



# Section 1557 of the Affordable Care Act

Overview of the Final Rule

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## BACKGROUND

In May 2016, the U.S. Department of Health and Human Services (HHS) took an important step to advance equity and reduce health disparities across the U.S. health care system.

- HHS Office for Civil Rights (OCR) issued the final rule under Section 1557 of the Affordable Care Act of 2010, the nondiscrimination provision of the law.
- Section 1557 ***prohibits discrimination based on race, color, national origin, sex, age or disability*** in certain health programs and activities.
- The issuance of the final rule aims to educate consumers about their rights and to help covered entities understand their obligations under the law.



# AFFORDABLE CARE ACT OF 2010

## **President Obama signed the Affordable Care Act on March 23, 2010.**

- Consumer protections: Creates stronger consumer protections against insurance company abuses.
- Health insurance affordability: Makes health insurance more affordable for those with coverage and brings greater transparency to insurance rates.
- Medicare: Strengthens the Medicare Program.
- Access to care & prevention: Makes it easier for Americans to get the care they need, especially primary care and preventive services.
- New options for coverage: Provides better, more affordable coverage options for small businesses and families.
- Delivery system reform: Improves how care is delivered, making it more efficient and coordinated.
- Cuts the deficit: All of these provisions work together to reduce health care costs and reduce the deficit.



## WHY WAS SECTION 1557 INCLUDED IN THE ACA?

- Section 1557 is integral to achieving the ACA's goals of expanding access to health coverage and health care, and reducing health disparities.
- Section 1557 builds on long-standing and familiar Federal civil rights laws:
  - Title VI of the Civil Rights Act of 1964
  - Title IX of the Education Amendments of 1972
  - Section 504 of the Rehabilitation Act of 1973
  - Age Discrimination Act of 1975
- Section 1557 assists some of the populations that have been most vulnerable to discrimination in health care and health coverage, including:
  - Women
  - Members of the LGBT community
  - Individuals with disabilities
  - Individuals with limited English proficiency



## SECTION 1557 HIGHLIGHTS

- Section 1557 is the **FIRST** Federal civil rights law to broadly prohibit sex discrimination in health programs and activities.
- Under Section 1557, sex discrimination includes discrimination based on an individual's **sex, including gender identity and sex stereotypes**.
- Section 1557 prohibits discriminatory marketing practices and benefit designs in health insurance and other health care coverage.
- Section 1557 applies to health programs and activities that receive Federal funds, including issuers that participate in the Marketplaces; the Health Insurance Marketplaces; and health programs conducted by HHS.



## WHO MUST COMPLY WITH SECTION 1557?

- All health programs and activities that receive Federal financial assistance (FFA) from HHS
  - Examples include hospitals, health clinics, physicians' practices, community health centers, nursing homes, State Medicaid agencies, etc. FFA includes grants, property, Medicaid, Medicare Parts A, C and D payments, and tax credits and cost-sharing subsidies under Title I of the ACA.
- All health programs and activities administered by Title I entities (State-based and Federally-facilitated Health Insurance Marketplaces)
- All health programs and activities administered by HHS (e.g., Centers for Medicare & Medicaid Services, Health Resources and Services Administration, etc.)

NOTE: Where an entity is principally engaged in health services or health coverage, all of the entity's operations are considered part of the health program or activity, and must be in compliance with Section 1557.



## RACE, COLOR & NATIONAL ORIGIN

Under Section 1557, a covered entity may not:

- Segregate, delay or deny services or benefits based on an individual's race, color or national origin.
- Deny, cancel, limit, or refuse to issue or renew an insurance policy; deny or limit coverage of a claim; impose additional cost sharing or other limitations or restrictions; or employ marketing practices or benefit designs that discriminate on the basis of race, color or national origin.
- Delay or deny effective language assistance services to individuals with limited English proficiency (LEP) based on their national origin.



