

Coppersmith Brockelman Client Alert

Spring Deadline Looms for Compliance with New Federal Web Accessibility Rules for Health Care and Public Entities

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As spring blooms, so will a new crop of digital accessibility mandates. These digital accessible mandates apply to many forms of digital content, including web content (even content posted through a third-party), mobile applications, and kiosks. Entities receiving Department of Health and Human Services funding, including most hospitals, clinics, research programs, and insurers, as well as large public entities, must demonstrate compliance by May 2026.¹ However, smaller healthcare and public entities have an additional year to demonstrate compliance. Introduced with the intention of ensuring that qualified individuals with a disability shall not be excluded from participation in or be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of a covered entity, these new digital accessibility mandates will require prompt action by health care and public entities and an investment in existing digital technologies.

Specifically, an entity must ensure that its web content, including all content posted through a third party, mobile applications, and kiosks (for health care entities) satisfy the Level A and Level AA success criteria and conformance requirements specified in the Web Content Accessibility Guidelines (“WCAG”) 2.1.

Web Content and Mobile Application Accessibility – Compliance and Exceptions

Under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, HHS-funded entities and public entities must ensure their programs and activities – including web-based operations – do not discriminate against individuals on the basis of a disability. By adopting the WCAG criteria, HHS’ and DOJ’s new rules now make clear the precise technical standard by which web content accessibility will be measured. The WCAG are published by W3C, the main international standards organization for the world wide web, and contain a detailed set of recommendations for

¹ May 11, 2026 is the compliance deadline for HHS-funded entities with more than 15 employees. [45 CFR Part 84 Subpart I](#). For public entities with populations of 50,000 or more, the Department of Justice’s compliance deadline is April 24, 2026. [28 CFR Part 35 Subpart H](#).

improving web accessibility for people with disabilities on features such as keyboard navigability, screen reader interface, color contrast, and alternate text descriptions for images and videos. The standards apply to an entity's website and mobile applications (and kiosks, for healthcare entities), including those operated by third parties on the entity's behalf.

Nothing in the new rules requires modifications that would fundamentally alter the nature of the program or activity or impose an undue burden. In addition to this general limitation to all accessibility requirements, the new HHS and DOJ rules contain five specific exceptions to WCAG compliance. So long as any of these five categories of web content are not in use by the entity in any program or activity, the WCAG standards do not apply to:

1. Archived web content, made before the compliance deadline, used only for reference, research or recordkeeping, and stored in a dedicated area clearly identified as archived;
2. Conventional electronic documents (such as PDFs and spreadsheets) made before the compliance deadline;
3. Content posted by a third party, unless the third party is posting due to a contractual or licensing relationship with the entity;
4. Individualized, secured conventional electronic documents; and
5. Social media posts made before the compliance deadline.

There is one limited safe harbor provision in the rules addressing minor, technical noncompliance. If the effect of noncompliance with WCAG is so minimal as to have no impact on an individual with a disability's ability to access the relevant content, there is no violation. In order to meet this "no impact" provision, individuals with disabilities must be able to access the content in the same manner with substantially equivalent timeliness, privacy, independence, and ease of use as individuals without disabilities. Because the entity bears the burden of proof on the above narrowly interpreted exceptions and "minimal impact" safe harbor, entities should be cautious about overly relying on them. Moreover, an entity must always ensure effective access to content that does not have to meet WCAG standards if an individual with a disability requests as much.

Risks of Noncompliance

Failure to comply with the WCAG standards may constitute unlawful disability discrimination under Section 504 or the ADA, leading to the complaint and investigation process under the relevant Office for Civil Rights division, DOJ enforcement proceedings, a loss of federal funding, and private rights of action. Indeed, private lawsuits and OCR complaints alleging disability discrimination due to inaccessible websites have spiked in recent years as individuals utilize technologies to scan and test

websites for WCAG compliance.

Best Practices

Healthcare and public entities can ensure compliance with the new rules by conducting an accessibility audit across their web content, mobile applications, and covered healthcare entities' kiosks. Entities should develop a remediation plan that prioritizes high-profile and frequently used content, as well as content related to time-sensitive access needs. Entities should also periodically monitor their websites and mobile applications for continued compliance with WCAG and ensure internal/external development teams build accessibility standards into the creation of new content. Additionally, establish a fast and easy way for users to report accessibility problems, and be responsive to user reports, to minimize the risk of escalation. Finally, entities should understand the accessibility of their content posted on third parties' websites or applications and evaluate the relevant agreements regarding allocation of responsibility for maintaining WCAG compliance throughout the vendor relationship.

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