

# One Minute Memo®



## Reminder: Section 1557 Notice Requirements Become Effective October 16, 2016

By Shad C. Fagerland

Final regulations under Section 1557 of the Affordable Care Act (the “ACA”) published on May 18, 2016, impose several new requirements on sponsors of covered health plans. For additional details about the Section 1557 final regulations, see this [Health Care Reform Management Alert](#).

One of the requirements under the Section 1557 final regulations -- the requirement to provide a nondiscrimination notice that includes information about how plan participants can request accessibility or language assistance services -- becomes effective on October 16, 2016 (90 days after the July 18, 2016 general effective date of the final regulations).

Read below for additional information about these new notice requirements.

### What is Section 1557?

Section 1557 of the ACA prohibits discrimination on the basis of race, color, national origin, sex (including gender identity), age, or disability under any health program or activity that receives Federal financial assistance.

### What health plans are subject to the final regulations?

An employer-sponsored health plan is subject to the final regulations if:

- The employer is **principally engaged** in providing or administering health services, health insurance coverage, or other health coverage, and the employer receives any funding from a program administered by the Department of Health and Human Services (“HHS”); or
- The employer is not principally engaged in providing health services or health insurance coverage but the **plan receives any direct funding from HHS**, including Medicare Part D subsidies. (Medicare Part B payments do not count.)

## If an employer-sponsored health plan is subject to the final regulations, what notice requirements apply?

A covered entity that operates or administers a covered health plan must issue a notice stating that the covered entity does not engage in discrimination that is prohibited by Section 1557. The notice must also include information about (a) auxiliary aids or services available to individuals with disabilities; (b) language assistance services available to individuals with limited English proficiency; and (c) information about how to file a grievance with the covered entity (if the covered entity has 15 or more employees) or a complaint with HHS, among other information. The notice must also include tag lines written in certain specified foreign languages.

## Where is the notice required to be posted?

The notice is required to be posted in:

- Any “significant publications and significant communications” targeted to beneficiaries, enrollees, and applicants (a shorter nondiscrimination statement can be substituted for the full notice in small-sized publications and communications);
- Conspicuous physical locations where the covered entity interacts with the public; and
- A conspicuous location on the entity’s web site accessible from the home page.

## Is a model notice available?

Yes. The final regulations include a model notice that can be adapted by covered entities to satisfy the notice requirement. Before the notice can be finalized, decisions will need to be made about how to allocate responsibility for Section 1557 compliance and where to direct participants seeking accessibility or language assistance services. If the covered entity has 15 or more employees, the notice must also include contact information for the employee or employees tasked with resolving grievances and overseeing the plan’s efforts to comply with Section 1557.

## Who can I contact for additional information about these notice requirements?

If you have any questions, please contact your Seyfarth attorney, *Benjamin Conley* at [bconley@seyfarth.com](mailto:bconley@seyfarth.com), *Jennifer Kraft* at [jkraft@seyfarth.com](mailto:jkraft@seyfarth.com), *Shad Fagerland* at [sfagerland@seyfarth.com](mailto:sfagerland@seyfarth.com), *Joy Sellstrom* at [jsellstrom@seyfarth.com](mailto:jsellstrom@seyfarth.com), *Tanya Moskalenko* at [tmoskalenko@seyfarth.com](mailto:tmoskalenko@seyfarth.com), or *Kelly Pointer* at [kpointer@seyfarth.com](mailto:kpointer@seyfarth.com).

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