

LEGAL UPDATE

Federal Guidance on Nondiscrimination in Telehealth

Due to the increased usage of telehealth following the COVID-19 public health emergency, the Departments of Justice (DOJ) and Health and Human Services (HHS) jointly issued [guidance](#) on how various federal laws require telehealth to be accessible to people with disabilities and limited English proficiency. Specifically, this guidance addresses federal nondiscrimination requirements under the following laws:

- Section 504 of the Rehabilitation Act of 1973;
- The Americans with Disabilities Act (ADA);
- Title VI of the Civil Rights Act of 1964 (Title VI); and
- Section 1557 of the Affordable Care Act (ACA).

Overview

The Departments recognize that telehealth has many benefits, including making health care more available and convenient. However, they also note that individuals with disabilities and those with limited English proficiency may face discrimination or other barriers in accessing care provided via telehealth.

As a result, the guidance provides examples of actions that may be discriminatory and describes steps that providers may need to take to ensure that health care offered via telehealth is accessible. The guidance also provides a list of resources that providers and patients may wish to consult for additional information about telehealth and civil rights protections.

Individuals who believe they have been discriminated against in programs or activities that are funded or directly operated by HHS may file a complaint at: <https://www.hhs.gov/civil-rights/filing-a-complaint/index.html>. Individuals who believe that a telehealth provider has violated their civil rights may file a complaint with the DOJ at: <https://civilrights.justice.gov/#report-a-violation>.

Highlights

- The ADA may require providers to make reasonable changes to their policies, practices or procedures regarding telehealth services to avoid discriminating on the basis of disability.
- Section 1557 requires covered health programs or activities provided electronically to be accessible to individuals with disabilities unless doing so would result in undue burdens or fundamental alteration of the health program.

Various federal laws require telehealth to be accessible to people with disabilities and limited English proficiency.

Provided to you by **Foundation Benefits**

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