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The Cost of Employment and Housing Discrimination against Transgender Residents of New York

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Publication Date

2013-04-01

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April 2013

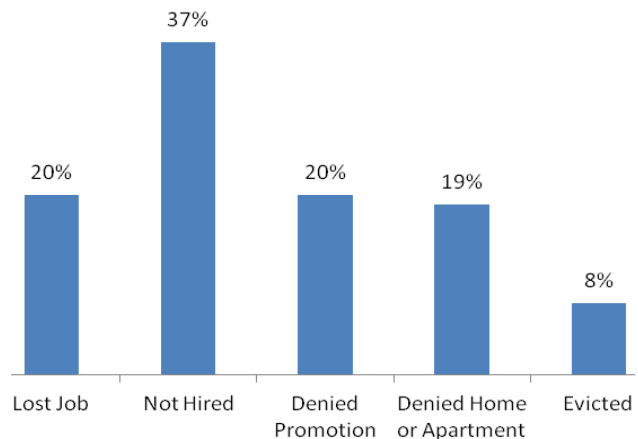
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Introduction and Summary

Transgender residents of New York have reported experiencing discrimination in employment, housing, public accommodations, and in other areas.¹ As shown in Figure 1 below, New Yorkers in the *National Transgender Discrimination Survey* (NTDS) reported employment and housing discrimination, such as job loss and denial of a home or apartment, at substantial rates.² Policymakers are discussing whether to amend statutes to provide broad protections from discrimination for transgender people across the State of New York. One consideration in this debate may be the fiscal impact of reducing discrimination against transgender people.

To the extent that enacting anti-discrimination protections across New York can reduce or eliminate discrimination, the State will realize cost savings in public health insurance and housing programs, as well as increase the income tax revenues generated by transgender workers. Of the estimated 58,000 transgender New Yorkers, only 59 percent are currently covered under local anti-discrimination ordinances.³ A state-wide statute that would provide broad protections for the remaining 23,800 transgender New Yorkers could reduce the following costs related to discrimination:

Figure 1: Employment and Housing Discrimination among New York NTDS Respondents (n=531)



- Employment discrimination costs the State of New York more than \$1 million annually in Medicaid expenditures.
- Housing discrimination in the State of New York may cost from \$475,000 to \$5.9 million annually in federal and state housing program expenditures and other costs related to homelessness.
- Transgender workers in New York could generate millions more dollars in income tax revenues for the State if employment discrimination was reduced or eliminated.

In other words, employment and housing discrimination against transgender New Yorkers may cost from \$1.5 to \$7 million in Medicaid and housing program expenditures, not including additional millions in state income tax revenues that could be generated if employment discrimination was reduced.

Estimating the Transgender Population of New York

According to the U.S. Census Bureau's 2010 Decennial Census, the population of New York is just under 19.4 million.⁴ A recent study suggests that 0.3 percent of the population of New York identifies themselves as transgender.⁵ Applying the 0.3% to the population of New York suggests that about 58,000 New Yorkers identify as transgender.⁶ If rates of employment and housing discrimination found in the New York sample of the NTDS hold true for the transgender population of New York as a whole, then 11,600 have lost a job, 21,500 were not hired for a job, 11,600 were denied a promotion, 11,000 have been denied housing, and 4,600 have been evicted due to anti-transgender bias.⁷

Scope of Current Anti-Discrimination Ordinances in New York

As of April 2013, seven cities and three counties in New York have ordinances in place that prohibit discrimination on the basis of gender identity in employment, housing, public accommodations, and other areas.⁸ Based on population figures from the U.S. Census Bureau's 2010 Decennial Census, 59 percent of New York residents are covered by these local anti-discrimination ordinances. Because these ordinances may have reduced incidents of discrimination within the covered jurisdictions, this study will only consider the 23,800 residents (41%) that are not covered by local ordinances that prohibit discrimination on the basis of gender identity and would gain protections from a state-level statute.⁹

