In the face of highly restrictive and discriminatory health insurance plans within the Affordable Care Act (ACA) marketplaces, the AIDS Foundation of Chicago (AFC) and the Center for Health Law and Policy Innovation of Harvard Law School (CHLPI) are undertaking a new advocacy campaign to enforce the health care rights guaranteed by the ACA for people living with HIV and other chronic conditions. Drawing upon AFC’s reputation in Illinois, CHLPI’s extensive research, and new avenues for civil rights enforcement under the ACA, the campaign aims to strengthen protections in the health insurance marketplaces and eliminate insurer practices that prevent vulnerable patients from receiving the care and treatment they need. These discriminatory practices include refusing to cover lifesaving medications and requiring high cost sharing for all medications used to address certain health conditions.

AFC has collaborated with CHLPI and filed formal administrative Complaint with the U.S. Department of Health and Human Services’ Office for Civil Rights (OCR). OCR is charged with the enforcement of the ACA’s new anti-discrimination regulations in state ACA health insurance marketplaces.

“The Affordable Care Act guarantees quality, affordable health care for all Americans. But some people living with HIV and other chronic health conditions are struggling to get the care they need. Many insurance companies are not covering medically necessary care or medications, or are choosing to make them unaffordable. That’s discrimination and it’s illegal. Share if you want to end discrimination in health care.

In the face of highly restrictive and discriminatory health insurance plans within the Affordable Care Act (ACA) marketplaces, the AIDS Foundation of Chicago (AFC) and the Center for Health Law and Policy Innovation of Harvard Law School (CHLPI) are undertaking a new advocacy campaign to enforce the health care rights guaranteed by the ACA for people living with HIV and other chronic conditions. Drawing upon AFC’s reputation in Illinois, CHLPI’s extensive research, and new avenues for civil rights enforcement under the ACA, the campaign aims to strengthen protections in the health insurance marketplaces and eliminate insurer practices that prevent vulnerable patients from receiving the care and treatment they need. These discriminatory practices include refusing to cover lifesaving medications and requiring high cost sharing for all medications used to address certain health conditions.

AFC has collaborated with CHLPI and filed formal administrative Complaint with the U.S. Department of Health and Human Services’ Office for Civil Rights (OCR). OCR is charged with the enforcement of the ACA’s new anti-discrimination regulations in state ACA health insurance marketplaces.

“CHLPI and AFC are using the OCR process to shine a light on discrimination occurring under the cloak of supposedly neutral insurance plan benefit design. When an insurer requires chronically ill patients to pay a disproportionate share of the cost of medication it violates federal law,” says Robert Greenwald, CHLPI’s Faculty Director and Clinical Professor of Law at Harvard Law School.

“These are landmark Complaints that will benefit everyone looking to receive equitable, comprehensive health care through the marketplaces by helping to define anti-discrimination law at a time when insurers are covering less and less.”

The campaign is designed to effectuate the major new civil rights framework created by the regulations implementing the anti-discrimination provisions of Section 1557 of the ACA. AFC hopes that the OCR Complaints will help define and set the standard for how these new civil rights protections are applied in health insurance markets. Each year, AFC and CHLPI collect and review information on HIV and HCV medication coverage for plans in the Illinois insurance marketplace, in order to help people living with HIV and HCV determine which plans are best for their healthcare needs. Through its work monitoring the health
insurance marketplaces across the country, AFC and CHLPI have increasingly seen insurers who offer reasonable patient cost sharing leave the marketplaces, arguing that they cannot afford to compete with insurers practicing discriminatory plan design. This leaves individuals at the mercy of insurers charging high copayments or coinsurance for life-saving medications.

While recent news of insurers departing from the marketplaces may make regulators feel reluctant to push the remaining insurers toward offering more equitable, non-discriminatory coverage, failure to enforce the non-discrimination regulations could have serious long-term implications on the success of the ACA. Greenwald says, “Ultimately, our hope is to work to help stabilize the marketplace — encouraging more insurers who have experience with Medicaid managed care or community hospitals to provide coverage, and ensuring that strong regulations are in place that provide a level playing field to people relying on the marketplaces.”

