

Section 1557 of the ACA, Final Rule, *Nondiscrimination in Health Programs and Activities*

HHS has implemented Section 1557 of the ACA and issued the Final Rule, *Nondiscrimination in Health Programs and Activities*, to advance equity and reduce health disparities.

- Section 1557 prohibits discrimination based on **race, color, national origin, sex, age, or disability in any health program or activity, which, in any part, receives any type of funding from HHS** (such as Medicare (except Medicare Part B), Medicaid, meaningful use, PQRS) or any health program that HHS administers. Additionally Section 1557 covers health insurance marketplaces and issuers that participate in the Marketplaces.
- Section 1557 also prohibits sex discrimination in health care and **requires covered health programs and activities to treat individuals consistent with their gender identity**.
- For individuals with disabilities, the final rule requires (1) programs and activities be made **electronic and information technology accessible**, (2) **physical accessibility** of newly constructed or altered facilities, and (3) **appropriate auxiliary aids and services** for individuals with disabilities. Entities are also prohibited from using marketing practices or benefit designs that discriminate on the basis of any of the above protected classes.
- Finally, covered entities must take **reasonable steps to provide meaningful access to each individual with limited English proficiency**. Covered Entities are **strongly encouraged to develop and implement a language access plan** to comply with this rule.
- **There is no NEW religious exemption for this rule, but** the rule keeps into effect the existing protections for religious freedom and conscience.

How to comply with Section 1557:

Covered entities must post notices of nondiscrimination and non-English taglines that alert individuals with limited English proficiency to the availability of the language assistance services.

This **notice and any other SIGNIFICANT COMMUNICATION** to patients must always include language taglines for the **most frequently spoken languages** in the State of Maryland. Small communications only require the nondiscrimination statement and taglines top two non-English languages. Languages include: Spanish, Chinese, Korean, Vietnamese, French, Tagalog, Russian, Amharic, Kru (Bassa), Ibo, and Yoruba, Urdu, Persian (Farsi), French Creole (Haitian Creole) Portuguese, Arabic, and Gujarati.

Section 1557 also requires covered entities with **15 or more employees** to have a **grievance procedure and a compliance coordinator** to enforce this rule.

Bottom line:

A notice of nondiscrimination and its taglines **must be posted prominently** in the practice (Binders with the materials placed in waiting rooms may not be sufficient). **Any significant communication** to patient must include the taglines. This rule *does not necessarily* require a practice to contract with a translator for each of the 17 different languages. HHS recognizes that practices in remote areas may not see many non-English proficient patients. However, HHS **emphasized** that it is important for practices to be **prepared** for non-English proficient patients and to know where non-English language resources can be contacted.