

HHS Issues Final Rule On ACA Section 1557 Nondiscrimination

On June 12, 2020, the U.S. Department of Health and Human Services (HHS) issued a [final rule](#) implementing Section 1557, the civil rights provision of the Affordable Care Act (ACA) relating to nondiscrimination in federally funded health care.

Section 1557 has been in effect since the ACA's enactment in 2010. However, a federal court issued an injunction temporarily blocking enforcement of its provisions related to discrimination based on gender identity or termination of pregnancy. Following this injunction, HHS issued a proposed rule on May 24, 2019, to revise the Section 1557 nondiscrimination provisions related to gender identity and language access protections. Consistent with that proposal, the final rule:

- Removes gender identity and termination of pregnancy from being included as sex discrimination; and
- Eliminates the requirement that covered health programs and activities distribute nondiscrimination notices and tagline translation notices in at least 15 languages to patients and customers.

Nondiscrimination Protections Remain in Effect

The final rule does not affect the substantive Section 1557 provisions related to nondiscrimination on the basis of disability, race, color, age, national origin or sex.

In addition, under the final rule regulated entities will still be required to submit to HHS a binding assurance of compliance with Section 1557. HHS' [press release](#) and [fact sheet](#) on the final rule contain additional details.

Important Dates

May 24, 2019

HHS issued a proposed rule rolling back protections related to gender identity and language access.

Oct. 15, 2019

A federal court vacated Section 1557 provisions related to gender identity and termination of pregnancy.

Aug. 18, 2020

The final rule becomes effective.

Section 1557 provisions related to nondiscrimination on the basis of disability, race, color, age, national origin or sex remain in effect.