

Tribal Option Managed Care



The Mission of the Cherokee Indian Hospital is to be the provider of choice for the community by providing accessible, patient and family centered quality healthcare with responsible management of the Tribes resources.

TITLE: Non-Discrimination Policy for Employees, Members and Providers

REVIEWED AND APPROVED BY: CIHA EXECUTIVE COMMITTEE

EFFECTIVE DATE: 12/10/2020

LAST REVIEWED: 12/10/2020, 2/4/2021

PURPOSE: To establish a policy of non-discrimination, consistent with 42 USC 1396u-2(h)(3) and 42 C.F.R. § 438.3(d)(4) for participation in the Eastern Band Cherokee Indian (EBCI) Tribal Option (TO), Primary Care Case Management (PCCM) entity. Cherokee Indian Hospital Authority (CIHA) and its division, The EBCI Tribal Option (referred to as the Tribal Option), creates an environment that aligns with the core purpose, mission, vision and guiding principles of CIHA. The objective of this policy is to ensure **di qwa tse li I yu s di** (“like family to me” “He, she, they are like my own family”) and outline both CIHA’s and the Tribal Option’s commitment to prohibit discrimination in the EBCI health system and its network of providers.

CIHA/Tribal Option believes that all health care services belong to the people and CIHA/Tribal Option is a steward of their inheritance, charged with safeguarding it and providing it to them when and how they need it.

The Tribal Option, a NC Medicaid managed care Primary Care Case Management (PCCM) entity, must adopt a non-discrimination policy as required by federal law and the DHHS Indian Managed Care Entity (IMCE) contract (DHHS Tribal Option Contract). The Tribal Option will honor the policy of the CIHA and extend the non-discrimination policy to the network providers as stipulated into the TO Network provider agreements.

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The Tribal Option network, consists of tribal providers and non-tribal providers. An individual's enrollment into the Tribal Option is limited to those individuals eligible to receive services at an Indian Health Services (IHS) facility and as outlined in the Tribal Option Enrollment Policy.

STAFF GOVERNED BY THIS POLICY: Tribal Option staff, care management staff, internal and external Primary Care Providers (Tribal Option PCP network) and Tribal Option vendors

POLICY: The Tribal Option will not discriminate against individuals eligible for services at CIHA or in the Tribal Option network or an individual's enrollment, as defined in the EBCI Tribal Option Enrollment and Disenrollment Policy and outlined in the DHHS Tribal Option Contract. All individuals will be treated with dignity, compassion, and respect. Consistent with Federal law, CIHA Compliance Plan, accreditation standards of The Joint Commission (as applicable) and DHHS Tribal Option Contract, Individuals will not be subject to discrimination for any reason, including for reasons of age, race, ethnicity, religion, culture, language, health status, need for health care services, physical or mental disability, socioeconomic status, sex, sexual orientation, or gender identity or expression as stipulated in 45C.F.R. 80.3(d).

The Tribal Option shall ensure each Member is not subject to any unlawful discrimination in the course of obtaining or receiving services from the Tribal Option or any provider within the Tribal Option Network of Primary Care Physicians (PCPs) in compliance with 45 C.F.R 80.3(d). The Tribal Option shall ensure compliance with the non-discrimination requirements specified in the DHHS Tribal Option Contract, as well as any other applicable federal and state laws and regulations prohibiting discrimination against Members in the course of obtaining or receiving services from the Tribal Option or any Network PCP as required in 42 C.F.R. § 438.100(d).

The Tribal Option and their subcontractors shall comply with all applicable federal and North Carolina laws, regulations, guidelines, and standards, or those that may be lawfully adopted pursuant to the statutes prohibiting discrimination, including, but not limited to the following:

- Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin;
- Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap;
- Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex;
- The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age;

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- Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs;
- The Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities;
- Section 1557 of the Patient Protection and Affordable Care Act, which prohibits discrimination on the on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities;
- The North Carolina Equal Employment Practices Act, Article 49A of Chapter 143 of the General Statutes, which prohibits employment discrimination on the basis of race, religion, color, national origin, age, sex or handicap by employers which regularly employ fifteen (15) or more employees;
- The North Carolina Persons with Disabilities Protection Act, Chapter 168A of the General Statutes, which prohibits disability discrimination;
- The North Carolina Retaliatory Employment Discrimination Act, Article 21 of Chapter 95 of the General Statutes, which prohibits employer retaliation against employees who in good faith take or threaten to take protected action under the law; and
- Abide by the non-discrimination provisions in North Carolina Executive Order 24 dated October 18, 2017 by maintaining or implementing employment policies that prohibit discrimination by reason of race, color, ethnicity, national origin, age, disability, sex, pregnancy, religion, National Guard or Veteran's status, sexual orientation, and gender identity or expression.

