

Compliance with Non-Discrimination Notice Approaching

Source: The Alliance, October 1, 2024

On May 5, 2024, The U.S. Department of Health and Human Services (HHS) issued in the Federal Register a [final](#) rule implementing Section 1557 of the *Affordable Care Act* (ACA), which prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in certain health programs and activities ([see previous NAHC Report](#)).

In addition to a general prohibition on discrimination, on the basis of race, color, national origin, sex, age, and disability, there are several procedural requirements that covered entities must implement. The effective date related to the general prohibition on discrimination is 60 days after publication in the Federal Register, which was July 5, 2024. However, in light of the comments received, the Office of Civil Rights (OCR) has determined that it is reasonable to allow additional time for covered entities to comply with the following requirements.

Section 1557 Requirement and Provision	Date by which covered entities must comply
§ 92.7 Section 1557 Coordinator	Within 120 days of effective date.
§ 92.8 Policies and Procedures	Within one year of effective date.
§ 92.9 Training	Following a covered entity's implementation of the policies and procedures required by § 92.8, and no later than 300 days of effective date.
§ 92.10 Notice of Nondiscrimination	Within 120 days of effective date.
§ 92.11 Notice of Availability of Language Assistance Services and Auxiliary Aids and Services	Within one year of effective date.
§ 92.207(b)(1)-(5) Nondiscrimination in health insurance coverage and other health-related coverage (benefit design changes)	For health insurance coverage or other health-related coverage that was not subject to this part as of the date of publication of this rule, by the first day of the first plan year (in the individual market, policy year) beginning on or after January 1, 2025.
§ 92.207(b)(6) Nondiscrimination in health insurance coverage and other health-related coverage (benefit design changes)	By the first day of the first plan year (in the individual market, policy year) beginning on or after January 1, 2025.
§ 92.210(b), (c) Use of patient care decision support tools	Within 300 days of effective date.

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According to the above timetable, providers must come into compliance with the notice of non-discrimination requirements and designate a coordinator by **November 2, 2024**.

Therefore, all covered entities, which includes home health and hospice providers, must issue the notice of non-discrimination that includes the contact information for the designated coordinator as follows:

- On an annual basis to participants, beneficiaries, enrollees, and applicants of its health program or activity;
- Upon request;
- At a conspicuous location on the covered entity's health program or activity website, if it has one; and
- In clear and prominent physical locations, in no smaller than 20-point sans serif font, where it is reasonable to expect individuals seeking service from the health program or activity to be able to read or hear the notice.
- A covered entity may combine the content of the notice with other nondiscrimination notices if the combined notice clearly informs individuals of their civil rights under section 1557 and this part, so long as it includes each of the elements required by the rule.

The OCR has posted on their website a [sample](#) notice of nondiscrimination that providers may use to comply with the nondiscrimination notice requirement. The website also includes samples of other resources that will assist providers to comply with the notice of availability of language assistance and policy and procedure requirements. Providers have one year from the rule's effective date to implement those requirements.

On the OCR website there is notice that addresses recent court actions that have stayed nationwide the regulations to the extent they "extend discrimination on the basis of sex to include discrimination on the basis of gender identity" However, these rulings do not impact other requirements in the rule. Therefore, compliance with the operation requirements remain without change.

The Alliance will continue to provide reminders and updates to members for the various operational requirements as the respective compliance date approaches.