

SCSILC POLICY STATEMENT: MEDICAL RATIONING

Equal access to health care is a civil right.

“Medical rationing” is the practice of subjectively determining who receives medical care. Often, seniors and people with disabilities are viewed as less worthy of lifesaving medical attention when resources are scarce. Although the COVID-19 pandemic has highlighted the disparity in access to medical supplies (e.g., ventilators, ICU beds), the practice of medical rationing is not limited to the current pandemic.

The Law

The Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act (ACA) prohibit rationing measures when they result in the denial of care on the basis of disability. While providers may prioritize individuals with a greater urgency for care and delay non-urgent situations, they must do so in compliance with nondiscrimination laws.

Best Practices

The SCSILC, based on guidance from the Disability Rights Education and Defense Fund (DREDF), recommends providers use the following framework to prevent a disproportionate impact on the disability community:

1. **Follow the “first come, first serve” practice.** The presence of a disability and/or chronic condition or the likelihood of acquiring a disabling condition must not be the basis for the denial, limitation, or lower prioritization in accessing treatment given a similar level of urgency of care.
2. **Determine survival probability based on the acute care episode only.** Patients should not be denied or given lower priority for care based on the uncertainty of a long-term prognosis.
3. **Ensure that treatment facilities and policies explicitly allow for reasonable modifications,** regardless of disability or age.
4. **Prohibit subjective determinations regarding quality of life.** Quality of life cannot be evaluated by anyone other than the individual. Health care providers should rely only on objective, evidence-based criteria in making treatment decisions.
5. **Establish a transparent process for appealing rationing decisions.** Make these protocols widely available and easily accessible.

South Carolina Statewide Independent Living Council’s Position

The South Carolina Statewide Independent Living Council (SCSILC) opposes the discriminatory practice of medical rationing. In addition to violating civil rights laws, medical rationing is dangerous and damaging to our communities.

Additional Resources

- [Disability Rights Education and Defense Fund](#)
- [New York Times Opinion: I Will not Apologize for my Needs](#) by Ari Ne’eman
- [Not Dead Yet.org](#)
- [US DHHS OCR COVID-19 Civil Rights Bulletin](#)