

SMP/SHIP LGBT Beneficiary Project

A project of SAGE Services & Advocacy for GLBT Elders











Services & Advocacy for GLBT Elders (SAGE) is the country's largest and oldest organization dedicated to improving the lives of lesbian, gay, bisexual and transgender (LGBT) older adults. Our <u>mission</u> is to lead in addressing issues related to lesbian, gay, bisexual and transgender (LGBT) aging.

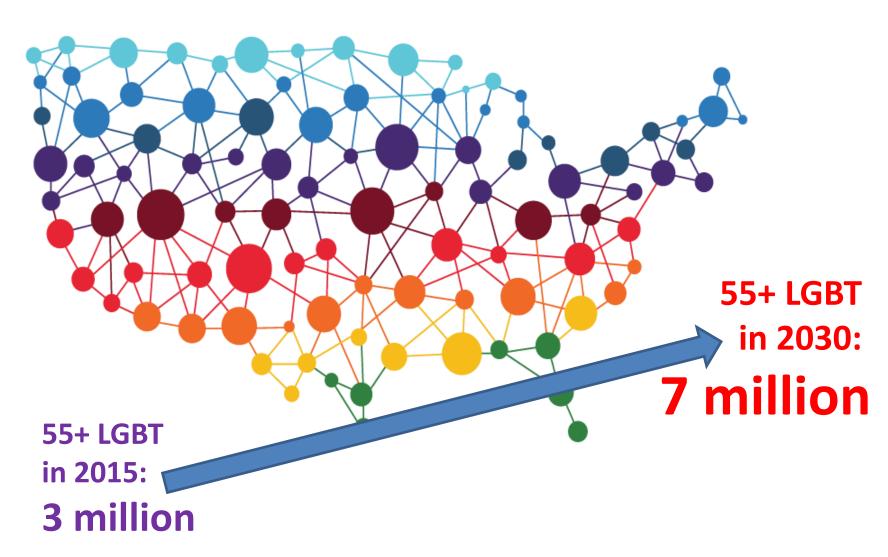
SAGE headquartered in New York City, offers a number of services throughout New York City including lead agency for the National Resource Center on LGBT Aging, the first LGBT Senior Center. Additionally SAGE has 29 Affiliates in 21 states across the nation.

Objectives

- 1) provide SMP programs with materials for understanding LGBT older adults' unique needs, and for use when outreaching/presenting to LGBT Medicare beneficiaries;
- 2) develop materials to help SHIP programs understand Medicare benefits for LGBT people.
- 3) provide SHIP staff and volunteers with training on issues of importance to Medicare beneficiaries, while accounting for the forthcoming SCOTUS marriage equality opinions; and

U.S. Older Adult Population Growth: 2000-2030

35 million to 75 million = 20% of the U.S. population



www.smpresource.org



Lesbian, gay and bisexual (LGE)* older people are often a forgotten population when it comes to services aimed at older people, because such services do not always consider a person's sexual orientation.

Therefore, it is ortical to reach them with the information they need to protect, detect and report Medicare fraud and abuse

Here are some tips for working with LGB older people:

- Do not assume that everyone you meet is heterosexual in 2010, there were approx. 1.6 million LGS older adults in the U.S., and registered same sex couples live in 90% of all U.S. counties it to likely that you have already met LGB people, even if they have not openly identified as LGB.
- Use inclusive terms, phrases and language that do not presume a sexual or wife," and/or "appouse" do not encompase the acope of significant relationshine that I GR neonle may have such as nartner. If a nartner significant other, or domestic partner. For terms to use and axoid, see
- Create a weborning tone in all of your interactions with older adults. For instance, hang rainbow flage or other items in your office, or have embersial mind all LGB cider adults among your handouts. For example, the "Leeblan Glag, and Bisenual Older Adults & Medicare Praud Prevention" fact a heat.
- Promote diversity and inclusion at all levels of your agency, from staff to valunteers. For tips on recruting LGB valunteers, see the fact sheet "Recruiting LGST People as Volunteers for your SMP Program."
- Examine current programs and presentations to see if they can be modified for LGB older people. Use inclusive language, and address LGBT-specific scenarios in your presentations. See the sample PowerPoint *LGBT Older Adults and Medicare Fraud: What Can You Do to Help Prevent Healthcare

