

Section 1557: Protecting Individuals Against Sex Discrimination

Section 1557 is the civil rights provision of the Affordable Care Act of 2010. Section 1557 prohibits discrimination on the grounds of race, color, national origin, sex, age, or disability in certain health programs and activities. The Section 1557 final rule applies to any health program or activity, any part of which receives funding from the Department of Health and Human Services (HHS), such as hospitals that accept Medicare or doctors who receive Medicaid payments; the Health Insurance Marketplaces and issuers that participate in those Marketplaces; and any health program that HHS itself administers.

The rule makes clear that sex discrimination prohibited under Section 1557 includes discrimination based on:

- An individual's sex
- Pregnancy, childbirth and related medical conditions
- Gender identity
- Sex stereotyping

Protections against Sex Discrimination

- Individuals cannot be denied health care or health coverage based on their sex, including their gender identity and sex stereotyping.
- Women must be treated equally with men in the health care they receive and the insurance they obtain.
- Categorical coverage exclusions or limitations for all health care services related to gender transition are discriminatory.
- Individuals must be treated consistent with their gender identity, including in access to facilities. However, providers may not deny or limit treatment for any health services that are ordinarily or exclusively available to individuals of one gender based on the fact that a person seeking such services identifies as belonging to another gender.
- Sex-specific health programs or activities are permissible only if the entity can demonstrate an exceedingly persuasive justification, that is, that the sex-specific health program or activity is substantially related to the achievement of an important health-related or scientific objective.
- While the final rule does not resolve whether discrimination on the basis of an individual's sexual orientation status alone is a form of sex discrimination under Section 1557, the rule makes clear that OCR will evaluate complaints that allege sex discrimination related to an individual's sexual orientation to determine if they involve the sorts of stereotyping that can be addressed under Section 1557. HHS supports prohibiting sexual orientation discrimination as a matter of policy and will continue to monitor legal developments on this issue.

For more information about Section 1557, visit www.hhs.gov/civil-rights/for-individuals/section-1557.

