

Managed Care Operations Memorandum

Coverage of Services Related to Gender Transition

MCOPS Memo # 07/2016-007

Date: July 18, 2016

Subject: Coverage of Services Related to Gender Transition

To: HealthChoices MCOs

From: Laurie Rock, Director, Bureau of Managed Care Organizations

Purpose:

The Memorandum provides notification to HealthChoices Physical Health Managed Care Organizations (MCOs) of the Federal Final Rule, "Nondiscrimination in Health Programs and Activities," and its impact on coverage of services related to gender transition.

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," 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. The final rule prohibits the state Medicaid (MA) program, as an entity covered under the scope of the rule, from having or implementing any categorical coverage exclusion or limitation for health services related to gender transition. The effective date of the final rule is July 18, 2016.

Discussion:

Pennsylvania's current MA regulations include several explicit categorical coverage exclusions that prohibit MA payment for surgical procedures and medical care in relation to sex reassignment. These categorical payment prohibitions in Pennsylvania's current MA regulations are inconsistent with the final rule and will no longer be applied. The language in the following subsections of the Department of Human Services' (Department) regulations will be amended to reflect the nondiscrimination requirements and new standards set forth by the final rule.

55 Pa.Code § 1121.54(10), § 1126.54(a)(7), § 1141.59(11), 1163.59(a)(1), § 1221.59(7) (relating to noncompensable services).

Coverage related to gender transition services, that otherwise fall within a beneficiary's scope of covered MA benefits (e.g., physician's services, inpatient and outpatient hospital services, prescribed drugs, therapies) will be compensable under the MA program, including

MA Managed Care, when determined medically necessary. In determining medical necessity for gender transition services, the Department 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. These guidelines are also to be used by the MA MCOs.

Next Steps:

- The HealthChoices MCOs should distribute this information to personnel involved in the review of medical necessity determination for gender transition services.
- MCOs must submit any prior authorization policies specific to gender transition services for review and approval within ten business days of the date of this memorandum. The policies must use the guidelines from the World Professional Association for Transgender Health (WPATH).

This Managed Care Operations Memorandum will remain in effect until further notice.