Providing Services to Transgender Older Adults: Tips for SMP Staff and Volunteers

When each of us was born, someone probably announced "It's a boy!" or "It's a girl!" If you were given the label boy, you most likely now say you are a man. If you were given the girl label, you probably now view yourself as a woman. That's where transgender people are different.

managender people say that whatever label they were given at birth is not right. With the help of physicians, some transgender people change their bodies to live as the "opposite" gender. Some change the gender they present to the world without medical assistance. Some do not "transition." These people may live part of the time as men and part of the time as women (a group that includes many cross dressers). They may present a more ambiguous or androgy nous appearance that doesn't immediately identify them as either mai or female, or they may simply hold an internal understanding of who they are that is different from what strangers might expect.

Given the broad variety of people who fall under the transpende umbrella, "you should expect each transgender person you work

Here is what is true for all transgender people

Always use the correct pronoun ("he" or "she") and name. How do yo what pronoun and name oonsistently, even when

judge whether a service provider is frespectful!



Transgender Older Adults & Medicare Fraud Prevention

The word "fraud" is a loaded one for many transgender people, as sometimes those who do not understand about gender identity have falsely accused transgender people of trying to "deceive" or "defraud" people about their "real" identity.

We know this could not be further from the truth; the point of many of the changes transgender people make in how they look and act is to be truthful and to help others see who they truly are inside.

As a transgender person, this history of being insulted by the word "fraud" may make it hard for you to discuss Medicare and Medicaid fraud, because use of that word may make those conversations a first feel personal and accusing. That is not at all the intention of those who work and volunteer for the government's Senior Medican Patrol (SMP). SMP volunteers know that there are many health care providers out there who are mistakenly or even deliberately using horest Medicare and Medicaid beneficiaries' identities - including but certainly not limited to the identities of transgender beneficiaries to steal money from the government. It is this Medicare fraud that the program is designed to prevent and identify, so that government way, it is that provider who is in the wrong, not youl

This fact sheet will not review the general fraud prevention and

Lesbian, Gay, and **Bisexual Older Adults** & Medicare Fraud Prevention

Each year, Medicare and Medicaid lose billions of dollars to improper claims-and as a Medicare beneficiary, this can affect you.

False information can end up on your medical records, leading to improper care. You may be asked to pay for copayments or nsurances for services you didn't receive. You may even be denied the services you need.

Additionally, Lesbian, gay, and bisexual (LGB)* older Americans

- * the higher rates of isolation among LGB older people. If you don't know many people in your community, or feel unwelcome a the places where cider people typically find support, such as churches or senior centers, you may feel unsure where to turn
- * changing marriage laws and the overtum of the Defense of Marriage Act (DOMA). Being newly eligible for coverage and benefits from your spouse may also make you a new target for scams that claim they can screehow enhance that coverage

Factors like these make it more important than ever to get informed





Recruiting LGBT People as Volunteers for your SMP Program

Recruiting LGBT volunteers is one way to demonstrate that your SMP is LGBT-affirming. and will help you reach more LGBT older people to prevent, detect and report Medicare fraud and abuse.

Services for older adults do not always consider a person's sexua orientation or gender identity so leabian, gay, bisexual and transgender (LGBT) older adults may not be getting the unique outreach they need.

By employing volunteers who reflect the diversity of your communit our SMP Program oan be more effective with a segment of the copulation that may be at a higher risk for Medicare Fraud.

Here are some tips on where you can start your

 It is likely that you are already serving LGBT older adults, even if no one has yet openly identified as LGBT. By offering materials to new recruits such as "Providing Services to LGB Older Adults: Tipe for SMP Staff and Volunteers," or including the fiver "Lesbian Gay and Risexual Older Adults & Medicam Fraud Preventor





Tips for same-sex couples who are married or thinking about marriage so you can understand how marriage affects Medicare and Medicaid rights.



