Shalala has appointed OCR director Tom Perez, along with the director of the Health Care Financing Administration's Center for Medicaid and State Operations, as co-chairs of a Departmental working group that is coordinating the Department's immediate and long term response to the Olmstead decision. This group is developing a comprehensive technical assistance and outreach program on the "most integrated setting" requirement. In seeking to resolve the two dozen or so pending complaints raising Olmstead issues, OCR stands ready to provide technical assistance to bring all the stakeholders together to develop workable plans for eligible individuals to move to community settings. As Secretary Shalala told the National Conference of State Legislatures (NCSL) recently, "The Olmstead decision defines our mission: To build better systems of supports enabling people with disabilities to live life to the fullest." For a full text of Secretary Shalala's NCSL speech regarding Olmstead, see the OCR website (listed at the end of this Newsletter).

# OCR Response To Racial And Ethnic Disparities In Health Care

Racial and ethnic disparities in health outcomes are well documented. There are many factors that contribute to these disparities, including economics, education, geography and genetics.

Unfortunately, racial discrimination also plays a role. Discrimination can infect the corporate board rooms, the classrooms and the courtrooms. It also can affect who gets to the operating room.

OCR's enforcement experience, coupled with compelling research documenting the prevalence of racial bias in physician decision-making, demonstrates that eliminating racial disparities in the provision of health care services is both a public health and civil rights challenge. Aggressive enforcement of civil rights laws must be an important component of our overall strategy to eliminate the racial disparities in health.

*Dr. Kevin A. Schulman (standing, right) discusses his recent study on "The Effect of Race and Sex on Physicians' Recommendations for Cardiac Catheterization" at the Spring Meeting of OCR Managers and Attorneys.*

OCR's nationwide action plan for eliminating racial and ethnic disparities includes establishing an internal OCR task force to ensure that OCR plays an integral role in the Department's initiative to eliminate racial and ethnic disparities in health.

OCR's New York Regional Office is playing an important leadership role in the effort to eliminate racial disparities. The Region is investigating allegations of racial disparities in the provision of health care services by some health care providers in two counties in New York. A few of the allegations involved are: poor quality of care for minorities at certain hospital facilities; lack of access by minorities to the more prominent medical facilities in the counties; and barriers to health care created by language problems.

In addition, OCR director Tom Perez has spoken at a number of conferences nationwide on eliminating racial and ethnic disparities. His speeches on racial and ethnic disparities in health care can be found on OCR's website. To further inform our enforcement efforts, we are expanding our data base of publications, studies, medical articles and books. If you have any information about new studies or activities being conducted related to the subject of racial and ethnic health disparities, please contact us.

## *Redlining*

OCR is also looking at the practice of redlining as a contributing factor to racial disparities. Redlining occurs when services are limited or eliminated in specific geographic areas. Our regional offices are now identifying areas in which to focus our compliance efforts. We are starting with compliance reviews of home health care agencies nationwide to ascertain their compliance with civil rights statutes. We already have experience in our Boston region with home health agencies that were engaged in redlining, and are concerned that this may be a nationwide problem.

In addition to home health agencies, we are targeting managed care plans. Specifically, OCR is investigating how managed care plans establish their service area and how they target their marketing activities.

# OCR Managed Care Outreach Project

Every day managed care brings forward new issues of concern, many of which involve civil rights challenges. The transition to mandatory managed care in the Medicaid setting serves as one instance which has raised serious challenges for persons with disabilities, as well as for individuals who are limited English proficient (LEP).

The players in the delivery of health care are not only hospitals and physicians, but also health management organizations (HMOs) or managed care organizations (MCOs). Under health care reform, many states have moved to provide health care to Medicaid beneficiaries through HMOs. Unfortunately, both OCR and the Disability Rights Section of the Department of Justice (DOJ) have received numerous complaints concerning the accessibility of the individual providers who comprise these state Medicaid HMOs.

A cornerstone of OCR's disabilities enforcement activities is to work in close collaboration with DOJ so we can best ensure compliance with civil rights laws in the managed care setting. OCR is now developing a compliance initiative with DOJ's Disability Rights Section that would involve reviewing the accessibility of state Medicaid programs nationwide.

