

**Federal Legal
Responsibility for
Ensuring
Managed Care
Accessibility***

State Medicaid Agency

The state must not contract with an MCO unless the state reviews, approves, and monitors the implementation of that MCO's plan for delivering Medicaid services on an equal basis to beneficiaries with disabilities (including the range of provider choice that is offered to other beneficiaries).

Relevant Law: Section 504¹
Title II of the ADA²

**MANAGED CARE
ORGANIZATIONS**

Managed Care Organizations (MCOs) must assure that beneficiaries with disabilities have full and equal access to plan services and benefits, including the range of provider choice offered by the plan. This requirement is independent of the individual provider's obligations below, and could include the reasonable accommodation of developing policies, practices, and procedures that would assist providers to meet their obligations³

Relevant Law: Section 504
Title II of the ADA (if MCO is a public entity)⁴
Title III of the ADA⁵

**INDIVIDUAL
PROVIDERS**

Individual providers must provide full and equal access – including making reasonable modifications to policies, practices, and procedures – to beneficiaries with disabilities unless to do so would result in an undue burden or a fundamental alteration of services. Individual providers must also make available auxiliary aids and services as required to enable effective communication with patients with disabilities, unless doing so would constitute an undue burden. Finally, individual providers must remove architectural barriers in existing facilities where doing so is readily achievable.

Relevant Law: Section 504⁶
Title III of the ADA⁷

ENDNOTES

¹ State Medicaid agencies are prohibited from providing directly or through contractual, licensing, or other arrangements, “any aid, benefit, or service that denies people with disabilities the opportunity to participate in or benefit from Medicaid, affords people with disabilities an opportunity to participate in or benefit from healthcare services that are not equal to that afforded others, or provides people with disabilities with an aid, benefit, or service that is not as effective as that provided to others.” 45 C.F.R. §84.4(1)(i)(ii)(iii).

² In providing any aid, benefit, or service, a public entity “may not, directly or through contractual, licensing, or other arrangements, on the basis of disability: (i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service; (ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; (iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.” 28 C.F.R. § 35.130(b)(1)(i)-(iii). Moreover, a state “shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the program, service, or activity.” 28 C.F.R. §35.130(b)(7).

³ For example, an MCO could implement the provision of centrally located, accessible examining rooms that would be available to all or a group of plan physicians, coordinate a centralized sign language translator bank, or develop plans that financially incentivize the provision of Medicaid services to enrollees with disabilities.

⁴ See *supra* note 2.

⁵ As a public accommodation, MCOs must assure that “no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation.” 28 C.F.R. §36.201(a).

⁶ See *supra* note 1.

⁷ Individual providers must “make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.” 28 C.F.R. §36.302(a). Individual providers must also “take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.” 28 C.F.R. §36.303(a). Finally, individual providers must “remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.” 28 C.F.R. §36.304(a).