

# LGBT People Face Significant Barriers to Middle-Class Security

By Ashe McGovern

There are several ways in which the current legal and social landscapes make lesbian, gay, bisexual, and transgender, or LGBT, people's access to and permanence in the middle class precarious.<sup>1</sup> Congress has yet to pass a federal law that would explicitly protect all LGBT communities in the United States from discrimination in employment, housing, access to credit, and access to health care. As a result, LGBT people are still at risk of being legally fired, denied housing, or denied access to public services because most states lack comprehensive legal protections on the basis of both sexual orientation and gender identity in these areas.<sup>2</sup> Nationally, transgender people can also be denied access to medically necessary health care because of discriminatory health insurance policies and a lack of culturally competent health care providers.<sup>3</sup> Vulnerability in these important areas means that LGBT people are often unable to maintain the economic stability that makes security in the middle class possible.<sup>4</sup>

## Workplace discrimination and economic security

LGBT people experience unacceptably high rates of employment discrimination, harming their ability to plan for the future, save for retirement, and maintain access to employment-based benefits. In some cases, this discrimination means being passed over for promotions; in others, it results in being fired outright. Between 11 percent and 28 percent of les-

bian, gay, and bisexual, or LGB, workers report being denied or passed over for a promotion because of their sexual orientation—with even higher rates of discrimination among transgender people generally and LGBT people of color.<sup>5</sup> As many as 47 percent of transgender people reported being fired, not hired, or denied a promotion because of their gender identity—with even higher rates for transgender communities of color.<sup>6</sup> These experiences of discrimination and resulting unemployment contribute to documented wage gaps.<sup>7</sup>

## Housing instability and discrimination

Outside of the workplace, LGBT people often struggle to find stable, affordable housing. While some federal protections exist for LGBT people in public housing and federal mortgage programs, no explicit federal statute legally prohibits an individual or company from evicting, refusing to rent to, or refusing to make a loan to someone because of their sexual orientation or gender identity.<sup>8</sup> As a result, LGBT people may be less likely than their non-LGBT peers to own a home and reap the associated benefits. One study in Michigan found that LGBT people may be quoted higher prices than non-LGBT people when applying for housing and that they are also more likely than their non-LGBT peers to experience discrimination when buying a home or securing a mortgage, even when compared directly with similarly situated yet less financially qualified candidates who are applying

for the same home.<sup>9</sup> Furthermore, the Equal Credit Opportunity Act, or ECOA—which prohibits discrimination in credit access and distribution—does not provide explicit protections on the basis of sexual orientation and gender identity.<sup>10</sup>

### **Health care disparities and out-of-pocket costs**

Well-documented disparities in health among LGBT communities compared with their non-LGBT peers—as a result of many factors, including lack of cultural competency among health care providers, stress associated with systemic discrimination, and a lack of insurance generally, among others—mean that many LGBT people may have to pay higher out-of-pocket costs to ensure that they are able to access adequate health care and health providers.<sup>11</sup> In addition to these costs, many transgender people must pay out of pocket for medically necessary treatment because most insurance plans have categorically or partially prohibited coverage of any transition-related health care.<sup>12</sup>

### **Policy recommendation: Pass the federal Equality Act**

The Equality Act is a federal bill that, if passed, would amend federal nondiscrimination laws, including the Civil Rights Act of 1964 and the Fair Housing Act, to include sexual orientation and gender identity—and where currently lacking, sex—as protected categories for nondiscrimination purposes in employment, housing, public accommodations, public education, federal funding, access to credit, and the jury system. Passage of the federal Equality Act would make a significant difference in ensuring a more stable economic future for LGBT people.<sup>13</sup> Recently, the federal U.S. Department of Health and Human Services, or HHS, promulgated regulations clarifying that Section 1557 of the Affordable Care Act explicitly protects LGBT people. Comprehensive implementation and enforcement of these new regulations would help ensure more fair, equal, and less expensive access to medically necessary health care for LGBT community members.<sup>14</sup>

