Optimizing LGBT Health Under the Affordable Care Act

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Learning Objectives

At the end of this session, learners will be able to:

1. Describe how the Affordable Care Act (ACA) will influence access to health care for LGBT people
2. Identify strategies for the outreach and enrollment of LGBT people into health centers under the ACA
3. Explain other ways that the ACA may affect LGBT health, including data collection, health insurance coverage, and prevention
Question:

What is an example of something your organization is doing to prepare for the expansion of coverage under the Affordable Care Act?

How might some of these changes affect a gay person?
Someone in a same-sex relationship?
A transgender person?
Who Are LGBT People?

- 8 million Americans identify as gay, lesbian, or bisexual
- 700,000 Americans identify as transgender

= at least 9 million LGBT people (3.8% of the U.S. population)

- 19 million people (8.2%) have engaged in same-sex sexual behavior
- 25.6 million people (11%) acknowledge same-sex attraction

9 million LGBT people

WELCOME TO New Jersey
Social Determinants of LGBT Health

LGBT health and health care disparities

- Lack of legal gender recognition
- Discrimination and lack of LGBT cultural competence
- Lack of insurance
- Poverty
- Lack of relationship recognition
- Lack of data
- Homelessness

Source: The Health of Lesbian, Gay, Bisexual and Transgender People (Institute of Medicine, 2011), Healthy People 2020
Riding the Wave: LGBT Health in National Policy Since 2010

Healthy People 2020
National HIV/AIDS Strategy
IOM report on LGBT health
National Partnership for Action to Eliminate Health Disparities
National LGBT Health Education Center
National Healthcare Disparities Reports
CLAS Standards
...And the Affordable Care Act.

“The Affordable Care Act may represent the strongest foundation we have ever created to begin closing LGBT health disparities.”

– Secretary Sebelius, October 2011
Top 5 LGBT Priorities in Health Reform
1. Data Collection

- ACA requires HHS to collect data on health disparities through its surveys and programs.
- June 2011: HHS announces “LGBT Data Progression Plan” to add sexual orientation and gender identity (SOGI) to its surveys.
- January 2013: Sexual orientation question added to National Health Interview Survey.
- Spring 2013: Optional SOGI questions approved for the state-administered Behavioral Risk Factor Surveillance System surveys.

Focus: Clinical Data Collection


- *Collecting SOGI Data in Electronic Health Records* (2012): “...data collection should start now to better understand the health care issues experienced by LGBT people.”
Collecting Demographic Data on Sexual Orientation

1. Which of the categories best describes your current annual income? Please check the correct category:
   - $<10,000
   - $10,000-14,999
   - $15,000-19,999
   - $20,000-29,999
   - $30,000-49,999
   - $50,000-79,999
   - Over $80,000

2. Employment Status:
   - Employed full time
   - Employed part time
   - Student full time
   - Student part time
   - Retired
   - Other

3. Racial Group(s):
   - African American/Black
   - Asian
   - Caucasian
   - Multi racial
   - Native American/Alaskan Native/Inuit
   - Pacific Islander
   - Other

4. Ethnicity:
   - Hispanic/Latino/Latina
   - Not Hispanic/Latino/Latina

5. Country of Birth:
   - USA
   - Other

6. Language(s):
   - English
   - Español
   - Français
   - Português
   - Русский

7. Do you think of yourself as:
   - Lesbian, gay, or homosexual
   - Straight or heterosexual
   - Bisexual
   - Something Else
   - Don’t know

8. Marital Status:
   - Married
   - Partnered
   - Single
   - Divorced
   - Other

9. Veteran Status:
   - Veteran
   - Not a veteran

10. Referral Source:
    - Self
    - Friend or Family Member
    - Health Provider
    - Emergency Room
    - Ad/Internet/Media/Outreach Worker/School
    - Other
## Collecting Demographic Data on Gender Identity