OCR is currently investigating a case in the State of Maryland in this area. The complainant has alleged that she has been unable to access health care services through her managed care organization due to barriers in health care provider offices, including inaccessible exam tables and building entrances. We will be working with the state agency to ensure that Medicaid managed care programs throughout the state are accessible to persons with disabilities.

OCR Regional Offices are actively addressing discrimination issues in managed care. In January 1999, our Boston Regional Office sent a letter to all MCOs that participate in the Medicaid and Medicare programs. The letter reminded the providers of their responsibilities to provide effective communication for their members and potential members who have vision and hearing impairments, or who are LEP. The Boston team is planning a training program for representatives of

MCOs on these issues and is working with regional Health Care Financing Administration staff to coordinate our efforts with the MCOs.

In addition, our Chicago office has conducted several reviews in Illinois related to the managed care program for Medicaid clients. One review focused on whether hearing-impaired and LEP persons have equal access to all services and whether the agency ensures that its subrecipients, *e.g.*, Medicaid HMOs, do not engage in marketing practices that deny information or enrollment opportunities to LEP persons. OCR found a variety of potential Title VI and Section 504/ADA concerns. The agency signed a resolution agreement in which it agreed to: develop policies for LEP clients to ensure that clients are offered an interpreter; notify staff in all field offices of the revised policies and procedures for serving hearing-impaired clients; and require HMOs who do marketing to Medicaid clients to provide information in the primary language spoken by the client.

The investigation of this case was aided by a unique partnership with the Vietnamese Association which helped with interpreting and interviewing clients. This case resulted in extensive corrective action statewide which will lead to better services for LEP clients in Illinois, especially in the Chicago area.

# Asian American/Pacific Islander Executive Order Signed

On June 7, 1999, President Clinton signed an Executive Order designed to increase participation of Asian Americans and Pacific Islanders in federal programs. The order establishes within HHS a President's Advisory Commission on Asian Americans and Pacific Islanders whose members shall be appointed by the President; and an Interagency Working Group whose members shall be appointed by their respective agencies. For a copy of the Executive Order, you can contact OCR at our Washington, D.C. office by writing, calling, or visiting our website (see last page of Newsletter).

# Immigration Issues

OCR is seeking to address the unique challenges confronting immigrant populations. Tom Perez is co-chair of the Department's Immigration Working Group, which helped develop the May 26 proposed rule in the Federal Register defining "public charge." The regulation will make it easier for families to determine their eligibility for benefits, and will also promote fair and consistent administration of immigration laws.

OCR has recently learned that the State of Georgia requires applicants for Medicaid, TANF and other benefits to certify the citizenship and immigration status of all persons living in their household, even if those persons are not seeking benefits. This practice discourages certain persons from applying for benefits to which they are entitled. In addition, those who cannot certify that non-applicants are citizens or qualified aliens are at risk of being denied benefits. This problem arose when Georgia established a single application form for a variety of programs. OCR is working with Georgia to change its application form, and Georgia has been very cooperative.

OCR has determined that almost all states ask for citizenship or immigration information, or the social security number of all members of applicants' households. We will provide guidance to the states on this issue.

# OCR Assists Limited English Proficient Populations

The United States is home to millions of national origin minority individuals who are limited in their ability to speak, read, write and understand the English language. The language barriers experienced by limited English proficient (LEP) persons often limit their access to critical public health, hospital, and other medical and human services to which they are legally entitled.

Language barriers can also limit a person's ability to receive notice of or understand what services are

available. Because of these language barriers, LEP persons often are excluded from programs, or experience unreasonable delays or denial of services from recipients of federal financial assistance. Such exclusions, delays or denials constitute discrimination on the basis of national origin, in violation of Title VI of the Civil Rights Act of 1964.

OCR actively enforces Title VI, especially in the context of limited English proficiency. Last year, we issued a staff guidance memorandum on national origin nondiscrimination to ensure consistent application of Title VI in HHS funded programs. The importance of this memorandum is that it addresses language assistance that may be required for effective communication between health and human service providers and LEP persons.