Accessing Information on Medicare Benefits for LGBT People

Marriage, Medicare and Medicaid

What Same-Sex Couples Need To Know



Until recently, Medicare has not had specific guidance about how to address the unique needs of transgender older adults. That is changing.

Medicare Changes for Transgender Older Adults

Medicare Updates Same-Sex Couples & Transgender Older Adults



Topics Covered Includes:

- Overview of LGBT Older Adults
- Medicare same-sex married couples
 Basic Medicare Rights, Low
 Income Programs & Medicaid
 Benefits
- Transgender Beneficiaries
 Medicare Coverage,
 Discrimination Protections &
 Medicaid Issues

Webinar Dates

Wednesday, Aug. 31, 2016, 1:00 p.m. – 2:00 p.m. Eastern Time Thursday, Sept. 8, 2016, 1:00 p.m. – 2:00 p.m. Eastern Time Wednesday, Sept. 28, 2016, 1:00 p.m. – 2:00 p.m. Eastern Time Wednesday, Jan. 4, 2017, 1:00 p.m. – 2:00 p.m. Eastern Time

Hosted by the SMP Resource Center www.smpresource.org – Registration Details announced through the SMP, SHIP & MIAPP email list.

Questions & Follow Up

Sherrill Wayland, MSW
Manager of National Projects
swayland@sageusa.org
www.SAGEUSA.org





Accessing Information on Medicare Benefits for LGBT People

The ever-evolving legal rights and Medicare benefits that affect lesbian, gay, bisexual and transgender (LGBT) individuals and married couples can be challenging to follow. This resource document provides links to organizations providing relevant information:

ACLU

Transgender People and Healthcare <u>www.aclu.org/issues/lgbt-rights/transgender-rights/transgender-people-and-health-care</u>

Center for Medicare Advocacy

LGBT (Lesbian, Gay, Bisexual and Transgender)
Persons & Health: Available Resources
www.medicareadvocacy.org/medicare-info/lesbian-gay-bisexual-and-transgender-lgbt-seniors/#orgs

Centers for Medicare & Medicaid Services

Office of Minority Health www.cms.gov/about-cms/agency-information/omh/ index.html

Special Populations Help <u>marketplace.cms.gov/technical-assistance-resources/special-populations-help.html</u>

Human Rights Campaign

Health & Aging <u>www.hrc.org/explore/topic/health-and-aging</u>

Lambda Legal

After DOMA: Medicare Spousal Protections http://www.lambdalegal.org/publications/after-doma-medicare

Medicare Rights Center

Consumer Fact Sheets <u>www.medicarerights.org/resources/consumer-fact-sheets</u>

National Center for Lesbian Rights

Healthcare <u>www.nclrights.org/our-work/healthcare/</u>

National Center for Transgender Equality

Know Your Rights – Healthcare www.transequality.org/know-your-rights/healthcare

National Resource Center on LGBT Aging

www.lgbtagingcenter.org

Services & Advocacy for GLBT Elders

Medicare Fraud www.sageusa.org/issues/smps.cfm

Transgender Law Center

Medicare Update http://transgenderlawcenter.org/archives/3839











Tips for same-sex couples who are married or thinking about marriage so you can understand how marriage affects Medicare and Medicaid rights.

Marriage, Medicare and Medicaid

What Same-Sex Couples Need To Know

Medicare and Medicaid rules for same-sex couples changed dramatically after two Supreme Court decisions. The first decision, *United States v. Windsor* (2013), overturned the Defense of Marriage Act, opening the door for coverage for some, but coverage depended on whether your state recognized same-sex marriage.

The second Supreme Court decision, *Obergefell v. Hodges* (2015), made same-sex marriage legal in every state. Now, married same-sex couples can get coverage under the same Medicare and Medicaid rules as married opposite-sex couples in all states. Where the couple lives or when or where they were married makes no difference.

Qualifying for Medicare Part A coverage based on your spouse's work history.

