



DATE: SEP 17 2010

TO: All Employees

FROM: Donald M. Berwick, M.D.  
AdministratorMarilyn Tavenner  
Principal Deputy Administrator  
and Chief Operating Officer

SUBJECT: Equal Employment Opportunity Policy Statement

The Centers for Medicare & Medicaid Services (CMS) is committed to ensuring a workplace free from unlawful discrimination and harassment, and fostering a work environment that fully utilizes the capabilities of every employee at all organizational levels.

It is the policy of CMS to provide equality of opportunity for all employees and applicants for employment regardless of race, color, national origin, religion, sex, age, physical or mental disability, genetic information, or sexual orientation; to promote full realization of equal opportunity through continuing affirmative employment; and to maintain a workplace free of discriminatory practices and policies. All employees will have the freedom to compete on a fair and level playing field and have the opportunity to achieve their fullest potential. This policy applies to all personnel/employment programs, management practices and decisions including, but not limited to, recruitment/hiring, merit promotion, transfer, reassignments, training and career development, benefits, and separation. We are personally committed to equal employment opportunity and the realization of a fully represented workforce through the implementation of an effective affirmative employment program.

CMS is committed to the principles of equal employment opportunity. All employees and managers must do their part to preserve these principles in our organization by following this EEO policy. Working together in this endeavor, we will cultivate an environment that allows all employees to achieve their highest potential. Simply reducing or preventing discrimination is not enough. We must aggressively promote equal employment opportunity for all persons in the workplace. It is the responsibility of all employees to practice the principles of equal employment opportunity. Toward that end, equal employment opportunity is a critical element in the work plan of every CMS manager.

#### CMS Office of Equal Opportunity and Civil Rights (OEOCR)

OEOCR is the component within CMS that acts in a neutral capacity to process claims of employment discrimination. To initiate the EEO complaint process the individual must contact OEOCR within 45 calendar days of the alleged discriminatory event. Contact information for OEOCR is set forth at the end of this policy statement.

## Harassment

Please refer to the “Policy Statement on Workplace Harassment, Offensive, and Inappropriate Conduct” at <http://cmsnet.cms.hhs.gov/hpages/oeocrPolicyStatements.htm>.

## Retaliation

The U.S. Equal Employment Opportunity Commission (EEOC), an independent federal agency with authority over the processing of complaints of discrimination, has issued regulations stating that no person shall be subject to retaliation for opposing any practice made unlawful by Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, or the Rehabilitation Act or for participating in any stage of the administrative or judicial proceedings under those statutes. See 29 C.F.R. Section 1614.101(b). Accordingly, unlawful discrimination or harassment against an employee because s/he has engaged or cooperated with the EEO process (e.g., filed an EEO complaint, been a witness in an EEO complaint, assisted in the EEO complaint process, or protested EEO discrimination) is unlawful and will not be tolerated. CMS supports the rights of all employees to exercise their rights under the civil rights statutes.

## Alternative Dispute Resolution

Managers and supervisors must continue to take positive steps towards ensuring a supportive work environment and reaching early resolution of complaints, as appropriate. We encourage all managers, supervisors and employees to utilize the Agency's Alternative Dispute Resolution (ADR) program. Using mediation as a vehicle to resolve conflicts in the workplace can significantly reduce the number of EEO complaints and employee grievances. Mediation can help improve communication and the quality of work life in CMS.

The OEOCR Director has the discretion to determine whether a dispute is appropriate for mediation. However, if an employee in the EEO process requests ADR and the matter is referred to mediation by the OEOCR Director, management is required to participate in the ADR process.

## Cooperation in the EEO Process

CMS' EEO complaint processing program is an essential part of our EEO effort. Through this program, CMS has the ability to properly address the EEO-related concerns of our employees and applicants for employment. Employees and managers who are called as witnesses in the processing of a formal or informal EEO complaint must cooperate in a truthful, prompt fashion, and must respond fully, candidly, and truthfully to inquiries by EEO counselors, investigators, and other EEO officials and Agency representatives. Federal regulations further provide for disciplinary action to be taken against employees who fail to cooperate in the EEO process.

## Official Time

In accordance with EEOC regulations, an individual involved in the EEO complaint process and his or her personal representative (if an Agency employee and otherwise in a duty status) are entitled to a reasonable amount of official time to present the complaint and respond to Agency and EEOC requests for information. Employees are responsible for requesting official time from the employee's supervisor in advance. Except for mandatory situations when employees must be released, such as investigations, mediations and hearings, the employee and the manager should arrive at a mutual understanding as to the

amount of official time to be used prior to the employee's use of such time. The form for requesting official time is available on the CMS intranet in the forms locator.

### Office of Special Counsel

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency whose mission includes protecting federal employees under the Whistleblower Protection Act. For whistleblower claims, as well as claims of employment discrimination based on marital status or political affiliation, an individual should contact OSC at [www.osc.gov](http://www.osc.gov) or (202) 254-3600. (For OSC's TTY information, please see [www.osc.gov](http://www.osc.gov).) Anyone may contact OSC directly; prior supervisory notice is not required.

### Threats of Violence

If an employee receives any type of a threat of violence or has any concern regarding personal safety, they should contact the Security Control Center at their designated site immediately.

### Reasonable Accommodation

CMS has a legal obligation to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment and who request reasonable accommodation, unless to do so would cause undue hardship. In general, a reasonable accommodation is any change in the work environment or in the way things are customarily done that enables a qualified individual with a disability to enjoy equal employment opportunities.

The reasonable accommodation process begins when an employee or applicant makes a request for reasonable accommodation. Requests for reasonable accommodation should be directed to the employee's immediate supervisor or the CMS Office of Equal Opportunity and Civil Rights. Upon receipt of a request, either verbal or written, the manager must initiate an interactive communication with the individual regarding the request and should contact the Agency's Disability Employment and Reasonable Accommodation Program Team in OEOCR to facilitate processing of the request.

Agency officials are obligated to treat an employee's medical information and documentation confidentially to avoid any unauthorized disclosure. The Disability Employment and Reasonable Accommodation Program Team is available to assist managers and employees in exchanging information and reaching appropriate decisions on reasonable accommodation requests. To reach the Disability Employment and Reasonable Accommodation Program Team, please contact OEOCR as described below.

### OEOCR contact information

For questions regarding this policy, please contact:  
Centers for Medicare & Medicaid Services, Office of Equal Opportunity and Civil Rights  
7500 Security Blvd., Room N2-22-16, Baltimore, MD 21244-1850, Phone: (410) 786-5110  
Fax: (410) 786-9549, TTY: (410) 786-2456  
[http://cmsnet.cms.hhs.gov/hpages/oecr/about\\_oecr.htm](http://cmsnet.cms.hhs.gov/hpages/oecr/about_oecr.htm)