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January 31, 2023

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
PO Box 8010
Baltimore, MD 21244-1850

RE: Request for Information on the Essential Health Benefits (87 Fed. Reg. 74097, Dec. 2, 2022)

Dear Administrator Brooks-LaSure:

Thank you for the opportunity to comment on the implementation of the Essential Health Benefits (EHB) provision of the Affordable Care Act (ACA). We believe that strong oversight by the Centers for Medicare & Medicaid Services (CMS) of the EHB standard is a critical component of ensuring that insurance coverage is adequate, comprehensive, and meaningful for consumers seeking health care and services. Upon careful consideration of this request for information, we continue to affirm our support of the EHB standard, and we respectfully request that CMS take steps to strengthen its enforcement of the EHB requirement and to help establish greater consistency in appropriate coverage of essential services in plans subject to this requirement. In particular, we note that the vast majority of state EHB benchmark plans across the country (41 out of 51 plans) continue to use discriminatory and outdated blanket exclusions of gender-affirming care. We urge you to take immediate action to ensure that all plans subject to the EHB requirement follow well-established standards of science and medical practice by removing these exclusions.

Whitman-Walker is a community health system that includes Whitman-Walker Health, a Federally Qualified Health Center with 50 years of experience serving the greater Washington, D.C. metropolitan area. Whitman-Walker Health has special expertise in LGBTQ care and HIV prevention and treatment, and our Legal Services Department, the nation's oldest medical–legal partnership, is a national leader in HIV law; gender identity and sexual orientation law; medical privacy law; and Medicaid, Medicare, and other public benefits health law. Our Public Benefits and Insurance Navigation Team, under the direction of senior Legal Services managers, served more than 2,000 clients over the last year in new cases related to insurance concerns.

Whitman-Walker Institute combines clinical and public health research, public policy advocacy, and professional and community education, with the goal of expanding the body of knowledge and science needed to advance health and well-being for our patients and communities. The Whitman-Walker Institute is home to the Out2Enroll initiative, a public–private partnership founded in 2013 to assist the U.S. Department of Health and Human Services (HHS) in connecting low- and middle-income LGBTQ people with quality, affordable insurance coverage through the Health Insurance Marketplaces. Out2Enroll has participated in enrollment activities, including advertising and community outreach, assister training, and Navigator program grant review, in every open enrollment period. Since 2017, we have also conducted annual research assessing the prevalence of transgender-specific exclusions in plans sold through HealthCare.gov. We are therefore particularly concerned with ensuring that all consumers, including

transgender consumers, can access coverage for medically necessary care through EHB-based plans and that they have the information they need to make informed plan choices.

Benefit Descriptions in EHB-Benchmark Plan Documents

CMS requests comment on whether states are generally effective enforcers of the EHB requirement and whether states may require additional guidance to ensure plans are correctly interpreting the scope of EHB benchmark plan coverage. In our experience working with consumers across the D.C. area, we see many instances of current and prospective enrollees being confused by what their EHB-based plan options cover, and we believe that the current approach of allowing states to simply rely on existing plan documents for describing the scope of coverage under EHB-compliant plans is inadequate. To assist consumers in understanding what their state's EHB benchmark covers, we urge CMS to develop a template for a standardized guide, similar to but more extensive than the Summary of Benefits and Coverage required for Marketplace plans, that every state must develop and publish. This guide should describe the baseline components of each state's EHB benchmark to a specified degree of detail so that consumers will be able to determine at least the minimum degree of coverage that their state makes available through EHB-compliant plans.

Typical Employer Plans

CMS requests comment on changes in the scope of benefits offered by employer plans since plan year 2014. An area of employer-sponsored coverage in which there has been substantial change since 2014 is coverage of gender-affirming care for transgender people. According to the Corporate Equality Index (CEI), which has tracked the status of employer-sponsored coverage for this care since 2002, 67 percent of the entire Fortune 500—and 86 percent of all CEI-rated businesses (1,088 of 1,271)—offered employee benefits with no transgender-specific exclusions in 2022.[1] In 2015, 54 percent (421 of 781) companies offered at least one fully inclusive plan to their employees, and by 2022 that number had reached 91 percent (1,160 out of 1,271).

