Health insurance coverage for gender-affirming care of transgender patients

Background

Gender identity refers to an individual’s concept of self as male, female, a blend of both or neither. Approximately 1.4 million adults and 150,000 youth ages 13 to 17 in the United States identify as transgender, meaning those individuals' gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Individuals may also identify as gender expansive, meaning they identify with neither traditional binary gender role nor a single gender narrative or experience. In this document, the term transgender is used inclusive of patients with transgender or gender expansive identities.

Many but not all transgender people experience gender dysphoria, a medical condition defined by the American Psychiatric Association as a ‘conflict between a person’s physical or assigned gender and the gender with which he/she/they identify.’ Standards of care and accepted medically necessary services that affirm gender or treat gender dysphoria may include but are not limited to mental health counseling, non-medical social transition, gender-affirming hormone therapy, and/or gender-affirming surgeries. Every major medical association in the United States recognizes the medical necessity of transition-related care for improving the physical and mental health of transgender people and has called for health insurance coverage for treatment of gender dysphoria.

Barriers to care

As a population, transgender individuals are frequently subject to bias and discrimination in many aspects of their lives, including the provision of health care. The transgender population is less likely to be insured than both the lesbian, gay and bisexual (LGB) and general populations and often faces challenges in accessing needed healthcare services. A national survey of transgender individuals found:

- 25 percent of respondents experienced a problem with their insurance in the past year related to being transgender, such as being denied coverage for care related to gender transition;
- 25 percent of those who sought coverage for hormones in the past year were denied;
- 55 percent of those who sought coverage for transition-related surgery in the past year were denied;

1. Andrew Flores et al., Williams Inst., UCLA Sch. of Law, How Many Adults Identify as Transgender in the United States? (2016).
• 78 percent of respondents wanted hormone therapy related to gender transition, but only 49 percent had ever received it;
• 42 percent reported that insurance covered only some of the surgical care needed for transition; and
• 21 percent reported that insurance covered transition-related surgery, but had no in-network providers.  

Federal and state policies

Section 1557 of the Affordable Care Act (ACA) created specific protections barring insurance discrimination based on sexual orientation and gender identity. Prior to enactment, medically necessary gender-affirming hormones and surgeries were often excluded from insurance coverage. Addressing this disparity, the US Department of Health and Human Services (HHS) promulgated final regulations in 2016 implementing section 1557 of the ACA to extend protections against sex discrimination to health coverage and care for the first time and including gender identity discrimination within the definition of sex discrimination.

However, a federal court stayed a legal challenge to the rule after the current Administration announced it would reconsider the rule’s prohibition on discrimination based on gender identity. The timeline for HHS reconsideration is unknown and the current Administration has, to date, declined to defend the regulation.

Rulings by the Equal Employment Opportunity Commission remain intact, however, which found that employer-sponsored plans that exclude gender-affirming care violate Title VII. Title VII of the Civil Rights Act prohibits employment discrimination based on race, color, religion, sex and national origin.

In addition to the ACA, the federal government has taken steps to bar discrimination against transgender individuals in federal health programs. In 2014, HHS invalidated a prior prohibition on Medicare coverage of gender-affirming surgery, citing evidence supporting its effectiveness in treating gender dysphoria and potential for improved health outcomes. In 2016, the federal Office of Personnel Management barred exclusions for gender transition services from the Federal Employees Health Benefits Program. In 2018, the US Department of Veterans Affairs (VA) proposed to amend its medical regulations by removing a provision that excludes “gender alterations” from its medical benefits package, which would effectively authorize transition-related surgery as part of VA care when medically necessary. Final regulations, however, have not yet been issued by the VA.

State-wise, twenty states (CA, CT, CO, DE, HI, IL, MA, MD, MI, MN, NJ, NM, NV, NY, OR, PA, RI, VT and WA) and District of Columbia prohibit health insurers from excluding coverage for transgender health services. California, for example, prohibits health plans from denying coverage or limiting coverage on the basis of sex, which is defined to include gender, gender identity and gender expression. In regulation, California specifies four prohibited practices:

• Denying or cancelling an insurance policy on the basis of gender identity;
• Using gender identity as a basis for determining premium;
• Considering gender identity as a pre-existing condition; and
• Denying coverage or claims for health care services to transgender people when coverage is provided to non-transgender people for the same services.

Cost savings

In promulgating the regulations, the California Department of Insurance issued an Economic Impact Assessment that determined that aggregate costs of the antidiscrimination rules would be “insignificant and immaterial” while yielding significant benefits to transgender individuals including suicide reduction, improvements in mental health, reduction in substance use rates, higher rates of adherence to HIV care and reduction in self-medication. The Economic Impact Assessment also identified potential cost savings in the medium to long term due to lower costs associated with suicide, attempts at suicide, overall improvements in mental health and lower rates of substance abuse. The assessment noted that the Centers for Disease Control and Prevention estimate the average acute medical costs of a single suicide completion or attempt in the United States is $2,596 and $7,234 respectively.

