



January 19, 2017

Marcia D. Greenberger
National Women's Law Center
11 Dupont Circle NW, Suite 800
Washington, DC 20036

Frank T. Brogan, Chancellor
Pennsylvania State System of Higher Education
2986 North Second Street
Harrisburg, PA 17110

OCR Transaction Number: 13-161002

Dear Ms. Greenberger and Chancellor Brogan:

The Office for Civil Rights (OCR) of the U.S. Department of Health and Human Services ("HHS") has completed its review of this complaint filed against Pennsylvania State System of Higher Education ("PASSHE" or "Covered Entity") alleging discrimination on the basis of sex in violation of Section 1557 of the Affordable Care Act.

OCR conducted this review under Section 1557 of the ACA, 42 U.S.C. § 18116 ("Section 1557"). The final rule implementing Section 1557 was published in the Federal Register on May 18, 2016. Among other things, the Section 1557 rule prohibits discrimination on the basis of race, color, national origin, sex (including pregnancy), age, or disability in health programs and activities, any part of which receives Federal financial assistance from HHS. *See* 45 C.F.R. §§ 92.2 (application), 92.101 (prohibition of discrimination) and 92.4 (definition of "on the basis of sex"). This prohibition of discrimination on the basis of sex extends to a covered entity's employee health benefit plan coverage for non-spousal dependents. More guidance on these provisions can be found here at Question No. 55: <https://www.hhs.gov/civil-rights/for-individuals/section-1557/1557faqs/index.html>

Complainant alleged that PASSHE maintained a self-insured group health plan for the benefit of its employees (the "Plan"). According to the complaints, PASSHE employees could elect coverage for their dependents. The Plan defined eligible dependents to include, in certain circumstances, an employee's child. Further, once a PASSHE employee had elected coverage for a dependent child, that dependent child became a plan beneficiary entitled to comprehensive health coverage from the Plan. However, at the time the complaint was filed, the Plan excluded services for or related to a dependent child's pregnancy, except if there were pregnancy complications. Complainant argued that this exclusion constituted discrimination on the basis of sex in violation of Section 1557.

In response to OCR's request for data, PASSHE informed OCR that PASSHE amended its Plan to add maternity care coverage for dependent children of employees effective July 1, 2016. Based on the foregoing, OCR finds that the issues raised in the complaint have been resolved. Accordingly, OCR has closed its review of this matter.

The closure of this complaint is not intended and should not be construed to cover any other issues regarding compliance with Section 1557 that may exist but were not specifically addressed during our review.

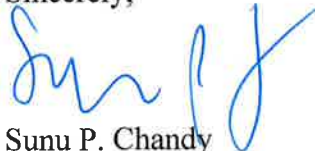
Complainant may have the right to file a civil action to remedy discrimination by a recipient of Federal financial assistance or other covered entity. Complainant may wish to consult an attorney about his/her right to pursue a private cause of action, any applicable statute of limitations, and other relevant considerations.

Complainant has the right not to be intimidated, threatened, coerced by a recipient/covered entity or other person because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing held in connection with a complaint. If this happens, the Complainant may file a complaint, alleging such harassment or intimidation, which shall be handled pursuant to OCR's investigative procedures.

For more information you may contact Eileen Hanrahan at Eileen.Hanrahan@hhs.gov or 202-205-4925.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event OCR receives such a request, we will seek to protect, to the extent provided by law, personal information which, if released, would constitute an unwarranted invasion of privacy.

Sincerely,



Sunu P. Chandy
Deputy Director for Civil Rights