The Tribal Option will also provide free aids and services to individuals with disabilities to communicate effectively with their providers and with staff. In addition, for those individuals whose primary language is not English, assistance is also provided. Such assistance, service or aids shall include:

- Qualified sign language interpreters
- Written information in other formats (large print, audio, accessible formats, etc)
- Qualified interpreters
- Information written in other languages

Furthermore, The Tribal Option and its PCP network shall not discriminate against individuals eligible to enroll on the basis of health status or need for health care services unless limited by enrollment into an Indian Managed Care Entity as defined by the Tribal Option Enrollment Policy. In addition, the Tribal Option shall not discriminate in enrollment, disenrollment, and re-

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enrollment against individuals on the basis of health status or need for health care services as outlined in 42 C.F.R. § 438.3(q)(4). The Tribal Option shall not use any policy or practice that has the effect of discriminating against individuals eligible to enroll on the basis of race, color, national origin, sex, sexual orientation, gender identity, or disability in accordance to 42 USC 1396u-2(h)(3) and 42 C.F.R. § 438.3(d)(4)

As part of ensuring compliance, The EBCI Tribal Option Director and subcontractors will maintain collaborative working relations with the DHHS NC Medicaid Tribal Option Program Manager (TOPM) through scheduled meetings for purposes of discussing monitoring and oversight of the of the Program that serves federally recognized tribal members, IHS eligibles and their families. When circumstances present whereby a Tribal Member or IHS eligible individual has special needs and/or disabilities requiring additional resources (e.g., Division of Deaf and Hard of Hearing Services), The Tribal Option Director will utilize the DHHS TOPM as the conduit to gain access to appropriate linkage/resource to the Department's thirteen (13) divisions. This policy does not prohibit the direct contact with any DHHS Division or Office.

DEFINITIONS:

- **Authorized Representative:** An individual, Provider or organization designated by a Beneficiary, or authorized by law or court order, to act on their behalf in assisting with the individual's participation in the Medicaid Managed Care program. With written consent of the Member, or as otherwise legally authorized, an Authorized Representative may, for example, request an Appeal, file a Grievance, or request a State Fair Hearing on behalf of the Beneficiary with the exception that a Provider cannot request continuation of Benefits.
- **Contract:** The Indian Managed Care Entity Contract #30-2020-014-DHB between the North Carolina Department of Health and Human Services, Division of Health Benefits and Cherokee Indian Hospital Authority. Subsequent revisions and amendments are also included in this definition. This contract is also referred to as the DHHS Tribal Option Contract.
- **Discrimination:** The act of taking action against individuals on the basis of age, health status, race, color, national origin, sex, sexual orientation, gender identity, or disability. The Tribal Option applies this definition in accordance to 42 USC 1396u-2(h)(3) and 42 C.F.R. § 438.3(d)(4)
- **Grievance:** An expression of dissatisfaction about any matter other than an Adverse Determination or Adverse Benefit Determination including but not limited to, quality of care or services provided and aspects of interpersonal relationships such as rudeness of Provider or employee, or failure to respect the Member's rights.
- **Provider Grievance:** Any oral or written complaint or dispute by a Network PCP over any aspects of the operations, activities, or behavior of the Contractor except for any dispute for which the Network PCP has appeal rights.

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PROCEDURE:

Individuals that are eligible for enrollment in the Tribal Option will be enrolled in the order in which they apply without restriction, unless authorized by the Tribal Option Enrollment and Disenrollment Policy and as stipulated in the DHHS Tribal Option Contract.

The is Notice (Attachment A) informing members about nondiscrimination and accessibility requirements or policy will non-discrimination policy will be included or referenced in the following Tribal Option materials and documents:

- Tribal Option website, EBCItribaloption.com,
- Care Management Design and Policy
- Care Management Letters
- Member Handbook
- Provider Manual
- Marketing Materials
- Grievance Policy
- Staff Orientation and Training
- Tribal Option Network PCP contracts

This policy will be reviewed annually or more frequently as necessary to addresses changes in federal law, rules or contractual obligations. In addition, all grievances and complaints will be reviewed as part of the Tribal Option Quality Plan and necessary steps taken to remediate findings arising as a result of discrimination.

