



LGBT Issues in Health Reform

Issue Brief on Making Health Reform Work for All Americans

Josh Rosenthal July 27, 2009

Health care reform legislation will help lesbian, gay, bisexual, and transgender Americans in the same ways that it would help all Americans. Expanded access to meaningful health insurance coverage, effective preventive care, and delivery system reform provide same benefits regardless of sexual orientation and gender identity.

But LGBT people often face additional barriers to coverage and care due to ongoing stigma and policies that do not fully recognize their identities. The Department of Health and Human Services recognized these disparities in the 1990s during their 10-year plan for improving the nation's health—Healthy People 2010, and commissioned a companion document specifically on LGBT issues.

Health care reform offers an opportunity to address these disparities. The National Coalition for LGBT Health has developed a set of principles for policymakers to incorporate into legislation in order to ensure equity for LGBT Americans. These principles recognize that issues for the LGBT community often combine with those faced by other communities, so that a Spanish-speaking lesbian woman or African-American transgender person often faces negative health outcomes faced by multiple communities. This brief aims to draw out a few of these key principles, including the need to measure and address LGBT health disparities, ways to expand meaningful insurance coverage, the need for cultural competency, and privacy issues in health IT.

Measuring and addressing LGBT health disparities

The first step to addressing LGBT Americans' health disparities is ensuring that policymakers and medical professionals have a clear understanding of what those disparities are. Federal health surveys are an important tool in determining how disparities and differences are recognized and addressed in subpopulations. These surveys currently collect data on a range of demographic information, including age, sex, race, and socioeconomic status. These demographics are used in conjunction with behavioral data to determine funding and program priorities for federal, state, and local government.

Some surveys do collect information on sexual orientation and gender identity, including the National Health and Nutrition Examination Survey, National Survey of Family Growth, National Epidemiologic Survey on Alcohol and Related Conditions, National Household Survey on Drug Abuse, and the National Comorbidity Study-R. But the National Health Interview Survey—the largest and most widely referenced federal survey—does not ask about LGBT identities. This makes it more difficult to develop and assess successful policies to improve health in the LGBT community.

Health care reform legislation also includes a number of provisions to address health care disparities. It calls for advisory councils and the Secretary of Health to prioritize the elimination of health disparities as they develop exchanges or gateways and a public health insurance option. The legislation also calls for expanded data collection by the Assistant Secretary for Health Information. LGBT health disparities in each of these areas should be considered along with racial, ethnic, and geographic disparities.

Employer-sponsored insurance

A number of studies have shown that members of the lesbian, gay, and bisexual community are less likely to hold private health insurance, whether employer-sponsored or through the individual market.¹ This gap remains even when adjusted for age, employment status, income, and education.² Since 63 percent of Americans are covered through employer-sponsored insurance, a large part of the disparity can be attributed to differences in employment patterns, due to both discrimination and individual employment choices. Transgender people are even less likely to have employer-sponsored health insurance,³ as they face significant employment discrimination and often lack any formal employment.

Many LGBT people are forced into the individual insurance market since they do not have an employer willing to provide insurance coverage. This market is fundamentally broken, charging high premiums for limited coverage. What's more, LGBT individuals are more likely to have HIV/AIDS or several cancers, such as breast, cervical, and anal cancers.⁴ These diseases are classified as “pre-existing conditions” by individual insurance providers, leading them to either completely exclude people or charge even higher rates.

Many people are covered by health insurance sponsored by a spouse or family member's employer, but LGBT Americans face additional barriers here as well. Only six states currently recognize same-sex marriages, and only nine states specifically allow an LGBT person to adopt their partners' children.⁵ This means that an LGB worker is often not able to cover his partner or his partner's children on a standard spousal or family insurance plan.