“We’re calling for change because we cannot codify discriminatory practices by insurers,” said Ramon Gardenhire, Vice President of Policy and Advocacy at AFC. “This landmark effort will protect insurers who offer reasonable access to HIV medications, promote more consistent coverage patterns by insurers, and support efforts to ensure that people living with HIV and other chronic diseases can thrive.”

**AFC, CHLPI highlight discrimination in Humana formulary design**

The Illinois Complaint identifies Humana’s formulary design for HIV medication as failing to provide “appropriate access to drugs,” as required under ACA legislation. The complaint points out that a Humana individual plan enrollee on a Triumeq treatment regimen would pay more for their medication in three months ($4,574.31) than an enrollee with diabetes would pay in an entire year for all prescriptions and medical services ($3,970).

In addition to the Complaint filed by AFC in Illinois, CHLPI has partnered with other state partners, including AIDS Alabama, AIDS Research Consortium in Georgia, CrescentCare (formerly the NO/AIDS Task Force in Louisiana), and AIDS Law Project of Pennsylvania. CHLPI and its state partners have filed complaints against the following insurers:

- Humana: Complaints filed in Alabama, Georgia, Illinois, Louisiana, and Texas
- Cigna: Complaints filed in Georgia and Texas
- Highmark: a Complaint filed in Pennsylvania
- Independence Blue Cross: a Complaint filed in Pennsylvania
- UPMC Health Plan: a Complaint filed in Pennsylvania
- Community Health Choice: a Complaint filed in Texas
- Anthem Blue Cross Blue Shield: a Complaint filed in Wisconsin

The insurers flagged by CHLPI and its state partners have routinely denied coverage for HIV medications or limited access to needed medications through prohibitively high cost sharing.

“Health care that people cannot afford is about as useful as no health care at all,” said Gardenhire. “Left unchecked, these practices will drive people living with HIV out of the health insurance market, essentially returning them to a pre-Obamacare coverage gap.”

In addition to filing the OCR Complaints, the campaign includes an education and media initiative to increase public pressure on
AFC and national partners file complaint against Humana and other disc... http://www.aidschicago.org/page/news/all-news/afc-and-national-partners... federal and state government regulators and insurers via social media, traditional press, and additional outreach activities. CHLPI and its state partners are working to ensure that people living with HIV and their allies understand the patterns of discrimination found in their local insurance markets and how to advocate for an end to health insurance discrimination.

Andrea Weddle, Executive Director of the HIV Medicine Association, supports the campaign, adding “Health and social services providers, advocates, and individuals living with HIV should be proactive about raising their voices, and using tools like complaint letters to challenge health plan policies that discriminate against individuals living with HIV. These actions are critical to ensure the enforcement of the ACA's non-discrimination protections.”

“Filing this complaint is a step toward making the ACA work better,” notes John Peller, AFC’s President/CEO. “We’re taking this action to ensure that the Affordable Care Act remains affordable. The vast majority of health care plans in Illinois provide good and affordable coverage for people living with HIV. Unfortunately, there are some bad actors that need to be addressed and returned to compliance for the sake of health equity across the U.S.”

Recommended Articles

AFC and Howard Brown Health laud Illinois Medicaid for expanding access to HIV treatments (/page/news/all-news/illinois-medicaid-expands-access-to-hiv-treatments)  
August 1, 2016

The AIDS Foundation of Chicago (AFC) and Howard Brown Health commend the recent decision by Felicia... Read more... (/page/news/all-news/illinois-medicaid-expands-access-to-hiv-treatments)

What four days in DC and Chicago taught me about the LGBTQ community (/page/news/inside-story/what-four-days-in-dc-and-chicago-taught-me-about-the-lgbtq-community)  
July 28, 2016

by Jacina Sims What a weekend! Over the course of four days, I graduated with my Master... Read more... (/page/news/inside-story/what-four-days-in-dc-and-chicago-taught-me-about-the-lgbtq-community)

Five things providers said about PrEP at a family planning conference (/page/news/inside-story/five-things-providers-said-about-prep-at-a-family-planning-conference)  
August 25, 2016

by Sara Semelka and Pamela Tassin During the last week of July, Sara Semelka and Pamela Tassin... Read more... (/page/news/inside-story/five-things-providers-said-about-prep-at-a-family-planning-conference)