

Equality Australia
Level 17, 461 Bourke Street
Melbourne VIC 3000

Submission to ACT LGBTIQ+ Legal Audit

The Women's Centre for Health Matters (WCHM) welcomes the opportunity to provide a submission to the audit, given the Centre's work in contributing to and influencing ACT responses to health services and support in the ACT over many years.

WCHM is a community-based organisation funded by ACT Health that works in the ACT and surrounding region to improve women's health and wellbeing. WCHM believes that health is determined not only by biological factors, but by a broad range of social, environmental and economic factors known as the 'social determinants of health'. We acknowledge that the environment and life circumstances that each woman experiences have a direct impact on her health, and in many cases, women's poor health is rooted in social disadvantage. For these reasons, WCHM is committed to taking a whole-of-life and social approach to women's health that is also firmly situated within a human rights framework.

WCHM focuses on groups of women who may be vulnerable to experiencing disadvantage, social isolation and marginalisation and uses social research, community development, working across sectors, information and education provision, advocacy and health promotion to:

- Provide women with access to reliable and broad ranging health-related information which allows informed choices to be made about each woman's own health and wellbeing
- Advocate to influence change in health-related services to ensure responsiveness to women's needs

We acknowledge that there have been many improvements in the legal system to reduce discrimination against people based on their sexual orientation, gender identity or expression, or sex characteristics in the ACT over the last few years. But we also know that there is still room for improvement to reduce potential discrimination and bias.

WCHM has undertaken a range of health promotion activities and social research consultations with the LGBTIQ+ community in relation to the health and wellbeing of women and people who care for a female reproductive system over the past few years. We have used this research in advocacy to inform ACT Government responses, and we have worked with local services to understand the views and needs of women in the LGBTIQ+ community.

Overall winner of the Rhodium 2005 Chief Minister's Excellence in Inclusion Award

We wish to bring to your attention issues that women have raised with WCHM regarding access to reproductive health services in the ACT.

1. In your experience, what key ACT laws/ regulations discriminate against LGBTIQ+ people?

LGBTIQ+ women have told us about their experiences accessing services to start a family in the ACT. Women who are in same sex relationships who have accessed reproductive services that require Assistive Reproductive Technologies (ART) have had out of pocket costs for those services when health providers have refused access to public funding on the basis of their sexual identity.

“Reproductive health services are really expensive for lesbians.”

“We are having positive experiences at IVFA (after a negative experience at Genea), but the problem really lies with Medicare and requires significant structural changes.”

“When we first went to the fertility clinic we saw (a doctor) at Genea - we went on a recommendation from friends and our GP. After one year of meeting with her we found her to be judgemental and queerphobic as she continued to misstep - she would misgender me, make assumptions about how we wanted to parent and conceive (based on heteronormative ideas), and refused to support us to access Medicare rebates where heteros would have direct unquestioned access. Since changing clinics we’ve had a totally different experience immediately.”

Women who are in same sex relationships who are yet to start their family are worried that they will be discriminated against due to their sexual orientation.

“My partner and I have some interest in having a family later, and access to IVF for us would be full fee. Basically, we have no Medicare support and so it would be considered social infertility rather than clinic infertility, and I think that might be the case Australia wide for all same sex partners.”

Medicare’s education guide *Billing assisted reproductive technology services* defines the access to Medicare benefit for ART services as being “clinically relevant when accepted by the medical profession as necessary to appropriately treat a patient’s medical infertility.”¹ This Medicare guideline wording is incongruent with Commonwealth legislation, which does not mention the type of infertility that the patient needs to have to be able to access the Medicare benefit.²

¹ Australian Government, Department of Human Services, *Education guide – Billing assisted reproductive technology services*, Medicare, Canberra, 2018, retrieved on the 28 March 2019; <https://www.humanservices.gov.au/organisations/health-professionals/enablers/education-guide-billing-assisted-reproductive-technology-services/42431>

² Australian Government, Federal Register of Legislation, *Health Insurance (General Medical Services Table) Regulations 2018- In force- latest version F2019C00182*, Canberra, 2019, retrieved on the 28 of March 2019; <https://www.legislation.gov.au/Details/F2019C00182/Download>

2. How should these ACT laws / regulation be amended to remove discrimination against LGBTIQ+ people?

People who are in same sex relationships deserve the right to be able to access Medicare Rebates like every other couple who has infertility issues. Restricting the ability to access Medicare Rebates is discriminatory and stigmatising behaviour, and needs to cease.

WCHM recommend that:

- ACT Government advocate to the Commonwealth Health Minister that Medicare guidelines be updated to reflect that medical or social need for ART will be eligible for a rebate.
- ACT Government support programs to educate all staff working in clinics providing ART services in LGBTIQ+ inclusive practice.
- ACT Government ensure that complaints about discriminatory and stigmatising behaviour will be followed up, and that this is widely known in the LGBTQ+ community.

WCHM are available to provide additional information if required. I can be contacted by email at ceo@wchm.org.au or phone (02) 6290 2166.

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