Estimating the Cost of Employment and Housing Discrimination

Loss of employment due to anti-transgender bias often means lost wages and lost health insurance coverage. Denial or loss of housing due to anti-transgender bias may mean housing instability and homelessness. Therefore, employment and housing discrimination might affect the budget of the State of New York in several ways: reduced income tax revenues and higher public assistance and housing program expenditures. For instance, if a worker is fired for being transgender and loses their health insurance coverage, that worker may need to participate in Medicaid to replace lost employer-provided coverage. Those health insurance costs are then transferred from that worker's former employer to the State of New York. This study estimates that the impact of discrimination likely costs the State millions of dollars each year.

Reduced Income Tax Revenues

When workers are fired for being transgender or are unable to get jobs due to discrimination, their wages are likely to fall, leading to lower income tax revenue for the State. According to the NTDS, 19 percent of surveyed transgender New York residents made \$10,000 or less in annual household income, while only 5 percent of the New York general population made this amount.¹⁰ Yet, the educational attainment of transgender NTDS participants is high, with respondents reporting much higher rates of attaining college degrees and graduate degrees than the U.S. general population.¹¹ Table 1 below describes the educational attainment of the NTDS respondents from New York and the New York general population. Given the social and legal context, the observed income disparity is likely due, at least in part, to employment discrimination, not to lower qualifications.

If transgender residents of New York had incomes similar to the general population, this group of workers would generate millions of dollars more in annual income tax revenues for the State. A simple example reveals the potential for added state revenue. If 19 percent of all transgender people in New York make under \$10,000, then just over 4,500 transgender residents not currently covered by anti-discrimination ordinances are making this amount annually. If these residents were making this amount at the same rate as the New York general population (5%), about 3,330 additional people would be making more than \$10,000 every year. To see the tax impact of income loss from discrimination,

consider the following example. In 2012, the difference in income tax revenue for a person making \$10,000 annually versus \$25,000 annually is \$817.¹² If all 3,330 people shifted from \$10,000 to \$25,000 in annual income, the State would garner over \$2.7 million in additional income tax revenue per year.

Table 1: Educational Attainment of New York NTDS respondents and New York general population¹³

Educational Attainment	New York NTDS Respondents	State of New York
No high school diploma	6%	18%
High school or equivalent	8%	29%
Some college, less than 4-year degree	34%	23%
Bachelor's degree or higher	52%	30%

Public Assistance Expenditures

When workers lose jobs, they are likely to lose income and health insurance coverage for themselves and their families. These workers and their families may need to utilize public assistance programs to replace lost income and insurance coverage. Major programs for cash assistance and medical coverage in New York include Medicaid, Temporary Assistance (TANF), Supplemental Security Income (SSI), Children's Medicaid, and Child Health Plus. To the extent that workers who have lost jobs due to discrimination and their families participate in these programs, costs accrue to the State.

While it is difficult to estimate the impact on expenditures for all cash and health assistance programs, available data make an estimate possible for Medicaid. New York's Medicaid program provides health insurance coverage for over 5 million residents, transgender and non-transgender alike, each year.¹⁴ This study estimates that the cost to the State of New York for Medicaid is about \$1 million annually for transgender workers who have lost jobs due to bias.

According to the NTDS, over 16 percent of transgender residents of New York who have lost a job due to bias receive their health insurance coverage through Medicaid.¹⁵ Of those respondents in New York who have *not* lost a job due to bias, 6 percent receive their health insurance coverage through Medicaid.¹⁶ We assume that the difference in Medicaid rates gives us an estimate of the effect of losing a job on the need for Medicaid coverage. Applying those rates of Medicaid coverage to the New York transgender population not covered by local anti-discrimination ordinances, 762 transgender residents who have lost a job due to bias receive their health insurance coverage through Medicaid, while 286 transgender residents who *have not* lost a job due to bias receive their health insurance coverage through Medicaid.¹⁷ Therefore, in the absence of job discrimination, 476 transgender residents would not receive their health insurance coverage through Medicaid. The average annual State expenditure for each adult enrollee in Medicaid is \$2,139.¹⁸ Thus, 476 people receiving health coverage under Medicaid as a result of discrimination costs the State on average just over \$1 million annually. In other words, if these 476 residents were to be covered by employer-provided insurance, the State would save more than \$1 million annually in Medicaid expenditures.

