

Policy Implications at the Intersection of Race, Ethnicity, & Disability: Where Are We & Where Can We Go?

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Objectives

- At the end of this session you will be able to
- Explain the role Medicare played in integrating hospitals – Power of Policy
- Identify civil rights laws & policies relevant to health disparities of PWD & MREM
- Discuss proposed policy priorities to promote inclusion & decrease health disparities for PWD & PWD who are MREM



Assumptions

- People with disabilities experience health disparities (Altman & Bernstein, HP2020)
- People who are members of racial and ethnic minorities experience health disparities (HP2020)
- PWD + MREM = greater health disparities (Drum et. al, 2011)
- Evidence-based Policy



Brown vs. Board of Ed 1956

- We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal.



1961

- President Kennedy orders medical schools and their medical centers that receive federal fund to integrate (Smith, 2005)

Simkins v. Moses H. Cone Memorial Hospital (1963)

- Black doctors, dentists, and patients sued a hospital in Greensboro S.C. who received Hill-Burton Funds for staff & admitting privileges
- Appellate Court ruled No more Separate but Equal
- Supreme Court refused cert. upholding LC
- Regs limited to pending & new applications



Civil Rights Act 1964

- Title VI forbid health care providers from discriminating or segregating on the basis of race, color or national origin.
- Hospitals could only accept federal money if they didn't discriminate, *or*
- They could chose to discriminate and forfeit federal funds. 42 U.S.C. § 2000d *et seq.*



Medicare Makes Change 1965

- Before Medicare took effect in 1966, the Surgeon General told U.S. hospitals: to enroll in Medicare, they had to certify in writing they complied with Title VI.
- The financial incentive of Medicare dollars integrated 92% of the nation's hospital in a mere four months, while 300 hospitals chose not to integrate. (Watson, 2001)



Rehabilitation Act

- Covers recipients of federal funds
- Can't discriminate based on disability
- Must provide access to goods and services
- Office of Civil Rights (OCR) enforces

ADA

- Extends Rehab Act protections to private parties
- Prohibits discrimination in providing services (including health care)
- Must provide reasonable accommodations
- No ADA Police with some exceptions

Civil Rights Act Changes 2001

- Alexander v. Sandoval (121 U.S. 1511), no private right of action under Title VI regulations.
- Individuals must prove intentional discrimination to prevail.
- OCR can proceed in cases where it can establish a discriminatory effects.



Affordable Care Act

- “This is the Civil Rights Act of the 21st century,” said Representative James E. Clyburn of South Carolina, the No. 3 Democrat in the House
- Health disparities, data collection, cultural competence, training the workforce, no discrimination, closes the ADA insurance gap.



Healthy People 2020

- Healthy People provides science-based, 10-year national objectives for improving the health of all Americans.
- Feds strategic plan
- Used to justify grant applications etc.



National Stakeholder Strategy for Achieving Health Equity

- OMH “provides a common set of goals and objectives for public and private sector initiatives and partnerships to help racial and ethnic minorities -- and other underserved groups -- reach their full health potential.”

<http://minorityhealth.hhs.gov/npa/templates/content.aspx?lvl=1&lvlid=33&ID=286>



April 2011

- Office of Minority Health releases report to decrease racial and ethnic health disparities

http://minorityhealth.hhs.gov/npa/files/Plans/HHS/HHS_Plan_complete.pdf

- Decides to leave out people with disabilities



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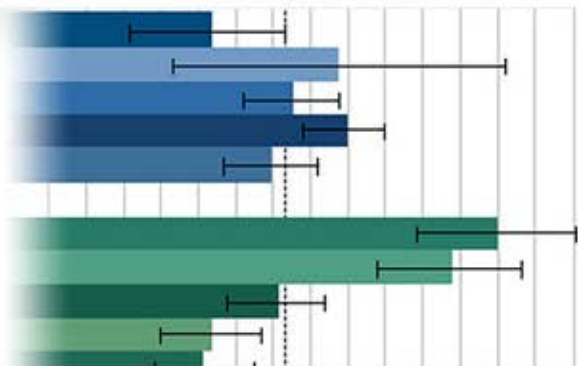
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Closer Look: Health Disparities

Compare the Top 10 Causes of Death across Populations

Race/
Ethnicity:

Age Range:

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Healthy People 2020 Brochure: Updated with LHIs! [PDF - 948 KB]

HHS Prevention Strategies

Healthy People supports prevention efforts across the U.S. Department of Health and Human Services (HHS) to create a healthier Nation.



Spotlight

Evidence-Based Resources *New*


Search our database to find evidence-based resources to improve the health of your community!





July 2011

- Advocates meet with Assist Secretary Koh for an action plan to decrease disability health disparities
- Sebelius announces this report at 20th Celebration of the ADA

- 
- “Recently, our Assistant Secretary for Health, Dr. Howard Koh, and the Director of our Office on Disability Henry Claypool met with your leadership to discuss health disparities in the disability community. We are committed to confronting these disparities and look forward to working with you on a strategic action plan to guide our efforts going forward.”

Sebelius Also Announces

- HHS Advisory Committee on Minority Health releases a new report on health equity for minority persons with disabilities.
- Committee makes 5 recommendations



5 Recommendations

1. Raise awareness about minorities with disabilities.
2. Recognize disability as a fundamental component of cultural competency.
3. Require competency for all health care providers and professionals.
4. Improve research and practice on disabilities in minority populations.



5. Strengthen the health care workforce to ensure high quality care for people with disabilities.



Key Policy Issues

- Racial and ethnic groups are considered “underserved” populations
- Disability is not designated an “underserved population”
- Not for lack of trying but not hard enough
- Payment & Reimbursement issues



- Despite these disparities, people with disabilities are not included in major federal health disparities research. As a consequence, federally funded health disparities research does not recognize people with disabilities as a population that experiences disparities. This lack of recognition makes it extremely difficult to obtain population-based data related to minorities and disabilities. (ACMH)



- There are monetary issues involved
- Disability is considered “a bad outcome”
- Women and people of color included in research but not PWD
- Lack of physical access to treatment and specialists



Office of Minority Health

- Has an office in all of the divisions of HHS
- Yesterday they came out with the new CLAS Standards (Culturally and Linguistically Appropriate Services)



Office of Disability and Health

- We do have the Agency for Community Living
- But no Office on Health and Disability
- No one is in charge of the disability provisions in ACA

Secretary Sebelius - 2013

- “This is the law of the land. The Supreme Court had ruled. We had an election. And we will enforce the law.”
Sebelius Press Conference April 10, 2013.

What does ACA §1557 say?

- An individual shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds prohibited under Title VI of the Civil Rights Act of 1964, (race, color, national origin) or Section 504 of the Rehabilitation Act of 1973



§1557 Continued

- under any health program or activity, any part of which is receiving federal financial assistance, or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the Affordable Care Act or its amendments.
- OCR has enforcement authority



Proposed Approaches

- Office on Health and Disabilities in HHS that can coordinate all HHS agency efforts
- Emphasis on Health Disparities
- Emphasis on Data
- Emphasis on Enforcement of ACA, & ADA
- Emphasis on Advocacy & Education



Policy Priorities

- Require inclusion of PWD & MREM in research
- Include as a priority in grant funding for programs – at least include them
- Designate PWD as underserved
- Collect data for PWD & MREM
- Train the workforce
- Work with OCR on enforcement

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