

Brief Notes

News for
Brokers and Consultants

July 29, 2016

Applies to: All markets

Nondiscrimination in Health Programs and Activities Final Rule for Section 1557 of the Affordable Care Act

Section 1557 is the nondiscrimination provision of the Affordable Care Act (ACA) prohibiting discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities.

The Department of Health and Human Services (HHS) recently issued its Final Rule “Nondiscrimination in Health Programs and Activities,” (the Rule) implementing Section 1557. The Rule became effective on **July 18, 2016**. To the extent the Rule requires changes to health benefit plans, the changes must be effective on the first day of the first plan year beginning on or after **January 1, 2017**.

The Rule applies to the following covered entities:

- All health programs and activities that receive federal financial assistance from HHS,
- Every health program or activity administered by HHS, i.e., Medicare program and federally facilitated Health Insurance Marketplaces, and
- Health Insurance Marketplaces and all plans offered by issuers that participate in those Marketplaces, i.e., state-based and federally facilitated Health Insurance Marketplaces.

The Rule also requires that women be treated equally with men in the health care they receive and prohibits the denial of health care or health coverage based on an individual’s sex, including discrimination based on pregnancy, gender identity and sex stereotyping. The Rule also requires that individuals be treated consistent with their gender identity, which may be different from their sex assigned at birth.

Covered entities, including health insurers, are prohibited from categorically excluding or limiting all health services related to gender transition. A health insurer may, however, determine whether a particular health service is medically necessary. Horizon Blue Cross Blue Shield of New Jersey is updating its plan contracts upon annual renewal beginning on **January 1, 2017** to remove the blanket exclusion of gender reassignment services.

Covered entities must also provide effective language assistance services so that individuals with limited English proficiency will have meaningful access to its health programs and activities. Effective **October 16, 2016**, significant written and electronic benefits-related communications to members and prospective members from Horizon BCBSNJ will be updated to include a nondiscrimination statement and language taglines providing guidance on how to obtain information in languages other than English.

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Additionally, the Rule requires that individuals with disabilities must be provided with equal access to the health programs and activities of covered entities. Horizon BCBSNJ provides auxiliary aids and services to people with disabilities to assist them in communicating effectively with Horizon BCBSNJ. Examples include TTY and text telephone device (TTD) phone lines, and information provided in larger print or Braille, upon request.

The Rule also applies to age discrimination and the certain requirements related to the provision and administration of health-related insurance or other health-related coverage.

If you have questions, please contact your Horizon BCBSNJ sales executive or account manager.