

# CHIP Transmittal

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## CHIP TRANSMITTAL 2016-5

**ISSUE DATE:** July 18, 2016

**EFFECTIVE DATE:** July 18, 2016

**SUBJECT:** Federal Final Rule  
“Nondiscrimination in Health Programs and Activities”

**TO:** CHIP Contractors

**FROM:** Lisa M. Watson  
Acting Executive Director of CHIP

### **PURPOSE**

To notify CHIP Contractors of the Federal Final Rule “Nondiscrimination in Health Programs and Activities” and its impact for coverage of services related to gender transition services.

### **BACKGROUND**

On May 18, 2016, the U.S. Department of Health and Human Services; Office of Civil Rights issued the final rule, entitled “Nondiscrimination in Health Programs and Activities Final Rule,” which implements Section 1557 of the Patient Protection and Affordable Care Act of 2010 (ACA) (Pub. L. 111-148). Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability. The final rule clarifies existing nondiscrimination requirements and sets forth new standards to implement Section 1557 particularly with respect to the prohibition of discrimination on the basis of sex in health-related insurance and other health-related coverage.

### **DISCUSSION**

The current CHIP benefits package excludes services including surgery related to treatment of gender dysphoria and sex reassignment. Therefore, these services are not currently being offered by CHIP Contractors. These exclusions are inconsistent with the provisions of the regulations set forth under the Federal Final Rule “Nondiscrimination in Health Programs and Activities”. Therefore, the CHIP benefit

package will be revised to reflect the nondiscrimination requirements and new standards set forth by the Final Rule.

Coverage related to gender transition services that otherwise fall within a beneficiary's scope of covered CHIP benefits (e.g., physician's services, inpatient and outpatient hospital services, surgical services, prescribed drugs, therapies, etc.) will be compensable under the CHIP Program, including CHIP Managed Care, when deemed medically necessary and appropriate. In determining medical necessity for gender transition services, the Department and CHIP Contractors will utilize the World Professional Association for Transgender Health (WPATH) Standard of Care as guidelines and any successor WPATH guidelines to determine whether the services are medically necessary.

CHIP Contractors must comply with the requirements of the Final Rule, including the notice mandates.

### **NEXT STEPS**

1. Contractors shall distribute this information to appropriate personnel, including those personnel involved in the review of medical necessity determination for gender transition services.
2. Contractors shall notify Members of the change in coverage to include services related to gender transition immediately.
3. Appropriate changes shall be made to Contractor's Member Handbooks, in both on-line, print, and alternate versions, by August 15, 2016.
4. This Transmittal will remain in effect until further notice.
5. Contact Judith deChamplain at (717) 346-1359 or [jdechampla@pa.gov](mailto:jdechampla@pa.gov), or Mary Beth Matlock at (717) 346-1365 or via email at [marymatloc@pa.gov](mailto:marymatloc@pa.gov) with any questions.