

WHY MEDICAID IS AN LGBTQ¹ ISSUE

Medicaid is the nation's largest public health insurance program, covering over 72 million individuals with low-incomes. Nearly 60 percent of Medicaid enrollees are people of color.²

WHAT IS MEDICAID?

Medicaid is a critical health insurance program that provides coverage for many individuals and families living with low incomes.

- Medicaid operates as a cooperative federal-state program, meaning that the federal government reimburses participating states for a specified percentage of program expenditures. In exchange, states agree to comply with federal Medicaid requirements. For example, states must cover certain groups of individuals and certain categories of services. States have flexibility to cover additional groups of individuals and additional services. As a result, Medicaid programs vary from state to state.
- While participation is voluntary, all 50 states, the District of Columbia, and five U.S. territories operate Medicaid programs.³
- Medicaid covers a wide range of health care services, including primary and acute care; family planning services; STI testing and treatment; pregnancy-related care including prenatal services, childbirth, and postpartum care; long-term services and supports; and hospitalization.⁴
- Medicaid covers a significant number of individuals who are in poor health due to systemic barriers and discrimination, including lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals; people of color and women of color; single parents; and people with disabilities in particular.⁵

The Affordable Care Act (ACA) strengthened the Medicaid program by expanding coverage and enhancing Medicaid services and benefit packages.

- After U.S. Supreme Court's decision in *National Federation of Independent Business v. Sebelius*, states have the option to extend Medicaid coverage to uninsured adults whose incomes are at or below 138% of the federal poverty level (FPL) (approximately \$28,676 per year for a family of three and \$16,753 per year for an individual) to enroll in coverage.
 - Prior to the ACA and Medicaid expansion, many LGBTQ individuals were ineligible for Medicaid coverage.
- To date, 37 states and the District of Columbia have expanded their Medicaid programs.⁶
 - This expansion allows for more individuals, who were previously ineligible for Medicaid, to enroll in coverage and access the health care services they need.
- In addition to pre-existing civil rights laws, the ACA explicitly prohibits discrimination in health programs and activities (including Medicaid) based on race, ethnicity, national origin, age, disability, and sex.⁷
 - This law provides important protections to help ensure that individuals can receive coverage and care without discrimination.



WHAT IS THE IMPORTANCE OF MEDICAID FOR LGBTQ COMMUNITIES?

Medicaid is a vital program for reducing health disparities and providing care for the LGBTQ community.

- Many LGBTQ individuals rely on Medicaid for health coverage, especially among people of color and transgender individuals.
 - According to The Williams Institute, approximately 1,171,000 LGBT adults ages 18-64 years old have Medicaid as their primary source of health insurance.⁸
 - In a 2014 nationwide survey of LGBT people with incomes less than 400% of the FPL, 61% of all respondents had incomes in the Medicaid expansion range—including 73% of African-American respondents, 67% of Latinx respondents, and 53% of white respondents.⁹
 - According to the 2015 U.S. Transgender Discrimination Survey, transgender, nonbinary, and gender nonconforming people are three times as likely to have a household income under \$10,000 and three times as likely to be unemployed as the typical person in the U.S.¹⁰
- Medicaid is the largest source of coverage for persons living with HIV, who are disproportionately Black and Latinx,¹¹ covering more than 40% of individuals living with HIV in 2014.¹²

WHAT SERVICES DOES MEDICAID COVER?

Federal law requires states to provide coverage for certain services in their Medicaid programs and gives states the option to cover additional services.

- Mandatory services include primary and acute care, reproductive and sexual health care—including family planning (but not abortion care except in cases of life endangerment, rape, and incest)—behavioral health, treatment for substance use disorders, and mental health.
- State Medicaid programs must also cover emergency and non-emergency transportation, which is an important tool for accessing health care services, especially for those who live in rural areas and/or do not have access to transportation.
- All states have also elected to provide robust prescription drug coverage for most FDA-approved medications through their Medicaid programs, with limited cost sharing to help ensure access for low-income persons.

Under federal law, state Medicaid programs must cover a broad range of gender-affirming services when they are medically necessary. However, not all states are following the law.¹³

- Currently, 19 states and the District of Columbia explicitly cover gender-affirming care.¹⁴
 - According to a recent study, 49% of the LGBT population lives in a state that explicitly covers gender-affirming care in its Medicaid program.¹⁵
- Nine states are in violation of the Medicaid Act and exclude coverage of gender-affirming care.¹⁶



ENDNOTES

- ¹ Lesbian, gay, bisexual, transgender, and queer (LGBTQ) people, including nonbinary (NB), gender nonconforming (GNC), and/or genderqueer individuals. LGBT is used where the data being cited refers only to Lesbian, Gay, Bisexual, and Transgender individuals.
- ² Kaiser Family Found., *Distribution of the Nonelderly with Medicaid by Race/Ethnicity*, <https://www.kff.org/medicaid/state-indicator/distribution-by-raceethnicity/> (last visited May 20, 2019).
- ³ Unlike in the 50 states and D.C., federal Medicaid funding for the U.S. territories is subject to a statutory cap and fixed matching rate.
- ⁴ Kaiser Family Found., *Medicaid's Role for Women*, <https://www.kff.org/womens-health-policy/fact-sheet/medicaid-roles-role-for-women/> (last visited April 19, 2018).
- ⁵ Kaiser Fam. Found., *supra* note 1.
- ⁶ The ACA provided additional temporary Medicaid funding to the territories, however those funds are set to expire in 2019.
- ⁷ 42 U.S.C. § 18116.
- ⁸ Kerith J. Conron & Shoshana K. Goldberg, The Williams Inst., *LGBT Adults with Medicaid Insurance 1* (2018), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Medicaid.pdf> (last visited May 02, 2019).
- ⁹ Kellen E. Baker et al., Ctr. for Am. Progress, *The Medicaid Program and LGBT Communities: Overview and Policy Recommendations 4* (2016), <https://cdn.americanprogress.org/wp-content/uploads/2016/08/08125221/2LGBT-MedicaidExpansion-brief.pdf>. “LGBT” is used where the data being cited refers only to Lesbian, Gay, Bisexual, and Transgender individuals.
- ¹⁰ Nat'l Ctr. for Transgender Equal., *2015 U.S. Transgender Survey 140-43* (2016), <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.
- ¹¹ Ctrs. for Disease Control and Prevention, *U.S. Statistics*, <https://www.hiv.gov/hiv-basics/overview/data-and-trends/statistics> (last visited May 8, 2019).
- ¹² Kaiser Family Found., *Medicaid and HIV 1* (2016), <http://files.kff.org/attachment/Fact-Sheet-Medicaid-and-HIV> (last visited May 17, 2019).
- ¹³ For a list of Medicaid coverage policies for transition-related care by state, see Movement Advancement Project, *Healthcare Laws and Policies: Medicaid Coverage for Transition-Related Care* (Apr. 2019), <https://www.lgbtmap.org/img/maps/citations-medicaid.pdf>.
- ¹⁴ Movement Advancement Project, *Healthcare Laws and Policies: Medicaid Coverage for Transition-Related Care*, http://lgbtmap.org/equality-maps/healthcare_laws_and_policies (last visited May 2, 2019).
- ¹⁵ *Id.*
- ¹⁶ *Id.* However, on April 23, 2019, a District Court in Wisconsin issued a preliminary injunction invalidating the state's categorical exclusion of coverage for medically necessary gender-affirming care and treatments for transgender Medicaid beneficiaries. *Flack v. Wis. Dep't Health Servs*, No. 3:18-cv-00309 (W.D. Wis. Apr. 23, 2019)

