

Report in Brief

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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

In 2020, during the COVID-19 pandemic, individuals with disabilities and their advocates filed complaints with HHS's Office for Civil Rights (OCR) asserting that six States had language in their Crisis Standards of Care (CSCs) that could result in individuals being denied treatment because of their disabilities.

Our objective was to determine whether the Administration for Strategic Preparedness and Response's (ASPR's) oversight of the Hospital Preparedness Program (HPP) could be improved with respect to recipients adopting CSCs that comply with Federal nondiscrimination laws.

How OIG Did This Audit

We reviewed complaints filed by individuals with disabilities and their advocates with OCR as well as their subsequent resolutions. We also conducted interviews with officials from ASPR and 11 States with a focus on their development of CSC planning documents and their considerations of and compliance with Federal civil rights laws from July 2019 through June 2021. Furthermore, we reviewed the HPP cooperative agreements as well as Federal nondiscrimination laws and regulations. Of the States included in our interviews, six had complaints that had been filed and resolved with OCR during the COVID-19 pandemic. We judgmentally selected the other five States to provide input from various regions in different stages of CSC planning.

ASPR Could Improve Its Oversight of the Hospital Preparedness Program To Ensure That Crisis Standards of Care Comply With Federal Nondiscrimination Laws

What OIG Found

Although ASPR has taken steps to improve its oversight of the HPP by promoting the adoption of nondiscriminatory CSCs that comply with Federal nondiscrimination laws, it can take additional steps. The HPP cooperative agreement did not previously specify that States should consider Federal nondiscrimination laws when developing CSCs because prior to the COVID-19 pandemic, ASPR did not identify CSC compliance with Federal nondiscrimination laws as a high-risk area. Additionally, ASPR stated that it is not required to review CSCs for legal and regulatory compliance. CSCs that do not comply with Federal nondiscrimination laws increase the risk that individuals could be denied access to lifesaving care during a public health emergency.

What OIG Recommends and ASPR Comments

We recommend that ASPR consider additional updates to the current HPP cooperative agreement to promote that HPP recipients adopt CSCs that comply with Federal nondiscrimination laws. We acknowledge that ASPR has taken steps in previous HPP updates to promote compliance with Federal nondiscrimination laws; however, we believe that additional steps can be taken. Such steps could include an additional update to the HPP cooperative agreement to encourage recipients to engage with advocacy groups in decision making related to crisis care planning.

In written comments on our draft report, ASPR said that it accepts our recommendation to include additional updates in the HPP cooperative agreement to promote the adoption of CSCs that comply with Federal nondiscrimination laws. ASPR stated that when the audit began in 2021, it acted immediately to address the findings noted during the meetings and discussions with OIG auditing staff. At the time of the audit, ASPR was in the process of developing the fiscal year 2021 HPP cooperative agreement continuation guidance. ASPR stated that based on the discussions and gaps identified during the auditing process, it was able to modify the guidance at that time to ensure that it met the CSC Concept of Operations requirements. In addition, ASPR stated that the action it has taken to update the HPP cooperative agreement addresses the recommendation and that no further action is necessary.