

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES



**ADVANCING
LGBT
HEALTH &
WELL-BEING**



2014 REPORT

HHS LGBT ISSUES COORDINATING COMMITTEE



U.S. Department of Health and Human Services

Advancing LGBT Health and Well Being

LGBT Issues Coordinating Committee

2014 Report

INTRODUCTION

This past year, the Department of Health and Human Services (HHS) has taken a number of additional important actions and made further significant strides to continue to advance the equality, health, and well-being of lesbian, gay, bisexual and transgender (LGBT) individuals, families, and communities. The Department's commitment to these issues will continue in the coming year and beyond.

In response to the President's directive in April 2010 to identify steps the Department could take to improve the health and well-being of the LGBT community, the Secretary of Health and Human Services set up a Department-wide LGBT Issues Coordinating Committee. The Committee, on behalf of the Secretary, developed the Secretary's Recommended Actions to the President to Improve LGBT Health and Well-Being, which were sent to the President and released to the public in April 2011. This is the fourth annual report from the Committee on HHS activities related to LGBT populations.

As the Department continues its efforts in support of all communities, we are again pleased to present in this annual report both notable accomplishments from this past year and highlights of our objectives for this coming year with respect to the LGBT community.¹

FY 2015 OBJECTIVES

1. Prohibiting Discrimination Based on Sexual Orientation or Gender Identity

- a. *Hospitals* – In 2011, the Centers for Medicare & Medicaid Services (CMS) released guidance clarifying the visitation rights of LGBT individuals in Medicare- and Medicaid-participating hospitals, critical access hospitals, and nursing homes. A proposed rule is under development that would prohibit discrimination based on sexual orientation or

¹ In this report, the acronym "LGBT" may also encompass other sexual and gender minority populations, including, but not limited to, those who are diagnosed with intersex conditions and those who identify as questioning.

gender identity in the provision of services to patients of Medicare- and Medicaid-participating hospitals and critical access hospitals.

- b. *Grantees* – In April 2011, HHS established sexual orientation and gender identity-inclusive non-discrimination policies applicable to services provided to HHS program beneficiaries by HHS employees and contractors. HHS will engage in rulemaking that would extend these non-discrimination policies to HHS discretionary grantees.

2. Funding Research on LGBT Health Inequities

The National Institutes of Health (NIH) will enhance LGBT health research through the launch of Health Inequity Exploration Research Supplements for existing research projects that expand the scientific knowledge base concerning health inequities in sexual and gender minority populations. To increase understanding of broad research needs relating to health needs and specific health concerns faced by members of the LGBT community, NIH will also release a strategic plan for sexual and gender minority health research, which aligns with the recommendations issued by the Institute of Medicine.

3. Improving Health Data on LGBT Populations

To better understand and address the health and health data needs of LGBT populations, the Department continues moving forward with the development of measures for collecting and reporting health data on LGBT populations and LGBT-inclusive enhancements to our major national health surveys.

- a. The Healthy People 2020 initiative will add two new measurable objectives. These objectives will track national data sources and surveys that include any LGBT-specific questions.
- b. CMS will pretest a question on sexual orientation for inclusion in the Medicare Current Beneficiary Survey.
- c. The Population Assessment of Tobacco Health Study, funded by NIH and the Food and Drug Administration (FDA), will implement a new question on gender identity in the second wave of the study. A question on sexual orientation was included in the baseline first wave of the study. PATH is collecting detailed information on tobacco product use, risk perceptions, and attitudes, as well as health and demographic characteristics. In addition, the NIH Patient Reported Outcomes Measurement Information System project is involving LGBT representatives in the development and testing process for new chronic disease measures to ensure items are appropriate for this population.
- d. The Health Resources and Services Administration (HRSA) will include questions on gender identity in the upcoming 2014 Health Center Patient Survey.

