



Iowa Department of Human Services

Terry E. Branstad
Governor

Kim Reynolds
Lt. Governor

Charles M. Palmer
Director

IME Policy Clarification #000170.1

November 15, 2016

MCO CEO Name
MCO Address Line 1
Address Line 2
Des Moines, Iowa XX

Dear Ms.Mr:

This letter is a formal notification of the state's expectations related to the operations and implementation of Iowa Medicaid under the managed care program. This purpose of this letter is to do following:

- ☒ Provide formal guidance
- ☐ Request for information

New guidance has been issued by the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) on Affordable Care Act (ACA) Section 1557.

ACA Section 1557 prohibits discrimination based on race, color, national origin, sex, age or disability in health programs and activities that receive Federal funds. Section 1557 assists populations that have been most vulnerable to discrimination in health care and health coverage, including: women, members of the lesbian, gay, bisexual and transgender (LGBT) community, individuals with disabilities and individuals with limited English proficiency (LEP).

Section 1557 builds on long-standing Federal civil rights laws

- Title VI of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975

OCR's final regulation implementing Section 1557 was published in the Federal Register on May 18, 2016 (Nondiscrimination in Health Programs and Activities, Final Rule (81 FR 31376)). The final regulations can be found at 45 CFR Part 92.

Section 1557 requirements directly impact communications and operations. This Policy Clarification provides guidance on the communications requirements of Section 1557. An additional Policy Clarification addresses the operational requirements of Section 1557.

To ensure compliance, the IME is providing Section 1557 communications guidance below.

Covered entities, which includes the MCOs, must inform members of their rights to be treated with dignity and respect and to access information and services in a manner which is accessible. To accomplish this, communications must include a nondiscrimination notice or statement and taglines in top languages for those with LEP.

There are TWO TIERS of communications requirements. You must first determine if the communications piece is 'Significant Communications' or 'Small-Size Significant Communications,' then add the appropriate required content.

- **Significant Communications:** Significant publications or significant communications targeted to beneficiaries, enrollees, applicants, or members of the public, which may include patient handbooks, outreach publications, or written notices pertaining to rights or benefits or requiring a response from an individual.

REQUIRED CONTENT:

- Nondiscrimination Notice (sample text available [here¹](#))
- Top 15 LEP Taglines (sample text available [here²](#))

- **Small-Size Significant Communications:** Significant publications or significant communications that are small in size such as brochures, postcards, targeted fliers, small posters, and those that are communicated through social media platforms.

REQUIRED CONTENT:

- Nondiscrimination Statement (sample text available [here³](#))
- Top 2 LEP Taglines (sample text available [here⁴](#))

Determining whether a communications piece is a 'Significant Communications' or 'Small-Size Significant Communications' is up to the discretion of the MCO.

The top 15 languages in Iowa used by those with LEP:

Rank	State	Language	Estimated Population
1	IA	Spanish	49,357
2	IA	Chinese	6,025
3	IA	Vietnamese	4,552
4	IA	Serbo-Croatian	3,795
5	IA	German	2,624
6	IA	Arabic	2,213
7	IA	Laotian	1,997
8	IA	Korean	1,950
9	IA	Hindi	1,078
10	IA	French	937
11	IA	Pennsylvanian Dutch	875
12	IA	Thai	872

¹ <http://www.hhs.gov/sites/default/files/sample-ce-notice-english.pdf>

² <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>

³ <http://www.hhs.gov/sites/default/files/sample-ce-statement-english.pdf>

⁴ <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>

13	IA	Tagalog	789
14	IA	Karen	780
15	IA	Russian	614

In addition to the types of communications identified above, the notice and taglines must be posted online and in physical locations:

- **Online**

REQUIRED CONTENT:

- Nondiscrimination Notice (sample text available [here⁵](#)) must be accessible from the covered entities' homepage.
- Top 15 LEP Taglines (sample text available [here⁶](#)) must be posted on the covered entities' webpage.

- **Physical Location**

REQUIRED CONTENT:

- Nondiscrimination Notice (sample text available [here⁷](#)) must be posted in conspicuous physical locations where the provider or covered entity interacts with the public.
- Top 15 LEP Taglines (sample text available [here⁸](#)) must be posted in conspicuous physical locations where the provider or covered entity interacts with the public.

The MCO may combine the content of the required nondiscrimination notice with other notices, so long as it is consistent with the intent of Section 1557.

Who must comply with section 1557?

All health programs and activities that receive Federal financial assistance from HHS, which includes the Iowa Medicaid MCOs, must comply with ACA Section 1557.

Health program or activity is broadly defined in the regulation and includes:

- The provision or administration of health related services, including behavioral health services
- State agencies, including Medicaid, Children's Health Insurance Program (CHIP), Basic Health Programs
- Medicare programs
- Hospitals
- Nursing facilities, intermediate care facilities for persons with intellectual/developmental disabilities, community residential facilities
- Health-related insurance
- Wellness programs
- Health research and education programs

⁵ <http://www.hhs.gov/sites/default/files/sample-ce-notice-english.pdf>

⁶ <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>

⁷ <http://www.hhs.gov/sites/default/files/sample-ce-notice-english.pdf>

⁸ <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>

- Includes all of the operations of an entity principally engaged in health services or health coverage.

When do these requirements go into effect?

The communications requirements—the posting of LEP taglines and nondiscrimination notice or statement in significant communications is effective October 17, 2016.

OCR has indicated they intend to provide covered entities flexibility to implement requirements as long as the actions do not compromise intent to clearly inform individuals of their Section 1557 rights.

OCR has noted that covered entities which distribute significant publications or significant communications will need to update these publications to include the required notice and taglines. Covered entities may exhaust their current stock of hard copy publications rather than requiring a special printing of the publications to include the new notice.

This guidance is being issued by the IME to assist the MCOs with coming into compliance. This letter is not exhaustive and the MCOs need to review the ACA Section 1557 requirements in full, which can be found [here⁹](#), along with other useful resources and training materials.

Please sign and return the attached receipt and attestation of understanding by December 2, 2016

Sincerely,

Elizabeth Matney
Managed Care Oversight and Supports Bureau Chief

Attestation:

I hereby attest to understanding this communication including all requirements and due dates.

Name _____

Date _____

⁹ <http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>