

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

CODY FLACK,
SARA ANN MAKENZIE,
MARIE KELLY, and
COURTNEY SHERWIN,

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 LEXIE VORDERMANN

I, Lexie Vorderman, declare as follows:

1. I have personal knowledge of the matters stated in this declaration.
2. I spent my entire life in Monroe, Wisconsin until I moved to Middleton, Wisconsin in 2018. That is where I now live.
3. I am a 19-year-old transgender woman. I was assigned male at birth, but I am female. I have lived fully as a woman for about five years.
4. I have been on Wisconsin Medicaid since 2010. I rely on Medicaid for my health care needs. I am currently assigned to the Quartz Medicaid Health Maintenance Organization.
5. I have been diagnosed with gender dysphoria.
6. I began my transition during freshman year of high school when I wore feminine clothing and make up. I started using the name “Lexie” during sophomore year. During junior year and senior year, I discussed transition options with physicians and met with counselors. I

started taking medication to suppress male hormones during junior year, and I began to take female hormones during senior year.

7. The hormones have helped me develop secondary female characteristics and have improved my gender dysphoria somewhat. I do feel more comfortable with own body when I am with my friends or when I go to public places. However, I feel very uncomfortable having male genitals and that worsens my gender dysphoria. Also, my physicians have told me that it would be better for my health to have an orchiectomy procedure rather than relying on hormone blockers to suppress my testosterone.

8. In late 2017, my primary care doctor referred me to a urologist, Dan Gralnek, M.D., at UW Health in Madison. After meeting and examining me, Dr. Gralnek determined that an orchiectomy was medically necessary, agreed to perform the procedures, and submitted a prior authorization request for an orchiectomy to my Medicaid HMO, Quartz.

9. I received a letter dated January 25, 2018 from Quartz stating that the request was denied because:

In the Wisconsin State Administrative Code, Department of Health Services Chs. 101-109; Medical Assistance
Chapter DHS 107 Services not covered. The following services are not covered services under MA:
(24) Transsexual surgery

A copy of the denial letter is attached as Exhibit A.

10. The January 25, 2018 denial letter explained my appeal rights. I did appeal the denial through the Quartz appeal process, but it was denied.

11. After the denial, Dr. Gralnek submitted a new prior authorization request to the Quartz HMO. I received a second denial letter dated September 27, 2018 stating:

Currently, Wisconsin BadgerCare, BadgerCare Plus, Medicaid, and State of Wisconsin employee health insurance (ETF) do not cover gender reassignment surgery or drugs related to gender reassignment or hormone replacement.

In the Wisconsin State Administrative Code, Department of Health Services Chs. 101-109; Medical Assistance Chapter DHS 107 Services not covered. The following services are not covered services under MA:

(24) Transsexual surgery

A copy of the second denial letter is attached as Exhibit B.

12. The September 27, 2018 denial letter also explained my appeal rights, but I have not decided whether to go through the appeal process again. I am afraid that it is hopeless because Quartz will continue to say that it cannot approve the surgery because of that section in the Administrative Code.

13. Receiving those denial letters was very upsetting. The idea that I might never get transition surgeries scares me and makes me feel hopeless. I do not want to go through life with constant reminders that my body does not match the person I actually am.

14. Wisconsin Medicaid has paid for my hormone treatments so far. My doctors have told me it would be harmful to stop those treatments. I am worried that Medicaid may stop covering hormones because of the second denial letter which said that “surgery or drugs related to gender reassignment or hormone replacement” are not covered. I do take drugs for gender reassignment and hormone replacement and I am afraid of what will happen to me if they are no longer covered by Medicaid.

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

Executed this 16th day of October, 2018.

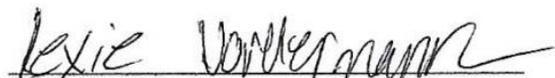

LEXIE VORDERMANN

EXHIBIT A

Quartz Denial Letter (1/25/2018)



Medical Management 7974 UW Health Court
Middleton, WI 53562
(608) 821-4200
(888) 829-5687
(608) 821-4207 Fax
QuartzBenefits.com

January 25, 2018

LEXIE E VORDERMANN
[REDACTED]

Service: Removal of Testes
Patient: Lexie E Vordermann
Subscriber: Vordermann, Lexie E
ID#: [REDACTED]
Date of Birth: [REDACTED]

Dear Ms. Vordermann,

We have reviewed a request from Dan R Gralnek, MD for coverage of removal of testes. Unfortunately, we cannot approve this request. It was denied because your BadgerCare Plus (BC+) health benefits say:

In the Wisconsin State Administrative Code, Department of Health Services Chs. DHS 101-109; Medical Assistance
Chapter DHS 107 Services not covered. The following services are not covered services under MA:

(24) *Transsexual surgery;*

If you have questions or would like a free copy of your BC+ health benefits, please call Customer Service at (800) 362-3310. You may also send a message through MyChart or mail a request to:

Quartz
ATTN Customer Service
840 Carolina Street
Sauk City, WI 53583

If your doctor would like to discuss this decision, please call (608) 821-4200 or (888) 829-5687.

