**HHS Calls for Equal Treatment of Transgender Patients**

Robert Lowes September 04, 2015

Physicians may not refuse to treat patients because they identify themselves as transgender or otherwise do not fit common sexual stereotypes, according to proposed regulations issued yesterday by the Department of Health and Human Services (HHS).

The regulations would implement a section of the Affordable Care Act that bars healthcare discrimination based on a person's race, color, national origin, sex, age, or disability. HHS said that it extended the meaning of sex discrimination to include gender discrimination in accordance with judicial rulings and federal agency practices.

HHS cited a 2010 survey showing that almost 27% of transgender individuals said they had been refused needed healthcare. "Individuals who have experienced discrimination in the healthcare context often postpone or do not seek much needed healthcare, which may lead to negative health consequences," HHS said in a portion of the proposed regulations.

By banning discriminatory insurance practices based on sex and gender, the regulations could result in more people obtaining coverage, HHS said.

The proposal drew applause from the GLMA, formerly known as the Gay and Lesbian Medical Association.

"This is a monumental step by the [Office of Civil Rights in HHS] to ensure transgender individuals receive the healthcare they need and deserve," said GLMA President Henry NG, MD, in a news release. "Transgender people face enormous barriers in accessing healthcare and the proposed rule goes a long way toward eliminating that."

Antidiscrimination Regulations Would Apply to Almost Every Physician

The antidiscrimination regulations proposed by HHS apply to health insurance marketplaces or exchanges under the Affordable Care Act, any health program administered by HHS, and any healthcare program or activity — think medical care — that receives financial assistance from HHS. Examples of the latter include hospitals that accept Medicare patients and physicians who treat Medicaid patients.

HHS said that receiving Medicare Part B reimbursement would not subject physicians to the proposed regulations because these payments are not deemed federal financial assistance. However, physicians would come under the regulations if they earn Medicare bonuses for meaningful use of an electronic health record system. The same would be true if they receive research grants from the National Institutes of Health or work in the National Health Service Corps. Because of the pervasiveness of HHS funding, "almost all practicing physicians in the United States are reached (by the regulations," HHS said.

HHS is soliciting public input on the proposed regulations, which include instructions on how to submit comments. In particular, HHS wants to know whether the final regulations should include a specific exemption for religious organizations. The department noted that nothing in its proposal would affect existing protections for religious beliefs and practices, such as provider conscience laws.

The deadline for submitting comments is November 6.