

FACT SHEET

Nondiscrimination Protection in the Affordable Care Act: Section 1557

September 2015

Section 1557 of the Affordable Care Act prohibits discrimination in health care programs on the basis of race, color, national origin, sex, sex stereotypes, gender identity, age, or disability. This is the first time that federal law has prohibited sex discrimination in health care. Health insurers, hospitals, the health insurance exchanges, and any other entities that receive federal funds are covered by this law. It became effective upon passage of the ACA.

Section 1557 gives the Department of Health and Human Services' Office for Civil Rights the authority and obligation to investigate potential violations of the law and enforce this new civil rights guarantee.

The text of Section 1557

Except as otherwise provided for in this title (or an amendment made by this title), an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title (or amendments). The enforcement mechanisms provided for and available under such title VI, title IX, section 504, or such Age Discrimination Act shall apply for purposes of violations of this subsection.¹

Why do we need Section 1557?

Prior to passage of the ACA, no federal law provided comprehensive protection against sex discrimination in health care. The ACA has many provisions that address specific inequities in the health care marketplace—such as the failure to provide contraceptive coverage to women, the exclusion of maternity care from health insurance plans, and the lack of protection for nursing mothers in the workplace, among others. Section 1557, however, applies longstanding sex discrimination prohibitions across the board and to all aspects of health care, including some not addressed explicitly by the ACA.

What is the scope of Section 1557?

Section 1557 has a broad scope and applies to a wide range of health programs and entities. It protects individuals from discrimination in:

- Any health program or activity of a recipient of federal financial assistance, such as hospitals, clinics, employers, or insurance companies that receive federal money. Visiting nurse programs, community health education interventions, and similar programs that receive federal dollars also must comply with Section 1557. Section 1557 specifically extends its discrimination prohibition to entities that receive federal financial assistance in the form of contracts of insurance, credits, or subsidies.
- Any program or activity administered by an executive agency, including federal health programs like Medicare, Medicaid, and CHIP.
- Any program or activity created under Title I of the ACA, including the new state health insurance exchanges.

What does “sex discrimination” mean under Section 1557?

Section 1557 is similar to Title IX, which prohibits sex discrimination in education programs that receive federal financial assistance and other federal laws like Title VII, which prohibits discrimination in employment. Under Title IX and other civil rights laws, sex discrimination includes, but is not limited to, discrimination based on pregnancy, pregnancy-related conditions, marital or familial status, gender identity, and sex-stereotyping.²

How is Section 1557 enforced?

The enforcement mechanisms available under Section 1557 are those available under the civil rights laws it references. The Department of Health and Human Services’ Office for Civil Rights (OCR) has jurisdiction to oversee and enforce Section 1557. OCR has announced that it is open to receiving and investigating complaints alleging violations of Section 1557. And, like Title IX, it also allows people to go to court themselves, to secure an order that the discrimination stop and any damages to compensate them from the injuries they suffered due to the discrimination.

How can I find out more?

Please contact the National Women’s Law Center at (202) 588-5180 or info@nwlc.org if you would like to work with us or if you identify potential violations of Section 1557.

¹ Patient Protection and Affordable Care Act § 1557, codified at 42 U.S.C. § 18116 (2012).

² See Letter from Leon Rodriguez, Dir. of Office for Civil Rights, Dept’t. of Health & Human Servs. to Maya Rupert, Fed. Pol’y Dir., Nat’l Ctr. for Lesbian Rights (Jul. 12, 2012) (OCR Transaction No. 12-000800).