- e. The Administration for Community Living (ACL) will add a question on sexual orientation to the National Survey of Older Americans Act Participants, an annual national survey conducted by the Administration on Aging (AoA) of recipients of select Title III services under the Older Americans Act. The purpose is to obtain performance outcome information, identify service gaps and support program improvements relating to the LGBT population.
- f. The Substance Abuse and Mental Health Services Administration (SAMHSA) will implement new sexual orientation questions in the 2015 National Survey on Drug Use and Health. In addition, SAMHSA will include sexual orientation and gender identity measures in the new Common Data Platform, which will provide for consistent collection of demographic and performance data from all of SAMHSA's grantees.

4. Research on the Blood Donation Deferral Policy for Men Who Have Sex with Other Men

Currently, men who have had sex with other men at any time since 1977 are deferred as blood donors. In 2010, the HHS Advisory Committee on Blood and Tissue Safety and Availability recommended, by a vote of 9 to 6, to retain the current policy at this time. However, the Advisory Committee was unanimous in finding that the current donor deferral policies are suboptimal and in recommending specific research activities to develop and validate potential alternative policies. In recent years, scientific advances in viral screening and other factors have caused some other countries to change from an indefinite deferral policy for MSM donors to a time-based deferral.

As a result of the Advisory Committee on Blood and Tissue Safety and Availability's recommendation to the Secretary to explore research to inform potential alternative policies, HHS has been conducting the recommended research and is in the midst of completing the analysis from these research studies, which will inform science driven policy development on this issue.

5. Improving Cultural Competency with Respect to the Two Spirit Community

- a. The Indian Health Service (IHS) will establish an external advisory committee on American Indian/Alaska Native (AI/AN) LGBT/Two Spirit health issues to help institute health policy and health care delivery that advance and promote the needs of the AI/AN LGBT/Two Spirit community. This initiative will increase community access to and engagement with IHS leadership, and secure a legacy of transparent, accountable, fair, and inclusive decision-making specific to AI/AN LGBT/Two Spirit populations. IHS will also institute training for employees that will focus specifically on AI/AN LGBT/Two Spirit health issues, and will make the training available to all IHS partners, including tribes, tribal organizations, and urban Indian health programs.

- b. The Administration for Native Americans (ANA) within the Administration for Children and Families (ACF) will develop mandatory AI/AN LGBT/Two Spirit training for its senior management. In addition, a session on the needs of the AI/AN LGBT/Two Spirit population will be conducted at an ANA grantee conference. Moreover, ANA will implement an outreach plan to reach American Indian/Alaska Native entities that are eligible to apply for funding to assist in meeting the needs of the AI/AN LGBT/Two Spirit community.

6. Further Addressing the Human Services Needs of LGBT Populations

ACF's Office of Refugee Resettlement will issue an interim final rule establishing standards to prevent, detect, and respond to any sexual abuse and assault. The rule will require training on working with LGBT minors and consideration of LGBT identity as a factor in assessing minors for risk or vulnerability to abuse. SAMHSA is developing and will release a best practices toolkit on health insurance outreach and enrollment assistance for LGBT communities with high prevalence rates of behavioral health needs.

7. Re-Launching the HHS LGBT Issues Webpage

HHS is re-launching its LGBT issues webpage to provide better information across HHS about LGBT-related issues and activities. Among other features, the re-launched webpage highlights key efforts by the Department to implement the U.S. Supreme Court ruling in *United States v. Windsor*, which struck down section 3 of the Defense of Marriage Act (DOMA), which precluded federal recognition of same-sex marriages.

KEY 2013-2014 ACCOMPLISHMENTS

Implementation of the *Windsor* Ruling

Following the U.S. Supreme Court decision finding section 3 of DOMA unconstitutional, the Department worked with the Department of Justice to review all relevant federal programs to ensure that the decision was implemented swiftly and smoothly. HHS announced its first post-*Windsor* guidance in August 2013, clarifying that Medicare Advantage beneficiaries with a same-sex spouse have equal access to coverage for care in a skilled nursing facility in which a spouse is located. This guarantee of coverage applies to Medicare Advantage beneficiaries in a legally recognized same-sex marriage, regardless of where they live. Other examples of HHS's post-*Windsor* implementation efforts include the following:

