Section 1557 – ACA’s additional efforts toward health care access and equity

Building on long-standing federal civil rights laws, Section 1557 of the Affordable Care Act (ACA) bars discrimination based on race, color, national origin, age, disability, and sex in our health care system. Research shows that discrimination within these areas contributes to poor health outcomes or coverage, negatively impacts the distribution of health care resources and increases health disparities among underserved communities. Ultimately, Section 1557 takes another step forward in “achieving a nation free of disparities in health programs and activities.”

The key provisions of Section 1557 focus on assisting some of the populations most vulnerable to discrimination by improving access to health care and health coverage. These key provisions include:

- **Explicit Protections for Transgender Individuals on the Basis of Gender Identity**
  
  The final rule clearly defines gender identity as “male, female, neither, or a combination of male and female.” A recent UCLA study estimates that 1.4 million adults do not identify with the gender they were assigned at birth. ¹

  In addition, in the findings of the 2011 study titled, Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, 25% of the respondents reported experiencing discrimination that included being denied needed medical treatment, being harassed in health care settings, or postponing needed medical care because of mistreatment from providers.²

  Section 1557 addresses improvements to services as well as access to health insurance coverage. Public and private health insurance companies can no longer categorically exclude all services related to gender transition, and cannot make coverage decisions in a manner that may result in discrimination against a transgender individual. For instance, medically necessary services such as hormone therapy, mental health counseling or surgeries must now be coverage options.

- **Protections for Lesbian, Gay, and Bisexual Individuals on the Basis of Sex Stereotyping**

  Transgender people will have the right to be treated in a way that matches their identity as far as gender-specific facilities, such as bathrooms and hospital room assignments.

---


Several sexual orientation discrimination cases being decided in the federal circuit court system will allow further guidance to clarify discrimination based on sexual orientation.

- New provisions require that **women** have equal access to the health care they receive and the insurance they obtain. The inclusions are pregnancy, pregnancy-related conditions, pregnancy termination, and marital or familial status.  

Insurance carriers will no longer be allowed to charge women higher premiums than men for the same level of coverage or disqualifying them from coverage for certain pre-existing medical conditions (such as pregnancy).

- **Protection from National Origin Discrimination**

  This provision requires covered entities to take reasonable steps to provide meaningful access to each individual with **Limited English Proficiency**.

  This provision protects individuals whose primary language for communication is not English and who have limited ability to read, speak, write, or understand English (even if he or she has some capacity to do so).

  An estimated twenty-five million individuals in the United States, 8.5 percent of the population, have LEP.

  The final rule clarifies that qualified bilingual/multilingual staff must be proficient in English and at least one other spoken language.

  Translators and interpreters are required to provide language assistance services.

- **Expanded Accessibility Required for Individuals with Disabilities**

  Between 10.5-16.6 percent of non-institutionalized working age persons have a disability. In an effort for these individuals to gain greater access to health services and insurance coverage, Section 1557 makes the following provisions:

  - All health programs and activities must make electronic and information technology available and accessible.
  - All newly constructed or altered facilities must conform to ADA 2010 accessible design standards.
  - Appropriate auxiliary aids and services must be available for individuals with impaired sensory, manual, or speaking skills.

---

While Section 1557 provides improved opportunities to access and coverage for many Americans, it will also impact covered entities. This rule applies to approximately 900,000 physicians and 133,000 facilities, including hospitals, home health agencies and nursing homes, in addition to hundreds of thousands of laboratories, insurers, health professional training programs and public health programs (Covered Providers). The ultimate result may be opening the front door to decreased discrimination.