- **What is your current gender identity?** (check ALL that apply)
  - Male
  - Female
  - Transgender Male/Trans Man/FTM
  - Transgender Female/Trans Woman/MTF
  - Gender Queer
  - Additional Category (please specify)
    __________

- **What sex were you assigned at birth?** (check one)
  - Male
  - Female
  - Decline to Answer

- **What pronouns do you prefer (e.g. he/him, she/her)?**
  __________________
2. Nondiscrimination Protections

- ACA Section 1557
- Civil Rights Act
- Rehabilitation Act
- Age Discrimination Act
- Title IX
- HIV/AIDS status
- Sex
- Gender identity and sex stereotyping

Source: http://chir.georgetown.edu/pdfs/NondiscriminationUndertheACA_GeorgetownCHIR.pdf
3. Insurance Market Reforms

- Patient’s Bill of Rights is particularly important for transgender people and people with conditions such as HIV or cancer.
  - Phases out annual and lifetime limits on coverage
  - Ends pre-existing condition exclusions
  - Ends arbitrary rescission of insurance coverage

- Essential benefit standard key to adequate coverage: Federal regulations prohibit “discriminatory benefit design” on the basis of gender identity, health condition, etc.

Source: www.healthcare.gov
4. Prevention & Wellness

☐ Certain preventive services particularly important for LGBT people are now free:
  ▪ HIV and some other STI screenings
  ▪ Depression screening
  ▪ Tobacco use screening

☐ New National Prevention Strategy specifically includes LGBT communities.

☐ ACA established the $15-billion Prevention and Public Health Fund to support new prevention initiatives.

Source: Healthy People 2020, National Prevention Strategy
Focus: HIV/AIDS

ACA invests in the prevention and treatment of HIV and AIDS:

- Emphasizes prevention and health insurance reform.
- Eliminates AIDS Medicaid disability requirement
- Makes HIV treatment more affordable
- Requires adequate insurance networks that include “essential community providers”
- Supports patient-centered medical homes to improve care quality for people with chronic conditions

Source: www.hivhealthreform.org
Question:

What is one of the main ways millions of people across the country will be able to get insurance coverage starting in 2014?

A. Purchasing coverage through a Health Insurance Marketplace
B. Applying for Medicaid coverage
C. Both
5. New Coverage Options

- New Medicaid income requirements and eligibility rules will include many LGBT people for the first time.
  - Standard 138% FPL income ceiling
  - Everyone eligible, even childless adults

- Health Insurance Marketplaces may not discriminate on the basis of sexual orientation or gender identity.

- Essential Health Benefits (EHB)-based plans cannot discriminate on the basis of sexual orientation, gender identity, health condition, etc.

Marketplaces

- Enrollment target: 7 million people
- 3.8% of target: 266,000 LGBT people

Medicaid

- Enrollment target: 9 million people
- 3.8% of target: 342,000 LGBT people

Source: Commonwealth Fund and Kaiser Family Foundation
LGBT population
(as % of state population)

Same-sex couples with children
(as % of same-sex couples; dark green = 25-33%)

Source: Williams Institute and Movement Advancement Project
Key Coverage Questions for LGBT Populations

**Medicaid expansion**
- Will states expand their Medicaid programs to cover all lower-income adults?

**Equal access**
- How can Marketplaces ensure equal access to enrollment and benefits for LGBT consumers, particularly transgender people and same-sex couples?

**Data collection**
- Will Marketplaces collect confidential data on sexual orientation and gender identity and use it to help serve LGBT communities?

**Consumer engagement**
- How can Marketplaces engage LGBT people via consumer assistance programs, Navigators, outreach strategies, marketing, and enrollment processes?
Key Principles to Keep in Mind

- Intersectionality: What are the aspects of each individual’s identity, and how do those aspects interact?
- “Asking the other question”
- Seeking health equity: attaining the highest level of health for all people
- Building systems that work for everyone

Source: http://bigriveradvertising.com
Medicaid Expansion

- LGBT people significantly more likely than general population to:
  - Have lower incomes
  - Be uninsured
  - Lack employer coverage, even if insured

- Expansion will provide Medicaid coverage to thousands of low-income LGBT people for the first time.