Given that 41 out of 51 current state EHB benchmark plans maintain blanket exclusions of coverage for gender-affirming care (as described in more detail below), these benchmarks are clearly out of step with trends in employer coverage since 2014, and we strongly encourage CMS to use its EHB plan review authority to address this problem.

We also note that many employer-sponsored plans listed among the possible EHB benchmark plans at 45 C.F.R. § 156.100 have also removed transgender-specific exclusions since 2014. In 2016, the White House Office of Personnel Management (OPM) required all carriers in the Federal Employees Health Benefits Program (FEHBP) to remove blanket exclusions of services, drugs, or supplies related to the treatment of gender dysphoria. For plan year 2023, OPM instituted the following requirements for FEHB carriers:[2]

[1] Human Rights Campaign Foundation. (2022). Corporate Equality Index. https://reports.hrc.org/corporate-equality-index-2022

[2] United States Office of Personnel Management. (2022). Federal Benefits Open Season November 14, 2022 – December 12, 2022. https://cdn.govexec.com/media/gbc/docs/pdfs_edit/093022ew1.pdf

- Have adopted one or more recognized entities in order to guide evidence-based benefits coverage and medical policies pertaining to gender affirming care and services, such as the World Professional Association of Transgender Health (WPATH) Standards of Care, the Endocrine Society, and the Fenway Institute. These entities provide evidence-based clinical guidelines for health professionals to assist transgender and gender diverse people with safe and effective pathways that maximize their overall health, including physical and psychological well-being.
- Will provide individuals diagnosed with and/or undergoing evaluation for gender dysphoria the option to use a Care Coordinator to assist and support them as they seek gender-affirming care and services. If network providers are not available to provide medically necessary treatment of gender dysphoria, FEHB Carriers will provide members direction on how to find qualified providers with experience delivering this specialized care.
- Have reviewed their formularies to ensure that transgender and gender diverse individuals have equitable access to medications and provide coverage of medically necessary hormonal therapies for gender transition care.

Similarly, none of the plans offered by Kaiser Permanente—a leading HMO—through the federal HealthCare.gov marketplace for plan year 2023 include transgender-specific exclusions.[3] Among state employee benefit plans, 41 states and territories, including the District of Columbia, do not have transgender-specific exclusions in their plans; of these, 24 states and D.C. affirmatively spell out the gender-affirming services that their state employee plans cover.[4] These trends in employer-sponsored coverage strongly support federal action to clarify that EHB plans are not permitted to exclude gender-affirming care.

Review of EHB

CMS requests comment on whether enrollees are facing difficulty accessing needed services, whether EHB need to be modified or updated to account for changes in medicine and science, how EHB should be modified to address any gaps in coverage or changes to the evidence base, and how changes to EHB may affect actuarial value (AV) calculations.

Barriers of Accessing Services Due to Coverage or Cost

Whitman-Walker's attorneys and insurance navigators frequently encounter patients who are struggling to access services through EHB-compliant plans, particularly mental and behavioral health services. In some instances, plans do not have sufficient providers in their networks. In other cases, available providers are not prepared to work effectively with diverse patient populations: many providers lack cultural competency around working with LGBTQ patients, and it is also often difficult for patients to find providers with clinical competency around issues such as gender-affirming care. To address issues of network adequacy, the ACA requires Qualified Health Plans (QHPs) to meet network adequacy requirements and to contract with a minimum number of Essential Community Providers (ECPs), including FQHCs such as Whitman-Walker.

[3] Out2Enroll. (2022). Summary of Findings: 2023 Marketplace Plan Compliance with Section 1557 of the Affordable Care Act. https://out2enroll.org/2023-cocs/
[4] LGBT Movement Advancement Project. (2023). Equality Maps. https://www.lgbtmap.org/equality-maps/healthcare_laws_and_policies/state_employees

To improve access to clinically and culturally competent care, particularly mental and behavioral health services, for diverse enrollees, CMS should extend the QHP network adequacy and ECP contracting requirements to all EHB-compliant plans. Though states are the primary enforcers of the EHB standard, federal oversight of network adequacy and ECP contracting requirements for all EHB-compliant plans can be accomplished in a manner similar to resumed federal oversight of these requirements for QHPs. Further, there should be no limitation on when providers, particularly ECPs, can be added to carrier networks.