## Endnotes

- 1 Center for American Progress and Movement Advancement Project, "Paying an Unfair Price: The Financial Penalty for Being LGBT in America" (2014), available at <http://www.lgbtmap.org/file/paying-an-unfair-price-full-report.pdf>.
- 2 Two additional states have protections based on sexual orientation but lack protections on the basis of gender identity or gender expression. As a result, transgender people may legally experience these forms of discrimination in 30 states.
- 3 Kellan Baker and Andrew Cray, "Why Gender-Identity Nondiscrimination in Insurance Makes Sense" (Washington: Center for American Progress, 2013), available at <https://www.americanprogress.org/issues/lgbt/report/2013/05/02/62214/why-gender-identity-nondiscrimination-in-insurance-makes-sense/>.
- 4 Ibid.
- 5 M.V. Lee Badgett and others, "Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination" (Los Angeles: Williams Institute, 2007), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Sears-Lau-Ho-Bias-in-the-Workplace-Jun-2007.pdf>.
- 6 Jaime M. Grant, Lisa A. Mottet, and Justin Tanis, "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey" (Washington: National Center for Transgender Equality and the National Gay and Lesbian Task Force, 2011), available at [http://www.thetaskforce.org/static\\_html/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf).
- 7 Sophia Kerby, "How Pay Inequity Hurts Women of Color" (Washington: Center for American Progress, 2013), available at <https://www.americanprogress.org/issues/labor/report/2013/04/09/59731/how-pay-inequity-hurts-women-of-color/>.
- 8 U.S. Department of Housing and Urban Development, *Final Rule: Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity* (2012), available at <http://portal.hud.gov/hudportal/documents/huddoc?id=12lgbtfinalrule.pdf>.
- 9 Fair Housing Center of Metropolitan Detroit and others, "Sexual Orientation and Housing Discrimination in Michigan" (2007), available at [http://www.fhcmichigan.org/images/Arcus\\_web1.pdf](http://www.fhcmichigan.org/images/Arcus_web1.pdf); Office of Policy Development and Research, *An Estimate of Housing Discrimination Against Same-Sex Couples* (U.S. Department of Housing and Urban Development, 2013), available at [http://www.huduser.org/portal/Publications/pdf/Hsg\\_Disc\\_against\\_SameSex-Cpls\\_v3.pdf](http://www.huduser.org/portal/Publications/pdf/Hsg_Disc_against_SameSex-Cpls_v3.pdf); Office of Policy Development and Research, *Housing Discrimination Against Racial and Ethnic Minorities 2012: Executive Summary* (U.S. Department of Housing and Urban Development, 2013), available at [http://www.huduser.org/portal/Publications/pdf/HUD-514\\_HDS2012\\_execsumm.pdf](http://www.huduser.org/portal/Publications/pdf/HUD-514_HDS2012_execsumm.pdf).
- 10 Sarah McBride and others, "We the People: Why Congress and U.S. States Must Pass Comprehensive LGBT Nondiscrimination Protections" (Washington: Center for American Progress, 2014), available at <https://cdn.americanprogress.org/wp-content/uploads/2014/12/LGBT-WeThePeople-report-12.10.14.pdf>.
- 11 Jeff Krehely, "How to Close the LGBT Health Disparities Gap" (Washington: Center for American Progress, 2009), available at <https://www.americanprogress.org/issues/lgbt/report/2009/12/21/7048/how-to-close-the-lgbt-health-disparities-gap/>; Kellan E. Baker, Laura E. Durso, and Andrew Cray, "Moving the Needle: The Impact of the Affordable Care Act on LGBT Communities" (Washington: Center for American Progress, 2014), available at <https://www.americanprogress.org/issues/lgbt/report/2014/11/17/101575/moving-the-needle/>; Jennifer Kates and others, "Health and Access to Care and Coverage for Lesbian, Gay, Bisexual, and Transgender Individuals in the U.S." (Menlo Park, CA: The Henry J. Kaiser Family Foundation, 2016), available at <http://kff.org/disparities-policy/issue-brief/health-and-access-to-care-and-coverage-for-lesbian-gay-bisexual-and-transgender-individuals-in-the-u-s/>.
- 12 Baker and Cray, "Why Gender-Identity Nondiscrimination in Insurance Makes Sense."
- 13 Laura E. Durso and Sarah McBride, "Race and Beyond: Expanding Protections for LGBT People Strengthens Protections for Us All," Center for American Progress, July 30, 2015, available at <https://www.americanprogress.org/issues/race/news/2015/07/30/118504/expanding-protections-for-lgbt-people-strengthens-protections-for-us-all/>.
- 14 Kellan Baker, "Open Doors for All: Sexual Orientation and Gender Identity Protections in Health Care" (Washington: Center for American Progress, 2015), available at <https://www.americanprogress.org/issues/lgbt/report/2015/04/30/112169/open-doors-for-all/>.