Medicare Part A is the health benefit that covers hospital care. To qualify for free Medicare Part A, you must have 40 "quarters" of work history, roughly 10 years, based either on your own work record, or your spouse's work record. If you or your spouse do not have a qualifying work history, the cost of Part A benefits can be over \$400 per month.

Married same-sex couples can get coverage under the same Medicare and Medicaid rules as married opposite-sex couples in all states.

Where the couple lives or where they were married makes no difference. How long you have been married can affect your right to benefits, but this is true for opposite-sex couples as well.



What are the rules about Medicare coverage for spouses?

- You must be a spouse in a marriage recognized by the jurisdiction in which it was performed. Registered domestic partnerships, civil unions and common law marriage do not qualify you for a spousal benefit. Medicare recognizes marriages performed in any state as well as marriages performed in other countries.
- You must have been married at least one year before you can qualify for Medicare based on your spouse's earnings record.
- If you are divorced, you can qualify, but only if your marriage lasted at least 10 years. If

- you start receiving the spousal benefit while married and then you divorce, the benefit will end unless your marriage lasted 10 years. This rule is the same for opposite-sex couples but it has more impact on same-sex couples who did not have the opportunity to marry earlier.
- If your spouse is alive, your spouse must be at least 62 years old. It is not necessary for your spouse to be on Medicare.
- If your spouse died, you must have been married at least one year before your spouse's death. The age at which your spouse died does not matter.

EACH COUPLE IS DIFFERENT

Joe and John

Joe, 66, and John, 60, have lived together for 25 years and are considering marriage. Joe's only source of income is a \$900/month Social Security benefit. He has \$5,000 in savings. He currently meets the income and asset limits for a single person for both the Low Income Subsidy (LIS) and his state's Qualified Medicare Beneficiary (QMB) benefit. John, who is working, earns \$2,500/month and has \$3,000 in savings. If Joe and John marry, Joe will lose both the LIS and QMB coverage because their joint income will be too high for a couple for each of those programs.

Molly and Michele

Michele, 68, has an income of \$1000/ month and assets of \$15,000. Her partner Molly is 62 and earns an income of \$750/month, and has \$4,000 in assets. Michele has Medicare, but her assets are too high for her to qualify for the Low Income Subsidy, so she does not receive the LIS benefit. If Michele and Molly marry, Michele will qualify for some LIS benefits, because their joint income and assets will be below the limits for a couple.

Couples considering marriage need to work out the numbers to know what they can lose or gain through marriage. Your local SHIP counselor can help you think about how marriage will affect your benefits.

Marriage and the Medicare Part D Low Income Subsidy ("Extra Help")

The Medicare Part D Low Income Subsidy (LIS), which is also called "Extra Help," helps pay for prescription drug costs for people who are low income. If you are not married, and don't have dependents, you are treated as a household of one, even if you live with a partner. So, your unmarried partner's income does not count for LIS. Married couples living together are treated as a two-person household and the incomes and assets of both spouses are counted. If you are getting LIS, and then you get married, your eligibility will be recalculated as of the month that the Social Security Administration learns that you are married.

Marriage and Medicare Savings Programs

Medicare Savings Programs, administered by state Medicaid agencies, help pay for Medicare premiums and, in the case of the Qualified Medicare Beneficiary (QMB) program, can also pay for deductibles and co-insurance. Just like the Low Income Subsidy, married couples living together are treated as a two-person household while unmarried couples are not.

Marriage and Medicare Premiums

Some higher income tax filers have to pay more for Medicare Part B and Part D premiums based on income reported on IRS tax returns from two years prior. Depending how much income you and your spouse each have, marriage may either raise or lower the Part B and Part D premiums for you. The surcharge for married couples also may depend on whether you file tax returns separately or jointly. You can also ask to have your premiums recalculated if a more recent marriage or

divorce or the death of your spouse could lower your premium liability. If this might apply to you, seek tax advice to determine how these rules would affect your specific situation.