Telehealth is also an important innovation that has helped improve access to services for many patients. From a clinic perspective, it also improves no-show rates and facilitates convenient appointment scheduling for patients. CMS should take steps to advance telehealth reimbursement parity nationwide beyond the Medicare program by requiring EHB-compliant plans to reimburse essential benefits provided via telehealth at the same rate as in-person visits.

Changes in Medical Evidence and Scientific Advancement

As noted above, a major area of change in the U.S. health insurance landscape since 2014 has been the expansion of coverage for gender-affirming care in many employer-sponsored plans, as well as through other types of coverage:

- Medicare rescinded its exclusion of gender-affirming care in 2014;[5]
- 46 states and territories, as well as D.C., do not have exclusions of gender-affirming care in their Medicaid programs;[6] and
- 24 states and D.C. have explicit laws or regulatory guidance in place prohibiting transgender-specific exclusions in state-regulated private insurance).[7]

The 2016 HHS regulation interpreting Section 1557 of the ACA also prohibited blanket exclusions of coverage for gender-affirming care; this provision of the regulation was removed in June 2020, but in 2021 HHS announced that it would enforce Section 1557 to include protections on the basis of gender identity,[8] and the July 2022 Notice of Proposed Rulemaking (NPRM) reinstates the prohibition on gender identity discrimination in health insurance coverage, including a ban on blanket exclusions of gender-affirming care.[9] Beyond the regulations, several courts have found that transgender-specific exclusions violate the

[5] See, e.g., Palmetto GBA. (2022). Billing and Coding: Gender Reassignment Services for Gender Dysphoria. https://www.cms.gov/medicare-coverage-database/view/article.aspx?articleId=53793
[6] LGBT Movement Advancement Project. (2023). Equality Maps. https://www.lgbtmap.org/equality-maps/healthcare_laws_and_policies/medicaid
[7] LGBT Movement Advancement Project. (2023). Equality Maps. https://www.lgbtmap.org/equality-maps/healthcare_laws_and_policies/private_insurance
[8] Keith K. (2021). HHS Will Enforce Section 1557 to Protect LGBTQ People from Discrimination. *Health Affairs Blog.* https://www.healthaffairs.org/do/10.1377/forefront.20210511.619811/
[9] U.S. Department of Health and Human Services. (2022). HHS Announces Proposed Rule to Strengthen Nondiscrimination in Health Care. https://www.hhs.gov/about/news/2022/07/25/hhs-announces-proposed-rule-to-strengthen-nondiscrimination-in-health-care.html

statutory language of ACA Section 1557, which prohibits discrimination in health insurance coverage and health care on the basis of sex, among other protected characteristics.[10]

These advances place the EHB benchmark plans, of which 41 out of 51 have blanket exclusions, squarely out of step with both law and medical science, which is comprehensively summarized in the 8th version of the *Standards of Care for the Health of Transgender and Gender Diverse People* released by the World Professional Association for Transgender Health (WPATH) in September 2022.[11] In the appendix to this comment, we provide a full accounting of the illegal and unjustifiable exclusions present in these EHB benchmark plans.

Colorado proactively took the step in 2022 of removing the transgender-specific exclusion from its EHB benchmark plan, and we applaud CMS for approving Colorado's proposal. Taking a state-by-state approach to this issue, however, violates CMS's professed commitment to health equity and nondiscrimination by continuing to allow plans to discriminate against transgender EHB plan enrollees in a manner prohibited by federal law and by half of the states themselves. To achieve equity and parity for transgender enrollees across the country and to bring the EHB standard into alignment with medical evidence and with current practice in a wide variety of coverage programs and carrier offerings, CMS must require states to remove transgender-specific exclusions from their EHB benchmark plans.

