



U.S. Department of Justice
Civil Rights Division

CONFIDENTIAL

JMG:KDW:KLF
DJ 170-6-0

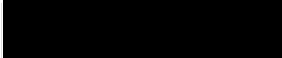
Employment Litigation Section - PHB
950 Pennsylvania Avenue, NW
Washington, DC 20530
www.usdoj.gov/crt/emp

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

CERTIFIED MAIL 7016 2140 0000 5582 0548
RETURN RECEIPT REQUESTED

MAY 17 2018

Ms. Jennifer Fletcher



Re: Jennifer Fletcher v. State of Alaska
EEOC Charge No. 551-2017-01334

Dear Ms. Fletcher:

It has been determined that the Department of Justice will not file suit on the above-referenced charge of discrimination that was referred to us by the Equal Employment Opportunity Commission (EEOC). This should not be taken to mean that the Department of Justice has made a judgment as to whether or not your charge is meritorious.

You are hereby notified that conciliation in this matter was unsuccessful by the EEOC. You are further notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq., against the above-named respondent. If you choose to commence a civil action, such suit must be filed in the appropriate court within 90 days of your receipt of this Notice.

Therefore, you should consult an attorney of your own choosing at your earliest convenience. If you are unable to locate an attorney, you may wish to contact the EEOC, or apply to the appropriate court, since that court may appoint an attorney in appropriate circumstances under Section 706(f)(1) of Title VII, 41 U.S.C. 2000e-5(f)(1).

We are returning the files in this matter to EEOC's Seattle Field Office. If you or your attorney have any questions concerning this matter or wish to inspect the investigative file, please feel free to address your inquiry to: Nancy A. Sienko, Director, EEOC, 909 First Avenue, Suite 400, Seattle, WA 98104-1061.

Sincerely,

John M. Gore
Acting Assistant Attorney General
Civil Rights Division

By:

Karen D. Woodard
Principal Deputy Chief
Employment Litigation Section

cc: State of Alaska
EEOC, Seattle Field Office

7016 2140 0000 5582 0548

U.S. Postal	
CERTIFIED	
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<http://www.aetna.com/legal-notices/privacy/information-practices.html>.

*GovtServices - Other- Health Concierge

Original Message Excluded:

11/23/2016



()

From: JENNIFER R FLETCHER

Greetings;

There are three things which I am hoping to do:

1) Determine if a specific medical procedure will be covered after the plan benefit changes required by section 1557 of the Affordable Care Act are implemented on January 1, specifically sex reassignment surgery and augmentation mammoplasty associated with a gender dysphoria diagnosis (arguably more similar to reconstructive surgery, but providers often code procedures oddly).

2) Find out if these procedures would be covered if the procedures were carried out outside of the United States, which may also be dependent on plan changes between now and the anticipated date of the procedures.

3) Pre-authorize the procedure if it may be covered, for which I would need to be directed to the relevant forms.

Would you be able to help me with these tasks?

Jennifer Fletcher



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Jennifer Fletcher



11/22/2016



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From: Member Services

Dear Jennifer Fletcher:

Thank you for using the secure member website to contact Aetna. To help protect your confidential information, please continue to use the secure member website to contact us. This online form provides greater security than standard Internet e-mail.

Your appeal request
We received your request to appeal services that have not yet been rendered. We reviewed your file and did not find any claims or preauthorization requests that have been denied. A denial must be issued before an appeal can be filed.

Your benefits
AlaskaCare does not cover gender reassignment surgery and related services nor medical services when the intent is to travel out of country to receive services.

You may find this information on page 83 under medical benefit exclusions, item number 4; 'any non-emergency charges incurred outside of the United States if you traveled to such location to obtain medical services, prescription drugs, or supplies, even if otherwise covered under the medical plan. This also includes prescription drugs or supplies if such prescription drugs or supplies are unavailable or illegal in the United States; or the purchase of such prescription drugs or supplies outside the United States is considered illegal.'

In reference to gender reassignment surgery exclusion, page 90 addresses the exclusion for this type of service.

Although the current plan booklet is not the finalized document for 2017, this benefit information will remain the same for 2017.

State of Alaska offers their plan's Summary of Benefits and Coverage document online, which is a detailed summary of benefits. Go to www.AlaskaCare.gov, then under 'Employee' select 'Publications', 'Employee Insurance Information Booklet', then 'AlaskaCare Employee Health Plan booklet'.

You can instantly communicate with a Health Concierge online via our Web Chat feature, Monday through Friday, from 8 a.m. to 7 p.m. PT and get the answers you need, fast. Or you can reach your Health Concierge team by logging on to www.aetnavigators.com and selecting 'Contact Us'. You may also call the toll-free number on your member ID card.

Sincerely,
Your Aetna Health Concierge
Aetna
33950963

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Original Message Excluded:

12/01/2016

CONFIDENTIAL

()

**From: JENNIFER R FLETCHER**

I would like to appeal this determination.

