Court Permanently Blocks Enforcement of ACA Section 1557 and Title VII Nondiscrimination Rules Against Christian Employer Organization

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Christian Employers Alliance v. EEOC, 2024 WL 935591 (D.N.D. 2024)

A federal trial court has issued a permanent injunction blocking HHS and the EEOC from enforcing certain agency interpretations of Section 1557 of the Affordable Care Act (ACA) and Title VII of the Civil Rights Act against a Christian employer organization. Relevant to this case, Title VII bans employers with 15 or more employees from engaging in sex discrimination, and Section 1557 prohibits sex discrimination in "any health program or activity." The EEOC has long interpreted Title VII to protect against gender identity discrimination, a position bolstered by the U.S. Supreme Court's *Bostock* decision. Section 1557 regulations issued in 2020 repealed significant portions of earlier regulations, including protections based on gender identity and termination of pregnancy. However, the EEOC issued guidance granting employment protections based on sexual orientation or gender identity, and HHS announced that it would continue to interpret Section 1557 as applying to discrimination based on sexual orientation and gender identity.

The organization sued, arguing that the agencies' interpretation and implementation of Section 1557 and Title VII violate their members' free exercise of religion and free speech rights under the U.S. Constitution and their religious rights under the Religious Freedom Restoration Act (RFRA). In 2022, the court issued a preliminary injunction that enjoined HHS from interpreting or enforcing Section 1557 and its regulations against the organization, its health plans, insurers, or third-party administrators (TPAs). The EEOC was also enjoined from interpreting or enforcing Title VII against the organization, its plans, insurers, or TPAs. The court has now issued a permanent injunction, concluding, among other things, that the organization has shown that the agencies have substantially burdened a sincere religious exercise or belief.

EBIA Comment: The application of Section 1557 and Title VII to employer-sponsored health plans continues to be in flux. For instance, while this case was decided under the RFRA (and has relatively narrow applicability), another court has vacated the HHS and EEOC guidance on the grounds that it was arbitrary and capricious. HHS has proposed regulations that would reinstate, revise, and expand prior Section 1557 regulations, including making it clear that "discrimination on the basis of sex" includes discrimination based on sexual orientation and gender identity. But in the meantime, the agency guidance granting protections based on sexual orientation or gender identity remains vacated. Plan sponsors, insurers, and TPAs should continue to monitor developments and be mindful of plan provisions that could invite costly legal challenges. For more information, see EBIA's Health Care Reform manual at Section XXXIV.A ("Section 1557 Nondiscrimination: Grounds Prohibited Under Federal Laws") and EBIA's Group

Health Plan Mandates manual at Sections XXI.C (“EEOC's Position on Title VII and Health Coverage”) and XXI.M.1 (“Interaction of Title VII and Section 1557”). See also EBIA’s Self-Insured Health Plans manual at Section XIII.D.5 (“Section 1557 Nondiscrimination: Nondiscrimination in Health Programs and Activities”).

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