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NOTIFICATION

No. J. 11012/1/2019-HFW/208, the 1st November, 2022. In exercise of the powers conferred by sub-section (1) of section 49 of the Human Immunodeficiency Virus And Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017, the Government of Mizoram is pleased to make the following rules, namely: -

1. Short title, extent and commencement.-
 - (1) These rules may be called The Mizoram State Human Immunodeficiency Virus And Acquired Immune Deficiency Syndrome (Prevention and Control) Rules, 2022.
 - (2) They shall extend to the whole of Mizoram.
 - (3) They shall come into force on the date of publication in the Official Gazette.

2. Definitions.-
 - (1) In these rules, unless the context otherwise require: -
 - (a) "Act" means the Mizoram State 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 (NACO) in the case of the Union Government and Mizoram State AIDS Control Society (MSACS) in the case of the Government of Mizoram;
 - (c) "ART" means Anti-Retroviral Therapy;
 - (d) "ART Services" includes comprehensive package of care, support and treatment services to persons living with HIV/AIDS (PLHIV) such as medical care, psycho-social support, provision of Anti Retro Viral Drugs, monitoring and linkages to social schemes;
 - (e) "CBO" means a Community Based Organization either a public or private non-profit organization which works to meet the needs of the intended community;
 - (f) "CBS" means Community-Based Screening;
 - (g) "CSO" means Civil Society Organization;
 - (h) "Child Welfare Committee" means Child Welfare Committee constituted under section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (Central Act. No.2 of 2016);

- (i) "Complaint" means any information or grievance made orally in writing to the Ombudsman or other modes to the Ombudsman or to the competent court as mentioned in rules 10 and 11 of these rules;
- (j) "DAPCU" means District AIDS Prevention and Control Unit;
- (k) "District" means revenue district of the State of Mizoram;
- (l) "District Level Network" (DLN) means a CBO that consist of People Living with HIV/AIDS (PLHIV) registered under the Mizoram Societies Registration Act, 2005 and that functions exclusively in only one district in the State of Mizoram;
- (m) "DLSA" means District Legal Services Authority;
- (n) "EID" means Early Infant Diagnosis;
- (o) "EMTCT" means Elimination of Mother to Child Transmission of HIV/AIDS;
- (p) "Form" means the form annexed to these rules or any such form as may be notified from time to time by the Government of Mizoram to be used for the purposes of the Act and these rules;
- (q) "F-ICTC" means Facility Integrated Counselling and Testing Centre;
- (r) "HIV Diagnostic Services" includes pre-test counselling, HIV test, post-test counselling, partner HIV testing, follow up of clients including babies born to HIV services like ART, STI, Targeted Interventions etc;
- (s) "ICTC" means Integrated Counselling and Testing Centre;
- (t) "LWS" means Link Worker Scheme;
- (u) "MSACS" means Mizoram State AIDS Control Society;
- (v) "NACO" means National AIDS Control Organization;
- (w) "NGO" means Non-Governmental Organization;
- (x) "Network" is a CBO of People Living with HIV/AIDS (PLHIV) in the State of Mizoram;
- (y) "OI" means Opportunistic Infections like tuberculosis, diarrhoea, etc.;
- (z) "Ombudsman" means an officer appointed or designated by the Government of Mizoram under section 23 of the Act, to inquire, to make findings based on the complaints received and pass appropriate orders;
- (za) "PLHIV" means People Living with HIV/AIDS;
- (zb) "Protected Person" means the HIV infected and affected person who cohabits and resides with HIV positive person as defined under sub-section(s) of section 2 of the Act;
- (zc) "TI" means Targeted Intervention;
- (zd) "section" means section of the Act;
- (ze) "SLSA" means the State Legal Service Authority constituted by the Government of Mizoram under section 6 of Legal Service Authority Act, 1987.;
- (zf) "Stakeholders" are agencies, organizations and persons who are involved in the prevention, treatment, care and

