

## **LEGISLATIVE UPDATE – July 2020**

The Trump Administration CMS announced its FINAL RULE on Section 1557 change to the Affordable Care Act – Data Collection to decrease discrimination. NHMA and several health equity partners and coalitions sent in comments against this rolling back of the Affordable Care Act anti-discrimination topics and enforcement by the Office of Civil Rights at the US Department of Health and Human Services that we feel will decrease access to health care for LGBTQ and Limited English Proficiency (LEP) patients and consumers.

This document was published in the Federal Register on 06/19/2020 and available online at [federalregister.gov/d/2020-11758](https://www.federalregister.gov/d/2020-11758), and on [govinfo.gov](https://www.govinfo.gov).

Centers for Medicare & Medicaid Services (CMS); Office for Civil Rights (OCR), Office of the Secretary, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services (“the Department” or “HHS”) is committed to ensuring the civil rights of all individuals who access or seek to access health programs or activities of covered entities under Section 1557 of the Patient Protection and Affordable Care Act (“ACA”).

This will better comply with the mandates of Congress, address legal concerns, relieve billions of dollars in undue regulatory burdens, further substantive compliance, reduce confusion, and clarify the scope of Section 1557 in keeping with pre-existing civil rights statutes and regulations. This final rule modifies provisions of the 2016 Rule that imposed regulatory burdens on covered entities greater than what was needed in order to ensure compliance with civil rights law.

Specifically, it eliminates the burdensome requirement for data collection of LGBTQ persons seeking care at federal supported healthcare facilities and for covered entities to send notices and taglines with all significant communications, clarifies that the provision of health insurance, as such, is not a “health program or activity,” brings requirements of meaningful access for persons with limited English proficiency (LEP) into conformity with longstanding DOJ and HHS guidance, and permits remote English-language interpreting services to be audio-based rather than requiring them to be video-based.

Most significantly, the Department has found scant evidence to demonstrate that repeatedly mailing all beneficiaries of Federal and other health programs taglines with 15 or more languages is an efficient use of covered entities’ language access resources when the overwhelming majority of beneficiaries speak English.<sup>284</sup> Savings from the notice and taglines requirements changes are described in more detail in the Regulatory Impact Analysis.

### **NHMA signed on to the following letters in June 2020:**

- NHMA joined national associations on a letter to Speaker Pelosi, Senate Majority Leader McConnell, House Minority Leader McCarthy, and Senate Minority Leader Schumer urging to bridge the gap in health equity and access by bringing testing and contact tracing that is culturally and linguistically appropriate into areas and communities who are facing the highest risk of COVID-19 spread, complications, and mortality. Read the letter [here](#).
- NHMA joined Feeding America, National Urban League, UNIDOS US, and other national organizations on a letter to Congressional leadership urging them to increase benefits in the Supplemental Nutritional Assistance Program for the duration of the economic downturn due to COVID-19. Read the letter [here](#).

- NHMA sent a letter to Congresswoman Napolitano (CA-32) supporting her bill, Mental Health Services for Students Act of 2019 (H.R. 1109), which would enhance mental health services for students. Read the letter [here](#).
- NHMA sent a letter to Congresswoman Napolitano (CA-32) supporting her bill, Immigrants' Health Act of 2020 (H.R. 6075) to improve immigrant mental health. Read the letter [here](#).
- NHMA sent a letter to California Assemblymember Chris Holden supporting AB 2983, Pharmacies: automatic refills, which would strengthen regulations around automatic refills for prescription medication to keep patients safer with auto refills and prescriptions. Read the letter [here](#).
- NHMA sent a letter to Congresswoman Bass (CA-37), Congressman Nadler (NY-10), Senator Harris (CA), and Senator Booker (NJ) in support of Justice in Policing Act of 2020. Read the letter to the House [here](#) and the Senate [here](#).