

The Medicaid Rebate Stacking Policy and the LGBTQ+ Community

The Centers for Medicare & Medicaid Services (CMS) recently released a proposed rule seeking to advance policies to promote efficient operation of the Medicaid Drug Rebate Program (MDRP). **The proposed rule (CMS-2434-P) aims to reduce Medicaid spending on prescription drugs overall, however, certain provisions may inadvertently exacerbate inequities, particularly for LGBTQ+ communities.**

Known as the "*stacking*" policy, CMS is proposing rule adjustments that would mandate drug manufacturers to combine or "*stack*" all discounts given to various stakeholders across the healthcare supply chain, such as pharmacies, wholesalers, and infusion providers, to determine the "best price" for Medicaid. The potential consequences for LGBTQ+ communities include increased medication costs and interruptions to medication access, infringement on patient privacy, and ultimately, the widening of health disparities.

LGBTQ+ people face numerous health disparities, including delayed diagnoses, lack of comprehensive care, and increased incidence of mental health issues. What accounts for these health disparities is a lack of knowledgeable providers trained to understand LGBTQ+ issues, discriminatory policies and providers, increased rates of poverty and unemployment, and other systemic drivers.

Further, LGBTQ+ individuals are disproportionately represented among Medicaid recipients. There are approximately 1.2 million LGBTQ+ individuals who are covered by Medicaid; of these, 152,000 identify as trans and/or gender non-conforming. Already, beneficiaries of Medicaid who identify as LGBTQ+ face these glaring disparities in health care accessibility.

In order for CMS to adequately address LGBTQ+ health concerns, the following impacts of the proposed rule must be examined:

Increased Expense & Unsustainability: Rebate stacking, as proposed by the CMS, might inadvertently lead to increased expenses and pose challenges to sustainability within the healthcare system. If approved, this policy would significantly impact Medicaid's best price evaluations by requiring manufacturers to amalgamate all potential discounts across the supply chain into a single 'best price,' potentially leading to a conservative approach from drug manufacturers in offering discounts, as well as research and innovation in the field. Consequently, the voluntary drug discounts that currently enable providers to offer affordable care to patients could be jeopardized and innovation stymied.

This drastic change in the Medicaid policy could end up severely impacting patients and the treatment plans they rely on, particularly those living with chronic conditions like HIV, where access to advanced treatments is crucial. Moreover, the administrative burden imposed by this policy, including the requirement of adding a diagnosis code during prescribing, would further strain healthcare professionals and practices, particularly safety-net providers. Any error or

omission in the diagnosis code could result in patients being denied access to their prescriptions or providers facing reimbursement issues, particularly impacting vulnerable populations such as LGBTQ+ individuals who already face challenges in accessing adequate care.

Impacts on Patient Privacy and Security: Implementing price stacking necessitates careful tracking, which could compromise patient privacy and security. Determining the "best price" under such a policy could require manufacturers to access patient identifiers and payer details. This requirement presents a significant logistical hurdle for providers, complicating the task of safeguarding patient privacy while managing the intricacies of discount monitoring. With more resources diverted to tracking costs, fewer resources remain available for prioritizing patient care. Compliance with the new regulation would mandate collaboration among entities throughout the drug supply chain — including wholesalers, distributors, pharmacies, hospitals, clinics, and insurers — to meticulously track drug transactions.

This may expose LGBTQ+ populations to increased harm by way of bias and discrimination. While privacy and security are important for all health care patients they are especially important for LGBTQ+ people where information about their identities might compromise the quality of care they receive. If security concerns are deprioritized, either intentionally or inadvertently, this puts many at increased risk of being outed, discriminated against, or losing health care altogether.

Driving Healthcare Disparities: This could exacerbate existing disparities in health care access, disproportionately affecting marginalized communities where access to healthcare resources is likely already limited. This includes LGBTQ+ individuals, as well as low-income individuals, people of color, and those living in rural areas, who face additional barriers in navigating complex bureaucratic requirements for medication approval.

While ostensibly aimed at streamlining medication approval processes, this change could pose challenges to reproductive autonomy, economic well-being, and broader social progress. In particular, gender affirming care that is crucial for trans community members may be deemed unnecessary. Procedures such as hair removal and top surgery are considered cosmetic and therefore may not be covered. This exacerbates the divide between the quality of care cisgender individuals receive compared to transgender individuals.

In all, while this change may not explicitly target the LGBTQ+ community, its role in making prescription drugs more affordable for Medicaid recipients can have a significant impact on improving healthcare access and outcomes for LGBTQ+ individuals, particularly those who may face intersecting challenges related to discrimination, stigma, and socio-economic disparities. However, it's important to recognize that additional efforts are needed to address systemic barriers to healthcare access and ensure that all LGBTQ+ individuals can receive comprehensive, culturally competent care.