



# Understanding Essential Health Benefits

By Fiadh McKenna (she/her), Senior Staff Attorney, and Tekla Taylor (they/them), Public Education Specialist

On May 22, 2025, House Republicans passed a budget that includes numerous cuts to Medicaid, jeopardizing the health and wellbeing of [millions of people](#) all across the country. This budget is not final and may change as it goes through the reconciliation process between the House and Senate. However, one of the most dangerous aspects involves banning the coverage of transition-related care, both under Medicaid and as essential health benefits.

On June 16, the Senate Finance Committee released their [prospective budget text](#), which would also exclude trans healthcare from Medicaid and essential health benefit coverage. We know that this care is both medically necessary and based on decades of research, and it is vital that this care is covered. Whatever the final form of our national budget, we must ensure that our healthcare is protected.

This resource explains how essential health benefits work, particularly for trans healthcare.

## What are essential health benefits?

Under the Affordable Care Act, Essential Health Benefits, or EHBs, are the types of medical care that [must be covered](#) by certain health insurance plans.

The ten essential benefit categories are:

1. ambulatory patient services
2. emergency services
3. hospitalization
4. maternity and newborn care
5. mental health and substance use disorder services, including behavioral health treatment
6. prescription drugs
7. rehabilitative and habilitative services and devices
8. laboratory services
9. preventive and wellness services and chronic disease management
10. pediatric services, including oral and vision care.

These are very general categories, and specific services covered under each category are determined state-by-state. Each state sets its own “EHB benchmark plan” outlining covered medical services. For example, under the hospitalization EHB, the benchmark plan would specify “reconstructive surgery” as one of the services covered under that benefit, which a patient might require after an accident or severe illness.

All plans in the state that are required to cover EHBs must provide coverage of the set of medical services covered under that EHB benchmark plan, with some flexibility allowed under the ACA.

If a particular service is covered as an EHB, it is also subject to a whole host of consumer protections under the ACA, including no lifetime limits, cost-sharing, and additional protections against discrimination in benefit design.

It is important to note that EHB benchmark plans may not fully describe what kind of medical services are covered. States have several options in how to select an EHB benchmark plan, and many chose a preexisting large group health plan as the EHB benchmark plan. Thus, some EHB benchmark plans don’t reflect all the requirements of the ACA, or include outdated or prohibited language like annual or lifetime limits on medical care or other exclusions. Generally, wherever portions of an EHB benchmark plan do not match the requirements of the ACA, those sections are ignored or supplemented as needed to bring the plans into compliance.

## **What types of health insurance plans do EHBs apply to?**

Plans that must cover EHBs (as set by the EHB Benchmark plan) include all individual and small group plans sold on the ACA Exchange/Marketplace<sup>1</sup> (i.e. healthcare.gov) -- also known as Qualified Health Plans (QHPs)-- and most non-grandfathered<sup>2</sup> individual and small group plans sold outside of the ACA Exchange/Marketplace. QHPs are subject to a number of ACA consumer protections, including a prohibition against “marketing practices or benefit designs that have the effect of discouraging the enrollment in such plan by individuals with significant health needs.”<sup>3</sup>

Medicaid Alternative Benefit Plans (ABPs) also rely on EHBs to determine the benefits offered to enrollees. This affects a large number of people, as most adults who became eligible for Medicaid enrollment under Medicaid expansion are covered under an ABP. The ACA allowed states to expand Medicaid coverage to adults with incomes up to 138 percent of the poverty level, which is approximately \$21,597 for a single adult and \$44,000 for a family of four. 40 states and Washington, D.C. have adopted the Medicaid expansion.

## Is trans healthcare considered an EHB?

With a few exceptions, transition-related care is not explicitly listed as an EHB in and of itself. This would include services like hormone prescriptions and gender-affirming surgeries.

California, Colorado, New Mexico, Vermont, and Washington decided to explicitly state that certain trans health services are required to be covered as an EHB. In 2021, Colorado updated their State EHB benchmark plan to explicitly include some forms of trans care, like facial surgeries – which are often denied by insurance companies - as an EHB.

A few state EHB Benchmark plans make no mention of whether transition-related care is included in the set of medical services that must be covered as EHBs. Unfortunately, most state EHB Benchmark plans have language that explicitly excludes trans care, but even that does not mean trans care isn't covered.<sup>4</sup> Whether or not transition-related care is covered in those states can depend on state laws and regulations, and a plan's own coverage and benefit design decisions. For example, New York's EHB benchmark plan excludes transition-related care, but the state government requires plans to cover it under the anti-discrimination provisions in their health insurance laws and regulations.

