

## FACT SHEET

# Nondiscrimination Protection in the Affordable Care Act: Section 1557

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*Section 1557 of the Affordable Care Act (ACA) prohibits discrimination in health care programs or activities on the basis of race, color, national origin, sex, age, or disability. This is the first time that federal law has broadly prohibited sex discrimination in health care. Health insurers, hospitals, clinics, and any other entities that receive federal funds are covered by this law.*

## Why do we need Section 1557?

Prior to passage of the ACA, no federal law provided comprehensive protection against sex discrimination in health care. Sex discrimination takes many forms and can occur at every step in the health care system—from obtaining insurance coverage to receiving proper diagnosis and treatment. This discrimination seriously harms women and threatens their health, causing them to pay more for health care and health insurance and to risk receiving improper diagnoses and less effective treatments.

The ACA has provisions—such as barring insurance companies from charging women more than men for health insurance and requiring insurance plans to cover maternity services, birth control, and breastfeeding supports—that address specific forms of discrimination in health care and health insurance. Section 1557 adds to these protections by applying longstanding sex discrimination prohibitions across the board and to all aspects of health care.

## What does “sex discrimination” mean under Section 1557?

Under Section 1557 sex discrimination is properly understood to include discrimination based on pregnancy, pregnancy-related conditions, pregnancy termination, and marital or familial status.<sup>1</sup> Section 1557 also protects LGBT individuals through its prohibition on discrimination based on gender identity or sex stereotyping, which typically includes discrimination based on sexual orientation.<sup>2</sup> This means that health programs that are covered by Section 1557 cannot treat people inequitably because they are pregnant, have had an abortion, are unmarried, are transgender, are gay or lesbian, or don't meet traditional sex stereotypes.

## What is the scope of Section 1557?

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

- Any health program or activity that receives federal financial assistance, such as hospitals, clinics, or insurance companies;
- Any program or activity administered by an executive agency, including federal health programs like Medicare, Medicaid, and CHIP; and
- Any program or activity created under Title I of the ACA, including the Health Insurance Marketplaces.

## How is Section 1557 enforced?

Health programs that are covered by Section 1557 are responsible for ensuring that they do not engage in discrimination. In addition, the Department of Health and Human Services' Office for Civil Rights enforces Section 1557 by working with covered programs to prevent discrimination from happening in the first place and by taking action to stop discrimination that has already occurred. The Office for Civil Rights has already received and resolved complaints related to Section 1557.<sup>3</sup> People can also go to court themselves, to stop the discrimination and get compensation for any 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](mailto:info@nwlc.org) if you identify potential violations of Section 1557.

1. See, e.g., 34 C.F.R. § 106.40 (2015); Department of Labor, Discrimination on the Basis of Sex, Proposed Rule, 80 Fed. Reg. 5246 (Jan. 30, 2015) (to be codified at 41 C.F.R. pt. 60-20); Office of Federal Contract Compliance Programs (OFCCP) Dir. 2015-1
2. See e.g. Baldwin v. Fox, EEOC App. No. 0120133080, 2015 WL 4397641, at \*5 (July 16, 2015) (holding that sexual orientation is a "sex-based consideration" and discrimination on the basis of sexual orientation is sex discrimination under Title VII). See also OFFICE OF PERSONNEL MGMT., ADDRESSING SEXUAL ORIENTATION AND GENDER IDENTITY DISCRIMINATION IN FEDERAL CIVILIAN EMPLOYMENT (2015), <https://www.opm.gov/policy-data-oversight/diversity-and-inclusion/reference-materials/addressing-sexual-orientation-and-gender-identity-discrimination-in-federal-civilian-employment.pdf>.
3. DEPT. OF HEALTH AND HUMAN SERVS, OFFICE FOR CIVIL RIGHTS, BULLETIN, CORRECTIVE ACTIONS TAKEN IN SEX DISCRIMINATION CASES: ENFORCEMENT OF "SECTION 1557" OF THE ACA, (2013) [http://www.hhs.gov/ocr/office/1557\\_bulletin.pdf](http://www.hhs.gov/ocr/office/1557_bulletin.pdf)