DISTRICT OF COLUMBIA

DISCLAIMER: The views, statistical analysis, findings, and opinions expressed herein are not necessarily those of the Office of Minority Health, the Office of Public Health and Science nor the Department of Health and Human Services. The National Health Law Program, Inc. (NHeLP), under contract #282-00-0026, reviewed and analyzed existing state policies related to collecting racial and ethnic data by managed care organizations and health insurers. The information in this draft report contains the findings of NHeLP and not that of the Office of Minority Health, the OPHS, nor the U. S. Department of Health and Human Services. The study was conducted between October 2000 and May 2001. The policies and/or data per state may have changed since that time. The findings that have been updated in this draft report are the U.S. Census data (updated so that all data is from the 2000 Census) and the Center for Medicare & Medicaid Services (CMS)/HHS Medicaid data (updated from the June 30, 2000 to the December 31, 2002 reports).

DISTRICT OF COLUMBIA

A. General and Health Demographics

Total Population	572,059
Percent Black Population	59.4
Percent American Indian and Alaskan Native Population	0.2
Percent Asian Population	2.6
Percent Native Hawaiian and Other Pacific Islander Population	0.0
Percent Hispanic Population (of any race)	7.9
Percent White Population	27.8
Other (some other race and two or more races)	2.0
Language Use - 2000 census data	
Percent Limited English Proficiency (LEP) Population	3.81 (7.09)
Health Care Delivery Profile	
Percent of Total Non-elderly Population Privately Insured (1997-99)	61.9
Percent of Total Population Enrolled in HMOs	36.0
Medicaid Enrollment (as of December 31, 2002)	128,837 (22.52%)
Medicaid Managed Care Enrollment	84,200 (65.35%)
Percent of Total Non-elderly Population Uninsured (1997-99)	18.4

B. Collection and Reporting of Racial and Ethnic Data by Health Insurers and Managed Care Organizations

1. Statutes, Regulations, Policies, and Other Written Materials

The District of Columbia uses the term “insurer” to refer to insurance companies, and hospital and medical service corporations. A health maintenance organization (HMO) is “any person that undertakes to provide or arrange for the delivery of basic health care services to

enrollees on a prepaid basis . . .."[1] This summary will use the term "insurer" and "HMO" as appropriate to the context.

The Department of Insurance and Securities Regulation (ISR) oversees insurers and HMOs operating in the District of Columbia (D.C.). D.C. does not have any statutes, regulations, or policies that mandate or prohibit the collection or reporting of racial and ethnic data.

D.C. requires the prior approval of the Mayor for all subscriber contracts and any forms made a part of the subscriber contract.[2]

2. Discrimination

The D.C. Human Rights Act prohibits discrimination because of race, color or national origin with regard to access to public accommodations.[3] A "place of public accommodation" includes insurance companies.[4]

Under the Insurance Code, an HMO may not discriminate against any enrollee or applicant on account of his race, color or national origin.[5] Possibly because insurers are covered by the Human Rights Act, D.C. does not have an insurance statute that prohibits discrimination on the basis of race with regard to access to other types of health insurers.

3. Confidentiality

An HMO is required to hold in confidence any data or information "pertaining to the diagnosis, treatment, or health of any enrollee or applicant. . .."[6] Exceptions to this provision include disclosures: (1) needed for the HMO's business; (2) with the enrollee's consent; (3) mandated by statute or court order; and (4) in a claim or litigation between the enrollee and HMO.[7]

C. Collection and Reporting of Racial and Ethnic Data by Other Health Care Entities

1. Department of Health, Medical Assistance Administration (MAA)

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[1] D.C. Code § 35-4501.
[2] D.C. Code § 35-4708 (hospital and medical services corporation).
[3] D.C. Code § 1-2519(a)(1).
[4] D.C. Code § 1-2502(24).
[5] Code of the D.C. Municipal Regulations (CDCR) 26-35-3513.3.
[6] D.C. Code § 35-4526(a).
[7] *Id.* § 35-4526(a)(1)-(4).

a. Statutes, Regulations, Policies and Other Written Materials

MAA is the state agency that administers the Medicaid and SCHIP programs. There are no D.C. statutes or rules that prohibit or require the collection or reporting of racial, ethnic or primary language data by either the MAA or its contracting HMOs. However, a provider must offer health education programs for its enrollees in "languages understood by the population being served."[8] This requirement implicates the need for the collection of primary language data.

The application for benefits under the DC Healthy Families program[9] requests the applicant's racial information, and provides the following choices: White (Non-Hispanic Origin); Black (Non-Hispanic Origin); Hispanic, American Indian or Alaskan Native; and, Asian-Pacific Islander. It is optional for the applicant to provide this information.