- CMS issued guidance clarifying that health insurance companies that offer spousal coverage must treat same-sex spouses and opposite-sex spouses equally.
- Following the *Windsor* decision, the Internal Revenue Service (IRS) issued a ruling for federal tax purposes that recognizes same-sex marriages of couples married in a jurisdiction whose laws authorize such marriages, even if a couple resides in a

jurisdiction that does not recognize same-sex marriages. Within a month of the IRS ruling, CMS issued guidance to advise Health Insurance Marketplaces of the impact of the ruling with respect to eligibility for advance payments of the premium tax credit and cost-sharing reductions. These advance payments of the premium tax credit and cost-sharing reductions help individuals and families lower the costs of their monthly health insurance premiums and out-of-pocket costs for health care services when coverage is purchased through a Marketplace. The guidance ensures that same-sex spouses are treated in the same manner as opposite-sex spouses with respect to advance payments of premium tax credits and cost-sharing reductions.

In addition, since section 3 of DOMA no longer controls the definition of marriage or spouse under the federal framework for state Medicaid and Children's Health Insurance Programs (CHIP), DOMA is no longer a bar to States recognizing same-sex marriages in Medicaid and CHIP. CMS issued guidance on September 27, 2013 regarding marriage recognition for populations whose eligibility is determined on the basis of modified adjusted gross income (MAGI). CMS issued further guidance in 2014 on the application of the marriage recognition policy for the elderly and people with disabilities, whose eligibility for Medicaid is not determined on the basis of MAGI methodologies.

NIH issued guidance making clear that its' Clinical Center and intramural clinical research programs will treat same-sex spouses and opposite-sex spouses equally.

ACL provided guidance to all grantees funded under the Older Americans Act and the Developmental Disabilities Act regarding federal recognition of same-sex marriages. This guidance will be incorporated into the terms and conditions of affected Notices of Award moving forward.

HRSA updated income levels used to identify a "low income family" for the purpose of determining eligibility for programs that provide health professions and nursing training for individuals from disadvantaged backgrounds. The guidance clarifies that in determining eligibility for these programs, same sex spouses and opposite sex spouses will be treated equally.

In addition, HRSA updated its application guidance for loan repayment for both the National Health Service Corps and the NURSE Corps to reflect that any reference to "spouse," "couple," or "marriage," as well as "family" or "family member," now includes same-sex spouses legally married in jurisdictions that recognize their marriages.

SAMHSA published a statement to notify relevant grantees and SAMHSA programs of its policy recognizing legal same-sex marriages.

Health Care Reform

HHS has engaged in broad outreach to help uninsured Americans gain access to quality affordable health insurance coverage through the Health Insurance Marketplace. It is crucial for

all communities to understand their options and how to enroll in coverage. HHS has ensured that LGBT communities are included in its outreach efforts in several ways:

- In conjunction with the first open enrollment season for the Marketplaces, the White House and HHS hosted an outreach and engagement summit for the LGBT community to equip LGBT community leaders with the tools, information, and resources that they need to assist LGBT individuals and families in obtaining quality affordable health insurance coverage through the Marketplaces.
- The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is on track to issue a report that examines the prevalence of, and the factors contributing to health insurance coverage among LGBT populations to help guide HHS in its Marketplace outreach to LGBT communities.

Research and Data Collection

NIH continues to work toward broadening the field of health research relating to the LGBT community by further exploring critical topics in LGBT health research. NIH participated in the Lesbian, Gay, Bisexual, Transgender, and Intersex Research Conference. It conducted a session on NIH grantsmanship and another session on advancements in research since the 2011 Institute of Medicine LGBT health report. NIH also conducted and released an analysis of the fiscal year (FY) 2012 LGBT-research related portfolio to build on the analysis conducted on the FY 2010 portfolio. Additionally, NIH conducted an extensive outreach campaign, including a Request for Information on priority areas of LGBT health research, and multiple listening sessions with stakeholders in the sexual and gender minority communities, to determine the most promising opportunities for increased research focus in LGBT health.

The Centers for Disease Control and Prevention (CDC) included a question on sexual orientation in HHS's flagship National Health Interview Survey in 2013. Based on a year of data collection, CDC issued its first report entitled "Sexual Orientation and Health among U.S. Adults: National Health Interview Survey, 2013." The data were published as a National Health Statistics Report. CDC also released a public use data file for other researchers to analyze.