Marriage and Medicaid

Many low income Medicare beneficiaries rely on Medicaid for help in paying for long term services and supports, either in the community or in a nursing home or other facility. State programs and rules vary greatly but here are some areas where marriage could make a difference for you:

Basic Eligibility: As with Medicare Savings programs, if you are married, other state Medicaid programs consider the assets and income of your spouse when determining eligibility for Medicaid programs.

Estate Recovery: State Medicaid agencies seek to recover certain Medicaid costs from the estate of beneficiaries. If you have a surviving spouse, the recovery is automatically postponed until your spouse dies. When your unmarried partner lives in the home, states often will also postpone recovery but the protection is not automatic.

Spousal Impoverishment: When you or your spouse need expensive long term care, Medicaid programs allow the other spouse to keep a certain amount of the couple's income so that the spouse who is at home can continue to live in the community. Sometimes being married means that the at-home spouse can keep more to live on.

For questions related to Social Security Spousal Benefits, visit the Social Security Administration website at fag.ssa.gov/link/ portal/34011/34019/ArticleFolder/452.

The information in this fact sheet is current as of June 13, 2016. For more or updated information, visit:

GLBTQ Legal Advocates and Defenders www.glad.org

Justice in Aging www.justiceinaging.org

Lambda Legal www.lambdalegal.org

National Center for Lesbian Rights www.nclrights.org

National Center for Transgender Equality www.transequality.org

National Resource Center on LGBT Aging www.lgbtagingcenter.org

Services & Advocacy for GLBT Elders www.sageusa.org

SAGE's Talk Before You Walk www.sageusa.org/talkbeforeyouwalk

Transgender Law Center www.transgenderlawcenter.org

The SHIP National Technical Assistance

Center (SHIP TA Center) serves as a central source of information for and about the national State Health Insurance Assistance Program (SHIP).

For more information:

National SHIP website that includes a SHIP locator for the general public:

www.shiptacenter.org

National toll-free number:

877-839-2675

National email address:

info@shiptacenter.org









SAGE's Senior Medicare Patrol and State Health Insurance Assistance Program LGBT Beneficiary Project is funded by the Administration on Aging (Grant # 90SM0016-01-0).



Until recently, Medicare has not had specific guidance about how to address the unique needs of transgender older adults. That is changing.

Medicare Changes for Transgender Older Adults

A Time of Change

The U.S. Department of Health and Human Services (HHS) has taken two important steps. First, Medicare has begun covering Gender Reassignment Surgery but has not issued detailed coverage rules. Second, new HHS regulations will help protect transgender older adults from sex discrimination in healthcare. Here's what you need to know now and what is coming down the road.

Medicare now covers Gender Reassignment Surgery (GRS). In 2013, Medicare changed its policy and began covering medically necessary Gender Reassignment Surgery. Though GRS coverage has been available since 2013, there have not been clear guidelines on who should get coverage. So far, few people have actually gotten covered.

Gender designation on a Medicare card does not determine whether care is covered. Medicare will not deny coverage for procedures that are sex-specific just because your Medicare card or other identification reflects a different gender identity. A Medicare card identifying you as male, for example, cannot be the basis for denying coverage of a pelvic examination if it is medically appropriate for you. If you are denied coverage, you should appeal the denial. You can also file a complaint with the HHS Office of Civil Rights, www.hhs.gov/civil-rights, about actions by providers or by Medicare Advantage plans.

Medicare does not cover many transition-related drugs. Many drugs prescribed for use in gender transition are prescribed

Coming Soon:

HHS is deciding whether to issue some specific guidelines for GRS or, instead, continue determining coverage on a case-by-case basis. Either way, as the Medicare program gets more experience in covering GRS, we can expect to get a better picture of coverage criteria.



"off label," which means that the specific use has not been approved by FDA. Medicare covers off label uses of prescription drugs in only limited circumstances, so you cannot get Medicare coverage for many transition-related drugs.

With final regulations now in place, healthcare providers will likely change their manuals and processes to meet the new requirements. Also, the federal government will put more emphasis on making sure that healthcare providers follow the rules.