Housing Program Expenditures

When a transgender person is denied housing or evicted due to anti-transgender bias, this may create housing instability or even homelessness for that person. In the NTDS study, 7 percent of New York residents who had been denied housing due to bias reported being currently homeless compared to 2 percent of those who *had not* been denied housing due to bias.¹⁹ Twenty-two percent of New York

residents evicted due to bias reported being currently homeless compared to 1 percent of those who *had not* been evicted due to bias.²⁰ Due to potential double-counting of those who have experienced both being denied housing and being evicted due to bias, in this section we will consider the costs of homelessness just for those who have been denied housing due to bias.

Nineteen percent of New York respondents to the NTDS reported being denied a home or apartment due to anti-transgender bias.²¹ Based on this finding and the rates of homelessness for those denied housing due to bias described above, we estimate that 317 transgender New Yorkers not covered by local anti-discrimination ordinances have been denied housing due to bias and are currently homeless. Ninety transgender New Yorkers *have not* been denied housing due to bias and are currently homeless. Therefore, the difference between those figures suggests that 226 transgender New Yorkers are currently experiencing homelessness due to anti-transgender bias in housing.

Housing and rental assistance programs in New York include Section 8 housing programs, rental assistance programs, homelessness prevention programs, and shelters. While these programs are funded in part with federal funds, State funds support many of the programs administered through the Bureau of Housing and Support Services (BHSS) in the Office of Temporary and Disability Assistance. Therefore, if transgender workers who have experienced housing discrimination later access these programs due to homelessness, both federal and state funds are utilized.

Several studies of the cost of homelessness are relevant for estimating the cost of housing discrimination against transgender New Yorkers. A 2002 study by Culhane, Metraux, and Hadley found that a person experiencing homelessness in New York City utilized, on average, \$40,451 in services, including costs associated with shelter, hospitalizations and health care, and incarceration.²² The New York City's 2012 Mayor's Management Report provides data from the City's Department of Homeless Services (DHS). DHS reported for FY2012 that the cost per day for a single adult in DHS shelter facilities was \$77.58 with an average stay per person of 272 days, for a total annual cost of \$21,101.²³

While the costs outlined above are helpful in understanding the cost of homelessness due to discrimination, costs estimated for New York City may not be representative of the jurisdictions included in this study. New York City and some other cities in upstate New York are not considered in this analysis because they have local anti-discrimination ordinances in place. Costs related to housing programs may differ in upstate New York outside of these covered locations. A report prepared for the U.S. Department of Housing and Urban Development (HUD) provides cost estimates for shelter services based on jurisdictions which may have more similarities with upstate New York, such as Jacksonville, FL, Houston, TX, and Des Moines, IA.²⁴ This study found that the cost for shelter services for the average single adult with an average length of stay across studied jurisdictions was \$2,101.²⁵

The HUD study, which draws heavily upon Culhane's work, provides a conservative estimate for the actual cost of homelessness for several reasons. First, it considers only those experiencing homelessness for the first time. As the report notes, costs increase for those with multiple stays within the shelter system. Second, the estimate does not include other costs related to homelessness that were included in the Culhane study, such as hospitalizations and incarceration. Third, the HUD estimate includes individuals only, costs which are substantially lower than costs for families experiencing homelessness. We make the conservative assumption that transgender people who have experienced housing discrimination and are currently homeless are experiencing homelessness as individuals. Finally, the Culhane study was limited to those with severe mental illness, but the HUD report notes that the costs outlined by Culhane may not be overestimates for homeless individuals without severe mental

illness. Other studies find that those experiencing homelessness have high health care costs, due, in part, to emergency room usage, and high rates of incarceration.²⁶

We utilize here the HUD cost figure as a low-bound estimate for shelter services only and the Culhane study as an upper-bound estimate of both shelter and related costs to estimate the potential cost of housing discrimination in New York. The Culhane cost figure of \$40,451 includes expenditures related to Medicaid. Since Medicaid costs are considered elsewhere in this report, we remove those costs from Culhane's annual cost figure for a total of \$26,242. Therefore, the State of New York may spend from \$475,000 to \$5.9 million annually on shelter services and related costs due to housing discrimination.

