



Director
Office for Civil Rights
Washington, D.C. 20201

July 12, 2016

MEMORANDUM

TO: Civil Rights Heads of Federal Agencies

FROM: Jocelyn Samuels *JS*
Director, Office for Civil Rights
Department of Health and Human Services

SUBJECT: Enforcement Responsibilities under Section 1557 of the Affordable Care Act

I am following up on my November 5, 2015, memorandum to you (copy attached) to ensure that you are aware that the U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR) has issued a final rule implementing Section 1557 of the Affordable Care Act (ACA) (81 FR 31376, 45 C.F.R. Part 92). This final rule, which is effective July 18, 2016, prohibits discrimination in certain health programs and activities on the bases of race, color, national origin, sex, disability, and age. It is essential to advancing the goals of the ACA to expand individuals' access to health care and health coverage, advance health equity, and reduce health disparities.

The final rule builds on longstanding nondiscrimination principles familiar to you. In addition, it implements Section 1557's new prohibition of discrimination on the basis of sex in health programs and activities outside of educational institutions, which includes discrimination on the basis of sex stereotyping or gender identity. A summary of the rule is attached, and other outreach materials, such as fact sheets, are available on the HHS OCR website in multiple languages, along with a copy of the rule: <http://www.hhs.gov/civil-rights/for-individuals/section-1557>.

Consistent with HHS OCR's enforcement authority, the final rule applies to health programs and activities that receive Federal financial assistance from HHS. Although the final rule specifically applies only to HHS recipients of Federal financial assistance, the Section 1557 statute, which became effective in 2010, makes clear that Section 1557 applies to all health programs and activities, any part of which receives Federal financial assistance from any Federal agency. As a result, all Federal agencies have enforcement responsibility for programs they fund that fall within Section 1557 jurisdiction.

As such, I am asking each of you to recommit to enforcing Section 1557 with respect to the health programs and activities within each of your Federal agency's respective jurisdictions. As public servants, we have a tremendous opportunity – and responsibility – to vigorously enforce

Federal civil rights laws. I encourage you to adopt the final rule's nondiscrimination standards in your Federal agency's own enforcement of Section 1557.

We are already working with a number of you on the application of Section 1557 to health programs and activities funded by your agencies and are available to provide technical assistance to you and your staff on any questions you may have about your Section 1557 authority or the interpretation of the Section 1557 rule. We also would like to coordinate with you on any complaints you are investigating or any compliance reviews you initiate to ensure consistency across the Federal government in the application of Section 1557. Please contact Robinsue Frohboese, HHS OCR Principal Deputy Director and Senior Policy Advisor at robinsue.frohboese@hhs.gov or (202) 619-0403 for technical assistance and coordination.

I look forward to continued dialogue with you on achieving our shared goal of ensuring nondiscrimination within the health programs and activities the Federal government assists.

Attachments:

November 5, 2015, Memorandum to Civil Rights Heads of Federal Agencies
Summary - Final Rule for Section 1557 of the ACA