Source: The Health of Lesbian, Gay, Bisexual and Transgender People, (Institute of Medicine, 2011), Healthy People 2020
# Equal Access: Nondiscrimination

<table>
<thead>
<tr>
<th>Section 1557</th>
<th>EHBs</th>
<th>Marketplaces and QHPs</th>
<th>State Laws</th>
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<tbody>
<tr>
<td>• Applies to all health programs that receive federal funding</td>
<td>• In 2014, all small-group and individual plans have to cover package of services including 10 categories of benefits</td>
<td>• Federal rules prohibit Marketplaces and contractors from discriminating on the basis of sexual orientation or gender identity</td>
<td>• Various state laws prohibit discrimination on the basis of sexual orientation and/or gender identity in public accommodations, insurance, etc.</td>
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<tr>
<td>• Provides protections against sex discrimination</td>
<td>• Federal rules prohibit discrimination in benefit design on the basis of sexual orientation, gender identity, and health condition, among other bases</td>
<td>• Federal rules also prohibit discrimination by Qualified Health Plans on the basis of sexual orientation or gender identity</td>
<td></td>
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<td>• HHS interprets “sex” to include gender identity and sex stereotyping</td>
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Source: http://chir.georgetown.edu/pdfs/NondiscriminationUndertheACA_GeorgetownCHIR.pdf
Equal Access: Transgender People

- Gender identity nondiscrimination: plans must provide equal coverage for transgender individuals

- Many insurance plans block coverage for essential benefits such as ambulatory and hospital care, preventive services, and mental health services for transgender people through broad coverage exclusions

- State and federal regulators are investigating whether plans sold through Marketplaces and other plans based on the EHB standard should be allowed to have transgender exclusions

Source: http://chir.georgetown.edu/pdfs/NondiscriminationUndertheACA_GeorgetownCHIR.pdf
Five Jurisdictions Now Reject Transgender Insurance Exclusions

Equal Access: Same-Sex Couples and Their Children

- Recent Supreme Court decision on the Defense of Marriage Act will affect access to joint tax credits and family coverage for same-sex spouses.

- Several states are taking steps to ensure their Marketplaces treat same-sex couples, including spouses, like heterosexual couples.
  - Using tax credits to buy family plans, even if calculated individually
  - Keeping couples’ records together in Marketplace IT systems
  - Encouraging plans to offer benefits for same-sex couples on the same basis as spousal benefits for different-sex couples

- Other states are awaiting IRS guidance regarding how marriages will be recognized across state lines: "place of celebration" rule versus "domicile" rule.

Data Collection

- LGBT data includes sexual orientation, gender identity, and relationship status.
- LGBT data collected at application or enrollment will help Marketplaces:
  - Design effective outreach strategies for connecting LGBT people and their families with affordable, high-quality coverage
  - Measure effectiveness of initiatives to promote cultural competency, quality improvement, and customer satisfaction
  - Monitor and enforce nondiscrimination protections

Question:

What is a Navigator?

A. A GPS system for finding the nearest hospital
B. Someone working with the Health Insurance Marketplaces to help people find coverage
C. A new online social networking application
Consumer Engagement

- Consumer assistance programs with knowledge of LGBT health needs are essential in connecting LGBT people and their families with coverage.

- Federal rules requiring cultural competency and LGBT-inclusive nondiscrimination apply to all consumer assistance entities:
  - Navigators
  - In-Person Assisters
  - Certified Application Counselors
CLAS Standards Blueprint Examples

- “Discrimination based on race, ethnicity, sex, age, socioeconomic status, sexual orientation, gender identity, and other characteristics impedes the provision of quality care and services.”