Conclusion

A transgender person who loses a job or is denied housing due to discrimination in New York may experience reduced income, loss of health insurance, and housing instability. Not only does the State suffer lost income tax revenue because of discrimination, but a transgender person who loses their job or is denied housing might become eligible for state-funded programs. This study estimates that the State spends more than \$1 million annually in Medicaid expenditures alone for transgender workers who have lost a job due to bias. The State of New York may also spend from \$475,000 to \$5.9 million in state and federal funds annually on housing programs for those experiencing homelessness due to housing discrimination in New York. In other words, employment and housing discrimination against transgender New Yorkers may cost from \$1.5 to \$7 million in Medicaid and housing program expenditures, not including the additional millions in income tax revenues that could be generated if employment discrimination was reduced or eliminated.²⁷ To the extent that employment and housing discrimination can be reduced or eliminated throughout the State of New York, the State can expect a positive fiscal impact.

¹ *Findings of the National Transgender Discrimination Survey by the National Center for Transgender Equality and the National Gay and Lesbian Task Force: New York Results*. 2011. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, available at <http://www.prideagenda.org/LinkClick.aspx?fileticket=vlrGXetHVmA%3d&tabid=482> (last accessed April 11, 2013). The NTDS study was based on a national convenience sample of 6,456 transgender and gender non-conforming people. This sample provides the best available data on experiences of employment and housing discrimination among transgender and gender non-conforming people in the U.S. The New York NTDS data set was used by permission of The National Gay and Lesbian Task Force. Additional calculations as needed for the State of New York were completed by the author at The Williams Institute.

² *Id.*

³ Mallory, Christy and Sarah Liebowitz. April 2013. *Local Laws and Government Policies Prohibiting Discrimination Based on Gender Identity in New York*. Los Angeles: The Williams Institute, available at the Williams Institute website <http://williamsinstitute.law.ucla.edu/> (forthcoming). Percentage of individuals covered by ordinances calculated by the author using population figures from the U.S. Census Bureau's 2010 Decennial Census, see note #4.

⁴ U.S. Census Bureau, Decennial Census, 2010, data available through American FactFinder's Community Facts search engine, available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last accessed April 11, 2013).

⁵ Gates, G. J. April 2011. *How Many People are Lesbian, Gay, Bisexual, and Transgender?* Los Angeles: The Williams Institute, available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-How-Many-People-LGBT-Apr-2011.pdf> (last accessed April 11, 2013).

⁶ This figure may not include all residents of New York whose gender identity or expression differs from conventional expectations of masculinity or femininity because individuals may not use the term "transgender" to identify themselves.

⁷ NTDS respondents may have experienced and reported more than one of the employment or housing discrimination experiences listed here. Therefore, it would be inappropriate to add these numbers due to the possibility of double-counting.

