

August 5, 2019

Submitted via [www.regulations.gov](http://www.regulations.gov)

Mr. Roger Severino  
Director, Office for Civil Rights  
U.S. Department of Health and Human Services  
200 Independence Ave. SW, Washington, DC 20201

Re: Docket ID number HHS-OCR-2019-Nondiscrimination in Health and Health Education Programs and Activities

We are writing on behalf of the Kalamazoo Community Foundation in response to the Department of Health and Human Service (HHS) proposed rule to amend Section 1557 of the Patient Protection and Affordable Care Act (ACA). As a philanthropic organization that invests in promoting equitable access within the healthcare sector, we strongly oppose the introduction of provisions which seek to limit critical civil rights protections of individuals. We invest in organizations that seek to eliminate healthcare barriers for members of our community who struggle with access. We believe that equitable access to health care is a human right that should continue to be upheld with protections that are currently in place. We encourage HHS to maintain its responsibility of upholding civil rights protections and implementing policies and practices in support of healthcare that will lead to improvements in the health and well-being of our communities.

Currently, section 1557 addresses not only the rights of protected classes but also includes the intersections of all the identities named. More specifically, we strongly oppose all attempts to limit the current protections for Limited English Proficient (LEP) individuals, the LGBTQ community, the disability community, and women who need reproductive health services. Due to our long-standing relationships with nonprofit agencies in our community, we understand the myriad of issues that these populations face. We believe that removing and limiting health access through these far-reaching amendments to a basic human necessity such as healthcare access is an attack on the civil rights of all.

It is our assessment that these proposed changes will create negative ripple effects for communities like Kalamazoo across the country in the following ways:

- In 2015, the Transgender Survey revealed that 29% of transgender individuals were refused care by a health care provider based on their perceived or actual gender identity.<sup>1</sup> Eliminating sexual orientation and gender identity protection from HHS regulations will effectively further marginalize members of the LGBTQ

---

<sup>1</sup> <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>

community in Kalamazoo and lead to additional health disparities for this community.

- The removal of requirements to notify individuals of the availability of language access services effectively ensures that many of the 5,000 Limited English Proficiency (LEP) individuals in Kalamazoo County will continue to be left out of state and federally funded health services and programs.<sup>2</sup>
- Removing requirements of notice of healthcare rights for all people will limit the ability of individuals who do face discrimination to know their rights and hold responsible parties accountable through established complaint processes.
- The overall removal of definitions of identities in the 2016 rule and the narrowing of the scope of covered entities under Section 1557's non-discrimination provisions will generate inconsistent policies and practices at the local level. This will lead to significant local misunderstandings regarding who is protected under HHS programs and which programs and services this rule applies to.

The Office of Civil Rights has requested comments from the public on whether the proposed changes would be practical and reasonable if implemented. The Kalamazoo Community Foundation believes these amendments perpetuate a system of inequity; go against best practices in ensuring access to health for all; lead to additional apprehension to receive healthcare services effectively; and, significantly limit civil rights protections for people who hold marginalized identities. We urge HHS to withdraw and put a stop to the finalization of this rule.

Sincerely,



Carrie Pickett-Erway  
President/CEO  
Kalamazoo Community Foundation



Martha Gonzalez-Cortes  
Vice President of Community Investment  
Kalamazoo Community Foundation

---

<sup>2</sup> <https://www.lep.gov/maps/lma2015/Final/>