HHS developed survey questions on gender identity and sexual orientation and conducted cognitive and field testing on the questions, which were implemented as an optional module for States on CDC's 2014 Behavioral Risk Factor Surveillance System. The adoption of this module helps develop scientific survey data on the health status and health care experience of lesbian, gay, bisexual and transgender populations. HHS provided technical and financial assistance to the thirty-one States that have either adopted the module or are using a variation on the questions, and plans to do so again this coming year.

SAMHSA completed a pilot test of sexual orientation questions for inclusion in the 2015 National Survey on Drug Use and Health.

The Population Assessment of Tobacco Health Study, mentioned above and funded by NIH and FDA, included a question on sexual orientation in its baseline longitudinal survey. The study is collecting detailed information on tobacco product use, risk perceptions, and attitudes, as well as health and demographic characteristics.

The Agency for Healthcare Research and Quality (AHRQ) funded a nearly \$500,000 grant to review key issues in shared decision making. Shared decision making within this context is focused on the cultural competence of clinicians to provide health care services that are specific and responsive to the unique needs of certain populations when engaging them in healthcare decisions. Through cultural competence of clinicians, they are able to more effectively engage in bi-directional conversations with their patients to guide evidence-based, patient-centered decisions. This review will include interventions related to cultural competency that are targeted to reduce health disparities in minority populations and LGBT individuals.

HRSA included a question on gender identity in the 2013 and 2014 National Health Service Corps Patient Satisfaction Survey and the 2014 NURSE Corps Participant Satisfaction Survey.


Youth and Families

SAMHSA, working with the Family Acceptance Project, developed and released a resource document for practitioners who work with LGBT youth in multiple service sectors (e.g., behavioral health, child welfare, juvenile justice, primary care, schools, homeless and runaway programs) to help them understand the role of family acceptance/rejection in the overall health, behavioral health, and well-being of youth, as well as implement best practices for engaging and creating supportive families.

ACF funded two grantees to conduct a systematic review of practices and services aiming to improve the well-being of LGBT individuals, and to lay a foundation for improving such services and practices. One grantee is targeting its efforts at runaway and homeless youth to identify interventions and approaches that increase the likelihood of success for this population. The second grantee is focusing its efforts on domestic violence, intimate partner violence, and dating violence prevention with respect to LGBT individuals and their families.

ACF has modified its Office of Refugee Resettlement (ORR) Matching Grant Program Guidelines to include waiver language allowing people to transfer enrollees from one resettlement agency to another (within or across States) if there are special needs that are not being met. LGBT populations were specifically mentioned as part of this waiver.

ACF has partnered with the Department of Housing and Urban Development (HUD) on a pilot project to prevent homelessness among LGBT youth. The goal of the LGBT Youth Homelessness Prevention Initiative is to help federal agencies and local communities learn more about implementing community-wide strategies for (1) preventing homelessness for LGBT youth at risk of becoming homeless and (2) quickly resolving homelessness for LGBT youth presenting as homeless for the first time. The initiative will also assist the federal partners in developing national guidance and recommendations to improve their programs. Through this effort, two



communities are developing strategic action plans to focus on this population within their Emergency Shelter Grant Programs (administered by HUD) and with improved collaboration and technical assistance involving federal, state, and local service systems and stakeholders.

HHS is facilitating linkages with our Runaway and Homeless Youth Program grantees in the participating communities and will provide technical assistance as needed through both the ACF's Runaway and Homeless Youth Training and Technical Assistance Center and through a SAMHSA technical assistance center that focuses on helping substance abuse and mental health treatment providers improve their cultural competence in serving LGBT populations.

Under the auspices of ASPE's continuing work with ACF on its Research Development Project on the Human Services Needs of LGBT Populations, a sub-study was funded under which site visits were conducted at four runaway and homeless youth programs to examine how these programs collect data and target services for homeless LGBT youth.


In addition, ACF supported LGBT accessibility in programs and activities receiving Family Violence Prevention and Services Act funding by promoting best practices already disseminated to the field.

