

Accessibility to Healthcare for Individuals with Disabilities (Including Alcohol And Drug Addiction)

Effective date: 7/14/22 Supercedes Policy: 1/30/14

I. KDMC is a place of public accommodation and is therefore subject to the requirements of Title III of the Americans with Disabilities Act (“ADA”). Under Title III of the ADA, no individual shall be discriminated against on the basis of a disability in the full and equal enjoyment of the goods, services, privileges, advantages, or accommodations of a place of public accommodation. Discrimination includes the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability from fully and equally enjoying goods, services, facilities, privileges, advantages, and accommodations. Under Title III, the definition of disability includes individuals who currently have or have a history of: alcoholism or drug addiction (substance use disorder), which includes opioid use disorder (“OUD”) and individuals taking any medication for opioid use disorder (“MOUD”). MOUD includes buprenorphine (including, for example, Suboxone and Subutex), methadone, and naltrexone.

II. No KDMC Team Member shall discriminate against an individual regarding such individual’s access to healthcare services on the basis of that individual’s disability, including drug or alcohol addiction, or a history of alcohol or drug addiction, if the individual is otherwise entitled to such services. Such persons are individuals with a disability and are covered by the ADA’s protections.

However, a drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program. Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812). Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term “illegal use of drugs” does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

III. This Policy shall apply to all departments and providers of KDMC and its affiliates KDIP, KDOH, and Kingsbrook.

PROCEDURE:

1. Introduction. Discrimination against individuals with a disability is prohibited across a range of situations and scenarios, including in such areas as employment, access to healthcare services, education, and transportation. Title III of the Americans with Disabilities Act prohibits discrimination on the basis of disability in the activities of places of public accommodations. Places of public accommodation under the ADA include twelve categories, including hospitals and health care offices. KDMC cannot deny access to healthcare services to disabled individuals, including those with Substance Use Disorder (SUD) and Opioid Use Disorder (OUD).

2. Definitions.

2.1 Disability. A physical or mental impairment that substantially limits one or more of the major life activities of an individual.

2.2 Physical or mental impairment. Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, major depressive disorder, obsessive compulsive disorder, dyslexia and other specific learning disabilities, ADHD, HIV (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

2.3 Disabled. A person who has a disability; a history of a disability; or a person who is regarded as having an actual or perceived physical or mental impairment, whether the person has the impairment or not.

This definition includes a person who currently has or has a history of drug or alcohol addiction, including an OUD, or a person who is currently or has a history of taking an MOUD, including buprenorphine, methadone, and naltrexone. Persons who have a history of drug charges or convictions can also be “regarded as having” an impairment and are also protected under the ADA.

2.4 Access to Services. The non-discrimination principles of Title III include, among other things, equal opportunity to participate; equal opportunity to benefit; and receipt of benefits in the most integrated setting appropriate.

2.5 Reasonable Modifications. Title III requires reasonable modifications to policies, practices, and procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless the modification would cause a fundamental alteration of the nature of the goods, services, facilities, privileges, advantages or accommodations.

3. Addictions. Persons who are addicted to or have a history of addiction to alcohol or drugs are generally considered disabled under Title III of the ADA regarding the provision of healthcare services. OUD and other addictions are considered a disability when they substantially limit one or more major life activities. OUD limits the operation of major bodily functions, such as neurological and brain functions. Healthcare services may not be denied merely because a person has a history of drug addiction or alcoholism.

4. Disabled Persons Seeking Care. No person shall be denied access to KDMC treatment or programs on the basis of that individual’s past or current alcohol or drug use, if the individual is otherwise entitled to such services. Likewise, KDMC shall not deny healthcare services to individuals on the basis that the individual has a history of alcohol or drug addiction, an OUD, or because the individual currently has, or in the past has had, a prescription for a MOUD.

5. Safety Requirements. Where necessary for safe operation, KDMC may impose legitimate safety requirements. A person may be denied public accommodation and services if the person poses a direct threat to the health or safety of others. However, denying such services must be based on an individualized assessment by the provider, based on reasonable judgment that relies on current medical knowledge or the best available objective criteria, to ascertain the nature, duration, and severity of the risk, the possibility that injury will actually occur, and whether reasonable modifications of policies and procedures could mitigate the risk. Safety requirements must be based on actual risk and not mere speculation, stereotypes, or generalizations about individuals with drug addictions or other behavioral disabilities.

6. Modifications. Modification of policies, practices, or procedures must be considered when necessary to afford goods, services, facilities, privileges, and advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making the accommodation and modifications would fundamentally alter the nature of the goods, services, facilities, privileges or advantages, or accommodations.

7. Guidance and follow-up. To ensure that all patients are served and referral decisions are compliant with the ADA, if a Team Member has a question as to whether failure to process a referral will result in a violation of this policy, the Team Member should contact their supervisor and/or corporate compliance to seek guidance. Upon clarification from the supervisor or corporate compliance, the Team Member should ensure the referral is processed or appropriately declined for non-discriminatory reasons with proper notifications to the patient and/or referring health care provider.

8. No Retaliation. No individuals who exercise their rights under the ADA, or assist others in exercising their rights under the ADA, shall be subjected to retaliation or any form or reprisal for exercising such rights or assisting in the exercise of such rights.

9. Previous Policies. This policy shall replace and nullify any previous KDMC policies limiting the eligibility for KDMC programs, activities, and access to healthcare of individuals with drug or alcohol addictions, or individuals with a history of drug or alcohol addiction, including current or previous prescriptions for MOUDs.

10. Provider Discretion Based on Objective Evidence. Blanket policies regarding “screening out” or not providing healthcare to individuals with certain disabilities are not allowed. However, nothing under the ADA compels a healthcare provider to treat an individual who requires care beyond the provider’s ability or expertise, based upon the provider’s assessment of the patient’s individual circumstances and needs. A provider who reasonably believes that a disabled individual requires treatment beyond the provider’s experience, knowledge or prerequisites necessary to address the individual’s medical condition may refer that individual to another provider if that provider would likewise refer an individual without a disability in the same fashion. However, the provider’s decision must be based on medical or other objective, scientific evidence available to the provider and his/her profession, and not simply on the provider’s subjective belief that a risk of harm exists or that the disability cannot be accommodated through reasonable modifications to policies, practices, or procedures.

11. Reporting violations. Team Members who believe access to healthcare at KDMC or its affiliates has been denied on the basis of a disability in violation of Title III shall report the occurrence to corporate compliance by email at corporatecompliance@kdmc.kdhs.us or by phone at: Confidential/Anonymous Hotline (606) 408-4145 or Compliance Officer at (606) 408-0161.