



The Colorado Health Foundation™

September 16, 2022

U.S. Department of Health & Human Services
Centers for Medicare and Medicaid Services (CMS)
Attention: 1557 NPRM (RIN 0945-AA17)
P.O. Box 8010
Baltimore, MD 21244

Submitted electronically via Regulations.gov

RE: Comments on “Nondiscrimination in Health Programs and Activities”

Dear Secretary Becerra:

The Colorado Health Foundation supports the sections of the Department of Health & Human Services’ (HHS) proposed rule that would reinstate and strengthen the protections from discrimination in health programs and activities as part of Section 1557 of the Affordable Care Act (ACA). We applaud HHS’ efforts to advance health equity and to reduce barriers to accessing necessary health care services.

The Colorado Health Foundation is a private foundation committed to improving the health and well-being of all Coloradans. We are guided by a vision of making Colorado the healthiest state in the nation through grantmaking, public policy initiatives, evaluation, private sector engagement and communications outreach. The Foundation supports the nondiscrimination provisions in this proposed rule as an important step towards eliminating the limitations that were placed on 1557 protections in 2020, reinstating protections that were previously in place, and further strengthening them in order to ensure that all individuals are free from discrimination when accessing health care services.

In response to the Supreme Court decision in *Dobbs v. Jackson Women’s Health Organization*, the proposed rule strengthens protections against discrimination on the basis of sex, including discrimination on the basis of pregnancy or related conditions (including abortion) and discrimination on the basis of sexual orientation and gender identity. The Colorado Health Foundation supports these protections as essential safeguards for fundamental human rights.

The Colorado Health Foundation also supports the sections of the proposed rule that would advance health equity by ensuring linguistic access and access for persons with disabilities. Specifically, the Foundation supports the proposed rule’s requirement that covered entities take reasonable steps to provide meaningful access to language services in the 15 most common languages spoken by individuals with limited English proficiency in each state. Such a requirement is a crucial step in helping close gaps in access to linguistically appropriate care. We also applaud the requirement that covered entities provide reasonable modifications for

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individuals with disabilities, and appropriate auxiliary aids and services thereby helping protect against discrimination and ensure equal access.

Throughout the pandemic, Coloradans have benefited from accessing care via telehealth and it has become clear that continued access to services in this format is essential to access to care. The Foundation commends HHS for clarifying that nondiscrimination requirements apply to health programs and activities provided through telehealth services. We also commend HHS for continuing to advance non-discrimination policies to help ensure access to care by proposing to interpret Medicare Part B funds as federal financial assistance, thus requiring providers and suppliers subsidized by those funds to comply with Section 1557 implementing regulations.

In closing, we appreciate your consideration of our comments. The Colorado Health Foundation urges HHS to quickly move forward with a final rule codifying the vital nondiscrimination protections delineated in this proposed rule.

If you have any questions, please contact Alexis Weightman, Colorado Health Foundation senior policy officer, at aweightman@coloradohealth.org or 303-953-3600.

Sincerely,



Kyle Legleiter
Senior Director of Policy
Colorado Health Foundation