

Plaintiffs Urge Federal Court to Reverse Trump-Era Health Care Discrimination Rule

"Enough is enough."

BOSTON — Late yesterday, Plaintiffs in *Boston Alliance of LGBTQ+ Youth (BAGLY) et al v. HHS*, a lawsuit challenging the Trump-Pence Administration's "Rollback Rule" undermining health care nondiscrimination protections contained in Section 1557 of the Affordable Care Act (ACA), [filed a motion for summary judgment](#) calling on the U.S. District Court for the District of Massachusetts to repeal the discriminatory rule.

The Trump-era regulation attempted to roll back express protections on the basis of sex — including pregnancy, gender identity, and sex stereotyping — as well as protections for patients with limited-English proficiency, Indigenous patients, and those living with chronic illnesses, including HIV. Plaintiffs filed the lawsuit in 2020, but proceedings were halted in 2022 after the Biden Administration issued a new proposed rule, promising to make significant revisions addressing the issues in Plaintiffs' case.

Despite the Administration's promise nearly three years ago, the final rule has yet to be issued. While the Department of Health and Human Services (HHS) sent a new final rule to the Office of Information and Regulatory Affairs (OIRA) on Dec. 21, 2023, it continues to be stuck in the administrative rulemaking process, allowing discrimination under the Trump Rollback Rule to continue today, as it did when Plaintiffs filed the lawsuit in 2020.

The Plaintiffs in *BAGLY v. HHS*, consisting of Darren Lazor, The Boston Alliance of Gay, Lesbian, Bisexual and Transgender Youth (BAGLY), Callen-Lorde Community Health Center, Campaign for Southern Equality, Equality California, Fenway Health, Indigenous Women Rising, CrescentCare, and Transgender Emergency Fund, along with their counsel at National Women's Law Center (NWLC), the Transgender Law Center (TLC), the Transgender Legal Defense & Education Fund (TLDEF), the Center for Health Law and Policy Innovation (CHLPI) of Harvard Law School and Hogan Lovells released the following joint statement:

"Plaintiffs have waited more than long enough. It is time for the Court to vacate the Trump Rollback Rule once and for all and declare that removing protections for LGBTQ+ and pregnant patients is a clear violation of the law. Nearly three years after filing this lawsuit, LGBTQ+ patients and people seeking reproductive health care, Indigenous patients, patients with limited-English proficiency, and people with chronic illnesses including those living with HIV, all continue to suffer discrimination in health care at the mercy of this unconscionable and unlawful rule. Enough is enough.

"Transgender people, like Plaintiff Darren Lazor, already face disproportionate discrimination in health care settings, including mistreatment by insurers and humiliation and harassment by medical professionals — problems that are exacerbated for trans people of color and trans people living in rural regions and the U.S. South.

"People seeking reproductive health care also experience significant harms from the Trump Rollback Rule. For example, many health coverage plans contain discriminatory coverage policies that require LGBTQ people seeking to use fertility treatments to pay more and wait longer to access the fertility benefits in their health plans. Some health plans exclude pregnancy coverage for dependent children altogether. The Indigenous people that Plaintiff Indigenous Women Rising serves are often forced to travel long distances for health care, whether on or off the reservation, yet still are met with bias and too-often denied the care they need, including medically appropriate and comprehensive counseling on contraception and pregnancy options. And health care providers frequently invoke personal beliefs to deny access to reproductive health services—even in emergencies where their life or health is at risk.

"The harm caused by the Trump Rollback Rule is clear. It has led to an increase in discrimination in health care and made it harder for people to access much needed care — especially amidst widespread attacks on access to care for transgender and pregnant people. It has decreased people's ability to get legal relief when they experience that discrimination, and increased the demand for help from trusted sources like many of the Plaintiffs, thereby forcing them to divert their resources to mitigate the harms of the Rule.

"The Plaintiffs' motion for summary judgment asserts that the Trump Rollback Rule violates the Administrative Procedures Act on ground of being arbitrary, capricious, and contrary to law, and violating the plain text of Section 1557. Notably, the discriminatory rule was published on June 19, 2020, just days following the U.S. Supreme Court's ruling in *Bostock v. Clayton County*, which found discrimination based on sexual orientation or gender identity constitutes unlawful discrimination."

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