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## Affordable Care Act Notice: Grievance Policy and Procedure

It is the policy of Arc Herkimer not to discriminate on the basis of race, color, national origin, sex, age or disability. Arc Herkimer has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 1557 of the Affordable Care Act (42 U.S.C. 18116) and its implementing regulations at 45 CFR part 92[i], issued by the U.S. Department of Health and Human Services. Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities. Section 1557 and its implementing regulations may be examined in the office of:

Richella Abell-Hawes, Vice President Compliance and Quality  
350 South Washington Street, P.O. Box 271, Herkimer, NY 13350  
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Ms. Abell-Hawes has been designated to coordinate the efforts of Arc Herkimer to comply with Section 1557. Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, sex, age or disability may file a grievance under this procedure. It is against the law for Arc Herkimer to retaliate against anyone who opposes discrimination, files a grievance, or participates in the investigation of a grievance.

### Procedure:

- Grievances must be submitted to the Section 1557 Coordinator within (60 days) of the date the person filing the grievance becomes aware of the alleged discriminatory action.
- **A complaint must be in writing**, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The Section 1557 Coordinator (or her/his 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. The Section 1557 Coordinator will maintain the files and records of Arc Herkimer relating to such grievances. To the extent possible, and in accordance with applicable law, the Section 1557 Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to grievances and will share them only with those who have a need to know.
- The Section 1557 Coordinator will issue 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 person filing the grievance may appeal the decision of the Section 1557 Coordinator by writing to the (Administrator/Chief Executive Officer/Board of Directors/etc.) within 15 days of receiving the Section 1557 Coordinator's decision. The (Administrator/Chief Executive Officer/Board of Directors/etc.) shall issue a written decision in response to the appeal no later than 30 days after its filing.

The availability and use of this grievance procedure does not prevent a person 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. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint Portal, which is available at:

<https://ocrportal.hhs.gov/ocr/portal/lobby.jsf> , or by mail or phone at:

U.S. Department of Health and Human Services,  
200 Independence Avenue SW., Room 509F, HHH Building,  
Washington, DC 20201  
[Telephone] 1-800-368-1019  
[TDD] 1-800-537-7697

Complaint forms are available at: <http://www.hhs.gov/ocr/office/file/index.html> Such complaints must be filed within 180 days of the date of the alleged discrimination.

Arc Herkimer 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 Section 1557 Coordinator will be responsible for such arrangements.

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[ii](#) 45 C.F.R. § 92.101 (excerpted)

(a) General.

(1) Except as provided in Title I of the ACA, an individual shall not, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any health program or activity to which this part applies.

(2) This part does not apply to employment, except as provided in § 92.208.

(b) Specific discriminatory actions prohibited. Under any health program or activity to which this part applies:

(1)(i) Each covered entity must comply with the regulation implementing Title VI, at § 80.3(b)(1) through (6) of this subchapter.

(ii) No covered entity shall, on the basis of race, color, or national origin, aid or perpetuate discrimination against any person by providing significant assistance to any entity or person that discriminates on the basis of race, color, or national origin in providing any aid, benefit, or service to beneficiaries of the covered entity's health program or activity.

(2)(i) Each recipient and State-based MarketplaceSM must comply with the regulation implementing Section 504, at §§ 84.4(b), 84.21 through 84.23(b), 84.31, 84.34, 84.37, 84.38, and 84.41 through 84.52(c) and 84.53 through 84.55 of this subchapter. Where this paragraph cross-references

regulatory provisions that use the term “recipient,” the term “recipient or State-based Marketplace<sup>SM</sup>” shall apply in its place.

...

(3)(i) Each covered entity must comply with the regulation implementing Title IX, at § 86.31(b)(1) through (8) of this subchapter. Where this paragraph cross-references regulatory provisions that use the term “student,” “employee,” or “applicant,” these terms shall be replaced with “individual.”

(ii) A covered entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals on the basis of sex.

(iii) In determining the site or location of a facility, a covered entity may not make selections that have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any programs to which this regulation applies, on the basis of sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity on the basis of sex.

(iv) A covered entity may operate a sex-specific health program or activity (a health program or activity that is restricted to members of one sex) only if the covered entity can demonstrate an exceedingly persuasive justification, that is, that the sex-specific health program or activity is substantially related to the achievement of an important health-related or scientific objective.

(4)(i) Each covered entity must comply with the regulation implementing the Age Act, at § 91.11(b) of this subchapter.

(ii) No covered entity shall, on the basis of age, aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person that discriminates on the basis of age in providing any aid, benefit, or service to beneficiaries of the covered entity's health program or activity.

(5) The enumeration of specific forms of discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section. September 2, 2016 Page 9

(c) The exceptions applicable to Title VI apply to discrimination on the basis of race, color, or national origin under this part. The exceptions applicable to Section 504 apply to discrimination on the basis of disability under this part. The exceptions applicable to the Age Act apply to discrimination on the basis of age under this part. These provisions are found at §§ 80.3(d), 84.4(c), 85.21(c), 91.12, 91.15, and 91.17–.18 of this subchapter.

(d) Where the regulatory provisions referenced in paragraphs (b)(1), (b)(3), and (b)(4), and paragraph (c) of this section use the term “recipient,” the term “covered entity” shall apply in its place. Where the regulatory provisions referenced in paragraphs (b)(1), (b)(3), and (b)(4) and paragraph (c) of this section use the terms “program or activity” or “program” or “education program,” the term “health program or activity” shall apply in their place.