Many private companies, states, and cities have chosen to correct this problem by offering domestic partner benefits to employees in either same-sex or different-sex relationships who are not married. Currently, 57 percent of Fortune 500 companies, as well as 16 state

governments and the District of Columbia offer these benefits.⁶ Domestic partner benefits are an essential tool for providing coverage to LGB families. A study by economists Michael Ash and Lee Badgett found that if all employers offered domestic partner benefits, the uninsurance rates for unmarried couples—both same-sex and different-sex—could decrease by as much as 43 percent.⁷

Yet federal tax law creates barriers to employers that would offer these benefits. Health benefits offered to spouses and children are tax-exempt, but those same benefits are taxed when offered to domestic partners—and same-sex spouses in the states where those marriages are recognized. A joint study by CAP and The Williams Institute found that these taxes add up to \$1,069 per year for the average employee receiving benefits and \$57 million annually for the employers that offer the benefits.⁸ As Kate Karasmeighan of the National Gay and Lesbian Chamber of Commerce mentioned at a White House meeting on health care and small business, many small businesses cannot afford this additional tax burden for offering domestic partner benefits.⁹ In fact, she reported that some employers that used to offer domestic partner benefits have stopped providing them as revenues shrunk in the current recession.

Health care reform will address some of these coverage issues as it expands coverage for all Americans. But LGB workers will not be able to cover their families in the same way that heterosexual married workers can without specific attention. The House Ways and Means Committee's version of the health reform bill contains language from the Tax Equity for Health Plan Beneficiaries Act, which would end this differential tax treatment for health benefits to domestic partners. Tax equity would encourage more employers to offer domestic partner benefits and eliminate the barriers to employees for using those benefits to cover their families. Another helpful piece of legislation is the Domestic Partner Benefits and Obligations Act, which would build on President Obama's recent memorandum extending same-sex partner benefits to federal employees by authorizing the federal government to offer domestic partner benefits to employees in same-sex partnerships

Insufficient benefit packages

Transgender individuals with access to health insurance can rarely find coverage that fully meets their health care needs. Most insurance plans, both private and public, do not cover the costs associated with transitioning, or moving from one gender to another. This leads many transgender people—especially low-income people—to seek out ways to transition outside of a medical context.¹⁰

Some insurance plans interpret their regulations on transition costs very broadly. They refuse any medical procedure where hormone use or past surgeries are relevant, even procedures as generic as allergy tests. There is also evidence that insurance companies use a history of transition treatments as a reason to deny coverage.¹¹ The Transgender Law

Center has even found examples where insurance companies have denied coverage for a broken arm and flu treatment to transgender individuals, claiming the treatment was related to transition.¹²

Leading companies as diverse as 3M, Microsoft, and Coca-Cola are already offering transgender health services in their health insurance packages. Adding transgender health services to all insurance coverage does not contribute significantly to the cost of premiums. In fact, the experience of [San Francisco City and County](#) shows that transgender health benefits may even be cost-neutral.

Current proposals for health care reform incorporate a council comprised of health experts to determine minimum standards for health insurance benefits packages. Congress should encourage the council to develop inclusive guidelines that address the health needs of transgender Americans.

Cultural competency

Health care reform is not just about expanding meaningful coverage to all Americans. The legislation also aims to improve the quality of care that people receive. One tool for ensuring that LGBT Americans receive high-quality care is improved cultural competency. Cultural competency is a set of behaviors, attitudes, and policies that allow providers to work effectively in cross-cultural situations.

Cultural competency was initially developed as a framework for addressing racial and ethnic health disparities. It is also an effective approach to providing care across linguistic and ethnic divides, and it provides a useful means for ensuring quality care for LGBT people. As the federal Office of Minority Health points out, “health care services that are respectful of and responsive to the health beliefs, practices and cultural and linguistic needs of diverse patients can help bring about positive health outcomes.”¹³

An essential prerequisite for cultural competency is an understanding of a social group’s specific health disparities and medical needs. Lesbian and bisexual women, for example often have a number of risk factors for breast cancer, including often not having given birth.¹⁴ Yet many studies have shown that lesbian and bisexual women are less likely to receive regular gynecological care, including mammograms or pap smears, or examine themselves for breast cancer.¹⁵

Transgender people also have very specific health needs. They may require medical treatment related to both their birth-assigned gender and their current gender. For example, a transgender woman may be at risk for both prostate cancer and breast cancer.¹⁶ Providers should also be aware of the medical effects of gender transition.