Other studies have similarly demonstrated that transgender inclusive health coverage is cost-effective compared to the costs associated with untreated gender dysphoria. A cost analysis of the City and County of San Francisco’s coverage of transition-related surgeries found that costs in the first five years to both insurers and employers were low, averaging between $0.77 and $0.96 per year per enrollee, and resulted in no surcharge or premium increases. The analysis also found no evidence of a “magnet effect” wherein transgender individuals would have deliberately sought employment in order to access services.

Health implications for transgender individuals

Transgender individuals in the US are up to three times more likely than the general population to report or be diagnosed with mental health disorders, with as many as 41.5 percent reporting at least one diagnosis of a mental health or substance use disorder:

- Over a third of transgender individuals suffer a major depressive episode in their lifetimes;
- 20.2 percent have been diagnosed with suicidality in the past 30 days;
- 7.9 percent have been diagnosed with an anxiety disorder in the past six months;
- 9.8 percent have been diagnosed with post-traumatic stress disorder in the past six months; and
- 15.2 percent have been diagnosed with a substance use disorder in the past year.

The increased prevalence of these mental health conditions is widely thought to be a consequence of minority stress, the chronic stress from coping with societal stigma and discrimination because of one’s gender identity and expression. Indeed, gender based discrimination affecting access to services is a strong predictor of suicide risk among transgender persons. Lack of access to gender-affirming care may directly contribute to poor mental health outcomes.

16. Id.
Improving access to gender-affirming care is an important means of improving health outcomes for the transgender population. Studies demonstrate dramatic reductions in rate of suicide attempts, with one meta-analysis finding that suicidality rates dropped from 30 percent pre-treatment to 8 percent post-treatment. Studies have also demonstrated a decrease in depression and anxiety and that a majority of patients report improved mental health and function after receipt of gender-affirming care. In addition, receipt of appropriate care is associated with decreased substance use and improved HIV medication adherence among the transgender population, reducing long term negative health outcomes and potential transmission rates. Medically supervised care can also reduce rates of harmful self-prescribed hormones, use of construction grade silicone injections and other interventions that have potential to cause adverse events.

Patients who receive gender-affirming care, including surgical care, feel more congruent in their bodies and report improved mental health. Specifically, one study found that facial feminization surgery improved mental health-related quality of life scores among transgender women to levels seen in the general female population. Studies suggest that improved body satisfaction and self-esteem following medical and surgical therapies is protective against poorer mental health and also supports healthy relationships with parents and peers. Positive health effects from gender-affirming care extend to children and adolescents as well. Recent research demonstrates that integrated affirmative models of care for youths, which include access to medications and surgeries, result in fewer mental health concerns than has been historically seen among transgender populations. Importantly, rates of self-reported feelings of regret among adolescents following receipt of gender-affirming care are extremely low.

Medical society opinions

The AMA opposes any discrimination based on an individual’s sex, sexual orientation or gender identity, opposes the denial of health insurance on the basis of sexual orientation or gender identity, and supports public and private health insurance coverage for treatment of gender dysphoria as recommended by the patient’s physician. GLMA: Health Professionals Advancing LGBTQ Equality recognizes that mental healthcare, hormone replacement therapy, and/or gender-affirming surgery are medically necessary for the treatment of transgender people who meet the criteria for gender dysphoria and advocates that these services not be excluded from any public or private insurance programs. In addition, other medical associations, including the American Academy of Family Physicians, American College of Obstetricians and Gynecologists and American Psychiatric Association have stated that medically necessary transition-related care should be covered by insurance.33

AMA policy

Removing Financial Barriers to Care for Transgender Patients H-185.950
Our AMA supports public and private health insurance coverage for treatment of gender dysphoria as recommended by the patient’s physician. (Res. 122 A-08; Modified: Res. 05, A-16)

Sexual Orientation and/or Gender Identity as Health Insurance Criteria H-180.980

Military Medical Policies Affecting Transgender Individuals H-40.966
Our American Medical Association affirms that there is no medically valid reason to exclude transgender individuals from service in the US military and affirms transgender service members be provided care as determined by patient and physician according to the same medical standards that apply to non-transgender personnel. (Res. 11, A-15)

Reducing Suicide Risk Among Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Through Collaboration with Allied Organizations H-60.927
Our AMA will partner with public and private organizations dedicated to public health and public policy to reduce lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth suicide and improve health among LGBTQ youth. (Res. 402, A-12)

GLMA policy

GLMA 127-18-101: Transgender Healthcare
Therapeutic treatment, including hormone therapy, mental health therapy and gender affirming surgeries, are medically necessary for the treatment of gender dysphoria. These gender-affirming medical and surgical treatments should be covered by all public and private insurance plans. (Approved 2018)

For additional information or assistance with advocacy to protect transgender individuals’ access to medically necessary services, please visit the www.ama-assn.org/go/arc or contact Annalia Michelman, JD, Senior Legislative Attorney, AMA Advocacy Resource Center at annalia.michelman@ama-assn.org or (312) 464-4788.