

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

CODY FLACK and
SARA ANN MAKENZIE,

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF
HEALTH SERVICES and
LINDA SEEMEYER, in her official capacity
as Secretary of the Wisconsin Department of
Health Services,

Defendants.

Case No. 3:18-cv-00309-wmc
Judge William Conley

DECLARATION OF SARA ANN MAKENZIE

I, Sara Ann Makenzie, declare as follows:

1. I am one of the plaintiffs in the above-captioned action. I have personal knowledge of the matters stated in this declaration.
2. I was born in Wisconsin and have been a lifelong resident of the state. I have lived in Baraboo, Wisconsin since 2014.
3. I am a 42-year-old woman. I am transgender. I was assigned male at birth but I am female, and I have lived fully as a woman for the last six years or so.
4. I am a person with mental health disabilities, which I have lived with since childhood. Because of my disabilities, I am currently unable to work and I rely on Supplemental Security Income (SSI) for my income and Wisconsin Medicaid for my health care needs.
5. Since I was three years old, I knew I was a girl. I simply hated being a boy. When there was no one in our home, I would wear my sister's clothes and play with her dolls. My dad saw me playing with her dolls once and got mad at me, telling me that "those dolls aren't for

boys.” I felt ashamed, but all I wanted was to be treated like my sister. When I was around 15 years old, I pierced my own ears. It was incredibly painful, but other girls had pierced ears and I wanted to feel like that too.

6. I have always been uncomfortable with my male genitalia. When I was ten years old, in the evenings, I would make my underwear really tight so that I would not be able to see the bump in my pants.

7. Even though I always knew I was a woman, I simply did not know it was an option for me to live fully outwardly as a woman. I also did not feel that my family or the small rural community in which I grew up would understand what I was going through. I always felt out of place in my community. Knowing that how I looked and how I felt didn’t match also affected my former marriage and past relationships.

8. In approximately 2012, I first told my therapist that I was a woman. It was really hard for me. I kept thinking, how can I tell my doctor that I’m a woman and not a man? Will he believe me?

9. The therapist explained the term transgender to me, and I realized that’s what I was. I broke down in tears. I finally understood this disconnect I felt between my body and who I have always known myself to be. I realized, at that moment, that I wanted to be true to myself and live my life fully as a woman.

10. To begin my gender transition, I started to wear a wig, using makeup, and wearing women’s clothing. I also grew out my hair and have kept a feminine hairstyle since then. I still use makeup and wear women’s clothing. Each of those steps helped lessen my gender dysphoria.

11. Around the same time, I began seeing a therapist who focused on gender, Jasmine St. John, MS, LMFT. Unfortunately, there were no gender therapists in Baraboo, so I needed to drive an hour to Madison for therapy. Ms. St. John diagnosed me with gender dysphoria. In early 2013, she provided me with a letter confirming my female gender identity. I continued to meet with Ms. St. John for over four months, but the sessions were very expensive and Medicaid didn't cover them, so eventually I could no longer afford the therapy.

12. As soon as I could, I also started changing my identity documents to reflect my new name and my correct sex, female. This has been an expensive process. In 2013, after saving every cent I had and scrimping on expenses to save money (including occasionally fishing for food to avoid buying groceries), I obtained a court order legally changing my name to Sara Ann Makenzie. I also corrected my identity documents to reflect my female sex. The clerk at the Sauk County courthouse told me that I was the first person in Sauk County to "change genders." All my identity documents now reflect my female sex. In 2013, I obtained a Wisconsin driver's license with my new name and a female sex marker. In 2014, I obtained a United States Passport that similarly reflects my name and marks me as female. Lastly, in 2017, I obtained an amended Wisconsin birth certificate listing my name and female sex.

13. My former therapist, Ms. St. John, recommended in 2013 that I seek out hormone therapy as a way to treat my gender dysphoria. Unfortunately, I could not find any doctors in Baraboo who would prescribe me hormones to treat gender dysphoria. Ms. St. John referred me to a doctor in Milwaukee—two hours from Baraboo—who first prescribed me with hormone therapy (estradiol and spironolactone). I've been on hormone therapy since then.

