

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

CODY FLACK, *et al*,
*individually and on behalf of all others similarly
situated,*

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF
HEALTH SERVICES and
ANDREA PALM, in her official capacity as the
Acting Secretary of the Wisconsin Department
of Health Services,

Defendants.

Case No. 3:18-cv-00309-wmc

Judge William Conley

DECLARATION OF EMILY SMITH, RN, BSN

I, Emily Smith, declare as follows:

1. I am a registered nurse and the Gender Services RN Navigator at UW Health in Madison, Wisconsin. I have actual knowledge of the matters contained in this declaration.

2. As the Gender Services RN Navigator at UW Health, my job is to help transgender and gender expansive patients navigate both the different services that UW Health provides and the health care system more broadly. In this position, I work closely with medical providers and staff across the entire UW Health organization. I support patients and providers in a variety of ways, including coordinating care between providers inside and outside of UW Health, identifying internal and external resources for patients, and navigating the insurance coverage process for patients.

3. In this position, I have worked with patients on a variety of health insurance plans, including Wisconsin Medicaid and the Wisconsin Medicaid HMOs.

4. One of my job responsibilities is helping patients, including Wisconsin Medicaid beneficiaries, navigate the appeal process when they have been denied insurance coverage for medical treatments for gender dysphoria, including gender-confirming surgeries and other services.

5. Prior to the preliminary injunction granted by the Court in April 2019 in this case, most Wisconsin Medicaid beneficiaries were unable to obtain coverage for gender-confirming surgical care because of the State's categorical coverage exclusion. As a result, many transgender patients for whom gender-confirming surgery was deemed medically necessary by their treating providers were unable to obtain those services.

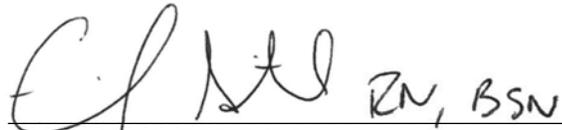
6. After the Court order in April, an increasing number of transgender Wisconsin Medicaid beneficiaries have sought gender-confirming treatments at UW Health based on the understanding that these services would now be covered. As the Gender Services RN Navigator, I am personally familiar with all of those patients. Unfortunately, despite the Court's order, my UW Health colleagues and I have continued to see denials of coverage for gender-confirming surgeries and related procedures from some Wisconsin Medicaid HMOs. Based on my review of patient records, since April 23, 2019, at least three of our patients have been denied coverage for gender-confirming surgeries by their Medicaid HMO, based on the HMO's own policies excluding coverage of some or all gender-confirming surgeries. Specifically, the Medicaid HMOs have denied prior authorizations and subsequent appeals based on the HMO's coverage policies that consider these treatments "cosmetic" or "contract exclusions" for Medicaid beneficiaries.

7. Additionally, despite the Court's order in the *Boyd* case in 2019 striking down the categorical coverage exclusions for gender-confirming surgeries in the State Employee

Health Plan through the Wisconsin Department of Employee Trust Funds (ETF), I have also continued to see denials of coverage for these services for individuals enrolled in the ETF plan through HMOs that administer ETF plans. These denials have been based on the HMOs' own policies excluding coverage of some or all gender-confirming surgeries and have come from some of the same HMOs that have denied coverage of these same services for Medicaid beneficiaries.

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

Executed this 10th day of September, 2019.


Emily Smith RN, BSN