

(i) When a program beneficiary requests alternative services, the religious organization will seek to make such a referral.

(ii) If the religious organization cannot locate an appropriate provider of alternative services, the religious organization will contact SAMHSA. They will work together to identify additional alternative providers, utilizing the SAMHSA Treatment Locator system, if appropriate.

(iii) The religious organization will contact these alternative providers and seek to make the referral, in a manner consistent with all applicable confidentiality laws, including, but not limited to, 42 CFR part 2 (“Confidentiality of Alcohol and Drug Abuse Patient Records”).

(iv) In the event the religious organization is still unable to locate an alternative provider, it may again contact SAMHSA for assistance.

(d) *Referral reporting procedures.* The program participant shall notify the appropriate Federal, State or local government agency that administers the program of such referral. If a State or local government is the responsible unit of government, it may determine its own reporting procedures. When SAMHSA is the responsible unit of government, this notification will occur during the course of the regular reports that may be required under the terms of the funding award.

(e) *Provision and funding of alternative services.* The responsible unit of government, as defined in paragraph (a) of this section, shall provide to an otherwise eligible program beneficiary or prospective program beneficiary who objects to the religious character of a program participant, services and fund services from an alternative provider that is reasonably accessible to, and has the capacity to provide such services to the individual. Such services shall have a value that is not less than the value of the services that the individual would have received from the program participant to which the individual had such objection. The appropriate State or local governments that administer SAMHSA-funded programs shall ensure that notice of their right to alternative services is provided to applicants or recipients. The alter-

native provider need not be a secular organization. It must simply be a provider to which the program beneficiary has no religious objection.

(1) When the State receives a discretionary grant from SAMHSA, it shall utilize its own implementation procedures for these provisions and shall use funds from the SAMHSA discretionary grant to finance such alternative services, as needed;

(2) When the local government receives a discretionary grant from SAMHSA, it shall utilize State implementation procedures for these provisions and shall use funds from the SAMHSA discretionary grant to finance such alternative services, as needed;

(3) When a religious organization receives a discretionary grant from SAMHSA, if a publicly funded alternative provider is available that is reasonably accessible and can provide equivalent services, the religious organization shall refer the beneficiary to that provider. However, if such a provider is not available, the religious organization shall contract with an alternative provider to provide such services and may finance such services with funds from the SAMHSA discretionary grant.

§ 54a.9 Oversight of the Charitable Choice requirements.

In order to ensure that program funds are used in compliance with the SAMHSA Charitable Choice provisions, applicants for funds under applicable programs are required, as part of their applications for funding, to certify that they will comply with all of the requirements of the SAMHSA Charitable Choice provisions and the implementing regulations under this part.

§ 54a.10 Fiscal accountability.

(a) Religious organizations that receive applicable program funds for substance abuse services are subject to the same regulations as other nongovernmental organizations to account, in accordance with generally accepted auditing and accounting principles, for the use of such funds.

(b) Religious organizations shall segregate Federal funds they receive

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under applicable programs into a separate account from non-Federal funds. Only the Federal funds shall be subject to audit by the government under the SAMHSA program.

§ 54a.11 Effect on State and local funds.

If a State or local government contributes its own funds to supplement activities carried out under the applicable programs, the State or local government has the option to separate out the Federal funds or commingle them. If the funds are commingled, the provisions of this part shall apply to all of the commingled funds, in the same manner, and to the same extent, as the provisions apply to the Federal funds.

§ 54a.12 Treatment of intermediate organizations.

If a nongovernmental organization (referred to here as an “intermediate organization”), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide services under any applicable program, the intermediate organization shall have the same duties under this part as the government. The intermediate organization retains all other rights of a nongovernmental organization under this part and the SAMHSA Charitable Choice provisions.

§ 54a.13 Educational requirements for personnel in drug treatment programs.

In determining whether personnel of a program participant that has a record of successful drug treatment for the preceding three years have satisfied State or local requirements for education and training, a State or local government shall not discriminate against education and training provided to such personnel by a religious organization, so long as such education and training is comparable to that provided by nonreligious organizations, or is comparable to education and training that the State or local government would otherwise credit for purposes of determining whether the relevant requirements have been satisfied.

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§ 54a.14 Determination of nonprofit status.

The nonprofit status of any SAMHSA applicant can be determined by any of the following:

(a) Reference to the organization’s listing in the Internal Revenue Service’s (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code.

(b) A copy of a currently valid IRS Tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of its net earnings accrue to any private shareholder or individuals.

(d) A certified copy of the organization’s certificate of incorporation or similar document if it clearly establishes the nonprofit status of the organization.

(e) Any of the above proof for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local nonprofit affiliate.

APPENDIX TO PART 54A—MODEL NOTICE OF INDIVIDUALS RECEIVING SUBSTANCE ABUSE SERVICES

MODEL NOTICE TO INDIVIDUALS RECEIVING SUBSTANCE ABUSE SERVICES

No provider of substance abuse services receiving Federal funds from the U.S. Substance Abuse and Mental Health Services Administration, including this organization, may discriminate against you on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

If you object to the religious character of this organization, Federal law gives you the right to a referral to another provider of substance abuse services. The referral, and your receipt of alternative services, must occur within a reasonable period of time after you request them. The alternative provider must be accessible to you and have the capacity to provide substance abuse services. The services provided to you by the alternative provider must be of a value not less than the value of the services you would have received from this organization.