14. When I started hormone therapy, my life got better. It was like the difference between night and day. I felt calmer, less angry, and more stable. I also became more

emotionally connected to my family and my life, which was very exciting for me, because I felt that my body was more in line with my gender identity. My symptoms of gender dysphoria diminished significantly, although I continued to experience dysphoria because of my genitals and because others still perceived me to be a man due to my outward appearance.

15. In May 2014, I changed my primary care physicians to Access Community Health Centers in Madison, Wisconsin and began to see Dr. Trisha Schimek. Madison is still an hour from where I live, but it is closer than Milwaukee. To afford the gas to get to Madison, I have sometimes needed to sell personal items, including movies, guitar amps, silver coins, and video games. Even though it is a struggle to make it to Madison, it is worth it since the hormones help me feel like myself.

16. So far, Wisconsin Medicaid has paid for my hormone treatments. However, because of Wisconsin Medicaid's exclusion of hormone treatment, I'm worried they may stop covering it.

17. Even with presenting more outwardly as a woman and hormone therapy, I continued to experience significant gender dysphoria. One of the causes of my dysphoria was the lack of female-appearing breasts. Even though the hormones led to some breast growth, I still did not feel that my chest looked sufficiently female, and I continued to experience distress, anxiety, and depression every time I saw it. Because of my lack of developed breasts, people still perceived me to be a man "dressing like a woman" or as transgender, causing me to stick out in my small town. As a result, I've been harassed and mistreated in the community, including by neighbors and the police.

18. In the summer of 2016, to further treat my gender dysphoria and in consultation with my medical providers, I sought to obtain chest reconstruction surgery, in the form of breast augmentation. I wanted to outwardly appear as a woman.

19. I called the insurance office to ask whether Wisconsin Medicaid would cover the chest reconstruction. They told me the procedure was not covered. I was extremely angry and devastated. I didn't understand why they would not cover this procedure that I needed.

20. After learning that chest reconstruction would not be covered by Wisconsin Medicaid, I got a \$5,000 personal loan from my bank and I paid out-of-pocket for the procedure. Because I don't have an income or other financial means, paying this loan back has been really difficult for me. However, I took on this hardship because it was the only way for me to get this surgery, which I needed to treat my gender dysphoria, further my gender transition, and let others see me as the woman that I am.

21. On August 30, 2016, I had chest reconstruction surgery that was performed by Dr. Venkat Rao, a plastic surgeon with UW Health in Madison.

22. The chest reconstruction surgery helped minimize my gender dysphoria. As a result of that surgery, significantly fewer people mistake me for a man or perceive me to be transgender. I remember the first time after the surgery that someone called me "lady," I was on cloud nine. It felt wonderful—and right—to be perceived by others as a woman. My shirts also fit better now and I don't experience as much distress when I look at my chest in the mirror. Since the surgery, I have also been mistreated and harassed less.

23. While my chest reconstruction has helped my gender dysphoria, I experience profound distress because I still have a penis. Simply knowing that I have this thing between my legs that doesn't belong there makes me incredibly anxious. I feel that I have not been able to

fully transition into the woman I know I am. I regularly wear leggings or tight pants, and I am constantly afraid that someone will be able to see my genitals. To minimize the chance that people will see a bump in my pants, I have to wear multiple pairs of underwear to hold my genitals in. I also engage in a practice called “tucking” to hide my genitals. However, tucking is incredibly painful, uncomfortable, and irritating. It also sometimes causes a burning sensation and hurts my skin.

24. Even when I tuck, I am constantly worried that someone may notice my genitals and think of me as something other than a woman. This not only stresses me out, but it also makes me fear for my safety. When I am in public, I am constantly thinking to myself, will someone attack me if they see the bump? And if so, who will I turn to? The police do not treat me properly and so I would not want to call them if I were attacked. Going through this thought process every day makes me anxious and depressed.

25. To complete my gender transition, further treat my gender dysphoria, and eliminate my need to tuck, since at least mid-2014, I have discussed my desire to have genital reconstruction surgery with my doctors.

