



DEPARTMENT OF HEALTH & HUMAN SERVICES

Substance Abuse and Mental
Health Services Administration

Center for Mental Health Services
Center for Substance Abuse
Prevention
Center for Substance Abuse
Treatment
Rockville MD 20857

JAN 02 2008

Dear SSA Director:

Recently, the Center for Substance Abuse Treatment, Division of State and Community Assistance received a request to clarify the ability of a State to use Block Grant funding for a specific target population -- tribal members. The request was based, in part, on a determination that tribal members had the greatest need for services. The request involved whether a Tribe has the ability to either limit enrollment to the tribal members or to give preferential admission status to them. To insure that all States are aware of the requirements of the Substance Abuse Prevention and Treatment (SAPT) Block Grant, we want to share the question and answer with you.

ISSUE

The State submitted a request to determine if a SAPT Block Grant sub-recipient (in this particular case, a tribal treatment program operating on a Reservation) could limit admission to a particular target population (tribal members) only. The State subsequently submitted a request for additional clarification regarding whether the prospective SAPT Block Grant sub-recipient could give preference to the target population and provide services to others as capacity allows.

DETERMINATION

It has been determined that the proposal would violate the non-discrimination provision contained in 42 U.S.C. 330x-57 which prohibits discrimination based on age, disability, sex, religion, race, color, or national origin in programs funded in whole or in part with SAPT Block Grant funds. Further, the HHS regulation implementing the provisions of title VI of the Civil Rights Act of 1964 in programs receiving Federal assistance through HHS prohibits discrimination in such programs (45 C.F.R. Part 80).

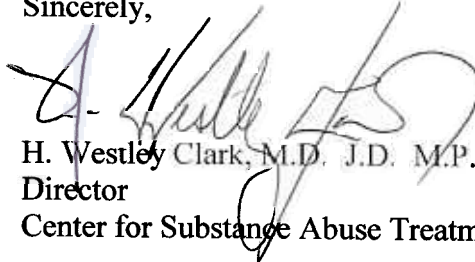
Specifically, the regulation prohibits discrimination for and against individuals based on race, color, or national origin. A recipient under any program receiving Federal assistance through HHS may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin: (i) deny any individual any service or other benefit provided under the program; (ii) provide any service or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program; (iii) subject an individual to segregation or separate treatment in any matter related to his receipt of any service or other benefit under the program; (iv) restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving the service or other benefits under the

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program; (v) treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service or other benefit provided under the program; or (vi) deny an individual an opportunity to participate in the program through the provision of services or otherwise afford him an opportunity to do so which is different from that afforded others under the program. 45 C.F.R. 80.3(b)(1).

Thus, the non-discrimination provisions of the SAPT Block Grant and HHS regulations do not allow a recipient of the Block Grant funds to exclusively serve or give preference to a targeted population based on an impermissible factor such as race or ethnicity. The only exception is that specifically allowed in statute (priority admission for pregnant women).

Sincerely,



H. Westley Clark, M.D. J.D. M.P.H., CAS, FASAM
Director
Center for Substance Abuse Treatment

Cc: State Project Officer
John Campbell
Anne Herron