

March 31, 2017

U.S. Department of Health and Human Services
Freedom of Information Officer
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

To Whom It May Concern:

This is a request for a production of documents pursuant to the Freedom of Information Act, 5 U.S.C. § 552, on behalf of the National Women's Law Center.

The National Women's Law Center seeks documents related to the non-discrimination provision of the Patient Protection and Affordable Care Act (ACA), 42 U.S.C. § 18116, which is the first federal law to broadly bar sex discrimination in health care programs that receive federal funds. In May 2016, the U.S. Department of Health and Human Services (HHS) issued regulations stating that "on the basis of sex includes, but is not limited to, discrimination on the basis of pregnancy, false pregnancy, termination of pregnancy, or recovery therefrom, childbirth or related medical conditions, sex stereotyping, and gender identity." 45 C.F.R. § 92.4.

This week, the portion of the HHS website that contains a Q&A about the non-discrimination provision (<https://www.hhs.gov/civil-rights/for-individuals/section-1557/1557faqs/>) was altered. Language specific to HHS enforcement of the sex discrimination prohibition was removed. The National Women's Law Center is filing this FOIA request in order to collect information that will demonstrate why this change was made, and to make sure that the Department is fulfilling its obligation to enforce the nondiscrimination provision of the ACA in regards to sex discrimination to the fullest extent as required by law.

I hereby request access to, or copies of, the following documents:

1. **All documents and communications relating in whole or in part to the U.S. Department of Health and Human Services' interpretation of its enforcement authority and/or obligations under the non-discrimination provision of the Patient Protection and Affordable Care Act in regards to discrimination on the basis of sex, 42 U.S.C. § 18116:**
 - a. Any documents and communications relating in whole or in part to the Department's interpretation of its enforcement obligations and/or authority, including but not limited to the scope of such obligations and/or authority, under the non-discrimination provision of the Patient Protection and Affordable Care Act, prohibiting discrimination in any health program or activity on the basis of sex, 42 U.S.C. § 18116; 45 C.F.R. §§ 92.1 et seq., from May 18, 2016 to the present.
 - b. Any documents and communications relating in whole or part to the Department's interpretation of its enforcement obligations and/or authority under its regulations

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at 45 C.F.R. §§ 92.1 et seq., concerning discrimination on the basis of sex, including but not limited to the scope of such obligations and/or authority, under or related to the injunction entered in *Franciscan Alliance, Inc. v. Burwell*, No. 7:16-cv-00108-O, 2016 WL 7638311 (N.D. Tex. Dec. 31, 2016), from December 31, 2016 to the present.

2. Complaints and decisions relating in whole or in part to the non-discrimination provision of the Patient Protection and Affordable Care Act in regards to discrimination on the basis of sex, 42 U.S.C. § 18116:

- a. Any complaints filed with the U.S. Department of Health and Human Services that include alleged violations of the non-discrimination provision of the Patient Protection and Affordable Care Act on the basis of sex, 42 U.S.C. § 18116, from 2010 to the present.
- b. Any Letters of Findings issued that address or resolve complaints that include alleged violations of the non-discrimination provision of the Patient Protection and Affordable Care Act on the basis of sex, 42 U.S.C. § 18116, from 2010 to the present.

I am requesting this information for non-commercial use in the public interest, and believe that it will contribute significantly to public understanding of the operations and activities of the government. Disclosure of the information will enable the public to better understand how the Department of Health & Human Services interprets and enforces this nondiscrimination provision. Without the information requested here, it would be difficult for the public to gather much information at all about the Department's interpretation or enforcement. Accordingly, I request a waiver of fees.

Thank you for your consideration of this request. I will expect a response within 20 working days as provided by law, 5 U.S.C. §552(a)(6)(A)(i). If my request is denied in whole or in part, I expect a detailed justification for withholding the records. I also request any segregable portions that are not exempt to be disclosed.

Thank you for your consideration of this request.

Sincerely,



Fatima Goss Graves

Senior Vice President for Program and President-Elect

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