This decision does not mean you cannot receive the care you were seeking. It simply means your insurance will not cover it. If you decide to receive this care, you will have to pay for it. You and your doctor should make all of the decisions about your health care. This includes the treatment you may need. Your benefits are determined according to the contract terms in force on the date the services are done.

If you wish to appeal this decision, please fill out the attached form. It needs to be returned within 45 days. You can call (800) 362-3310 or send it to:

Quartz
ATTN Appeals Specialists
840 Carolina Street
Sauk City, WI 53583
Email: AppealsSpecialists@QuartzBenefits.com
Fax: (608) 644-3500

You have the right to review the information we used to make a decision. You can do so before the HMO grievance committee hearing or the State of Wisconsin Division of Hearings and Appeals (DHA). Please contact our Appeals Specialist if you have any questions by calling (800) 362-3309 ext. 1423 or 1582.

You may need to pay for the cost of services if the hearing decision is not in your favor.

If you think there is anything new we should know, please include it with your appeal. New information may be written comments, documents, medical records or anything that is relevant. You may bring someone with you to the meeting, including an attorney, but it is not required. You can get free interpreter services. Call Customer Service at (800) 362-3310.

It may take up to 10 days from the day we receive your request to respond. It may take up to 30 days to make a final decision.

If your appeal is urgent, please call us as soon as possible at (800) 362-3310. Urgent requests are for services that are needed right away. If a delay in treatment would increase the risk to your health or you are in the hospital, you may qualify. Urgent requests are decided within two business days. Your benefits may continue during this time. In urgent situations, an external review can occur at the same time as the internal appeal. Your doctor must verify that a delay can be a health risk. If we determine your appeal does not meet the urgent requirements, we will review the appeal in the standard time frames.

If you wish to talk to someone outside of Quartz, please call the HMO Enrollment Specialist at (800) 291-2002. They may assist you with your appeal to Quartz or to the Wisconsin Managed Care Program. To file a grievance with the Wisconsin Managed Care Program, send a letter to:

Wisconsin Managed Care
Ombudsman
P.O. Box 6470
Madison, WI 53716-0470

Rafael Sanchez
608-821-4212
608-0037

Carla Gaines
608-821-4214

You have the right to appeal to the DHA for a Fair Hearing if you believe your benefits are wrongly denied, limited, reduced, delayed or stopped by Quartz. An appeal must be made no later than 45 days after the date of the action being appealed. If you appeal this action to DHA before the action or you request that it continue within 10 days of receiving this letter, the service may continue. If you decide to receive the care you were seeking, you may need to pay for the full cost of medical services if the hearing decision is not in your favor. If you want a Fair Hearing, send a written request to:

Department of Administration
Division of Hearings and Appeals
P.O. Box 7875
Madison, WI 53707-7875

The hearing will be held in the county where you live. You have the right to bring a friend or be represented at the hearing. If you need a special arrangement for a disability or for English language translation, please call (608) 266-3096 (voice) or 711 (hearing impaired).

If you need help writing a request for a Fair Hearing, call the Wisconsin Managed Care Ombudsman at (800) 760-0001 or the HMO Enrollment Specialist at (800) 291-2002.

We cannot treat you differently than other members because you file a complaint or grievance. Your health care benefits will not be affected.

We would be glad to talk to you about this decision. Please call (800) 362-3310.

Sincerely,

Medical Management Department/am
cc: Dan R Gralnek, MD

Gundersen Health Plan, Inc. is contracted with the State of Wisconsin to provide BadgerCare Plus HMO Services.
QL2487 (0118) - 9000520

EXHIBIT B

Quartz Denial Letter (9/27/2018)



Medical Management 7974 UW Health Court
Middleton, WI 53562
(608) 821-4200
(888) 829-5687
(608) 821-4207 Fax
QuartzBenefits.com

September 27, 2018

LEXIE E VORDERMANN
[REDACTED]

Service: REMOVAL of TESTIS,
Patient: Lexie E Vordermann
Subscriber: Vordermann, Lexie E
ID#: [REDACTED]
Date of Birth: [REDACTED]

Dear Ms. Vordermann,

We have reviewed a request from Dan R Gralnek, MD for coverage of gender reassignment surgery. Unfortunately, we cannot approve this request. It was denied because your BadgerCare Plus (BC+) health benefits say:

Currently, Wisconsin BadgerCare, BadgerCare Plus, Medicaid, and State of Wisconsin employee health insurance (ETF) do not cover gender reassignment surgery or drugs related to gender reassignment or hormone replacement.

In the Wisconsin State Administrative Code, Department of Health Services Chs. DHS 101-109; Medical Assistance Chapter DHS 107 Services not covered. The following services are not covered services under MA:
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Sauk City, WI 53583

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P.O. Box 7875
Madison, WI 53707-7875

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Sincerely,

Medical Management Department/ae

cc: Dan R Gralnek, MD

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