Addressing Gaps in Coverage

In addition to the major gap in coverage for gender-affirming care described above, we frequently work with patients who are seeking coverage for fertility and family planning services. These services include in vitro fertilization (IVF) and other reproductive technologies; pharmaceutical and surgical abortion; and perinatal services provided by doulas, midwives, and other non-physician health care professionals. With regard to fertility services, we note that a number of states require coverage for these services, which historically have not been considered to be an essential health benefit. We further note that fertility is covered under the Americans with Disabilities Act (ADA) as a major life activity; though the ADA does not expressly require coverage of fertility services, a state adding these services to its EHB requirement to ensure fair treatment of people experiencing infertility is aligning its EHB requirement with relevant nondiscrimination law. To fully clarify that states are not required to defray these costs and to establish an equitable baseline for fertility coverage nationwide, we urge CMS to define the maternity care EHB category to include fertility services, and to do so in language that does not discriminate against same-sex couples seeking these services. This step will enhance equity by ensuring that all enrollees in EHB plans can access these important services. We further urge CMS to seek out other opportunities to expand coverage of a full range of fertility and family planning services offered by diverse categories of health care providers. One such opportunity is to explicitly clarify coverage for post-abortion care as an EHB requirement, as post-abortion care is critical in a post-*Roe v. Wade* landscape where many people may seek

[10] See, e.g., Pazanowski MA. (2022). North Carolina Transgender Surgery Ban Violates ACA, Court Rules. *Bloomberg Law.* https://news.bloomberglaw.com/health-law-and-business/transgender-state-employees-win-obamacare-claim-in-insurance-row

[11] World Professional Association for Transgender Health. (2022). Standards of Care for the Health of Transgender and Gender Diverse People (8th Version). *International J Transgender Health, 23*(Supp. 1), S1-S259. https://doi.org/10.1080/26895269.2022.2100644

self-managed abortions due to the complex abortion policy landscape. Often, the legality of post-abortion care is misunderstood, resulting in gaps in access to this care due to fear among patients, providers, and carriers of violating state abortion restrictions.

Actuarial and Cost-Sharing Limits

Putative claims of higher health care costs are routinely invoked to argue that coverage for gender-affirming care is too expensive to be feasible under AV limits. The available evidence shows, however, that removing exclusions of coverage for this care is cost-neutral or extremely low-cost. The City and County of San Francisco initially raised premiums when they became the first major U.S. employers to remove blanket exclusions for gender-affirming care in 2001. But after five years, "beneficial cost data led Kaiser and Blue Shield to no longer separately rate and price the transgender benefit—in other words, to treat the benefit the same as other medical procedures such as gallbladder removal or heart surgery."[12] A 2013 survey of employers providing coverage for gender-affirming care to their employees found that two-thirds of the employers that provided information on the actual costs of utilization of gender dysphoria treatments reported zero costs, and those employers who reported some costs said that the costs were very low or minimal.[13] An analysis of gender-affirming care uptake by transgender people over 6.5 years in one California health plan found a utilization rate of 0.062 per 1,000 covered persons.[14] Estimates from other states show equally low utilization and related low costs, with North Carolina estimating costs at 0.011% to 0.027% of premiums;[15] Alaska, 0.03% to 0.05%;[16] and Wisconsin, "immaterial at 0.1% to 0.2% of the total cost."[17] Cost estimates under Wisconsin Medicaid were "actuarially immaterial, as they are equal to approximately 0.008% to 0.03%"[18] of Wisconsin's share of its Medicaid budget. Similarly, an analysis in the military context concluded that the financial cost of covering gender-affirming care was "too low to matter"[19] or, as military leadership noted, "'budget dust,' hardly even a rounding error."[20] This is because

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[12] City and County of San Francisco Human Rights Commission, *San Francisco City and County Transgender Health Benefit* (Aug. 7, 2007), https://transhealthproject.org/documents/19/SF_transgender_health_benefit.pdf

[13] Herman JL. (2013). *Costs and Benefits of Providing Transition-Related Health Care Coverage in Employee Health Benefits Plans: Findings from a Survey of Employers*. Los Angeles: The Williams Institute. https://escholarship.org/content/qt5z38157s/qt5z38157s.pdf?t=n2ff2l