⁸ Christy Mallory and Sarah Liebowitz, April 2013, see note #3. These cities and counties include Albany, Binghamton, Buffalo, Ithaca, New York, Rochester, Suffolk County, Syracuse, Tompkins County, and Westchester County. In addition, the Town of Brighton and the Town of Rhinebeck have included some protections for transgender township employees by amending their personnel policies or employee handbooks. Albany County is currently considering a gender identity anti-discrimination ordinance. Two decisions in federal district courts in New York and two decisions in New York supreme courts have found that discrimination based on gender identity can constitute unlawful sex discrimination under the state's Human Rights Law (see *Tronetti v. TLC HealthNet Lakeshore Hosp.*, 2003 WL 22757935 (W.D.N.Y. Sept. 26, 2003); *Rentos v. OCE Office Sys.*, 1996 U.S. Dist. LEXIS 19060 (S.D.N.Y. Dec. 24, 1996); *Hispanic Aids Forum v. Estate of Joseph Bruno*, 839 N.Y.S.2d 691 (N.Y. Sup. Ct. 2007); *Buffong v. Castle on the Hudson*, 2005 N.Y. Misc. LEXIS 3194 (N.Y. Sup. Ct. Aug. 9, 2005)). The U.S. Equal Employment Opportunity Commission decided in *Macy v. Holder* that discrimination "based on gender identity, change of sex, and/or transgender status" was unlawful under Title VII (see *Macy v. Holder*, 2012 WL 1435995 (EEOC Apr. 20, 2012)). Furthermore, in 2009, New York Governor David Patterson signed an executive order prohibiting gender identity discrimination against state employees (see N.Y. Exec. Order No. 33 (Dec. 16, 2009)). It is possible that these decisions and the executive order may have collectively reduced experiences of discrimination for transgender people across the State of New York. However, these lower court decisions and the EEOC ruling do not set binding precedent, so courts in New York are not required to follow these interpretations in future cases. The executive order only covers employees in the state executive branch. As such, we expect that the impact of these decisions and executive order on deterring discrimination is minimal. Moreover, employers, landlords, apartment rental companies, and other relevant parties across the state may not be aware of these court decisions so that they are deterred from engaging in discriminatory practices. Therefore, we assume that jurisdictions that are not covered by local anti-discrimination ordinances would require an explicit local ordinance or state-wide statute in order to be made aware of the illegality of gender identity discrimination and would thereafter be deterred from engaging in unlawful discriminatory practices.

⁹ We assume that the population distribution of transgender residents of New York reflects the population distribution of the New York general population.

¹⁰ *Findings of the National Transgender Discrimination Survey*, 2011, see note #1. New York general population figure from the U.S. Census Bureau, Current Population Survey, Annual Social & Economic Supplement, 2009, which provides household income for the same year as the NTDS. The CPS data was further limited to the adult civilian population to reflect NTDS sample parameters.

¹¹ Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011, available at http://www.thetaskforce.org/reports_and_research/ntds (last accessed April 11, 2013). Additional calculations as needed for the State of New York were completed by the author at The Williams Institute.

¹² A set of conservative assumptions underlie the calculations in this example. We assume the population and income distribution of transgender people in areas not covered by local anti-discrimination ordinances in New York is the same as the State of New York as a whole. Since most jurisdictions not covered by local ordinances lie outside major urban centers, such as New York City, those who are included in our analysis may in actuality have lower incomes overall. The income level of those making less than \$10,000 annually is set at \$10,000, which is the highest possible income in that income range. Transgender people in New York are over-represented in the lower income categories (59% made \$50,000 or less annually, NTDS sample) compared to the New York general population (40% made less than \$50,000 annually, 2009 CPS Annual Social & Economic Supplement). This example provides a simulation based on a modest shift for only the lowest income category.

The 2012 New York tax forms, available at <http://www.tax.ny.gov/>, were utilized in calculating income taxes. In the case of an income of \$10,000, tax owed was calculated for a person filing as single with the standard deduction, the New York State household credit, and the New York State EIC credit. Total tax owed for this person is \$10. In the case of an income of \$25,000, tax owed was calculated for a person filing as single with the standard deduction (not eligible for the New York State household credit nor the New York State EIC credit). Total tax owed for this person is \$827.

¹³ New York general population figure from the U.S. Census Bureau, Current Population Survey, Annual Social & Economic Supplement, 2009, which provides household income for the same year as the NTDS. The CPS data was further limited to the adult civilian population to reflect NTDS sample parameters.