- support programmes or who are directly or indirectly contributing to the programmes of MSACS or Department of Health and Family Welfare, Government of Mizoram;
- (zg) "State Government" means the Government of Mizoram;
- (zh) "State Level Network" (SLN) means a CBO that consists of People Living with HIV registered under the Mizoram Societies Registration Act, 2005 and that functions in more than one district in the State of Mizoram;
- (zi) "UWP" means Universal Work Precautions;
- 2) 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 PROVISION OF PREVENTION, TESTING & DIAGNOSTIC AND TREATMENT FACILITIES

3. Prevention of spread of HIV or AIDS.-
In order to prevent HIV among the general public, MSACS shall:-
- (1) Release HIV and AIDS related information, education and communication materials which are age-appropriate, gender-sensitive, non-stigmatizing and non-discriminatory. These materials shall cover the topics such as general awareness on HIV/AIDS, safe sex practices, condom promotion, safe injecting methods, etc;
 - (2) Undertake special campaigns in the districts through NGOs from time to time on basis of HIV/AIDS, safe sex practices, condom promotion and safe injecting methods;
4. Diagnostic and Treatment Facilities.-
As per section 14 of the Act, MSACS under the Department of Health and Family Welfare, Government of Mizoram shall:-
- (1) Provide HIV testing to all persons through mobile ICTCs and also through F-ICTC situated in all Government Health Facilities (in Medical College Hospitals, Government Hospitals and Primary Health Centres) across the State of Mizoram;
 - (2) Provide diagnostic and treatment services to all PLHIVs through ART centres and other Government Health Facilities (in Medical College Hospitals, Primary Health Centres and Community Health Centres) across the State of Mizoram;
 - (3) Manage Opportunistic Infections at the level of all Government Health Facilities (in Government Hospitals and Primary Health Centres and Community Health Centres) having ART/Link ART centres and it shall be ensured that all opportunistic Infection drugs are made available;
 - (4) Ensure quality of testing and treatment services provided.

CHAPTER-III OMBUDSMAN

5. Designation of Ombudsman.- (1) An officer not below the rank of Joint Secretary, Department of Health and Family Welfare, Government of Mizoram shall be designated as Ombudsman for the State of Mizoram by the Government of Mizoram. Upon the notification of these rules, this designation shall be perpetual and automatic on the office of the Officer designated as Ombudsman and this is construed as binding on all incumbent official who assumes the office in future without the requirement of any fresh order.

6. Jurisdiction of Ombudsman.- (1) The Jurisdiction of the Ombudsman shall extend to the entire State in line with the existing administrative mechanism as stipulated by the Government of Mizoram.
 - (1) The office of the ombudsman shall be situated at the Secretariat, Government of Mizoram.
 - (2) The Ombudsman shall also be an ex-officio member of the State Grievances Redressal Mechanism constituted under the National HIV Prevention and Care Programme of NACO:
Provided that the State Government shall provide the Ombudsman assistance from the District and State Legal Services Authority on legal issues that may arise in the course of his work, if so requested.
7. Terms of the office of Ombudsman.- (1) The term of the office of the Ombudsman shall be bound on the office and tenure of the official in the said post and the next official shall be the Ombudsman by virtue of the appointment by the Government of Mizoram.
8. Functions and responsibilities of the Ombudsman.-The Ombudsman shall :-
 - (1) Take cognizance of complaints and conduct inquiry into the violations of the provisions of the Act in relation to the acts of discrimination mentioned in section 3 of the Act and in particular in providing of healthcare services to any person including children affected/infected by HIV/AIDS, in such manner as prescribed in rule 4 of these rules;
 - (2) Adjudicate and dispose of complaint of violations in relation to the provisions of the Act and these rules;
 - (3) Ensure that the rights and entitlements as enshrined in various Acts of the union of India such that the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS are protected and pass necessary advice to the authorities for protection of rights of the child infected/affected or person infected/affected by HIV/AIDS;
 - (4) Transfer the complaints or matters concerning the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS to other competent authorities like Child Welfare Committee, Protection Officers, etc. of the respective districts of the complainant, working as per the provisions of Juvenile Justice Act of any other relevant Act where the concerned Ombudsman has jurisdiction in the matter;
 - (5) Conduct regular inspection visits of healthcare providers and institutions where the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS are living and recommend action for improvement in quality of services to the Government of Mizoram or to the Joint Director/Deputy Director of Health Services in the respective jurisdictions;
 - (6) Take suo motu cognizance of cases and reach out to the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS;
 - (7) Deal with cases pertaining to HIV/AIDS referred by the Government of Mizoram or other authorities within the ambit of the Act;
 - (8) Assess appropriate legal services for the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS;
 - (9) Issue recommendation to the Government of Mizoram for effective implementation of the Act and these rules through the Project Director, MSACS as it deems fit or as necessitated;
 - (10) Co-ordinate in the context of the case, with the health, medical, police, social welfare department and other agencies involved in the welfare of the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS;
 - (11) Take cognizance of the complaints brought to the office of the Ombudsman through the respective District AIDS Prevention and Control Units – the complaints that are not settled within 30 (thirty) days by the Complaint Officers, who are appointed/designated as per section 21 of the Act and rule 5 of these rules in the establishments, ensure that proper enquiries are conducted without any prejudice, adjudicate it and dispose it off within the stipulated period of time as per clause (g) of rule 10 of these rules;