[14] State of California Department of Insurance. (2012). *Economic Impact Assessment: Gender Nondiscrimination in Health Insurance*, Reg. File No. REG-2011-0002. http://transgenderlawcenter.org/wp-content/uploads/2013/04/Economic-Impact-Assessment-Gender-Nondiscrimination-In-Health-Insurance.pdf

[15] Segal Consulting memorandum to Mona Moon, Executive Administrator of the North Carolina State Health Plan, re: Transgender Cost Estimate. (Nov. 29, 2016). https://files.nc.gov/ncshp/documents/board-of-trustees/3aii-3-The-Segal-Company-Transgender-Cost-Estimate-Memorandum.pdf

[16] Plaintiffs' Motion for Partial Summary Judgment, *Fletcher v. Alaska*, No. 1:18-cv-00007-HRH (D. Alaska July 1, 2019), https://www.lambdalegal.org/sites/default/files/legal-docs/downloads/fletcher_ak_20190701_plaintiffs-motion-for-partial-summary-judgment.pdf

[17] *Boyden v. Conlin*, 341 F. Supp. 3d 979, 1000 (W.D. Wis. 2018).

[18] *Flack v. Wis. Dept of Health Servs.*, 395 F. Supp. 3d 1001, 1008 (W.D. Wis. 2019).

[19] Belkin A. (2015). Caring for our transgender troops – The negligible cost of transition-related care. *New Eng J Med, 373*, 1089–1092. https://www.nejm.org/doi/full/10.1056/NEJMp1509230

[20] Declaration of Raymond Edwin Mabus, Jr., Former U.S. Secretary of the Navy, in Support of Plaintiff's Motion for Preliminary Injunction, *Doe v. Trump*, No. 17-cv-1597-CKK (D.D.C.) filed Aug. 31, 2017, at 41). http://files.eqcf.org/wp-content/uploads/2017/09/13-Ps-App-PI.pdf

only a small percentage of the U.S. population is transgender, and not all transgender people need or use a full scope of services related to gender affirmation.

Coverage of Prescription Drugs as EHB

CMS seeks comments on its approach to the EHB requirement's coverage of prescription drugs. We work with many patients who need medication for the prevention or treatment of HIV, and we note that insurance coverage of newer medications, particularly long-acting injectable options, often substantially lags behind the science. When these medications are covered, they are frequently placed in very high cost-sharing tiers and/or subjected to utilization management techniques such as step therapy. Long-acting injectable HIV medications can improve adherence and support viral suppression, particularly for patients with difficulty with oral medications.[21] To ensure that prescription drug coverage is sufficiently robust under EHB plans, we urge CMS to extend its approach to six protected categories of medications for plans participating in Medicare Part D to plans subject to the EHB requirement. Under this approach, EHB-compliant plans would be required to cover all medications in the six protected classes of immunosuppressants, antidepressants, antipsychotics, anticonvulsants, antiretrovirals, and antineoplastics. Further, the prohibition on prior authorization or step therapy for antiretrovirals in the Part D program should be incorporated into the EHB requirement. Finally, we note that another major concern in prescription drug coverage is coverage of medication abortion. Particularly in the wake of the 2022 U.S. Supreme Court decision overturning abortion rights nationwide, we urge CMS to ensure that all EHB-compliant plans cover medication abortion without undue restrictions on prescribing and dispensing.

Conclusion

We thank you for the opportunity to comment on the EHB standard, which is a critical component of ensuring that the ACA delivers on its promise of higher-quality care for enrollees in the individual and small group markets across the country. We appreciate your consideration of our comments and look forward to continuing to work with CMS and its partners across HHS on improving our nation's health through the provision of equitable and timely access to high-quality, affordable health insurance coverage and care for all patients and consumers.

Sincerely Yours,

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[21] Scarsi KK & Swindells S. (2021). The Promise of Improved Adherence with Long-Acting Antiretroviral Therapy: What Are the Data? *J Int Assoc Provid AIDS Care*, *20*, 23259582211009011. https://doi.org/10.1177/23259582211009011

Appendix

As noted above, Out2Enroll (a project of Whitman-Walker) conducts an annual assessment of plans sold through HealthCare.gov to identify plans that continue to exclude gender-affirming care, in violation of ACA Section 1557 and, in many cases, state law. We conducted a similar analysis of EHB benchmark plans and were surprised and dismayed to learn that 41 of 51 state EHB benchmarks have blanket exclusions of this care. We strongly urge CMS to take immediate action to clarify that these exclusions are prohibited in EHB-compliant plans, including the EHB benchmarks, and to require that they be removed before a plan can be approved as a benchmark.

