



### ACA Section 1557 – Action Required by October 17!

The purpose of this Compliance Alert is to notify our clients about regulations issued under Section 1557 of the Affordable Care Act (ACA) that affect organizations which receive funds from the U.S. Department of Health & Human Services (HHS). Section 1557 prohibits discrimination in health programs and activities offered by 'Covered Entities', and carries certain coverage, notice and grievance procedure requirements.

#### Is your organization a Covered Entity?

<b>No – no action required.</b>	<b>Yes – please <a href="#">EMAIL</a> Health Plans by October 17 to notify us of your status</b>
If your organization is not a Covered Entity, Section 1557 will not apply.	Health Plans will then send you details about the specific requirements that apply to the plans we administer on your behalf, and how we will implement certain of those requirements.

#### What is a Covered Entity under Section 1557?

An organization is a Covered Entity, subject to the requirements of Section 1557, if its health programs and/or activities receive federal financial assistance (FFA) from the U.S. Department of Health & Human Services (HHS). For example, the organization could be a Covered Entity because it is a hospital that accepts Medicare payments or because it is an employer that receives Medicare Retiree Drug Subsidies for its retiree health plan. The nature of the entity and the type of FFA it receives together determine the extent to which Section 1557 will apply to a Covered Entity's employee health benefit programs.

The chart below may help you determine the impact of Section 1557 on your organization's employee health benefit programs. Clients who are not certain of their status as Covered Entities under Section 1557 should consult with their legal and/or financial advisors to make that determination.

If your organization is:	And receives any of these types of federal financial assistance from HHS:	Then Section 1557:
Principally engaged in providing or administering health services, such as a hospital, or health insurance coverage, such as an insurance carrier	<ul style="list-style-type: none"> <li>■ Medicare (except for Part B) and/or Medicaid for patient services</li> <li>■ Assistance through offering qualified health plans on Marketplaces/Exchanges or through Medicare Advantage or Medicaid;</li> <li>■ Grants, property, tax credits or cost-sharing subsidies, such as Medicare Retiree Drug Subsidies (RDS)</li> </ul>	Will apply to all employee health benefit programs, regardless of whether the covered employees are working in the health program or activity receiving FFA
Engaged in providing or administering health services, but not principally (e.g., a pharmacy included in a large department store)	<ul style="list-style-type: none"> <li>■ Medicare (except for Part B) and/or Medicaid</li> <li>■ Grants, property, tax credits or cost-sharing subsidies, such as Medicare RDS</li> </ul>	Will apply only to the employee health programs for the employees engaged in providing or administering health services
Not engaged at all in providing or administering health services	Assistance with the primary objective of funding one or more employee health programs, such as Medicare RDS or HHS funding for a wellness program	Will apply only to the employee health benefit programs receiving the assistance



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#### Section 1557 in a Nutshell

##### Section 1557 requires Covered Entities to provide:

- Equal access to health programs and activities without discrimination on the basis of race, color, national origin, age, disability or sex, including on the basis of gender identity or sex stereotypes
- Notices of nondiscrimination in member communications which must include information about auxiliary aids and services for those with disabilities or limited English proficiency, as well as contact information for filing grievances
- A formal grievance process to handle complaints of discrimination in the provision of health care, health coverage or other health programs

If your organization is a Covered Entity or if you have questions, please **EMAIL** us by October 17, 2016. If we do not hear from you by then, we will assume that you have determined that your organization is not a Covered Entity.

The information contained in this Compliance Alert is based on our current understanding of recent regulatory developments which may affect group benefit plans. It should not be construed as specific legal advice or legal opinion. The contents are for general informational purposes only and are not a substitute for the advice of legal counsel.