



PRESS RELEASE

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ACA Proposed Regulatory Changes Will Erode LGBTQ Protections

Aug. 6, 2019, Hartford, CT – Anti-discrimination regulations under the Affordable Care Act will be eroded if a new proposed federal regulation is given final approval. It is critical this does not happen.

Current rules prevent most health insurance companies from discriminating on the basis of gender identity, and the carriers are also required to provide coverage for certain transition-related medical services to transgender people. The new regulation proposed by the federal Department of Health & Human Services (“HHS”) would end those protections.

This is the wrong direction for Connecticut or any state that values its LGBTQ+ communities.

The State Office of the Healthcare Advocate (“OHA”) in recent years has won coverage for transition-related services for a number of Connecticut residents, such as hormone treatment, genital reassignment surgery, and facial feminization surgery.

The OHA has a staff of nurses, paralegals, attorneys and other professionals who represent Connecticut residents who have had health insurance claims denied, or who are having other issues with their health coverage.

State Healthcare Advocate Ted Doolittle said, “OHA case managers fighting for insurance coverage for our trans families today are able to rely on the strong anti-discrimination language in the existing regulation. The proposed regulation erases those protections. Our case managers never give up, but if the current regulation is taken down, those cases will get harder to win. And if we can’t win the insurance coverage, our families will be forced to choose between facing the economic devastation of paying out of pocket, or facing the emotional and physical devastation of not being able to get medically necessary treatment. That is why HHS needs to keep the current regulation in place, instead of replacing it.”

"No person, no matter who they are, should be denied access to the care they need. Health care is a human right for everyone, not just the lucky few. We reject the proposal
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that LGBTQ+ individuals, immigrants and people with disabilities should be excluded from protections," said Frances G. Padilla, president of Universal Health Care Foundation of Connecticut.

"Transgender individuals and members of the LGBTQ+ community are under constant threat from the Trump administration—this is just the latest in a series of attacks meant to deny people equal protection under the law," said Gretchen Raffa, Director of Public Policy and Advocacy, Planned Parenthood of Southern New England. "By gutting the Affordable Care Act's protections against discrimination, this proposed rule will make it possible for insurance companies to deny coverage or care for transgender individuals and weaken existing safeguards that help our most vulnerable communities access the lifesaving care they need, free of judgement and bias. Planned Parenthood of Southern New England believes that discrimination has no place in our health care system—we stand with the LGBTQ+ community and our patients to oppose any attempt to eliminate the essential civil rights protections of the ACA."

The anti-discrimination provisions of Section 1557 of the ACA and the related regulations which were issued in 2016 define discrimination "on the basis of sex" to include discrimination based on gender identity, and the regulations also require specific health insurance coverage protections for transgender individuals. The proposed regulation narrows the definition of discrimination "on the basis of sex" to include only discrimination based on status as either a male or female, without regard to the person's self-identification, and without regard to transgender status.

The proposed regulation also dramatically narrows the types of health insurers and healthcare providers who are subject to the protections, and additionally opens the door to other forms of discrimination in healthcare and health insurance based on sexual orientation. Further description of this complex proposed regulation can be found at: <https://www.kff.org/disparities-policy/issue-brief/hhss-proposed-changes-to-non-discrimination-regulations-under-aca-section-1557/>

U.S. Senator Richard Blumenthal added his voice to the growing chorus of dissent. "The right to access quality health care should never be limited because of who you are or who you love. The Trump-Pence Administration's proposed rollback of protections against health care discrimination is yet another cruel attempt to strip Americans of their undeniable right to access health care. We stand in solidarity with the LGBTQ+ community to demand the Administration stop its abhorrent attack on these basic civil rights protections."

State Treasurer Shawn Wooden is also opposed to the new regulations. "The Trump Administration has proposed regulations that would unwind hard-fought protections against discrimination in healthcare on the basis of sexual orientation and gender identity. This is plainly wrong. As State Treasurer, I am responsible for roughly \$150 million of pension assets invested in the health insurance sector, and as an investor, discrimination is bad business. We will not condone discrimination against classes of individuals protected under Connecticut law, which is why I firmly stand with our elected leaders and advocates in opposing these misguided proposed regulations."

OHA on Aug. 6 will be filing its official negative response to these anti-trans changes to the ACA regulations. The agency is encouraging and asking all Connecticut residents,

businesses, and other organizations to also file their own comments opposing the new rule directly with HHS before the end of the official public comment period on August 13, 2019.

Comments can be filed by any organization or member of the public at the federal regulations website: <https://www.regulations.gov/document?D=HHS-OCR-2019-0007-0001>

The OHA is a consumer advocacy agency in Connecticut. Its mission is to make sure consumers' rights to healthcare access and coverage are protected. OHA employees are experts in the field of insurance and assist consumers in appealing claim denials. It also monitors regulations and laws in the state and federal governments that can adversely affect Connecticut residents. More information is available at: www.ct.gov/oha

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