26. I remember in the summer of 2014, I learned through a New York Times article that Medicare was now required to cover gender confirming surgeries when medically necessary. I sent the article to Dr. Schimek noting that because of the change I should be able to get gender confirming surgery. Dr. Schimek responded that the change was only applicable to Medicare. As I am on Medicaid, I realized that change did not cover my situation. After a brief moment of hope, I was again devastated.

27. Shortly after, I again discussed my desire to get genital reconstruction surgery with Dr. Schimek and asked her to try to get prior authorization for my surgery. Shortly after my appointment, she called and told me that Wisconsin Medicaid would not cover the surgery.

28. Because Wisconsin Medicaid would not cover this necessary surgery, I have seriously considered moving to San Francisco where California Medicaid would cover my surgery. However, I later heard that I would have to live in California for a year to be eligible for the surgery. Since I could not afford living there, I considered being homeless for a year simply to get my surgery. I have also thought about going to Bangkok to get the surgery since I've heard it's cheaper there, but I also understand that's risky and I'm not sure how I'd afford the trip to Thailand anyway.

29. After discussing my need for this surgery with my new primary care physician at Access Community Health Centers, Dr. Beth Potter, she referred me to a plastic surgeon specializing in transition-related surgeries, Dr. Katherine Gast at UW Health in Madison, to discuss the procedure.

30. In February 2018, I had consultation with Dr. Gast. I was so excited on my way to the appointment. I felt so hopeful that after all this time, I was finally going to be able to complete my transition. Dr. Gast recommended that I get a bilateral orchiectomy and vaginoplasty, which create female-appearing external genitalia. She discussed the different techniques that she would use as well as the risks and anticipated recovery time. While it sounded painful, I was so excited about the possibility of going through the procedure and finally feeling fully like myself. Dr. Gast advised me that I met the criteria under the applicable standards of care to obtain genital reconstruction surgery for the treatment of gender dysphoria, but that I still needed to get two letters of support for surgery from my primary providers before I

could obtain the surgery. While it was frustrating to have another hurdle to jump through for the surgery, I was ready to ask my doctor and therapist to provide me with those letters, and I told Dr. Gast I would do so.

31. Dr. Gast understood exactly what I needed. She showed me pictures of how I would look afterwards, and it made me feel so happy that I would finally feel comfortable in my own skin.

32. Toward the end of the consultation, Dr. Gast informed me that Wisconsin Medicaid would not cover the procedure.

33. Without coverage from Wisconsin Medicaid, I simply do not have the means to pay for the surgery I need. I can't take out another loan and feel like I have no other options. My income from SSI is low and barely covers my living expenses. Learning again, after all this time, that Wisconsin Medicaid would still not cover my surgery was devastating. On the way home from Madison that day, I started to get very upset. I felt broken. I thought about killing myself that night. For some time after, I considered cutting off my genitals myself and had frequent thoughts of ending my life.

34. Not being able to get this necessary care because of Wisconsin Medicaid's exclusion has made my gender dysphoria worse. I am still seriously distressed at the sight of my penis. I try to avoid sexual activity with my fiancée to minimize that distress. That only results in further anxiety and depression and strains my relationship with my fiancée. Because of my gender dysphoria and the distress I feel, I have engaged in some self-harming behaviors, including cutting in my genital area. I have also thought about ending my life and have had other thoughts of self-harm because I'm not able to complete my gender transition.

35. I've gotten through this, in part, through the support of my fiancée and my mother. I'm a Christian, and I pray every day about the things that I am thankful for in my life and for the strength to continue, which has also helped me get by. But I know I'll never fully feel like myself until I can complete my medical transition.

36. If I were able to get the surgery, I would finally feel whole. I would also want to engage more in my community, including by applying to work or volunteer at Devils Lake State Park near my home in Baraboo. I could stop worrying about whether people will find out that I am transgender and mistreat me because of it. I could live my life happily, knowing that my body aligns with the woman I know I am.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 21 day of May, 2018.


Sara Ann Makenzie