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OCR paves way for reasonable access to support for COVID-19 patients with disabilities

The resolution was spurred by a 73-year-old with aphasia who was denied access to support persons, prompting state action.



Jeff Lagasse, Associate Editor



The Office for Civil Rights at the [U.S. Department of Health and](#)

Breaking News. In-Depth

Human Services announced today that it has reached an early case resolution (ECR) with the State of Connecticut after the state issued an executive order regarding non-visitation policies for short-term hospitals, outpatient clinics and outpatient surgical facilities that ensures that people with disabilities are not denied reasonable access to needed support persons.

OCR also reached an ECR with Hartford HealthCare Corporation after it agreed to grant a 73-year old woman with aphasia access to support persons to help with her communication and comprehension in her treatment.

WHAT'S THE IMPACT?

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In May 2020, OCR received complaints from Disability Rights Connecticut, CommunicationFIRST, the Arc of Connecticut and Independence Northwest: Center for Independent Living of Northwest Connecticut. The complaints allege that Connecticut guidance regarding hospital visitation for people with disabilities violates the Americans with Disabilities Act, Section 504 of the Rehabilitation Act and Section 1557 of the [Affordable Care Act](#), which are enforced by OCR.

The complainants alleged that Connecticut guidance concerning hospital "no visitor" policies during the COVID-19 pandemic allowed only narrow exceptions for support persons for individuals with disabilities receiving certain services from the state Department of Developmental Services (DDS), leaving large groups of people with disabilities unable to avail themselves of the exception.

The complainants said that, without support persons, specific patients with disabilities in Connecticut facilities were being denied equal access to medical treatment, effective communication, and the abilities to make informed decisions and provide consent, and that they were being unnecessarily subjected to physical and pharmacological restraints.

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Complainants also alleged that Hartford Hospital, a 937-bed facility in the state, unlawfully failed to provide a reasonable modification to the hospital's no-visitor policy to the aphasia patient, who has severe short-term memory loss, is mostly non-verbal and was denied in-person access to support persons able to help with her communication and comprehension during care. The patient did not fall under the exception to no-visitor policies under Connecticut's guidance because she did not receive services from the state DDS.



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"Who gets the support and who doesn't? What [are] the criteria? If it is a support person that is necessary for the reception of treatment, it becomes a question of whether there's equal treatment for healthcare," said OCR Director Roger Severino. "Some people need it to get healthcare. There's a whole myriad of potential circumstances ... which requires an individualized assessment. Hospitals should take into account what patients are saying, and then balance in the infection-control interests. What's reasonable is what is required."

OCR has reviewed the complaints, has communicated with and provided assistance to Connecticut, the Connecticut Department of Public Health, and Hartford HealthCare Corporation, and has mediated a resolution of the matters that was deemed acceptable to all parties.

"At the end of this there are real human beings who need help and who oftentimes are being left behind," said Severino. "We hope this will be a model for states to follow when it comes to visitation policies."

THE STATE'S RESPONSE

As part of the resolution, Connecticut is issuing an executive order to ensure that people with disabilities have reasonable access to support personnel in hospital settings in a manner that is consistent with disability rights laws and the health and safety of patients, healthcare providers, and support persons.

The order includes establishing a statewide policy requiring hospitals and other [acute care](#) settings to permit the entrance of a designated support person for a patient with a disability and permitting family members, service providers or others knowledgeable about the needs of the disabled person to serve as a designated support person. Where patients with a disability are in such a setting for longer than one day, they may designate two

support persons, provided only one is present at a time.

OCR mediated an agreement between Hartford Hospital and the complainants that granted the 73-year patient access to a designated in-person support person. Based on Hartford Hospital's actions, OCR is closing the complaint as having been resolved satisfactorily.

"This is unprecedented in terms of the speed of these resolutions," said Severino.

ON THE RECORD

"As vulnerable populations around the state continue to be disproportionately affected by the COVID-19 pandemic, it was a priority for my office and the state to come to a resolution on allowing a support person to accompany and advocate for individuals with disabilities into our hospitals" said Connecticut Governor Ned Lamont. "The order issued by Commissioner Gifford implements vital safeguards for individuals with special needs to ensure proper and safe care is being provided and received in a hospital setting."



Twitter: [@JELagasse](#)

Email the writer: jeff.lagasse@himssmedia.com

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