OCR has been notably successful in resolving a number of significant LEP cases:

## Contra Costa County Department of Social Services

In May, the Contra Costa County Department of Social Services (DSS) in California signed a formal agreement with OCR. This agreement will ensure that all county services and programs are accessible to persons who are LEP. As part of the agreement, DSS will provide certain forms in Laotian and Vietnamese, and post notices of the availability of interpreter services in those languages in all county offices. DSS also agreed to contact and inform all Southeast Asian LEP clients whose benefits were denied, withdrawn or terminated that they may have been penalized due to a lack of translation or interpreter services; and that they should contact the county if they believe their denial, withdrawal or termination was done in error. The county will provide OCR's San Francisco office with periodic reports to show that it has completed all actions required by the agreement, and OCR will closely monitor compliance.

OCR thanks the Civil Rights Division of the Department of Justice and the Department of Agriculture's Office of Civil Rights for their participation in the resolution of this complaint, as well as numerous advocacy groups that offered invaluable input throughout the process.

## Asian American Legal Defense and Education Fund versus Montefiore Medical Center

In April 1998, the Asian American Legal Defense and Education Fund filed a complaint with OCR's New York Regional Office. The complaint alleged that recent elimination of two interpreter positions at the Montefiore Family Health Center (MFHC) would have the effect of restricting or denying LEP Cambodian and Vietnamese persons from receiving medical services at MFHC. MFHC is one of 29 primary care practice sites operated by the parent company, Montefiore Medical Center (MMC). MMC is one of the largest and most comprehensive integrated health delivery networks in New York City. MMC provides 15 percent of all inpatient and more than 30 percent of all tertiary care in the Bronx through its many participating providers. A settlement was reached in which MMC agreed to take voluntary actions to bring MFHC into compliance with Title VI.

## Temple University Hospital

OCR's Philadelphia Regional Office conducted a review of Temple University Hospital under Title VI, Hill-Burton and the Age Discrimination Act of 1975, that focused on services to persons with limited English proficiency. Prior to OCR's review, the hospital had taken a series of steps to augment its services to the Hispanic community. In spite of these efforts, the Hispanic community in the Philadelphia area still perceived the hospital as not providing Hispanics, particularly those who sought outpatient services, equal access to services on the basis of national origin.

As a result of this review, the facility is taking a number of steps to communicate more effectively with Hispanic LEP persons. These steps include developing a written limited English proficiency policy and procedure, and developing a comprehensive outreach program in the Hispanic community. In addition, the hospital deleted an

age specific criterion in its admissions policy which OCR identified as in violation of the Age Discrimination Act of 1975.

# Enforcing Nondiscrimination In Adoption And Foster Care

OCR continues to provide technical assistance on the Multiethnic Placement Act (MEPA), which was signed into law by President Clinton in 1994 as part of the Improving America's Schools Act. In 1996, MEPA was amended by the provisions for Removal of Barriers to Interethnic Adoption (IEP) included in the Small Business Job Protection Act (JPA). These amendments supercede and replace language in MEPA's original provisions and clarify that discrimination is not to be tolerated, whether directed at children in need of appropriate, safe homes; at prospective parents; or at previously "underutilized" communities which could be resources for placing children. The IEP also strengthens compliance and enforcement procedures, including the withholding of federal funds and the right of any aggrieved individual to seek relief in federal court against a state or other entity alleged to be in violation of the Act.

OCR's Chicago office closed a series of investigations into the Indiana Family and Social Services Administration and its compliance with Section 1808 of MEPA. OCR investigated whether the state child welfare agency's policies and practices delay or deny any individual the opportunity to become an adoptive parent on the basis of race, color or national origin. The agency signed a voluntary resolution agreement indicating it will develop adoption and foster care policies consistent with Title VI and Section 1808. The agency also agreed to develop policies to ensure effective communication with limited English proficient persons. OCR is monitoring the agreement.

OCR's San Francisco office assisted the Administration for Children and Families (ACF) in providing clarification to the California Department of Social Services on whether the state faced penalties for failure to amend state statutes. The state uses language from the original MEPA that could result in confusion among case workers and lead to possible violations of the law. OCR encouraged the agency to take steps to amend state law, and to develop clear written policies and standards consistent with federal law.

Staff from OCR's Atlanta office accepted an invitation from the Alabama Administrative Office of Courts/ Family Preservation Court Improvement Project to discuss MEPA at the Dependency Case Task Force Regional Training Seminars in Montgomery and Dothan on March 11 and 12. About 125 people attended these sessions, including judges, guardians *ad litem*, representatives from county agencies and from the Family and Children Services, Alabama Department of Human Resources.

