

## **LGBTQ Health: What Protections are Safe and What May Go**

President-elect Trump repeatedly promised on the campaign trail to repeal the Affordable Care Act (ACA) during his first 100 days in office, as well as repeal all of President Obama's executive orders - including those protecting LGBTQ people from discrimination. A full repeal of all ACA provisions is unlikely to pass due to the 60-vote Senate threshold required for any structural and policy changes to existing federal law. However, the Trump administration could reverse much of the progress we have made in health care. The November presidential election result has left many questions for the thousands of LGBTQ Californians, who benefit from expanded health care access provided by the ACA, Medicaid (Medi-Cal in California), Medicare, and federal non-discrimination protections.

Below is an attempt to clarify how rollbacks of existing federal health care laws will impact LGBTQ Californians.

### **Will I lose my health coverage?**

Not immediately, in all likelihood – but the threat is real. The previous version of the Republican ACA repeal and replace bill included a 2-year delay of the phase-out for funding for Medicaid expansion and health insurance exchanges, also known as marketplaces. This means that over the next few years, coverage could be at risk for the more than 5 million Californians, who gained coverage as a result of the ACA – especially the 3.7 million low-income childless adults, who newly qualified for Medi-Cal and 1.4 million, who purchased insurance through Covered California.<sup>i</sup> If you have employer-based coverage, your coverage is not likely to be threatened, but premium costs will likely increase as a result of overall cost-shifts to that market.

Covered California remains open and is operating business as usual. Coverage for 2017 remains intact, premium rates are locked in, and essential health benefits will be offered. If you need coverage, you are encouraged to apply at [www.CoveredCA.com](http://www.CoveredCA.com). Additionally, if your income falls between 138% - 400% FPL, then you may be eligible for financial assistance to help pay for your premiums and other healthcare costs.

Federal changes related to the ACA could dramatically disrupt the overall health care system, and more importantly, could cause a dramatic increase in the uninsured.

The repeal of the ACA's Medicaid expansion would eliminate \$16 billion in federal funding and coverage for the 3.7 million people that were newly qualified for Medi-Cal.<sup>ii</sup> House Speaker Paul Ryan has also advocated converting federal Medicaid funding matches to block grants and privatizing Medicare. This will jeopardize coverage for nearly 14 million Californians on Medi-Cal currently and an additional 5.6 million California seniors on Medicare. The state will not be able to make up for the loss of nearly \$20 billion dollars in federal funding and many people are likely to be without health care, including mental health care, once again.

For more information, see [“Our Health Care at Risk”](#) Factsheet.

### **Will insurance companies or doctors be able to discriminate against LGBTQ patients?**

No. California law bans health insurers and providers – both private and public – from discriminating against individuals based on sexual orientation or gender identity. LGBT Californians cannot be denied coverage or care because of their sexual orientation or gender identity.<sup>iii</sup> These protections are based in state law and will stand regardless of what happens at the federal level.

Federal regulations currently protect Americans from denials or limitations on health coverage based on gender identity<sup>iv</sup> and guarantee the rights for patients to designate their visitors at hospitals that receive federal funding regardless of sexual orientation, gender identity, or legal relationship status.<sup>v</sup> Unfortunately, the new administration can re-write existing federal regulation, though this process would take several years and we do not yet know what they will decide to do. We strongly recommend that LGBTQ people and families designate a health proxy and complete an advance health directive to protect their health care decisions – see below.

### **Will I be able to access transition-related health care?**

The biggest question surrounding accessing transition-related health care will likely be related to the expense, if Medi-Cal or Covered California are scaled back. If you have insurance, California regulators require health insurers to provide coverage for all medically necessary health care procedures for transgender people that are otherwise covered for cisgender people.<sup>vi</sup> If you lose insurance, you would likely have to pay out of pocket, which could cost thousands of dollars. If your insurer denies your procedure, you have a right to appeal that decision.

### **I currently receive services at Planned Parenthood, what will happen?**

Planned Parenthood is an important provider of primary and reproductive health care for LGBTQ Californians. The budget reconciliation bill passed by Republicans last year included a provision cutting federal funding to Planned Parenthood health centers. Though the loss of federal funding would be significant, the organization released a statement following the election vowing that its doors will remain open to patients who rely on its services.<sup>vii</sup>

### **Will my marriage be invalidated? What if I am on my spouse's health insurance?**

Legal experts do not believe the Supreme Court would revisit its decision granting same-sex couples the right to marry nation-wide.<sup>viii</sup> Married same-sex couples should continue to receive the same benefits as different-sex married couples, including in health care markets.