State	Exclusion	Exclusion Language
Alabama	Yes	"HEALTH BENEFIT EXCLUSIONS Services or expenses for, or related to, sexual dysfunctions or inadequacies not related to organic disease (unless the injury results from an act of domestic violence or a medical condition) or which are related to surgical sex transformations"
Alaska	Yes	"WHAT'S NOT COVERED? Gender Transformations Treatment or surgery to change gender, including any direct or indirect complications and after effects thereof. Mental/Behavioral Health Outpatient Services: Exclusions: All medical services provided in preparation for or after gender reassignment surgery, also including the surgery medical counseling and hormone therapy, regardless of age."
Arizona	Yes	"9.1 Exclusions and General Limitations Any Services and Supplies which are not described as covered or are specifically excluded in any other Article of this Plan Description are excluded. In addition, the following are specifically excluded Services and Supplies: 16. Transsexual surgery including medical or psychological counseling and hormonal therapy in preparation for, or subsequent to, any such surgery."
Arkansas	Yes	"3.0 BENEFITS AND SPECIFIC LIMITATIONS IN YOUR PLAN 4. The following services and treatments are not covered. b. Sex Changes/Sex Therapy. Care, services or treatment for non-congenital transsexualism, gender dysphoria or sexual reassignment or change are not covered. This exclusion includes medications, implants, hormone therapy, surgery, medical or psychiatric treatment or other treatment of sexual dysfunction including Prescription Medication and sex therapy."
California	No	"Getting a Referral: Medical Group authorization procedure for certain referrals: Transgender surgery. If your treating Plan Provider makes a written referral for transgender surgical Services (genital surgery or mastectomy), the Medical Group's Transgender Surgery Review Board will authorize the Services if it determines that the Services meet the requirements described in the Medical Group's transgender surgery guidelines, which are available upon request"

Colorado	No	"Gender Affirming Care Yes Covered" Medically-necessary treatment includes treatment for gender dysphoria and includes the following gender-affirming care services, at minimum: 1. Blepharoplasty (eye and lid modification) 2. Face/forehead and/or neck tightening 3. Facial bone remodeling for facial feminization 4. Genioplasty (chin width reduction) 5. Rhytidectomy (cheek, chin, and neck) 6. Cheek, chin, and nose implants 7. Lip lift/augmentation 8. Mandibular angle augmentation/creation/reduction (jaw) 9. Orbital recontouring 10. Rhinoplasty (nose reshaping) 11. Laser or electrolysis hair removal 12. Breast/Chest Augmentation, Reduction, Construction"
Connecticut	Silent	
Delaware	Yes	"WHAT IS NOT COVERED The following services and items are not covered. Certain mental health and substance abuse services, including treatment of sexual and gender identity disorders Change of sex surgery, except to correct congenital defect, or any medical services or pharmaceutical products related to gender identity disorder."
DC	Silent	
Florida	Yes	"Section 3. What Is Not Covered: Sexual Reassignment, or Modification Services including, but not limited to, any Health Care Service related to such treatment, such as psychiatric Services."
Georgia	Yes	"Limitations and Exclusions: Sex change services, regardless of any diagnosis of gender role or psychosexual orientation problems."
Hawaii	Yes	"Sexual Transformation: You are not covered for services and supplies related to sexual transformation regardless of cause. This includes, but is not limited to, sexual transformation surgery." "Sexual Identification Counseling: You are not covered for sexual identification counseling."
Idaho	Yes	"General Exclusions and Limitations: For any treatment of either gender leading to or in connection with transsexual Surgery, gender transformation, sexual dysfunction, or sexual inadequacy, including erectile dysfunction and/or impotence, even if related to a medical condition."
Illinois	Silent	

