



# Proposed Obamacare Rule Fights Sex Discrimination. What About HIV?

September 9, 2015

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A proposed rule to the Affordable Care Act (ACA) would ban sex discrimination in the health care system, according to a [press release from the Department of Health & Human Services](#) (HHS), which issued the proposal. Notably, the rule would prohibit discrimination against transgender people.

The rule applies to any health care provider that receives federal funds or is part of the ACA. But at least one advocacy group claims the rule falls short when it comes to discrimination against people with chronic conditions like HIV.

The rule would extend the civil rights protections of Section 1557 to include sex discrimination, including gender identity. This means that insurance policies could not exclude transgender people, that women must be treated equally in the health care they receive, and that discrimination against LGBT people, or against anyone based on stereotypical ideas of masculinity or femininity, is illegal. [The Associated Press writes](#) that the rule would expand, but not require, insurance coverage for gender transition treatment.

The proposal also provides for better language assistance for people with limited English skills, and it provides better provisions for people with disabilities.

Section 1557 already bars discrimination based on race, color, national origin, disability, or age.

The HHS is seeking public comment on the proposed rule until November 6. The HHS specifically asks for input on whether Section 1557 should include exemptions for religious organizations and to what extent.

In response to the HHS proposal, Daniel Bruner, the senior director on policy at [Whitman-Walker Health](#), which caters to the LGBT and HIV population in Washington, DC, released this [statement](#):

“This will help ensure that trans people are free from

many all-too-common forms of discrimination from health providers, including health insurance plans' exclusion of coverage of sex reassignment procedures and outright refusals of care by doctors, medical clinics, hospitals and others based on simple, old-fashioned bias.... Also exciting is the recognition included in the proposal that many forms of health care discrimination encountered by lesbian, gay and bisexual people are illegal sex discrimination.”

[The AIDS Institute](#), a nonprofit advocacy group, also released a statement about the proposed rule. Carl Schmid, the group's deputy executive director, said:

“While the proposal does an adequate job of defining discriminatory practices by insurance plans for some individuals, it does not define discriminatory practices in plan benefit design as it relates to beneficiaries with chronic conditions who rely on prescription medications and other healthcare treatments. The AIDS Institute and others have provided countless examples of marketplace plans that employ discriminatory benefit design by placing all medications to treat a certain

condition on the highest cost tier, not covering certain medications, imposing excessive medication management tools, and charging patients high cost sharing.... The AIDS Institute and NHeLP even filed a discrimination complaint in May 2014 against some issuers in Florida for employing these types of practices. To date, [the HHS Office of Civil Rights, or OCR] has not acted upon that complaint.

“We are still looking forward to OCR’s decision on our discrimination complaint and its enforcement of Sec. 1557 against the issuers named and the practices raised in the complaint. In the meantime, we expect the proposed rule will galvanize the patient community and their concerns. Hopefully, the final rule will address the needs of all patients, particularly those with chronic health care conditions, as they engage in the insurance market.”