



THE NON-DISCRIMINATION PROVISION (SECTION 1557) OF THE AFFORDABLE CARE ACT (ACA)

WHAT IS SECTION 1557 OF THE AFFORDABLE CARE ACT (ACA)?

Section 1557 of the Affordable Care Act—also known as Obamacare—is the nondiscrimination provision of the critical health care law.



- ⊕ Section 1557 protects individuals from discrimination in health care on the basis of race, color, national origin, sex, including gender identity and pregnancy, age, or disability in certain health programs or activities.
 - This was the first civil rights law to prohibit discrimination on the basis of sex in health care settings and includes protections for Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) individuals.
 - Section 1557 of the ACA was finalized in 2016 by the Department of Health and Human Services (HHS).
- » The finalization helped contribute to the health equity of communities of color, promoted equal access to healthcare for all, and increased accessibility of coverage and care. Keeping it in place will help us to reduce discrimination in care.
- ⊕ Health insurers, hospitals, clinics, and any other entities that receive federal funds (including Medicaid) must comply with the anti-discrimination health care law.



The Latinx community faces the highest uninsured rates of any ethnic group, in addition to facing other barriers in coverage and care like immigration status and lack of culturally and/or linguistically appropriate care. Section 1557 helps to address the barriers to care and health inequities that the Latinx community already faces.

- ⊕ Under Section 1557, health care providers, hospitals, doctors, and nurses cannot:
 - Refuse to treat someone because of their sex, including gender identity
 - Refuse to treat someone because they have had an abortion
 - Refuse services to a child because they have LGBTQ parents
 - Deny an individual counseling on the full-range of birth control options because of stereotypes about a racial or ethnic group
- ⊕ Under Section 1557, insurance providers, hospitals, doctors, and nurses cannot:
 - Use age to categorically deny coverage, e.g. infertility treatment or contraception for those over 45
 - Deny transgender individuals coverage of transition related services
- ⊕ Section 1557 helps to protect against the practice of provider conscience clauses:
 - Provider conscience clauses allow providers to discriminate on the basis of religion



LANGUAGE ACCESS: SECTION 1557 ENSURES INDIVIDUALS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH IS ABLE TO RECEIVE DOCUMENTS IN A LANGUAGE THEY UNDERSTAND

- ⊗ Under Section 1557, covered entities are encouraged to develop and implement a plan to ensure language access.
- ⊗ The final rule for the implementation of Section 1557 required that covered entities post:
 - Notices of nondiscrimination and taglines that alert individuals to the availability of language assistance service
- ⊗ For significant publications and communications that are small-sized, covered entities must post at least a nondiscrimination statement in English and taglines in at least the top two languages spoken by non-english speaking individuals of the State(s) served.
 - Examples of publications and communications that are “small-sized” are postcards, tri-folds brochures, and pamphlets.
 - Under Section 1557, individuals with limited English proficiency cannot be required to provide their own interpreters and language assistance services must be provided in a “timely manner,” but the final rule did not include prescriptive timeframes.
 - » Section 1557 includes definitions of qualified interpreter, translator, and staff.



A tagline is a statement on healthcare documents informing individuals the availability of language assistance and its statement on nondiscrimination.

- ⊗ Definition of national origin in Section 1557:
 - National origin includes, but is not limited to, an individual's, or his or her ancestor's, place of origin (such as country or world region) or an individual's manifestation of the physical, cultural, or linguistic characteristics of a national origin group.
 - While “immigration status” is not included under “national origin,” the final rule on Section 1557 states that individuals are protected regardless of immigration status who are subject to discrimination on the grounds of race, color, national origin, sex, age or disability.