Indiana	Yes	"Non Covered Services/Exclusions: 53. Services and supplies related to sex transformation and/or the reversal thereof, or male or female sexual or erectile dysfunctions or inadequacies, regardless of origin or cause. This Exclusion includes sexual therapy and counseling. This exclusion also includes penile prostheses or implants and vascular or artificial reconstruction, Prescription Drugs, and all other procedures and equipment developed for or used in the treatment of impotency, and all related Diagnostic Testing."
Iowa	Yes	"Mental Health Services Not Covered: Sexual identification or gender disorders."
Kansas	Yes	"Benefits will not be provided for: 20. Services or supplies associated with sex changes/gender reassignment, and services related to sexual function, and any related complications."
Kentucky	Yes	"Section 2: Exclusions and Limitations M. Procedures and Treatments 8. Sex transformation operations and related services."
Louisiana	Yes	"LIMITATIONS AND EXCLUSIONS 6. Services, surgery, supplies, treatment, or expenses in connection with or related to, or complications from the following REGARDLESS OF CLAIM OF MEDICAL NECESSITY j. treatment related to sex transformations, sexual function, sexual dysfunctions or inadequacies."
Maine	Yes	"Sex Changes We do not provide Benefits for any services related to any transsexual operation."
Maryland	Yes	"Section 15 EXCLUSIONS AND LIMITATIONS: 15.33 Treatment leading to or in connection with transsexualism, or sex changes or modifications, including, but not limited to surgery."
Massachusetts	Silent	
Michigan	Yes	"Sex Change or Transformation Non-Covered Services Any procedure or treatment, including hormone therapy, designed to change your physical characteristics from your biologically determined sex to those of the opposite sex. This exclusion applies despite any diagnosis of gender role or psychosexual orientation problems."
Minnesota	No	"III. SERVICES NOT COVERED 17. Services and/or surgery for gender reassignment, except as determined medically necessary."
Mississippi	Yes	"Article XV LIMITATIONS AND EXCLUSIONS Benefits will not be provided for the following: A. 7. For treatment related to sex transformations, sexual function, sexual dysfunctions or inadequacies regardless of Medical Necessity."

Missouri	Yes	"What's Not Covered 39) Sex Change Services and supplies for a sex change and/or the reversal of a sex change." "What's Not Covered Under Your Prescription Drug Retail or Home Delivery (Mail Order) Pharmacy Benefit 22. Sex Change Drugs for sex change surgery."
Montana	Yes	"EXCLUSIONS AND LIMITATIONS 29. Services or supplies related to sexual reassignment and reversal of such procedures."
Nebraska	Yes	"EXCLUSIONS—WHAT'S NOT COVERED • Sex transformation surgery and related Services. • Prescription medications for the primary purpose of sex transformation, both prior to and after surgery."
Nevada	Yes	"Glossary: 13.70 "Mental Illness" means a pathological state of mind producing clinically significant psychological or physiological symptoms together with impairment in one or more major areas of functioning where improvement can reasonably be anticipated with therapy. Mental Illness does not include any Severe Mental Illness as defined in the EOC and otherwise covered under the Severe Mental Illness Covered Services section, or any of the following when they represent the primary need for therapy: Transsexualism, psychosexual identity disorder, psychosexual dysfunction of gender dysphoria."
New Hampshire	Yes	"What's Not Covered 35) Sex Change Services and supplies for a sex change and/or the reversal of a sex change. 21. Sex Change Drugs for sex change surgery."
New Jersey	Yes	"EXCLUSIONS Payment will not be made for any charges incurred for or in connection with: Surgery, sex hormones, and related medical, psychological and psychiatric services to change a Covered Person's sex; services and supplies arising from complications of sex transformation."
New Mexico	No	"Cosmetic Surgery: Medically necessary surgery performed to confirm a covered person's gender is not considered cosmetic surgery and will be covered."
New York	Yes	"Infertility Treatment: Exclusions and Limitations h. Sex change procedures."
North Carolina	Yes	"WHAT IS NOT COVERED? Treatment or studies leading to or in connection with sex changes or modifications and related care"
North Dakota	Yes	"Exclusions: No benefits are available for: 23. Treatment leading to or in connection with sex change or transformation surgery and related complications."