OCR is participating in a task force with ACF on Section 1808. The task force has already initiated several projects to improve compliance and outreach activities. For example, our Chicago office worked closely with ACF to resolve an investigation into an Illinois adoption agency's alleged adoption placement based on race. The agency has already taken corrective action.

# OCR and ACF Conduct Joint Head Start Reviews

OCR has joined the Administration for Children and Families (ACF) in conducting civil rights reviews of Head Start programs in South Dakota and Colorado. OCR investigators have focused on the issue of effective communication with limited English proficient and sensory-impaired children under Title VI, Section 504, and the ADA. The four joint reviews conducted so far have resulted in clear benefits for both agencies, as well as the children being served through these programs. ACF's assistance proved invaluable in OCR's interviews with community organizations, families, teachers and other Head Start staff. ACF found that civil rights issues were more effectively addressed when OCR was part of the review team. OCR looks forward to conducting more joint investigations with ACF.

# Around the Regions...

## *Oregon Department of Human Resources (Region X)*

Thanks to the efforts of OCR's Seattle Regional Office staff, the Oregon Department of Human Resources (ODHR) is now providing clients with written material in alternate formats.

The complaints against ODHR alleged that the state agency did not provide written material in a format usable by blind or visually impaired persons. OCR's investigation into the matter substantiated the allegation, and found the agency in violation of Section 504 and the ADA.

OCR negotiated a resolution agreement in which the agency agreed to implement a comprehensive policy for translating materials into Braille, large print, or electronic format; and to notify beneficiaries of the availability of materials in alternate formats. In May, the ODHR completed a major step by providing notice on the front of a new welfare (TANF) application of the alternate format materials. ODHR is continuing consultation with OCR to ensure all of its programs and services are accessible to all clients.

## *Interim Healthcare, Inc. (Region I)*

OCR initiated this investigation based on an allegation that a former Interim Healthcare franchisee, a home health agency, allegedly refused to serve an African American family. The review focused on medical redlining. The stated reason for the refusal to provide services was that the family, which had moved into a low income, predominantly minority public housing development, resided in a "high crime" area. At the time, the franchisee was providing services to an adjacent complex which is almost all white.

OCR's Boston office reached a settlement agreement with Interim Healthcare, Inc., a nationwide health care chain based in Fort Lauderdale, Florida, that ensures services will be provided in a nondiscriminatory fashion. We have received a copy of the signed memorandum that the facility sent to all of its policy manual holders regarding their obligations in this matter.

## *Eckerd Drug Store Number 2323 (Region VI)*

The complainant alleged that she was denied services by the recipient's pharmacist on the basis of her race (African American). She stated that although her doctor's office confirmed that the prescription had been called in on two separate occasions, the pharmacist did not fill it.

After discussions with the complainant and Eckerd Corporation officials, OCR's Dallas region determined that the matter could be resolved voluntarily through the alternate dispute resolution process. The recipient agreed to take the following actions: post a notice stating that Eckerd stores do not discriminate on the basis of race, color, national origin, age, or disability in the delivery of pharmacy services; and include that notice on the back of the Eckerd circular (an advertising supplement) which is sent to 25 million people. Further, the Director of Risk Management for the Eckerd Corporation apologized to the complainant and expressed deep regret that she did not "...get the service [she] had every right to expect."

## *South Dakota State Board of Medical and Osteopathic Examiners (Region VIII)*

This complaint, filed under Title II of the ADA, alleged that the South Dakota State Board of Medical and Osteopathic Examiners discriminated against the complainant on the basis of her hearing impairment. The complainant contended that she was not provided with reasonable accommodation at the time she planned to take the examination for physical therapist. As a result, she was required to take the exam at a later date which could have placed her job offer in jeopardy due to the delay. Based on the technical assistance provided by OCR's Denver Regional Office, the State Board agreed to revise its application to include information regarding the process for requesting reasonable accommodations to take the examination. The revised application will ensure that applicants with disabilities will not encounter delays in taking the examination when reasonable accommodations are needed.