The D.C. Medicaid managed care contract (D.C. Contract) has several provisions that implicate the need for racial, ethnic and primary language data. Materials distributed by the HMO "to prospective and current enrollees shall be available in English and Spanish, as well as other languages designated by the District. . .."[10] In addition, the provider "must offer culturally appropriate orientation sessions for new members"[11] in English, Spanish and other designated languages.[12] Health education classes are subject to this same requirement.[13]

b. Discrimination

The D.C. Contract prohibits discrimination because of race, color or national origin in the delivery of services in the Medicaid managed care program.[14] This provision applies directly to the HMO and any of its subcontractors.[15] Further, by regulation, Medicaid recipients must be enrolled without regard to national origin or race.[16] Finally, Title VI of the Civil Rights Act of 1964 applies because D.C. receives federal financial assistance for its state Medicaid program.

c. Confidentiality

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[8] CDCR 22-55-5507.7; CDCR 29-53-5307.8.

[9] D.C. Healthy Families is the name of D.C.'s Medicaid expansion program, which includes the SCHIP program.

[10] D.C. Medicaid Managed Care Contract for Goods and/or Services (D.C. Contract), pp. 28, 30.

[11] *Id.*, pp. 19-20.

[12] *Id.*

[13] *Id.*, pp. 28-29.

[14] *Id.*, p. 36.

[15] *Id.*

[16] CDCR 22-55-5509.1(e)-(f).

All information, records and data collected and maintained by Medicaid providers must be protected from unauthorized disclosure.[17] This includes, but is not limited to: (1) names and addresses of enrollees; (2) type of medical services rendered; (3) medical data; and, (4) social and economic conditions.[18] Data may be disclosed for purposes related to the Medicaid program, such as "(a) establishing eligibility; (b) providing services; or (c) conducting or assisting an investigation, prosecution, civil or criminal proceeding relating to the . . . Medicaid program."[19] The Department of Health has access to any data or information generated by a Medicaid provider during the term of its Medicaid managed care provider agreement.[20]

2. Department of Health

a. Statutes, Regulation, Policies, and Other Written Materials

The D.C. Department of Health (DOH) requires the collection and reporting of racial data with regard to cancer cases,[21] infants of unknown parentage,[22] adoptions,[23] annual hospital discharges,[24] and maternity center births.[25] Although not statutorily required, the DOH collects race data for birth and death records.[26]

b. Discrimination

In the provision of public health services, the Department of Health is bound by the requirements of the D.C. Human Rights Act with regard to discrimination on the basis of race, color or national origin.

c. Confidentiality

There are several provisions regarding the confidentiality of information in the possession of the Department of Health. First, the DOH may not disclose or redisclose any identifying information included in a submitted cancer report.[27] Exceptions to this provision include: (1) protecting the health of others; (2) patient consent; (3) disclosure to the state cancer

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[17] CDCR 22-55-5514.1; CDCR 29-54-5406.1.
[18] CDCR 22-55-5514.4.
[19] CDCR 22-55-5514.3(a)-(c).
[20] CDCR 29-53-5316.1; CDCR 29-56-5615.1.
[21] CDCR 22-2-215.3(7). The regulation requires the inclusion of either race or ethnic group.
[22] D.C. Code § 6-206(a)(2).
[23] CDCR 29-16-1625.
[24] CDCR 22-45-4509.1(c).
[25] CDCR 22-26-2621.8(a).
[26] *See* http://dc.gov/agencies/detail.asp?id=27.
[27] CDCR 22-2-217.2.

registry, which has its own privacy safeguards; and (4) if a court finds disclosure is necessary for the protection of others.[28]

In addition, the Public Benefit Corporation (PBC), which oversees D.C.'s public health system, must protect the confidentiality of information relative to each patient.[29] This includes maintaining patient medical records in a confidential manner and assuring that patient information is not given to or discussed with other patients, visitors, or unauthorized employees.[30]

D. Observations

D.C. does not have any statutes, regulations, or policies that mandate or prohibit the collection or reporting of racial and ethnic data.

Interestingly, the District of Columbia is one of four jurisdictions studied in this report that has a majority minority population. However, there are very few safeguards in place to assure that minority and limited English proficient enrollees have equal access to health care services. Some of the HMO regulations prohibit discrimination against enrollees based on race and national origin, but there are very few apparent mechanisms to enforce this provision.

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[28] CDCR 22-2-217.2(a)-(d).

[29] CDCR 22-81-8105.1. As of the date of this report, the District's public health system includes D.C. General Hospital and the city's public health clinics.

[30] CDCR 22-81-8105.2(b)(2)-(3).