

July 24, 2019

Luben Montoya  
Section Chief, Supervisory Civil Rights Analyst  
US Department of HHS  
Huber H. Humphrey Building, Room 509F  
200 Independence Ave. SW  
Washington, DC

RE: Comments on Section 1557

Dear Mr. Montoya,

Men's Health Network represents the health of men, boys, and their families through advocacy, health promotion, preventive screenings, symposia, and discussions. We welcome the opportunity to comment on Section 1557 of the ACA, specifically Section 92.1 which states that discrimination is prohibited "on the basis of race, color, national origin, sex, age, or disability."

The proposed rule for Section 1557 (Federal Register, Vol. 84, No. 115) states in Section II, "The existence of lawsuits and court orders blocking enforcement of significant parts of the Final Rule for over two years indicates that changes in the proposed rule may minimize litigation risk." This is an admirable goal, but until gender discrimination is eliminated, litigation remains a very real risk.

Along with creating equal health opportunities, our goal is the elimination of any and all gender discrimination in the ACA as required by Section 92.1

While the Affordable Care Act (ACA) has done much to increase access to health care and preventive services, we find that discrimination and gender inequities continue to exist. These inequities should be prohibited under Section 92.1, as males are being systematically excluded from numerous benefits which are granted to females.

We address some, but not all, of the inequities in this note. A more complete review of gender discrimination found in the ACA is mentioned in our comments of November 6, 2015 sent to former Secretary Burwell which can be found here:  
<http://www.menshealthnetwork.org/library/ACA-MHN-discrimination-comments-110915.pdf>

### **Annual Preventive Health Care Visits – Well Woman Visits –**

The ACA provides for an excellent, comprehensive Well-Woman Visit yearly at no cost. No comparable "Well-Man Visit" is provided, clearly unequal treatment, and denial of a benefit to the most vulnerable segment of our population.

A comparable “Well-Man Visit” would give men an excellent opportunity to receive desperately needed mental health check-ups and screenings, specifically for depression and suicidal ideology, more easily identify and treat possible opioid and other drug abuse, and allow men to gain valuable knowledge from their primary care providers leading them to live healthier lives.

Well Woman Visits are clearly defined by HHS here, and men should be provided comparable health care, also at no cost –  
<http://healthfinder.gov/HealthTopics/Category/everyday-healthy-living/sexual-health/get-your-well-woman-visit-every-year>

### *The Basics*

*Schedule your well-woman visit with a doctor or nurse every year. The well-woman visit is an important way to help you stay healthy.*

*Well-woman visits include a full checkup, separate from any other visit for sickness or injury. These visits focus on preventive care for women, which may include:*

*Services, like shots, that improve your health by preventing diseases and other health problems*

*Screenings, which are medical tests to check for diseases early when they may be easier to treat*

*Education and counseling to help you make informed health decisions*

*What happens during a well-woman visit?*

*Your well-woman visit is a chance to focus on your overall health and wellness. There are 3 main goals for the visit:*

*Documenting your health habits and history*

*Getting a physical exam*

*Setting health goals*

#### *1. Health habits and history*

*Before your physical exam, the doctor or nurse will ask you to answer some questions about your overall health. These questions may cover topics like your:*

*Medical history*

*Family’s health history*

*Sexual health and sexual partners*

*Eating habits and physical activity*

*Use of alcohol, tobacco, and other drugs*

*Mental health history, including depression*

*Relationships and safety*

#### *2. Physical exam*

*The doctor or nurse will examine your body, which may include:*

*Measuring your height and weight*

*Calculating your body mass index (BMI) to see if you are at a healthy weight*  
*Checking your blood pressure*  
*Taking your temperature*  
*Doing a clinical breast exam (feeling your breasts and under your arms for lumps or other changes)*  
*Doing a Pap test and pelvic exam*

### **3. Health goals**

*You and the doctor or nurse will talk about the next steps for helping you stay healthy. Together, you can decide which screenings or follow-up services are right for you.*

*If you have health goals, like losing weight or quitting smoking, you and your doctor or nurse can make a plan to help you meet these goals.*

### **Other Discriminatory Practices –**

As illustrated above, the Affordable Care Act provides many benefits free or at low cost to females that are denied to males, discriminatory practices at a basic health care delivery level.

A critical example is that the failure to provide basic services to males that are available to females results in undiagnosed and untreated opioid and other drug abuse, and depression, the latter leading to higher suicide rates.

Other discriminatory practices and inequities in the ACA that should be addressed include screening for osteoporosis, breast cancer screenings for men, eligibility criteria that adversely affect male eligibility for assistance, and more.

Certain benefits for females are explicitly identified in the legislation and there is no request to roll back these benefits. Rather, our concern is for equality, for equity and for the removal of gender-based discrimination in the provision of health care services and benefits. While mandating certain benefits as a baseline for females, Congress also imposed on the Agency the duty and granted the power to ensure that the law is applied in an equitable manner, free of discrimination “on the basis of race, color, national origin, sex, age, or disability.”

The Agency has a duty to ensure that the baseline of mandated benefits for males is not inferior to the baseline for females.

We ask that these inequities be corrected.

Sincerely,

Jack Lucero  
Policy Analyst  
Men’s Health Network