- “[Facilities and staff need to consider] effects of cultural differences among individuals and staff on access to care, service utilization, quality of care, health outcomes, and individuals’ satisfaction, including the importance of socioeconomic status, race, ethnicity, disability status, sexual orientation, gender identity and other factors.”

Source: www.thinkculturalhealth.hhs.gov/pdfs/EnhancedCLASStandardsBlueprint.pdf
LGBT Consumer Messaging Research

- Conducted by Perry Undem in coordination with Enroll America
- May-August 2013
- 8 focus groups:
  - 4 among uninsured LGB people
  - 4 among uninsured transgender people
- Philadelphia, Denver, Los Angeles, Miami
- National quantitative survey:
  - 860 LGBT people at or below 400% FPL
  - 100 questions about insurance and enrollment
Key Survey Findings to Date

- 41% of survey population is under 139% FPL.
- One in three (34%) in LGBT individuals under 400% FPL is uninsured.
- Only 29% have employer coverage.
- 27% have public coverage (Medicaid or Medicare).
- 44% have put off medical care in the past 12 months because they can't afford it.
- Almost one in three (31%) has medical bills piling up.
- Almost one in three (30%) has used SNAP/food stamps in past year.
- Majority of uninsured (67%) uninsured for more than 2 years.
- Half (48%) have never looked for insurance on their own.
- Top feelings when thinking about looking for insurance are stress (58%), frustration (49%), feeling overwhelmed (46%), and worried (40%).
- 65% have heard about the individual mandate, but 68% have not heard about Exchanges or new options for affordable coverage.

Findings on Slides 36-43 based on forthcoming research report from PerryUndem.
Key Focus Group Findings: Transgender

- Health care is about daily survival.
- Few can get the care they need.
- Health care experiences frequently involve hostility and discrimination.
- Insurance experiences overwhelmingly involve exclusion(s).
- Resulting reluctance to engage
- Mistrust of plan offerings and consumer assistance programs
Focus Group Concerns when Calling Help Lines/at Front Desks

- Misgendered
- Discrimination and hostility
- Incredulous about voice matching name
- Staff will not be able or willing to answer questions
- Staff will ask inappropriate questions

“[I will] shut down.” – Colorado participant
Best Practices for Working with Transgender Individuals:

- Do not question voice.
- If unsure, politely ask for preferred pronoun.
- Ask for preferred name if different from legal name on file.
- Simply apologize and move on in case of a mistake.
- Have answers to common questions.
  - What services are covered?
  - Is care based on gender marker?
  - Are there trans-competent physicians in network?
- Have a referral strategy for tough questions.
Key Findings: LGB

- Skepticism is a major challenge.
- Many are used to thinking of insurance as individuals rather than family coverage.
- Want indicators that LGBT is included:
  - Pictures showing LGBT people
  - Key terms (“partner,” “spouse” rather than “husband” or “wife,” LGBT-inclusive nondiscrimination statements)
  - Partnerships with LGBT community organizations
  - Advertising in LGBT media and at LGBT venues such as Pride Festivals
General Best Practices

- Don’t assume anything about an applicant.
  - Gender and gender identity
  - Sexual orientation
  - Relationship status
  - HIV/AIDS status
  - Health services that the person may need

- Use gender-neutral language.
  - “Partner,” “spouse”
  - Don’t use “sir” or “ma’am” unless you know the person’s gender identity
General Best Practices

- Make a general nondiscrimination statement part of the opening conversation.
- State that you ask all questions of every applicant – nothing is a personal judgment.
- Give applicants the option to point or write down answers themselves.
- Respect privacy and confidentiality.
General Best Practices

- Understand how to document income from freelance work, including sex work.
- Be prepared to answer or refer questions.
  - Coverage options for people living with HIV
  - Transgender-inclusive coverage options
  - Coverage options for same-sex couples and their children
- Be open to feedback!
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www.americanprogress.org/issues/lgbt/view
www.thinkprogress.org