¹⁴ Medicaid total enrollment for FY2009 in New York was 5,208,135. See The Henry J. Kaiser Family Foundation, New York: Total Medicaid Enrollment, FY2009, <http://www.statehealthfacts.org/profileind.jsp?ind=198&cat=4&rgn=34> (last accessed April 11, 2013). Expenditure estimates calculated in this report reflect health care insurance coverage that is available to all New York residents that meet the requirements for participation in these programs. All of the identified public health insurance expenditures exclude transition-related care.

¹⁵ Grant, Jaime M., et al, 2011, see notes #1 and #11. Additional calculations for New York completed by the author at the Williams Institute.

¹⁶ *Id.* These figures do not include the 3 percent of NTDS residents of New York who reported they were covered by “other public” health insurance programs, such as county-level health plans.

¹⁷ To find the number of transgender New Yorkers who have lost a job due to bias and are on Medicaid, we multiplied the number of transgender New Yorkers not covered by local anti-discrimination ordinances (23,800) by .20 to get the number of transgender New Yorkers who have lost jobs due to anti-transgender bias (4,760). We multiplied 4,760 by .16 to get the number of transgender New Yorkers who have lost a job due to bias and are covered under Medicaid (762). We multiplied 4,760 by .06 to get the number of transgender New Yorkers who *have not* lost a job due to bias and are covered under Medicaid (286). We subtract 286 from 762 to yield the number of transgender residents who, in the absence of employment discrimination, would not receive their health insurance coverage through Medicaid (476).

¹⁸ Medicaid state-only expenditures were calculated by using the FY2009 average total per-adult-enrollee payment of \$4,277. See The Henry J. Kaiser Family Foundation, New York: Medicaid Payments per Enrollee FY2009, <http://www.statehealthfacts.org/profileind.jsp?ind=183&cat=4&rgn=34> (last accessed April 11, 2013). The state share of the total per-adult-enrollee payment was calculated by multiplying the payment of \$4,277 by the overall percentage the State currently contributes to the payment (50%), which yields a total per-participant state share of \$2,139 (2009 dollars).

¹⁹ Grant, Jaime M., et al, 2011, see notes #1 and #11. Additional calculations for New York completed by the author at the Williams Institute.

²⁰ *Id.*

²¹ *Findings of the National Transgender Discrimination Survey*, 2011, see notes #1 and #11.

²² Culhane, Dennis P., Stephen Metraux, and Trevor Hadley. 2002. Public service reductions associated with placement of homeless persons with severe mental illness in supportive housing. *Housing Policy Debate*, 13:107-163.

²³ *Mayor’s Management Report*. September 2012. New York, NY: City of New York, available at http://www.nyc.gov/html/ops/downloads/pdf/mmr0912/0912_mmr.pdf (last accessed April 11, 2013).

²⁴ Spellman, Brooke, Jill Khadduri, Brian Sokol, Josh Leopold, and Abt Associates, Inc. March 2010. *Costs Associated with First-Time Homelessness for Families and Individuals*. Washington, DC: U.S. Department of Housing and Urban Development, Office of Policy Development and Research, available at http://www.huduser.org/publications/pdf/Costs_Homeless.pdf (last accessed April 11, 2013).

²⁵ *Id.*

²⁶ *Id.*

²⁷ This finding is conservative in that it does not include estimates of the cost to the State of all the potential programs that transgender people might be eligible for and participate in due to negative life outcomes related to anti-transgender bias. The population figures used in this study are limited to people who have self-identified as transgender, therefore, this study does not capture those who do not identify as transgender but nonetheless may experience discrimination based on their gender identity or expression, which would be covered under a state-wide statute. Finally, this study does not account for the impact on businesses in New York of curbed spending due to loss of income and other “downstream” impacts of employment discrimination or other forms of discrimination.

About the Author

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Acknowledgements

The author thanks Christy Mallory, M.V. Lee Badgett, Brad Sears, Matt Strieker, Sarah Liebowitz, Lisa Mottet, and Adelin Lo for their contributions to this study. The author also thanks the National Gay and Lesbian Task Force and the National Center for Transgender Equality for the use of the NTDS data set.

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