### **I am HIV-positive. Will I lose access to drugs or other healthcare?**

Not likely. The Ryan White Program, which is an important safety net to guarantee access to life-saving health care for people living with HIV, enjoys broad bipartisan support. That support will be important to ensure that Congress fully funds the Program as a way to fill in the gaps left by the potential loss of coverage for thousands of people living with HIV who are covered by the ACA.<sup>ix</sup>

## **What should I do?**

- **Enroll in coverage:** The deadline to enroll in coverage is January 30, however, you should apply by December 15 at [CoveredCA.com/](http://CoveredCA.com/) for health care coverage that will kick in by the beginning of 2017.
- **Get legal documents in order:** Now is the time to change gender markers on passports, birth certificates and drivers' licenses,<sup>x</sup> make sure that children's documentation accurately includes both parents' legal names, and have an up-to-date advance health directive,<sup>xi</sup> living will, and other documents protecting you and your family's assets.
- **Schedule routine medical care and specialty care:** If you have been putting off getting your physical, wellness exams, HPV vaccination, or transition-related services, now would be a great time to schedule them if you can. Substance use treatment and help quitting smoking are also covered thanks to the Affordable Care Act. Although we expect portions of the ACA to be phased out gradually, you are encouraged to begin any treatments sooner rather than later. If you need coverage, sign up at [CoveredCA.com/](http://CoveredCA.com/).
- **Consult an immigration attorney:** You can find answers to some common immigration questions [here](#), however if you have questions about your specific immigration case, it is best to contact an attorney.
- **Share your Health Care Success Story:** Advocates are working hard to protect crucial healthcare programs. You can help by sharing your story about how health reform has helped you and your family. <https://www.surveymonkey.com/r/ShareYourACAStory>
- **Sign the petition:** <http://familiesusa.org/protect-americas-health-coverage>
- **Get help if you need it:**
  - If you're experiencing a crisis and need to talk to someone: <http://www.thetrevorproject.org/>  
<http://www.glbthotline.org/>
  - If you feel you have been discriminated against or need legal help for any reason, you can consult the following experts:
    - Lambda Legal - <http://www.lambdalegal.org/help>
    - National Center for Lesbian Rights - <http://www.nclrights.org/legal-help/>
    - Transgender Law Center - <http://transgenderlawcenter.org/legalinfo>
    - American Civil Liberties Union (ACLU) - <https://www.aclu.org/about/affiliates?redirect=affiliates>

The California Lesbian, Gay, Bisexual, and Transgender Health and Human Services Network is a statewide coalition of more than 50 nonprofit direct service providers, community centers, researchers, and policy

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- <sup>i</sup> California Health Care Foundation, “Facts and Figures on the ACA in California: What We’ve Gained and What We Stand to Lose,” <http://www.chcf.org/publications/2016/11/facts-figures-aca-ca?cldee=Y3B1bHNpcGhlckBhcGxhLm9yZW%3d%3d&recipientid=contact-8edf65c0591ce51180f7c4346bac4b78-e024165791104f29b8ecd9ccaf71f9c8&esid=9fd393dd-07b1-e611-80ef-5065f38a3b81>
- <sup>ii</sup> Health Access, “Our Health Care at Risk,” [http://health-access.org/images/documents\\_other/Our%20Health%20Care%20at%20Risk%20factsheet%2011.14.16.pdf](http://health-access.org/images/documents_other/Our%20Health%20Care%20at%20Risk%20factsheet%2011.14.16.pdf)
- <sup>iii</sup> Transgender Law Center, “FAQ: California’s Ban on Transgender Exclusions in Health Insurance,” <http://transgenderlawcenter.org/archives/4273>
- <sup>iv</sup> National Center for Transgender Equality, “Final HHS Regulations on Health Care Discrimination: Frequently Asked Questions,” <http://www.transequality.org/sites/default/files/HHS-1557-FAQ.pdf>
- <sup>v</sup> CAP, “Hospital Visitation and Medical Decision Making for Same-Sex Couples,” <https://www.americanprogress.org/issues/lgbt/news/2014/04/15/88015/hospital-visitation-and-medical-decision-making-for-same-sex-couples/>
- <sup>vi</sup> Transgender Law Center, “Transgender Health Benefits in California: How to Appeal Your Denial,” <http://transgenderlawcenter.org/resources/health/how-to-appeal-your-health-care-denial>
- <sup>vii</sup> Planned Parenthood, “These Doors Stay Open,” <https://www.plannedparenthood.org/get-involved/these-doors-stay-open>
- <sup>viii</sup> National Center for Lesbian Rights, “Now that Trump Has Been Elected, Can Our Marriage Be Undone?,” <http://www.nclrights.org/now-that-trump-has-been-elected-can-our-marriage-be-undone/>
- <sup>ix</sup> NASTAD, “ADAPs Support Expanded Insurance Coverage and Access to Care,” <https://www.nastad.org/sites/default/files/ACA-Enrollment-2016-Fact-Sheet.pdf>
- <sup>x</sup> TLC, “Quick Guide to Changing Federal Identity Documents,” <http://linkis.com/transgenderlawcenter.org/EzjTR>
- <sup>xi</sup> Lambda Legal, “Tools for Protecting Your Health Care Wishes,” <http://www.lambdalegal.org/know-your-rights/article/planning-health-care-wishes>.