This medical knowledge is important, but not sufficient. A culturally competent provider adds an understanding of their patients' backgrounds and is able to create a welcoming environment and recognize the effects of his or her own biases. A provider can signal her openness to LGB patients, for example, by asking non-gender specific questions on forms and in interviews, such as "Do you have a significant other?"¹⁷ Culturally competent treatment helps ensure honest communication between providers and patients, which can improve health outcomes.¹⁸

Unfortunately, many LGBT people do not have access to a culturally competent health provider. For example, the reproductive orientation of much gynecological care, which focuses on providing birth control to heterosexual women, discourages many lesbian and bisexual women from seeking out care.

Transgender individuals find an even more hostile medical environment. There is already a risk that insurance could deny coverage for a medical interaction. And many health care providers have no training in how to treat transgender people with respect. Many transgender people report in qualitative studies that they avoid medical care or lie to providers in order to avoid hate-filled or ignorant comments.¹⁹

Several organizations have developed curricula for LGBT cultural competency trainings, notably the Mautner Project and CDC's Removing the Barriers program on lesbian health, and the Fenway Institute's Fenway Guide to LGBT Health. Some medical schools have added LGBT cultural competency to their curricula, and states and communities have created specific initiatives to improve LGBT cultural competency, such as Massachusetts' GLBT Health Access Project.

Congress has the ability to expand these existing models in the workforce sections of the health reform bill. Sections instructing HHS to develop and disseminate cultural competency curricula should explicitly include LGBT competency. Congress could also fund support for medical education or continuing education programs that teach LGBT cultural competency, especially for providers who participate in public programs, such as Medicare, Medicaid, and S-CHIP.

Privacy in health IT

LGBT people in the United States are still subject to significant discrimination in employment, housing, and other sectors. It is still legal in 30 states to fire someone on the basis of sexual orientation, and 38 states allow an employer to fire someone on the basis of gender identity. Health care reform that fully includes LGBT individuals must recognize these sad facts and ensure that discrimination is not supported by the health care system.

Health information technology will bring large cost savings and better coordinated care, but it could also put LGBT people at risk. Complete care requires a primary care provider

to know about a patient's sexual behavior, gender history, and other sensitive information. But not all providers need access to all information. If you are in an emergency room for a broken leg, the orthopedist does not need to know that you are gay. In fact, too much information could expose LGBT people to discrimination by health care providers in these kinds of emergency situations.

And it's not just health providers who can receive too much information. There are also real concerns about illegitimate health information sharing between providers, employers, and insurance companies. Many LGBT people are afraid to discuss their sexual orientation or gender identity with their doctor because the information may get back to their employer.²⁰ It could cost an LGBT person their job in a state without employment nondiscrimination protections. Effective privacy protections would assure that only the people who need to see personal health information have access to it, so that privacy rules serve as a frontline defense against discrimination.

Conclusion

Congress has a unique opportunity this year to reform health care in a way that helps all Americans and addresses the needs of specific minorities, including LGBT Americans. The House bill currently contains a first step in this direction by including tax equity for employer-sponsored health benefits to domestic partners. Legislators can easily build on this by explicitly defining health disparities to include disparities faced by LGBT communities and including LGBT cultural competency training among the forms of competency that receive funding. With or without specific congressional inclusion, the Secretary of Health and Human Services Kathleen Sebelius should use the flexibility granted to her in the legislation to take LGBT disparities into account as she implements health reform.

There are also a number of provisions that have not yet surfaced in the health reform debate, but those would be important steps to fully inclusive health care reform. Federal health surveys should be instructed to include LGBT identities in their demographic information. And Congress and advisory committees should include trans health benefits as they define minimum benefit packages. Privacy protections for health IT should be specifically required to address LGBT concerns.

These steps will help reduce the health disparities facing LGBT Americans. But just as importantly, specifically including LGBT Americans in health reform shows that their communities and identities are an important part of American society.

Endnotes

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