Thank you for responding to this Request for Information. For your reference, the information you submitted is below.

CMS Request for Information: Make Your Voice Heard	
Respondent Information	**Individual/Organization Type :** Organization Health organization/plan **Contact Email :** dbruner@whitman-walker.org

CMS wants to empower all individuals to efficiently navigate the healthcare system and access comprehensive health care. We are interested in seeking personal perspectives and experiences, including narrative anecdotes, describing challenges individuals currently face in understanding, choosing, accessing, or utilizing healthcare services (including medication) across CMS programs.	As documented in a 2020 Consensus Report of the National Academies of Science, Engineering, and Medicine, discrimination against sexual- and gender-diverse persons in obtaining health insurance, and in the terms of insurance coverage, has long been a barrier to accessing health care, which has contributed to significant health inequalities. LGBTQI+ people report poorer health overall and are at increased risk of numerous health conditions such as sexually transmitted infections, HIV, obesity, substance abuse, and mental health conditions including suicidality. LGBTQ people also are more likely than heterosexual and cisgender individuals to acquire a disability at a young age. UNDERSTANDING THE WELLBEING OF LGBTQI+ POPULATIONS (2020), https://www.nap.edu/catalog/25877/understanding-the-well-being-of-lgbtqi-populations. Moreover, as HHS recognizes in its Notice of Proposed Rulemaking under ACA Section 1557, persons with intersex traits experience systemic, widespread stigma and discrimination with serious health consequences (87 Fed. Reg at 47,834). HHS's Healthy People 2020 initiative recognized that "LGBT individuals face health disparities linked to societal stigma, discrimination, and denial of their civil and human rights." U.S. Dept. of Health & Human Servs., Healthypeople.gov, Lesbian, Gay, Bisexual, and Transgender Health, https://wayback.archive-it.org/5774/20220413203148/https://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health (last visited Oct. 1, 2022). This surfaces in a wide variety of contexts, including physical and mental health care services. In a study published in Health Affairs, researchers found that discrimination, as well as insensitivity or disrespect on the part of health care providers, were key barriers to health care access. Ning Hsieh & Matt Ruther, Despite Increased Insurance Coverage, Nonwhite Sexual Minorities Still Experience Disparities in Access to Care, 36 Health Affairs No. 10 (Oct. 2017), https://doi.org/10.1377/hlthaff.2017.0455. A recent systematic literature review conducted by Cornell University "found robust evidence that discrimination on the basis of sexual orientation or gender identity is associated with harms to the health of LGBT people." Cornell University Public Policy Research Portal, What Does the Scholarly Research Say About the Effects of Discrimination on the Health of LGBT People? (2019), https://whatweknow.inequality.cornell.edu/topics/lgbt-equality/what-does-scholarly-research-say-about-the-effects-of-discrimination-on-the-health-of-lgbt-people/. Data in a 2022 report from the Center for American Progress "reveal that LGBTQI+ communities encounter discrimination and other challenges when interacting with health care providers and health insurers, underscoring the importance of strengthening nondiscrimination protections through Section 1557 of the Affordable Care Act." Caroline Medina & Lindsay Mahowald, Center for Amer. Prog., Advancing Health Care Nondiscrimination Protections for LGBTQI+ Communities (Sept. 8, 2022), https://www.americanprogress.org/article/advancing-health-care-nondiscrimination-protections-for-lgbtqi-communities/. As noted in the NASEM 2020 Consensus Report, at page 380, "Gender-affirming care for transgender people, including non-binary and other gender diverse people, is an essential and medically necessary intervention to improve health and well-being," and "Insurance coverage of gender-affirming services and procedures by public and private payers, according to the most updated expert standards in the field and without inappropriate age or other restrictions, is necessary to facilitate access to these services." Every major U.S medical and mental health organization supports access to gender-affirming support and care for transgender adults and young people. Unfortunately, discrimination against sexual- and gender-diverse persons in obtaining health insurance, and in the terms of insurance coverage, is longstanding and has long been a barrier to accessing health care, which in turn has contributed to deep and broad health inequalities in sexual and gender diverse populations. See the 2020 NASEM Consensus Report, at pages 350-55. Whitman-Walker's lawyers, transgender care navigators, and providers spend substantial time and effort on appealing denials of gender-affirming care procedures by private and public health plans. These denials are due to facial exclusions of certain procedures in some plans; or, even in the absence of any such plan language, due to assertions that a specific procedure for a specific client is "cosmetic" or not medically necessary, despite ample evidence to the contrary. Moreover, a growing number of state governments, motivated by political calculus and bias, are promulgating laws, regulations and policies that restrict needed care for transgender young people, and that threaten their families and health care providers.