At the moment, the only plan documents which have been approved for the 2017 calendar year, and the only items which have been available for planning purposes, have been the general plan summaries which state the percentage of a variety of medical procedures are covered, information such as the premium and deductible, and so forth.

To put it another way, I have agreed to a plan for 2017 that does not yet have a plan booklet. There are no clauses within the 2016 booklet suggesting that the default position should be that all exclusions will be renewed, or even that the prior year would be the basis for the next year's plan design. I had requested these items from the State, and they were not provided. I have had prior confirmation from the State that the exclusions were being reworked heavily to comply with Federal law.

I will treat as implied through the documents which have been present during the Open Enrollment process that there is a matter of doctors in or outside of network, and that pre-authorization is required or benefits may be reduced. I would like to pre-authorize treatment with Dr. Suporn, of Chonburi, Thailand, in June of 2017, specifically for vaginoplasty and augmentation mammoplasty.

Please cite the relevant provisions by which you are denying this request. I would point out once again that the 2017 plan booklet and exclusion information have not been finalized, and yet open enrollment has ended. I would contend that the absence of any finalized exclusions at this time, **after** open enrollment has ended and I have selected a plan, is a rather key detail in making your determination.

As noted above, I will certainly concede that such treatment would be out of network, and perhaps not pre-authorized though I certainly am trying to ensure that it is.

Sincerely,
Jennifer Fletcher

11/30/2016



()



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Dear Jennifer:

Thank you for using the secure member website to contact Aetna. To help protect your confidential information, please continue to use the secure member website to contact us. This online form provides greater security than standard Internet e-mail.

Your general coverage question
For basic information about our individual health plans, please visit <https://www.aetna.com/member>. For detailed coverage information and options available, please contact your employer's benefits department.

Out of the country services are covered in emergency situations only. Precertification is done by the provider; not the member. They would contact the precertification department directly. You do not have to submit a form.

Coverage while traveling outside the USA
Your plan does include coverage for emergency services while traveling outside the USA. Most providers will require payment at the time services are provided.

Once services are provided
You'll need to submit a claim for reimbursement for any

emergency services you have while traveling outside the USA (for example: emergency room, hospitalization, etc). Please get an itemized bill for all services that include:

- * Provider's name and address
- * Patient's name
- * Member ID
- * Date of service(s)
- * Type of service(s) and diagnosis
- * Dollar amount charged for each service(s)

A receipt showing payment for the care will also be needed to submit your claim.

Emergency inpatient medical care
If you need help in coordinating your care while traveling outside of the USA, contact our Special Case Precertification Unit (SCPU) at 1-855-888-9046.

They can arrange for the following:

- * Assessments of the urgent or acute care facility's ability to treat you
- * Transfer to another acute care facility, if needed
- * Transfer back to the United States
- * Transfer home

The information provided above is not a guarantee of coverage. Coverage is based on all the terms and conditions of your plan as well as eligibility at the time services are received.

You can instantly communicate with a Health Concierge online via our Web Chat feature, Monday through Friday, from 8 a.m. to 7 p.m. PST and get the answers you need, fast. Or you can reach your Health Concierge team by logging on to www.aetnavigators.com and selecting 'Contact Us'. You may also call the toll-free number on your member ID card.

Sincerely,
Your Aetna Health Concierge
Aetna
33910838

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5/25/2018

Message Center

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11/22/2016



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From: Member Services

Dear Jennifer Fletcher:

Thank you for using the secure member website to contact Aetna. To help protect your confidential information, please continue to use the secure member website to contact us. This online form provides greater security than standard Internet e-mail.

We need additional time to research and respond to your inquiry regarding transgender care.

We will send you a follow up email in one business day to provide you with a response.

We apologize for the inconvenience.

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Aetna
33957031

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Original Message Excluded:

12/02/2016



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From: JENNIFER R FLETCHER

I would ask that you review sec. 1557 of the Affordable Care Act, and the regulations which have been promulgated. They explicitly state that exclusions of the sort that you cited (blanket transgender care exclusions) are illegal, and that they key determination should be whether coverage is present for similar treatments for other disorders.

I would point out that correcting birth defects of all types are explicitly covered, including intersex conditions. I would also point out that reconstructive surgeries are covered, and suggest that both of these are sufficiently similar to surgical treatments for gender dysphoria to merit a comparison.

For reference, the regulations require that all plans be modified to comply by January 1, 2017. The full text of those regulations is available at the following link:
https://www.federalregister.gov/documents/2016/05/18/2016-11458/nondiscrimination-in-health-programs-and-activities?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

Please read, and advise on whether or not surgical treatments for gender dysphoria will be covered during calendar year 2017, and if there are any limitations on which services. For the moment, let's assume the care is received within the United States, and I would ask for a list of providers who are capable of those procedures within the plan.