Moreover, ACA marketplace health insurance plans often already cover certain services associated with trans health because those services are included in the broad categories of medical care under an EHB. For example, hormones may be covered under the prescription drugs EHB, surgery may be covered under the inpatient or outpatient EHB, and seeing a therapist for a diagnosis of gender dysphoria is likely covered under the mental health EHB.

## What happens if transition-related health care is excluded from EHBs?

The Trump Administration and its allies in Congress are attempting to prohibit trans healthcare from being covered as an EHB. Recently, the Center for Medicare and Medicaid Services (CMS) issued a notice of proposed rulemaking that would forbid trans healthcare from inclusion as an essential health benefit. Following this, the House of Representatives made amendments to H.R.1 - One Big Beautiful Bill Act that would also prohibit covering transition-related care services as an EHB as part of the federal budget.

It's important to know that removing trans healthcare from EHBs is not a wholesale federal ban on covering transgender health care through health insurance plans which reference these benefits. While it will prevent states from adding transgender health

care as an EHB, like Colorado has, it will not ban insurance coverage of trans healthcare in states that want to protect access to our lifesaving care.

In fact, states can still require Qualified Health Plans to cover transition-related care, separate from their EHB benchmark plans. For example, separate state and federal law and/or regulations may require coverage of trans care in public or private health insurance plans. And under the ACA, states have the power to create “additional required benefits” that QHPs must cover aside from EHBs, but states must defray the cost of covering these additional required benefits.

Insurance companies can also choose to cover care beyond the state’s requirements. However, re-writing the ACA to say transgender health care *cannot* be an EHB would take away one tool to secure coverage and consumer protections for this vital health care. It could make it more expensive for some transgender people in America to access necessary health care or, worse, prevent them from accessing it entirely.

It’s important to understand that this is yet another Trump administration attempt to erode access to transition-related care, interfere in individual medical decisions, and continue their broader campaign to harm transgender people and drive them from public life.

## **What are the existing legal protections for transition-related care?**

Whether or not the Trump Administration is successful in removing transition-related care from coverage as an essential health benefit, federal and state laws still require coverage in many health plans.

Insurance regulators in 24 states—California, Colorado, Connecticut, Delaware, Hawai’i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and Wisconsin—and the District of Columbia have either issued guidance to insurers or have explicit laws protecting transition-related care.<sup>5</sup>

Even so, excluding trans healthcare from being covered as an EHB will increase confusion. If federal law does end up excluding transgender health care as an EHB, states’ response will be a crucial factor in whether or not trans people can access essential care.

Already, several states –including Minnesota, Oregon, Washington, Wisconsin, and Colorado –have already sued the Trump administration over the Executive Order directing the federal government to restrict access to care for transgender youth.<sup>6</sup> New

York's attorney general also reminded health care providers of their obligation to comply with state law.

Federal laws also generally prohibit sex discrimination in a wide range of areas like housing, healthcare and employment.

In a 2020 employment case, the Supreme Court found that discrimination against transgender people is sex discrimination.<sup>7</sup> While the Supreme Court has not yet applied this reasoning to healthcare for trans people, several lower courts have ruled that excluding transgender health care from coverage is also sex discrimination against transgender people.

The ACA has its own anti-discrimination provisions, particularly Sec. 1557, which protects against sex discrimination in health care. Importantly, Sec. 1557 allows lawsuits to be brought by private citizens harmed by discrimination, irrespective of any regulations and guidance issued by HHS.

Efforts to exclude transgender health care as an EHB likely violate these protections. As such, states and health insurance plans are not excused from their legal obligations to provide non-discriminatory healthcare coverage, including GAC for transgender people.

However, as seen with state-level protections, it will take proactive and collective efforts to ensure that these legal protections are enforced so that trans people can continue to access their essential healthcare.

## Notes

1. “ACA Exchange” and “ACA Marketplace” are used interchangeably by the Federal Government.
2. “Grandfathered plans” are health plans that were in existence on March 23, 2010 (the passage of the ACA), and have not undergone certain prohibited design changes since then. These plans are excused from some requirements under the ACA, such as coverage of preventive health services without any cost-sharing and the expanded appeals process and external review, but are subject to other provisions. Most consumers are not enrolled in grandfathered plans.
3. 42 U.S.C. § 18031(c)(1)(A).
4. 41 out of 51 [as of 2023](#).
5. See Movement Advancement Project, Healthcare Laws and Policies: Private Insurance Nondiscrimination Laws, Bans on Exclusions of Transgender Health Care, and Related Policies, [available here](#) (last updated Apr. 26, 2024).
6. *Ibid.*
7. *Bostock v. Clayton County, Georgia*, 590 US 644, 140 S. Ct. 1731, 207 L. Ed. 2d 218.