Recommendations for how CMS can address these challenges through our policies and programs.	1. CMS should promulgate, publicize, and vigorously enforce clear, expansive safeguards against discrimination based on sexual orientation, gender identity and variations in sex characteristics (intersex status) in all of its programs and policies. Specifically, CMS should: a. Finalize the nondiscrimination rules regarding Medicaid, PACE, and ACA health insurance marketplaces and health plans, in the August 4, 2022, Notice of Proposed Rulemaking, 87 Fed. Reg. 47,824, with the expansions and clarifications requested in Whitman-Walker's October 4, 2022, Comments in that proceeding (pages 30 – 33). b. Include clear nondiscrimination requirements in the Conditions of Participation and conditions of Coverage for Medicare and state Medicaid programs. c. Communicate to providers that, consistent with recent OCR guidance, federal civil rights requirements preempt state policies to the extent that such policies are based solely on a beneficiary's sex assigned at birth, gender identity, transgender status, or gender dysphoria, and encouraging them to reach out for technical assistance. d. Issue guidance to state health officials clarifying that Medicaid, Early and Periodic Screening, Diagnostic and Treatment (EPSDT), and civil rights requirements prohibit discriminatory coverage denials for gender-affirming care, notwithstanding any state laws or policies to the contrary. e. Use Essential Health Benefits guidance to further affirm that states do not have to defray the cost of benefit clarifications, including for gender-affirming care, when made to comply with federal or state nondiscrimination standards. 2. CMS should include access to gender-affirming care in compliance reviews for mental health parity. As noted in our previous response, gender-affirming health care, including supportive counseling and mental health therapy, hormone therapy, and gender-affirming surgery, are treatments for gender dysphoria supported by all major health care professional associations. 3. CMS should eliminate existing restrictions on Medicare coverage of gender-affirming care, by pursuing a National Coverage Determination. In the interim, we recommend that CMS: a. Add nondiscrimination language to its manuals to include sexual orientation, gender identity, and sex characteristics (many if not most of those manuals, in enumerating nondiscrimination obligations, currently refer only to legal obligations under Title VI). b. Add guidance to its manuals about coverage of gender-affirming services, including a notice that coverage determinations are only to be made by clinicians with experience in transgender health. c. Require MACs to undergo staff training on LGBTQI health. 4. CMS should end Medicaid and CHIP funding for conversion therapy and non-consensual, unnecessary surgeries on intersex children, by: a. Issuing guidance to state health officials on (1) barring reimbursement for conversion therapy on minors and (2) ensuring fully informed consent by delaying non-emergent genital or sterilizing surgeries until youth can participate in decisions, in accordance with applicable laws. Several governors – in North Carolina, Wisconsin, Michigan and Minnesota – have issued executive orders to prevent the use of federal and state funds for the practice of conversion therapy on minors. b. Working with other HHS Operating Divisions (including OASH and HRSA) to create and disseminate educational resources for providers and families that promote affirming care for youth with variations in sex characteristics and the benefits of delaying non-emergency surgery decisions. 5. In order to ensure that the agency has the data necessary to assess the impacts of its programs, and how those programs can and should be modified to further health equity, CMS should implement the 2022 recommendations of the National Academies Consensus Study Report on MEASURING SEX, GENDER IDENTITY, AND SEXUAL ORIENTATION (2022), https://nap.nationalacademies.org/catalog/26424/measuring-sex-gender-identity-and-sexual-orientation., as elaborated in the upcoming OMB report. Specifically, data on sexual orientation, gender identity, and sex characteristics (SOGISC data) should be collected in: a. Medicare enrollment forms (optional demographics). b. Marketplace enrollment forms (optional demographics) All marketplaces, both FFE and SBEs, should be required, rather than encouraged or merely authorized, to collect this data. c. MBECS and MCBS (standard demographics). d. CAHPS surveys (in collaboration with AHRQ). e. Other Medicare data systems that have any linkage with Medicare claims. 6. CMS should also give more prominence to studies of LGBTQI populations in its research initiatives, including the Minority Research Grant Program, Health Equity Data Access Program, and ResDAC.
CMS wants to better understand the factors impacting provider wellness and learn more about the distribution of the healthcare workforce. We are particularly interested in understanding the greatest challenges for healthcare workers in meeting the needs of their patients, and the impact of CMS policies, operations, or communications on provider wellness and attrition.	See our responses to Topic 1. Whitman-Walker's medical and behavioral health providers, Legal Services Department lawyers and Public Benefits and Insurance Navigators, and transgender care navigators work with many patients and legal clients who have experienced discrimination at Washington, DC area hospitals, health care centers and clinics, and private medical and behavioral health practices. These denials of care frequently endanger patient health. Our colleagues at other LGBTQ-welcoming health care centers and clinics in other parts of the country have similar experiences. Whitman-Walker and other LGBTQ-competent and welcoming health care centers work hard to provide care to as many individuals and families denied care elsewhere, which imposes substantial stresses and strains on our providers and our clinical resources. Even with our best efforts, we lack the staff and funding to be the sole or even the primary health care providers to the entire LGBTQ population. The measures outlined in our response to Topic 1 would significantly improve not only the lives and health of our patients and the LGBTQ community, but would also significantly benefit our providers and Whitman-Walker Health.

