

The 18th May, 2022.

No.Health.285/2017/175. - In exercise of powers conferred by Section 49 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (16 of 2017), to provide for measures to provide diagnostic facilities for HIV and AIDS, etc., the appointment, terms and conditions, qualifications and manner of inquiry by Ombudsman, the Government hereby makes the following rules, namely:-

Chapter – I

1. Short title, extent and commencement- (1) These Rules may be called the Meghalaya Human immunodeficiency Virus and Acquired Immune Deficiency Syndrome Rules, 2022.

(2) These Rules shall come into force from the date of Notification in the Official Gazette.

(3) The Rules shall extend to the whole State of Meghalaya.

2. Definitions – In these rules unless there is anything repugnant in the subject or context,

(a) “Act” means the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (No. 16 of 2017);

(b) “Appropriate authority” means unless otherwise notified, the National AIDS Control Organization in the case of the Central Government and the concerned State AIDS Control Society in the case of the State Government;

(c) “High burden districts” means district notified as such by the appropriate authority under the State Government from time to time;

(d) “Ombudsman” means an Officer appointed or designated by the State Government, as the case may be, under Section 23 of the Act;

(e) Words and expressions used and not defined in these rules but defined in the Act, shall have the meanings assigned to them in the Act.

Chapter – II

3. Provision of Diagnostic Facilities for HIV and AIDS, ART and Opportunistic Infections (OIs) Management - The State Government shall take measures to :-

(i) provide free diagnostic services related to HIV and AIDS to all individuals in all Government Health facilities including Community Health Centres, Primary Health Centres, and Sub Centres across the State;

(ii) follow HIV related treatment protocol and reporting so as to ensure quality of services provided by Private Health Providers.

(iii) provide free ART Drugs to all People Living with HIV as per provisions of the Act including guidelines of National AIDS Control Organization.

(iv) manage Opportunistic Infections (OIs) in all Government Health Institutions and Hospitals across the State, and

(v) ensure that Opportunistic Infections (OIs) drugs are made available free of cost and as per Guidelines of National AIDS Control Organization to all People Living with HIV as per provisions of the Act.

Chapter – III

4. Appointment and Jurisdiction of Ombudsman – The State government shall appoint the Commissioner of Division of the respective Division as Ombudsman in the state.

5. The State Government shall provide the Ombudsman with assistance from Law Department on legal issues that may arise in the course of his work, if so requested.

6. Terms and conditions of services of Ombudsman – (1) A person appointed as Ombudsman shall be deemed the rank of Commissioner & Secretary, Health & Family Welfare.

(2) The Ombudsman shall carry out functions as an officer of the Health & Family Welfare Department.

7. Manner of inquiring into complaints by Ombudsman –

- (a) The Ombudsman shall act in an objective and independent manner when inquiring into complaints made under the Act.
- (b) While inquiring into complaints under the Act, the Ombudsman shall not be bound by any rules of evidence and may follow such procedure as he considers just and proper.
- (c) No cross-examination shall be permitted in inquiries before the Ombudsman.
- (d) The Ombudsman may, in the interests of justice, take the assistance of experts, including protected persons and persons vulnerable to HIV, and persons working in the fields of HIV and AIDS, public health or health delivery systems.
- (e) The Ombudsman shall have the power to pass interim orders in cases of medical emergency without hearing the parties.
- (f) The Ombudsman shall have the power to pass orders, including to, withdrawal and rectification of the violation, counseling, social service etc.
- (g) The Ombudsman shall inform the complainant of the action taken.
- (h) The Ombudsman shall inform the parties to the complaint of their right to seek judicial review from the Ombudsman's order.

8. **Orders passed by Ombudsman** – On being satisfied with the inquiry, the Ombudsman may pass one or more of the following orders, namely,-

- (i) Pass orders for the withdrawal and rectification of the violation;
- (ii) Pass orders directing the person who has committed the violation to undergo a fixed period of counseling related to the violation committed and a fixed period of social service, which shall include working with a non-governmental organization working on HIV, State or District network of HIV Positive People, or the appropriate authority under the State Government;
- (iii) Direct specific steps or special measures or both to be taken;
- (iv) Direct any person who has committed the violation to make regular reports to the Ombudsman regarding implementation of the Ombudsman's order;
- (v) Make such orders as to cost as are considered reasonable and such specific cost shall be utilized for welfare of HIV positive people; Meghalaya AIDS Control Society shall be the custodian of the mentioned cost;
- (vi) Directions to health care provider or persons or institutions or facilities in whose care the child affected by HIV or HIV – affected person or HIV – positive person is placed, regarding care, protection and rehabilitation of the said person, including directions relating to immediate treatment and services such as medical attention, therapy, psychiatric and psychological support including need-based counseling, occupational therapy etc;
- (vii) Any other related to any other functions:

9. **Manner of maintaining records by Ombudsman** – (1) The Ombudsman shall:-

- (a) immediately on receipt of a complaint, record it by assigning a sequential unique complaint number in a register maintained solely for that purpose in physical or computerized form;
- (b) on receipt of the complaint, acknowledge it including by sending the unique complaint number by SMS or e-mail to the complainant where available;
- (c) record the time of the complaint and the action taken on the complaint in the register; and
- (d) maintain the register of complaints in a manner that ensures confidentiality of data

(2) The Ombudsman shall comply with data protection measures in accordance with Section 11 of the Act.

10. **Manner of making complaints to Ombudsman** – (1) Any person may make a complaint to the Ombudsman within whose jurisdiction the alleged violation took place, within three months from the date that the person making the complaint became aware of the alleged violation of the Act,

Provided that the Ombudsman may, for reasons to be recorded in writing, extend the time limit to make the complaint by a further period of three months, if he is satisfied that circumstances exist that prevented the complainant from making the complaint within the stipulated period.

(2) All complaints shall be made to the Ombudsman in writing in accordance with the form set out in the Appendix to the Rules:

Provided that where a complaint cannot be made in writing the Ombudsman shall render all reasonable assistance to the complainant to reduce the complaint in writing.

(3) In cases of medical emergency, the Ombudsman or his assistant may visit the complainant at the location of the alleged violation or any other convenient place to enable written documentation of the complaint.

(4) The Ombudsman may receive complaints made in person, via post, telephonically, or through electronic for through the Ombudsman's website;

Provided that the State Government shall within seven days of the appointment of the Ombudsman establish a website of the Ombudsman.

11. State Government to disseminate information on Ombudsman – (1) Within thirty days of the appointment of the Ombudsman, the appropriate authority under the State Government shall disseminate information about the office of the Ombudsman, including the Ombudsman's jurisdiction, role, functioning and procedures, and the manner in which complaints can be made to the Ombudsman.

(2) Such dissemination shall be undertaken to advance the understanding, in particular of protected persons, healthcare workers, legal aid service authorities and civil authorities.

12. Manner of recording pseudonym and providing suppression of identity in legal proceedings – (1) In any legal proceeding where a Court, pursuant to Clause (a) of sub-section (1) of Section 34 of the Act directs, on an application made by a protected person or any other person, that in the interests of justice the proceeding or any part thereof be conducted by suppressing the identity of such protected person, the Court shall direct all parties involved to:-

- (i) File one copy of the documents bearing the full name, identity and identifying details of the parties concerned before the Court, which shall be kept in a sealed cover and in safe custody, and
- (ii) Serve one copy of documents bearing the full name, identity and identifying details of the parties concerned upon other parties in the proceeding with a requirement to ensure that the full name and identity of the parties concerned are kept confidential.

(2) The Court shall provide pseudonyms to protected persons involved in the legal proceedings in the documents filed before the Court in such manner that the identity and identifying details of the protected person involved in the legal proceeding are kept confidential.

(3) The sealed covered documents shall be placed before the Court on the first date the legal proceeding is listed for hearing before the Court.

(4) The identities of the protected person involved in the legal proceeding and their identifying details shall be displayed in pseudonym in all documentation generated by the Court in relation to the legal proceedings, including listing of the case on the Court Board, interim orders and final judgements.

(5) The identity and identifying details of the protected person involved in the legal proceedings shall not be revealed by any person or their representatives including assistants and staff of the Court.

Exception: Where in the interest of justice the name and identity of the protected person needs to be revealed to a third party, it shall only be allowed by an order of the Court.

(6) Printing or publishing any matter in relation to the aforementioned legal proceedings in electronic or any other form, shall be lawful only if the same is done by ensuring the suppression of identities of the parties in the legal proceeding.

(7) In any legal proceeding before it under the Act, the Court shall comply with data protection measures in accordance with Section 11 of the Act.

Chapter – IV

13. Books of Accounts shall be maintained and the Internal Audit to be conducted at the end of every financial year.

SAMPATH KUMAR,

Principal Secretary to the Government of Meghalaya,
Health & Family Welfare Department.