Ohio	Yes	"NON COVERED SERVICES/EXCLUSIONS: 51. Services and supplies related to sex transformation and/or the reversal thereof, or male or female sexual or erectile dysfunctions or inadequacies, regardless of origin or cause. This Exclusion includes sexual therapy and counseling. This exclusion also includes penile prostheses or implants and vascular or artificial reconstruction, Prescription Drugs, and all other procedures and equipment developed for or used in the treatment of impotency, and all related Diagnostic Testing."
Oklahoma	Yes	"Exclusions: S. For transsexual Surgery or any treatment leading to or in connection with transsexual Surgery."
Oregon	Silent	
Pennsylvania	Yes	"EXCLUSIONS – WHAT IS NOT COVERED Transsexual Surgery: For any procedure or treatment leading to or in connection with transsexual Surgery except for sickness or injury resulting from such Surgery."
Rhode Island	Yes	"4.33 Sex Transformations and Dysfunctions Health care services related to sex transformations are NOT covered. Health care services related to sexual dysfunctions or inadequacies, except services approved by us and necessary for the treatment of a condition arising out of organic dysfunctions, are NOT covered. (i.e., Therapeutic services will be covered when the cause of the dysfunction is physiological, not psychological.) This agreement does NOT cover sildenafil citrate (e.g., Viagra) or any therapeutic equivalents."
South Carolina	Yes	"Exclusions and Limitations Recreational, educational or play therapy; biofeedback; psychological or educational diagnostic testing to determine job or occupational placement or for other educational purposes, or to determine if a learning disorder exists; therapy for learning disorders, development speech delay, communication disorder, developmental coordination disorder, mental retardation, dissociative disorder, sexual and gender identity disorder, personality disorder and vocational rehabilitation unless specifically included in your Schedule of Benefits. Any services or supplies for the diagnosis or treatment of sexual dysfunction. This includes, but is not limited to: drugs, lab and X-ray tests, counseling, transsexual procedures or penile prostheses necessary due to any medical condition or organic disease. A penile prosthesis will be considered for payment only after Medically Necessary prostate Surgery."
South Dakota	Yes	"MENTAL HEALTH SERVICES Not Covered: Your benefits do not include coverage for the following: Sexual identification or gender disorders.
Tennessee	Yes	"V. Reconstructive Surgery Medically Necessary and Appropriate Surgical Procedures intended to restore

		normal form or function. 2. Exclusions c. Surgeries and related services to change gender (transsexual Surgery).”
Texas	Yes	“MEDICAL LIMITATIONS AND EXCLUSIONS 26. Any services or supplies provided for, in preparation for, or in conjunction with Transsexual surgery”
Utah	Yes	“6.4.3 Exclusions from coverage Relating to surgery: 10. Gender reassignment Surgery. 6.12.8 Exclusions from coverage Relating to prescription drug benefits: 26. Medications for sex change operations.”
Vermont	No	“10. Cosmetic and Reconstructive Procedures: For purposes of this EHB Benchmark, “Reconstructive Procedures” are Medically Necessary procedures to correct gross deformities with physiological and functional impairments attributable to congenital defects, injury (including injuries occurring at birth), disease, or other health conditions (including gender dysphoria).” “16. Gender Dysphoria Medically Necessary treatment for gender dysphoria and related health conditions is covered to the extent required by 8 V.S.A. § 4724 and Insurance Bulletin 174.”
Virginia	Yes	“What’s Not Covered 38) Sex Change Services and supplies for a sex change and/or the reversal of a sex change.”
Washington	Yes	“General Exclusions Sexual Reassignment Treatment and Surgery Treatment, surgery or counseling services for sexual reassignment.”
West Virginia	Yes	“Exclusions / What Is Not Covered 28. Transsexual Surgery or any Treatment leading to or in connection with transsexual Surgery.”
Wisconsin	Yes	“Section 2. Exclusions and Limitations M. Procedures and Treatments 8. Sex transformation operations and related services.”
Wyoming	Yes	“g. Sex change operations and related expenses are not Covered Services.”