Recommendations for CMS policy and program initiatives that could support provider wellness and increase provider willingness to serve certain populations.	See our previous response.
CMS wants to further advance health equity across our programs by identifying and promoting policies, programs, and practices that may help eliminate health disparities. We want to better understand individual and community-level burdens, health-related social needs, and recommended strategies to address health inequities, including opportunities to address social determinants of health and burdens impairing access to comprehensive quality care.	See our responses to Topic 1.
Understanding the effects on underserved and underrepresented populations when community providers leave the community or are removed from participation with CMS programs.	See our responses to Topic 1.
Recommendations for how CMS can promote efficiency and advance health equity through our policies and programs.	See our responses to Topic 1.
CMS wants to understand the impact of waivers and flexibilities issued during the COVID-19 PHE to identify what was helpful as well as any areas for improvement, including opportunities to further decrease burden and address any health disparities that may have been exacerbated by the PHE.	The COVID-19 pandemic stimulated a tremendous increase in telehealth services, thanks to waivers and flexibilities implemented by CMS, HRSA, state Medicaid programs and health professional regulatory agencies, and health insurance companies and plans. Even with the waning of the pandemic, telehealth remains a substantial part of Whitman-Walker's services to our patients. Access to providers through telehealth has benefitted many LGBTQ+ individuals, particularly transgender and non-binary individuals who live at significant distances from competent, welcoming health care providers. Telehealth is also proving to be of great benefit to many patients who face transportation, childcare, or work-related barriers to traveling to health care appointments, and elders and persons with disabilities who face significant challenges leaving their homes. It is important that CMS continue to maintain, and expand, existing regulations and policies that permit telehealth services, and encourage state Medicaid agencies and health insurance Marketplaces and health plans to do the same. Moreover, telehealth services – including audio-only services, should be reimbursed at the same rates as comparable in-person services.

Recommendations for CMS policy and program focus areas to address health disparities, including requested waivers/flexibilities to make permanent; any unintended consequences of CMS actions during the PHE; and opportunities for CMS to reduce any health disparities that may have been exacerbated by the PHE.	See our previous response.