Sincerely,
Jennifer Fletcher

12/01/2016



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5/25/2018

Message Center

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Jennifer Fletcher

11/22/2016



Jennifer Fletcher [REDACTED]

Benefit Inquiry

1 message

Campbell, Christopher D <CampbellC@aetna.com>

Mon, Dec 5, 2016 at 12:35 PM

To: [REDACTED]
Cc: "Campbell, Christopher D" <CampbellC@aetna.com>

Hello Jennifer,

I want to thank you for reaching out to us regarding surgical treatment for gender dysphoria. I want to know that I did review the information that you have provided as well as what your current benefits are. Unfortunately the 2017 Employee plan booklet has not been posted yet. The State of Alaska AlaskaCare plan is self-funded plan, meaning that all plan design decisions are made by the Plan Administrator (i.e. State of Alaska). With that, we have referred your inquiry to the Division of Retirement and Benefits to research and either they or me will follow up with you.

Please feel free to reach out to me if you have any questions.

Thank you,

Christopher Campbell
Local & Regional Businesses Operations
Client Advocate, Government Services-Public & Labor

CampbellC@Aetna.com
(860) 900-2020 T

(860) 975-1340 F
1385 E. Shaw Avenue

Fresno, CA 93710



This e-mail may contain confidential or privileged information. If you think you have received this e-mail in error, please advise the sender by reply e-mail and then delete this e-mail immediately. Thank you. Aetna

5/28/2018

Gmail - RE: Benefit Inquiry



Jennifer Fletcher [REDACTED]

RE: Benefit Inquiry

1 message

Campbell, Christopher D <CampbellC@aetna.com>
To: Jennifer Fletcher [REDACTED]

Thu, Jan 5, 2017 at 3:21 PM

Hello Jennifer,

Since the State of Alaska AlaskaCare plan is a self-insured plan, it is to the them for the plan design. Unfortunately we do not have any authority to change this. As well as with the plan booklets, the State of Alaska is who determines when they want to release it.

I can understand that you are frustrated, and these are probably not the answers you were wanting, but it is up to the State of Alaska for the plan design and there is nothing that we can enforce or change.

Thank you,

Christopher Campbell
Local & Regional Businesses Operations
Client Advocate, Government Services-Public & Labor

CampbellC@Aetna.com
(860) 900-2020 T

(860) 975-1340 F
1385 E. Shaw Avenue

Fresno, CA 93710



From: Jennifer Fletcher [mailto:innocentcyn@gmail.com]
Sent: Thursday, January 05, 2017 2:50 PM

https://mail.google.com/mail/u/0/?ui=2&ik=91c955277a&jsver=dxVn9Y02g.en.&cbl=gmail_fe_180516.06_p8&view=pt&search=inbox&th=1597126c6e89cb53&siml=

5/28/2018

Gmail - RE: Benefit Inquiry

To: Campbell, Christopher D
Subject: Re: Benefit Inquiry

Greetings again Christopher;

I noticed that I have not received a response to my prior email.

I would also like to point out that as of January 1, 2017, the plan which Aetna is being asked to enforce no longer adheres to the nondiscrimination provisions in sec. 1557 of the Affordable Care Act, and continues to actively discriminate against transgender persons.

Could you respond to my prior questions, namely "What actions will Aetna take now that it is being asked to enforce a blatantly illegal plan?" "To what extent will Aetna pressure the AlaskaCare plan administrator to be more timely in adopting new plan booklets in the future?" and finally "Wouldn't enforcing the transgender treatment exclusions result in Aetna being complicit in these discriminatory actions, and consequently risk a certain amount of legal liability?"

Thank you in advance for your response.

Sincerely,

Jennifer Fletcher

On Mon, Dec 5, 2016 at 1:19 PM, Jennifer Fletcher [REDACTED] wrote:

Greetings Christopher;

Thank you for your response. I do have some followup questions.

1) What actions would Aetna take if it is asked to enforce a blatantly illegal plan, for example one which continues to contain the mentioned exclusions or enacts numerous new treatment-based exclusions which are equally discriminatory?

2) To what extent is Aetna able to pressure the Plan Administrator to be more timely in adopting new plan booklets? For example, open enrollment for the plan ended on November 23, open enrollment for the open marketplace plans ends on December 15 (if coverage is to start January 1), but the timeline that I have been given is that the booklet will not be finalized until the end of December.

3) In the event that exclusions are still present and are being enforced after January 1, wouldn't Aetna potentially be exposed to some annoyingly high legal liabilities in relation to these issues? By which I mean, more so than they already are, since these regulations are not the only avenue by which one could make claims of discrimination.

I thank you in advance for your responses on these issues, and hope your days are enjoyable.

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5/26/2018

Gmail - RE: Benefit Inquiry

Sincerely,

Jennifer Fletcher

On Mon, Dec 5, 2016 at 12:35 PM, Campbell, Christopher D <CampbellC@aetna.com> wrote:

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