

# \$3 Million Settlement Approved in ACA Section 1557 Dispute Over Hearing Aid Exclusion

EBIA Weekly (April 16, 2026)

[\*E.S. v. Regence BlueShield, 2026 WL 787980 \(W.D. Wash. 2026\)\*](#)

A federal trial court has given final approval to a \$3 million class action settlement resolving claims that an insurer's health plan exclusion of hearing aids amounted to disability discrimination under Affordable Care Act (ACA) Section 1557. The lawsuit was brought by participants with disabling hearing loss who were denied coverage for hearing aids and associated care. They alleged the exclusion was a form of "proxy" discrimination because it disproportionately affected individuals with disabilities. The court allowed the claim to proceed to trial after concluding that the participants had plausibly alleged that the insurer engaged in proxy discrimination in plan benefit design.

The settlement agreement establishes a \$3 million fund that will be used to reimburse class members for their out-of-pocket costs, as well as to pay for attorney's fees, litigation costs, and administrative expenses. In exchange for the settlement benefits, class members released all claims against the insurer relating to coverage for hearing aids and related services through December 31, 2025.

**EBIA Comment:** This settlement highlights the ongoing legal risks for plan sponsors and insurers that maintain broad exclusions for items or services closely associated with a disability. Although the settlement is not an admission of wrongdoing, it underscores that even seemingly neutral plan terms can be challenged as discriminatory under ACA Section 1557. Plan sponsors should review their plan documents for exclusions that may have a disproportionate impact on individuals with disabilities and consider the potential for proxy discrimination claims. 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 Section XXI.M.1 ("Interaction of Title VII and Affordable Care Act 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").

Contributing Editors: EBIA Staff.