In the event that a member or provider believes that the Tribal Option has failed to provide the services covered by this policy or discriminated in another way on the basis of race, color, national origin, age, disability or sex, the individual can follow the grievance procedures. The procedure for the filing and investigating a discrimination complaint or grievance against the CIHA's EBCI Tribal Option is as follows:

How to File a Complaint or Request for Reconsideration by Members or Providers:

- A. Members may contact EBCI Tribal Option Member Services at **1-800-260-9992** for assistance in filing a complaint. A copy of the Member Notice is Attachment A of this policy and can also be found at EBCItribaloption.com,
- B. Providers may contact EBCI Tribal Option Provider Services at 1-800-260-9992 to file a complaint.
- C. A written complaint must be filed with the Tribal Options' Member Services Office or the Provider Network's Service Office (post marked or hand delivered) within sixty (60) days of the date of the alleged violation. If, due to a disability and you require assistance to prepare a complaint, the Tribal Option shall provide such assistance upon request.

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- a. The complaint may be mailed to: Cherokee Indian Hospital, EBCI Tribal Option, Caller Box C-268, Cherokee, NC 28719
 - b. The written complaint must be filed by the person aggrieved by the alleged discrimination and must contain:
 - 1) the name and mailing address of aggrieved party complaining;
 - 2) the name of the Tribal Provider or Tribal Options agent involved;
 - 3) the date(s) of the alleged violation; and
 - 4) a brief description of the alleged violation.
- D. Requests for Reconsideration from a letter of no finding of discrimination shall be made in writing stating clearly the basis for which reconsideration should be granted. The Request for Reconsideration must be filed by the person making the initial complaint at the Tribal Options' Member Services Office or the Provider Network's Services Office (post marked or hand delivered) within thirty (30) days from the date of the Letter of no finding of discrimination.

Investigating the Complaint:

- A. Once the complaint is received, the Member Services Manager or Provider Services Manager
- B. or designee shall conduct an investigation of the allegation.
- C. If the complaint alleges discrimination against a Provider that is not an employee of the CIHA or the Tribal Option, the Member Services Manager shall investigate and follow steps in II.D; II.E; and III B.
- D. In the event that there is a perceived or real conflict between the Member Service Manager and the member, a reassignment of the investigation will be made to a designee.
- E. The Member Services Manager may seek guidance from the CIHA's Compliance Officer and/or the CIHA's legal counsel if necessary.
- F. The Member Services Manager shall complete the investigation into the complaint within twenty-one (21) days and resolve the complaint by:
 - Mailing a letter of no finding of discrimination to the complainant post marked within two (2) days of the letter's issuance; or
 - Resolving the issue between the person or provider aggrieved and the Tribal Option.
- G. The Tribal Option shall maintain a written accounting of the findings and resolution action.

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Procedure for Filing a Complaint by Tribal Option Employees

EBCI Tribal Option Employees shall follow the CIHA Employee Grievance Procedures as outlined in Section 15 of the *CIHA Personnel Manual*. As required by the DHHS Tribal Option Contract, employees may file a complaint with the US Equal Employee Opportunity Commission (EEOC) and are subject to applicable personnel laws for Tribal entities and providers. The process for filing is located at <https://www.eeoc.gov/filing-charge-discrimination>.

Other Actions:

- A. The Tribal Option Member Service Manager may also assist the individual in filing a complaint or grievance or make referral to the NC Medicaid Ombudsman Program for further assistance to avoid any appearance of Conflict of Interest.
- B. The Tribal Option members or providers have the option to file directly with NC DHHS or the US Department of Health and Human Services as outlined below.
- C. Members and Providers may contact the NC Dept of Health and Human Services. The process for filing a complaint is outlined online at <https://files.nc.gov/ncdhhs/DHHS%20ADA%20Grievance%20Procedure%20June%202019.pdf>. Additional information can be obtained by contacting the Compliance Attorney, NC DHHS Compliance Attorney, Office of the Secretary, 101 Blair Drive, Raleigh, NC 27603, telephone 919-855-4800.
- D. Tribal Members or providers may also file a civil rights complaint with the US Department of Health and Human Services, Office of Civil Rights. Complaint forms are available at www.hhs.gov/ocr/office/file/index.html
 - Electronically through the Office of Civil Rights Complaint Portal at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>
 - By mail at:
US Department of Health and Human Services
200 Independence Avenue SW, Room 509F, HHH Building
Washington, DC 20201 or
 - By phone at 1-800-368-1019 (TDD: 1-800-537-7697)