- (12) The Ombudsman may seek the help of an expert in writing on the medical aspects of the complaint, if need be, from the Joint Director, Care, Support & Treatment Division, MSACS and on the legal aspects from the Secretary, DLSA/SLSA, Mizoram.
9. Manner of making complaints.- (1) Any person may file a complaint to the Ombudsman within three months from the date that the person making the complaint became aware of the alleged violation of the Act and these rules:
Provided that the Ombudsman may, for reasons to be recorded in writing, extend the time limit to make the complaint by further period of three months, if it is evident from the fact that circumstances 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 attached to these rules;
 - (3) The Ombudsman may receive complaints made in person or via post or through email or telephonically, or through any other electronic form that may be recorded in printable format;
 - (4) Where a complaint cannot be made in writing, the Ombudsman shall render all reasonable assistance to the complainant to produce the complaint in writing;
 - (5) Suo Motu case, after it is taken on a file, shall be recorded by the Ombudsman in printable format.
10. Manner of inquiring into the complaints by Ombudsman.- (1) The Ombudsman shall act in an objective and independent manner when inquiring into the complaints made under the Act and these rules:-
- a) On receipt of a complaint or while taking suo motu cognizance, the Ombudsman shall hold inquiry in such manner as deemed fit and proper in order to ascertain the facts of the case;
 - b) The inquiry shall satisfy the basic principles of natural justice and both the complainant and the accused (respondent) shall receive evidence on affidavits; Provided that cross-examination shall be permitted in inquiries before the Ombudsman only;
 - c) The Ombudsman shall conduct the inquiry in a friendly manner and shall not use accusatory words or words that adversely impact the dignity or self-esteem of the complainant/accused/respondent especially if they are infected/affected by HIV/AIDS;
 - d) The Ombudsman while holding the inquiry, shall protect the identity of the protected person by following procedures mentioned in rule 11 of these rules and section 34 of the Act;
 - e) The Ombudsman may, in the interest of justice, take the assistance of specialized experts as it deems, including protected persons, persons vulnerable to HIV or persons working in the fields of HIV and AIDS, Public Health or Health delivery systems of NGOs/CBOs having experience in working with the persons for the purpose of arriving at a conclusion;
 - f) The Ombudsman shall have the power to pass interim orders in case of medical emergency including directing admissions, operations or treatment and in the provisions of UWP in a healthcare setting;
 - g) The Ombudsman, shall within a period of 90 (ninety) days of the receipt of the complaint, having followed the above-mentioned procedures, pass such order as it deems fit and proper giving reasons thereon;
 - h) The Ombudsman shall have the power to pass orders including to, withdrawal and rectification of the violation, counselling, social services etc.;
 - i) If any aggrieved person is not satisfied with the orders passed by the Ombudsman, he may approach the Secretary, Health and Family Welfare Department, Government of Mizoram within 30 (thirty) days from the date on which an order passed by Ombudsman has been received in writing under the provision of the Act;