## *Missouri Department of Health, Jefferson City, Missouri (Region VII)*

The complainant alleged that he was denied a reasonable accommodation by the Missouri Department of Health (MDH). The complainant, who is documented as having a learning disability that affects his reading, spelling and written expression, notified the MDH that he intended to take the examination for the Missouri Emergency Medical Technician (EMT) basic certification. When he requested a reader or tape-recorded test and an extended testing period, he was provided a quiet setting and occasional help for some words on the test. MDH considered reading, writing and speaking the English language as essential functions of the job; therefore, it denied the complainant a reader or recorded version of the test.

OCR's Kansas City Regional Office determined that since MDH offered no evidence as to the particular reading level required for the EMT-Basic position, and presented no proof that the certification examination had been validated as a measure of that reading level, the MDH's actions violated Section 504 and Title II of the ADA.

MDH responded to the violation finding by offering the complainant a choice of several remedies, each of which provided him with an opportunity to retake the EMT exam, at no cost, consistent with a revised MDH accommodation policy. MDH has completed all steps necessary to correct the violation finding.

## *National Association for the Deaf v. Public Health Service, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism (Region III)*

This complaint, filed by the National Association for the Deaf (NAD) on behalf of their client, alleged that the National Institutes of Health (NIH), National Institute on Alcohol Abuse and Alcoholism (NIAAA) discriminated against the complainant on the basis of his disability, deafness. Specifically, the NAD alleged that NIAAA denied their client participation in a research protocol because he is deaf. To resolve the case, OCR's Philadelphia Regional Office and NIAAA signed a resolution agreement. NIAAA has taken actions to ensure that it meets its obligation to provide auxiliary aids and services such as interpreters to participants in research protocols where necessary to ensure effective communication.

## *Banks v. D.C. Department of Human Services (Region III)*

After negotiations with OCR's Philadelphia Regional Office, the District of Columbia Department of Health (DCDOH) took steps that will ensure that Medicaid-funded services and programs–particularly those provided in doctors' offices–are accessible to persons who are hearing-impaired.

The steps taken by DCDOH close a complaint filed with OCR by a hearing-impaired Medicaid client and an area civil rights organization. The complaint alleged that DCDOH discriminated against clients on the basis of disability by not providing effective communication, including sign language interpreter services, to hearing-impaired individuals who were attempting to receive Medicaid-funded services in individual physician offices.

DCDOH agreed to contract with a local sign language interpreter to provide interpreter services in the offices of primary care physicians. It then established procedures for doctors who participate in the Medicaid program to contact Graham Staffing, the selected contractor, when they treat hearing-impaired patients. All costs for the interpreter service are being absorbed by DCDOH. Information regarding these procedures have been sent to various organizations within the deaf and hearing-impaired community.

# Promising Practices

As part of our continuing efforts to provide technical assistance to health care providers, OCR spends substantial resources identifying promising practices and emerging technologies that better enable providers to fulfill their legal obligation to serve limited English proficient (LEP) persons.

New York City is perhaps the most diverse city in the world. The steady influx of immigrants, combined with

the resident population of LEP persons, present a formidable communications challenge to the health care system. Recently, Tom Perez and Michael Carter (Regional Manager of OCR's Region II office) visited Gouverneur Hospital, where the Health and Hospitals Corporation, in conjunction with the New York Task Force on Immigrant Health, is testing the Technology Enhanced Medical Interpretation System (TEMIS). TEMIS is a state of the art medical interpretation system designed to increase access to quality health care for non-English-speaking populations. It combines well-trained, culturally competent interpreters with state of the art technology. The provider and patient communicate using wireless remote headsets, while the interpreter, in a separate room, provides simultaneous interpretation services to providers and patients.

In theory, the interpreters could serve technologically equipped providers throughout the city (and elsewhere), although the current pilot program is limited to certain departments of Gouverneur Hospital. The program currently provides Spanish and Cantonese interpretation services. The major barrier to further expansion is a lack of resources.

While there is certainly room for improvement and growth, initial feedback from both patients and providers has been quite favorable. OCR has agreed to offer assistance in an effort to enhance the effectiveness of the program.

# OCR Provides Civil Rights Training to Health Care Financing Administration Personnel

OCR teams nationwide are providing civil rights training to over 2,500 Health Care Financing Administration (HCFA) employees who have responsibilities for the Medicaid, Medicare and Children's Health Insurance Programs. This training focuses on several civil rights laws that prohibit discrimination against individuals who may be denied access to, participation in, or the benefits of programs that receive federal financial assistance. Our Philadelphia Regional Office developed the training model which is being used by OCR regions to train HCFA employees.

