

This week, NHeLP submitted [comments](#) on a [Request for Information Regarding Nondiscrimination in Certain Health Programs or Activities](#)

. This RFI from HHS' Office for Civil Rights (OCR), is the first step towards future rulemaking on the Affordable Care Act's (ACA) nondiscrimination provision, § 1557.

Specifically, the RFI solicited comments of examples of different types of discrimination in health programs, best practices for setting standards that improve access and reduce discriminatory practices in health programs and activities, and recommendations for standards around enforcement mechanisms, design of information technology, and administration of § 1557.

Our comments include many examples of best practices as well as areas where current policy falls short. We also offered specific recommendations, including that future rulemaking:

- Adopt strong thresholds for interpreting services, translation of documents and availability of alternative formats to improve access for individuals with LEP and for people with disabilities;
- Ensure that failure to provide adequate access, translation and interpreting services is evidence of non-compliance with § 1557;
 - Require health programs to report on language services and § 1557 compliance;
 - Ensure that § 1557 applies broadly to any health program or activity of a recipient of federal financial assistance, including credits and subsidies, contracts of insurance, managed care plans, and Health Marketplaces;
 - Recognize an explicit private right of action for monetary damages for § 1557 discrimination claims; and
 - Recognize that the statute authorizes both discriminatory intent and claims of discrimination by disparate impact.

There is no clear timetable for the release of a proposed rule, but we will keep you informed with new developments on this important ACA consumer protection.