- j) The Ombudsman shall inform the complainant about the action taken in relation to the complaint and shall be responsible for ensuring that the complaint, its number and nature, the action taken and the orders passed in relation to such complaints are duly recorded and maintained and shall provide the copies of the same to the parties concerned when duly applied for in writing;
 - k) The Ombudsman shall provide all parties to the complaint with copies of the written order within 7 (seven) days of deciding on the complaint;
 - l) The Ombudsman shall inform the parties to the complaint of their right to seek judicial review on the Ombudsman's order;
 - m) The Ombudsman shall follow strict confidentiality of the protected person while writing, printing or reporting the cases/complaints to appropriate authorities;
 - n) All reports received from the officers or healthcare providers or institutions related to any child infected/affected by HIV/AIDS or any person infected/affected by HIV/AIDS shall be treated as confidential by the Ombudsman and shall not be disclosed or shared with anyone;
 - o) The Ombudsman shall submit a quarterly report to Department of Health and Family Welfare, Government of Mizoram through Project Director – MSACS on the nature of disposal of cases and pendency of cases, in the manner as prescribed, and the same shall be submitted before Executive Committee (EC)/ General Body (GB) of MSACS by the Project Director, MSACS for the review of the pending cases.
11. Manner of maintaining records by Ombudsman.- The Ombudsman shall :-
- 1) on receiving the complaint, record it by assigning a sequential unique complaint number in a register maintained solely for that purpose in physical or computerized form;
 - 2) record the time of the complaint and the action taken on the complaint in the register;
 - 3) maintain the register of complaints in manner that ensures confidentiality of data;
 - 4) comply with data protection measures in accordance with section 11 of the Act;
 - 5) on receiving the complaint, acknowledge it by sending the unique complaint number to the complainant by SMS or email or by telephonic communication whichever mode is available to the complainant.
12. State Government to disseminate information about the Ombudsman.-
- 1) Within 30 (thirty) days of appointment of the Ombudsman, MSACS under the Government of Mizoram, from time to time, shall disseminate information to the general public 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) Dissemination shall be undertaken to advance the understanding, in particular, of protected persons, healthcare workers, legal aid service authorities and civil authorities.

CHAPTER – IV SUPPRESSION OF IDENTITY

13. Manner of recording pseudonym and providing suppression of identity in legal proceedings.-
- 1) In any legal proceeding where a court, pursuant to section 34 (1) (a) of the Act 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:-
 - a) 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 with the court; and

- b) 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 identities of the protected persons involved in the legal proceedings and their identifying details shall be displayed in pseudonyms 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.
 - 4) The identity and identification details of the protected person involved in the legal proceedings shall not be revealed by any person or their representatives including assistants and staff:
Provided that 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.
 - 5) 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.
 - 6) 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.
14. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against such person or officer or healthcare provider or institution or Ombudsman, being in government service, or any person acting under the directions of the Ombudsman or the Government of Mizoram, as the case may be, in respect or anything which is done in good faith or intended to be done in pursuance of this Act or of any rules made there under.

Esther Lal Ruatkimi,
Principal Secretary to the Govt. of Mizoram,
Health & Family Welfare Department.

Form
(see rules 9)
Form for making complaint to Ombudsman

For Office Use Only:-

1. Unique Complaint Number: _____
2. In-Referral: Self/SLNs/DLNs/NGOs/CBOs/Other
3. Name/Pseudonym _____ Date: _____
4. Phone/Mobile No: _____
5. Email: _____
6. Fax: _____
7. Address for communication: _____

8. Nature of Complaint _____
9. Date of Incident _____
10. Place of Incident _____
11. Description of Incident _____

12. Person/Institution responsible for the Incident: _____

Signature/Thumb Impression of Complaint