Reporting

Member non-discrimination grievances filed shall be included on the Member Grievance Log and submitted to the Department on a quarterly basis in the format required by the DHHS Tribal Option Contract. The TO shall maintain records of all Member Grievances, inclusive of allegations of discrimination, and shall review the information and trends as part of its ongoing monitoring procedures. The quarterly report on Grievances, as required by the DHHS Tribal Option Contract, shall include the total number of Grievance requests filed with the Tribal Option, the basis for each Grievance, the status of pending requests, the disposition of any requests that have been resolved, and time to resolution.

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Provider non-discrimination grievance filed shall be included on the Provider Grievance Log and submitted to the Department on a quarterly basis in the format required by the DHHS Tribal Option Contract. The Quarterly report, as required by the DHHS IMCE Contract on Provider Grievances, shall include the grievance requests received and processed by the TO, including the total number of Grievances filed with the Tribal Option, the basis for each Grievance, the status of pending requests, the disposition of any requests that have been resolved, and time to resolution as outlined in 42 C.F.R. § 438.66(c)(3).

References:

- Indian Managed Care Entity Contract #30-2020-014-DHB between the North Carolina Department of Health and Human Services, Division of Health Benefits and Cherokee Indian Hospital Authority

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Attachment A

NOTICE INFORMING INDIVIDUALS ABOUT NONDISCRIMINATION AND ACCESSIBILITY REQUIREMENTS

The Eastern Band of the Cherokee Indian (EBCI) Tribal Option complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. DHHS does not exclude people or treat them differently because of race, color, national origin, age, disability, or sex.

The EBCI Tribal Option:

- Providers free aids and services to people with disabilities to communicate effectively with us, such as qualified sign language interpreters and written information in other formats (large print, audio, accessible electronic formats, other formats).
- Providers free language services to people whose primary language is not English, such as qualified interpreters and information written in other languages.

If you need these services, contact EBCI Tribal Option Member Service at 1-800-260-9992. If you believe that EBCI Tribal Option has failed to provide these services or discriminated in another way on the basis of race, color, national origin, age, disability, or sex, you can follow the grievance procedures found below. You have three (3) options for filing a grievance:

1. You may contact EBCI Tribal Option Member Services at 1-800-260-9992 or TTY 771 for assistance in filing a grievance or if you want to discuss the problem before filing the grievance. The process for filing a grievance is online at EBCItribaloption.com.
2. You may contact the NC Dept of Health and Human Services at the DHHS Customer Service at 1-800-662-7030. The process for filing a complaint is outlined online at <https://files.nc.gov/ncdhhs/DHHS%20ADA%20Grievance%20Procedure%20June%20202019.pdf>. Additional information can be obtained by contacting the Compliance Attorney, NC DHHS Compliance Attorney, Office of the Secretary, 101 Blair Drive, Raleigh, NC 27603, Telephone 919-855-4800.
3. Tribal Members or providers may also file a civil rights complaint with the US Department of Health and Human Services, Office of Civil Rights. Complaint forms are available at www.hhs.gov/ocr/office/file/index.html
 - Electronically through the Office of Civil Rights Complaint Portal at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>
 - By mail at:
US Department of Health and Human Services
200 Independence Avenue SW, Room 509F, HHH Buidling
Washington, DC 20201 or
 - By phone at 1-800-368-1019 (TTD: 1-800-537-7697)

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ATTENTION: If you need a Cherokee interpreter, we can call someone for you.
Tsalagi anedisgi yitsaduli, gilo yiwotsiyana. ᑕᑦᑦᑦ ᑃᑎᑦᑃᑎᑦᑃ ᑎᑕᑎᑎ, ᑦᑎ ᑎᑎᑎᑎᑎ. Please
call 1-800-262-9992 or TTY711

ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-800-262-9992 or TTY 711

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