## RACE, COLOR & NATIONAL ORIGIN (cont.)

- Under Section 1557, a covered entity must:
  - Take reasonable steps to provide meaningful access for individuals with LEP
  - Post a notice of individuals' rights providing information about communication assistance for individuals with limited English proficiency, among other information.
  - Post taglines in the top 15 languages spoken by individuals with LEP in the relevant state that indicate the availability of language assistance.
- While not a requirement under Section 1557, covered entities are encouraged to develop and implement a language access plan to ensure they are prepared to take reasonable steps to provide meaningful access to each individual with LEP who may require assistance.



# DISABILITY

Under Section 1557, covered entities must:

- Make all health programs and activities provided through electronic and information technology accessible to individuals with disabilities.
- Make reasonable changes to policies, practices and procedures where necessary to provide equal access for individuals with disabilities.
- Ensure newly constructed and altered facilities are physically accessible to individuals with disabilities.
- Provide appropriate auxiliary aids and services, including sign language interpreters
- Post a notice of individuals' rights providing information about communication assistance for individuals with disabilities



## DISABILITY (cont.)

Under Section 1557, covered entities may not on the basis of a disability:

- Exclude, delay or deny services or benefits.
- Deny, cancel, limit or refuse to issue or renew an insurance policy.
- Deny or limit coverage of a claim or impose additional cost sharing or other limitations or restrictions.
- Employ marketing practices or benefit designs that discriminate against individuals with disabilities.



## SEX

Under Section 1557, covered entities must:

- Provide equal access to health care and insurance coverage regardless of an individual's sex, including gender identity and sex stereotypes.
- Treat individuals consistent with their gender identity, including with respect to access to facilities.

Covered entities may not deny, cancel, limit or refuse to issue or renew an insurance policy; deny or limit coverage of a claim; impose additional cost sharing or other limitations or restrictions; or employ marketing practices or benefit designs that discriminate on the basis of sex.



## SEX (cont.)

- Under Section 1557, discrimination on the basis of sex includes:
  - Denials or limitations of necessary medical services because an individual who is seeking such services identifies as belonging to a different gender than the gender for which the services are ordinarily available.
  - Categorical exclusions or limitations in coverage for all health care services related to gender transition.
- Sex-specific health programs are allowed only where the programs are substantially related to an important health-related or scientific objective.



# VISIT OUR WEBSITE!

## [www.hhs.gov/ocr](http://www.hhs.gov/ocr)

The screenshot shows the top navigation bar of the HHS.gov Office for Civil Rights website. It includes the HHS.gov logo, the text 'Office for Civil Rights', and 'U.S. Department of Health & Human Services'. Below the navigation bar is a search bar with the placeholder text 'I'm looking for...' and a magnifying glass icon. To the right of the search bar is a link to the 'HHS A-Z Index'. Below the search bar is a row of four navigation buttons: 'About Us' (with a people icon), 'Filing with OCR' (with a document icon), 'Civil Rights' (with a shield icon), and 'Health Information Privacy' (with a shield and plus icon). Below this row is a 'Newsroom' button (with a document icon). At the bottom of the navigation area is a breadcrumb trail: 'HHS Home > Office for Civil Rights (OCR)'. To the right of the breadcrumb trail are utility links: 'Text Resize' (with 'A A A' icons), 'Print' (with a printer icon), and 'Share' (with Facebook, Twitter, and a plus icon).

### Office for Civil Rights (OCR)

The screenshot shows the main content area of the HHS.gov Office for Civil Rights website. On the left is a sidebar with the heading 'I would like info on. . .' and three links: '> [Contact the Office for Civil Rights](#)', '> [Section 1557: Nondiscrimination](#)', and '> [Health Information Privacy](#)'. To the right of the sidebar is a large image of a diverse group of people. Below the image is a dark grey box with the heading 'Section 1557' and the text 'Civil Rights Provision of the Affordable Care Act'. At the bottom of the image box are three small white squares.

On OCR's website....

- Read about civil rights and HIPAA laws
- Download factsheets
- Access sample policies and resources in English and other languages
- File a complaint
- Contact us!



# U.S. Department of Health and Human Services Office for Civil Rights



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