Medicare providers may not discriminate on the basis of sex. The Affordable Care Act has a section, called Section 1557, that prohibits discrimination, including sex discrimination. Healthcare entities or providers who receive federal funds, either directly or indirectly cannot discriminate based on sex. In May of 2016, the federal government released regulations interpreting Section 1557. These rules specifically state that sex discrimination includes discrimination on the basis of gender identity. The rules cover all health providers receiving federal funds, not just Medicare.

Changes are coming in Medicaid too.

Right now, fewer than half of state Medicaid programs cover GRS. Medicaid programs, however, frequently decide to cover the same procedures as Medicare. Also, Section 1557 applies to Medicaid programs and provides new protections from discrimination. So, some limits that state Medicaid programs now have for healthcare for transgender beneficiaries—including limits on GRS—may be discriminatory. Watch for how your state responds to these developments.

The information in this fact sheet is current as of June 13, 2016. For more or updated information, visit:

GLBTQ Legal Advocates and Defenders

www.glad.org

Justice in Aging

www.justiceinaging.org

Lambda Legal

www.lambdalegal.org

National Center for Lesbian Rights

www.nclrights.org

National Center for Transgender Equality

www.transequality.org

National Resource Center on LGBT Aging

www.lgbtagingcenter.org

Services & Advocacy for GLBT Elders

www.sageusa.org

Transgender Law Center

www.transgenderlawcenter.org









SAGE's Senior Medicare Patrol and State Health Insurance Assistance Program LGBT Beneficiary Project is funded by the Administration on Aging (Grant # 90SM0016-01-0).

Medicare Updates: Same-Sex Couples & Transgender Older Adults



Overview: This webinar discusses important updates to Medicare in relation to samesex marriage and transgender older adults.

Agenda

- Presenter introductions and overview of SAGE and Justice in Aging
- Medicare updates for same-sex married couples
 (Basic Medicare rights, low income programs and Medicaid benefits)
- Transgender beneficiaries
 (Medicare coverage, discrimination protections and Medicaid issues)
- Question and answer session

Audience: This is a joint SMP and SHIP* Center webinar, intended for both SMP and SHIP staff responsible for outreach and beneficiary education. MIPPA** grantees are also being invited to this event.

- * SHIP = State Health Insurance Assistance Program
- ** <u>MIPPA</u> = Medicare Improvements for Patients and Providers Act

Speakers

- Georgia Burke, Directing Attorney, Justice in Aging
- Sherrill Wayland, Manager of National Projects, Services & Advocacy for Gay, Lesbian, Bisexual, Transgender Elders (<u>SAGE</u>)

Date and Time: This event is being offered at four times for your scheduling convenience. The content is the same in each session, so participants only need to attend once but are welcome to attend multiple times. See below for details.

Registration is required!

To register, click the date and time that best suits your schedule, and follow the instructions provided.

- Wednesday, August 31, 2016, 1:00 p.m. 2:00 p.m. Eastern Time
- Thursday, September 8, 2016, 1:00 p.m. 2:00 p.m. Eastern Time
- Wednesday, September 28, 2016, 1:00 p.m. 2:00 p.m. Eastern Time
- Wednesday, January 4, 2017, 1:00 p.m. 2:00 p.m. Eastern Time

In the "Last Name" field, also enter your two-letter state abbreviation if you are an SMP, SHIP, or MIPPA (Smith – ST) or ACL if you are with ACL (Jones – ACL). This abbreviation will appear behind your name on the web event. After you register, you will receive a confirmation email with instructions for joining the session.

To add the event to your calendar program (such as Microsoft Outlook): See the attachment in your confirmation email.

Access Instructions: See your calendar program, or <u>click here</u>.

Resources: Presentation resources will be available prior to the first event and a recording will be available following the September 28 event on the <u>SMP Resource</u> <u>Center website</u>: in the <u>SMP Resource Library</u> (*Tip: Search using the keyword "GLBT"*).

New to WebEx? If this is one of your first web events hosted by the SMP Resource Center, please join 10-15 minutes early to allow the necessary software to download and to view WebEx tips. You may also click here to preview WebEx tips.