



## Legislative and Regulatory Updates



### Rule 1557 Provisions Regarding Discrimination Based On Gender Identity or Pregnancy Termination Enjoined Nationally

On December 31, 2016, Judge Reed O'Connor of the United States District Court for the Northern District of Texas entered a [nationwide injunction](#) in *Franciscan Alliance v. Burwell*. The order prohibited the Department of Health and Human Services (HHS) from enforcing certain provisions of its [nondiscrimination rule](#) promulgated under ACA section 1557, namely those that prohibit discrimination on the basis of gender identity or termination of pregnancy. The remaining provisions of the rule—prohibiting discrimination on the basis of disability, race, color, age, national origin, or sex other than gender identity—are in effect as scheduled, mostly beginning January 1, 2017.

MedCost published a summary of Section 1557 [here](#), and HHS has published a summary [here](#) and FAQs [here](#). Section 1557 applies antidiscrimination laws to entities receiving assistance under certain federal agencies. These rules have required various plan changes from self-funded plans to implement the protections afforded under the rules.

In the December 31 ruling, Judge O'Connor stated that “[w]hile this lawsuit involves many issues of great importance—state sovereignty, expanded healthcare coverage, anti-discrimination protections, and medical judgment—ultimately, the question before the Court is whether Defendants exceeded their authority under the ACA in the challenged regulations’ interpretation of sex discrimination and whether the regulation violates the Religious Freedom Restoration Act as applied to Private Plaintiffs.” Finding that HHS exceeded its authority under the ACA, he enjoined the agency from enforcing the provisions of Section 1557 regarding plan changes for nondiscrimination on the basis of gender identity and pregnancy termination until further judicial or legislative action.

If your Plan implemented the changes required by Rule 1557 and you would like to discuss the impact the injunction may have on your plan design, please contact your MedCost Benefit Services Account Manager. As always, MedCost will continue to monitor this issue and will communicate any further developments as they occur.



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