Cultural Competency

The Office of Minority Health (OMH), in collaboration with federal and non-federal partners, published LGBT-inclusive enhanced National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (National CLAS Standards). The National CLAS Standards are a blueprint for health and human services organizations to provide culturally and linguistically appropriate services and promote a more inclusive definition of culture encompassing not only race, ethnicity, and language, but also elements such as sexual orientation and gender identity. OMH is working with health care organizations to ensure that awareness, adoption, and implementation of the National CLAS Standards incorporate this more inclusive definition of culture in order to better serve the LGBT community.

In collaboration with CDC's Division of Reproductive Health, the Office of Population Affairs has developed and released clinical recommendations, "Providing Quality Family Planning Services." This document includes evidence-based and evidence-informed recommendations for providing family planning, reproductive, and related preventive health services to all individuals. The document addresses the importance of providing respectful reproductive health care to all individuals, and specifically addresses reproductive health care for LGBT individuals. These recommendations will help health care providers deliver culturally competent and patient-centered family planning and related preventive care specific to LGBT individuals.

AHRQ is supporting an on-going systematic evidence review on "Improving Culture Competence to Reduce Health Disparities for Priority Populations," which will consider the effect of cultural and diversity competence interventions on three populations with varying degrees of cultural identification and visibility: LGBT adolescents and adults, children and adults aging with disabilities, and racial/ethnic minority children and adults.



HRSA continues to fund a National Training and Technical Assistance Cooperative Agreement with Fenway Community Health Center for the National LGBT Health Education Center. The National LGBT Health Education Center provides training and technical assistance on LGBT health needs and services to community health centers. All training and technical assistance focuses on system-wide change to improve access to high-quality, culturally responsive care for LGBT people. For example, HRSA hosted a webinar entitled “Health Centers Serving Lesbian, Gay, Bisexual and Transgender (LGBT) Populations Enrichment Webinar” for community health center program participants as well as National Health Service Corps and NURSE Corps clinicians and staff.

ACL and the Office of the Assistant Secretary for Public Affairs (ASPA) collaborated on the development of an online training tool for staff of long-term care facilities. Entitled “Building Respect and Dignity for LGBT Older Americans in LTC,” content includes 6 modules totaling approximately 60 minutes, each with 5-6 knowledge check questions at the end.

Transgender Populations

The Departmental Appeals Board (DAB) overturned a longstanding Medicare National Coverage Determination (NCD) that had provided that “transsexual surgery” would not be covered under Medicare because it was “experimental” and had a high rate of serious complications. The DAB ruled that the NCD was no longer valid because it was based on outdated scientific information. Within 30 days of the ruling, CMS implemented the decision by notifying its contractors that the NCD is no longer a basis for denying claims for Medicare coverage of gender transition-related care. Medicare coverage decisions with respect to gender transition-related care are now made by the Medicare contractors, either on a case-by-case basis or through Local Coverage Determinations based on clinical evidence, like other health care items and services for which there is no national policy under Medicare.

CDC clarified that its National Breast and Cervical Cancer Early Detection Program is available to eligible transgender women and men. All transgender women who have taken hormones may receive breast cancer screening under the program, subject to other eligibility standards. Transgender men who have not had a bilateral mastectomy or hysterectomy continue to be eligible for breast and cervical cancer screening.

People Living with HIV

CMS issued an interim final rule requiring individual market qualified health plans on and off the Health Insurance Marketplaces to accept third party payments on behalf of plan enrollees by the Ryan White program (as well as other government programs).

Smoking Prevention and Cessation

CDC added a new advertisement featuring an LGBT focus to its Tips for Former Smokers media campaign. Given the high rates of smoking in the LGBT community, this media strategy has the potential for high impact.



CONCLUSION

The past year HHS has taken a number of actions to address the health, health care and human services needs of LGBT populations. Building on these accomplishments and moving forward, HHS will continue our commitment to advancing the health and well-being of LGBT populations, and ensuring that LGBT individuals have the same rights and protections and access to quality affordable health care that all Americans deserve.