In his June 2 letter, Mr. Ramon Suris Fernandez, director of the Office of Equal Opportunity and Civil Rights at HCFA, Baltimore, thanked OCR for our ongoing efforts. According to Mr. Fernandez, "This training benefits our employees since promoting attention to and ensuring HCFA program compliance with civil rights laws are among the highest priorities for HCFA....Kudos to your highly capable staff and I look forward to expanding and continuing what has proven to be a foundation for a mutually beneficial working partnership."

OCR is committed to providing civil rights technical assistance to HHS employees, as well as to recipients and beneficiaries. It's our job, and we are pleased to do it!

# OCR Staff Appointments/Awards

OCR is proud to announce the appointment of Ms. Sheila M. Foran to our Washington headquarters office. Sheila, a trial attorney in the Department of Justice's (DOJ) Civil Rights Division, Disability Rights Section, from 1992 - 1999, began work as Special Counsel to the Director in July. Before working at DOJ, Sheila was a litigator for several years at a large law firm in Washington, D.C., and clerked for Judge Julia Cooper Mack of the D.C. Court of Appeals. She obtained her J.D. in 1986 from the University of Michigan. Sheila is a seasoned attorney with a wealth of experience enforcing disability rights laws. She will play a critical role in OCR's disability enforcement efforts, as well as in a number of additional enforcement areas.

Congratulations to Mr. Michael (Mike) Carter and Mr. Ira Pollack for their recent promotions to the positions of OCR Regional Manager in New York and San Francisco, respectively.

Best wishes to Margaret Cordova, an Equal Opportunity Specialist in Region VIII, who is taking a leave of absence to begin law school at the University of Colorado Law School in Boulder.

Congratulations also are extended to Ms. Caroline J. Chang, OCR Regional Manager in Boston. Caroline was honored recently by the National Conference for Community and Justice for her formative role as a leader and activist within the Asian American community and within greater Boston. In a letter from the HHS Deputy Secretary, Mr. Kevin Thurm, Caroline was further recognized for her "untiring efforts and outstanding leadership in addressing inequities in access to health and human services...The Department and OCR are indeed honored to have [Caroline] on our team."

# Headquarters Retreat and Nationwide Training

On May 18th, OCR headquarters staff attended its first-ever retreat. The retreat was facilitated by six HHS professional trainers and was designed to implement a number of structural reforms to enhance productivity, improve customer service and strengthen our *esprit de corps*. In addition, during August, OCR staff nationwide participated in a week-long training that focused on enhancing OCR's capacity to address the civil rights challenges of the 21st century. A number of experienced advocates participated in this training, including Jane Perkins of the National Health Law Program; Mike Campbell and Ann Torregrossa of the Pennsylvania Health Law Project; Jocelyn Frye of the National Partnership for Women and Families; Mark Cohan of the Welfare Law Center; Fred Freiburg of FH Associates, and Barbara Burr, National Women's Law Center. Also participating as trainers were colleagues from the Department of Justice, including Sandy Ross, Bob Berman, Robin Deykes, and Mary Lou Mobley. OCR investigators also are participating in three-day training sessions on Alternative Dispute Resolution sponsored by the Departmental Appeals Board.

*OCR Headquarters Retreat*

## OCR/HHS: A Snapshot

- Enforces laws prohibiting discrimination based on race, color, national origin, age, disability, sex and religion by recipients of HHS funds.
- Investigates allegations of discrimination on these bases by hospitals, nursing homes, and human service programs, among others.
- Conducts proactive compliance reviews, outreach, education and technical assistance to ensure civil rights compliance.
- Investigates title II ADA complaints against the following types of state and local government entities: health related schools (medicine, dentistry, nursing, etc.); health care providers; and human service providers (e.g., day care centers, state and county human service agencies).
- Employs 225 staff nationwide, including 50 in Washington, D.C.

# For Further Information...

## National Headquarters

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6.17.00

From the desk of:

MARIA ECHAVESTE

To: Ruth Samaedick

I received this report on a recent trip to Fresno, Ca. you ought to share it with DOL and ask them if they're doing anything to determine if these complaints have merit.

Maria