

Exhibit 42

From: Brad Young <Brad.Young@nctreasurer.com>
Sent: Thu, 08 Dec 2016 11:39:14 -0500
To: Mona Moon <Mona.Moon@nctreasurer.com>
Subject: RE: WUNC: Gender Dysphoria Coverage (noon deadline)



Thanks

From: Mona Moon
Sent: Thursday, December 08, 2016 11:27 AM
To: Brad Young; Lotta Crabtree
Cc: Beth Horner; Schorr Johnson
Subject: RE: WUNC: Gender Dysphoria Coverage (noon deadline)

Section 1557 of the Affordable Care Act (ACA) prohibits discrimination based on race, color, national origin, sex, age or disability in certain health programs and activities and has been in effect since the enactment of the ACA in 2010. The rule applies to any health program or activity, any part of which receives funding from the Department of Health and Human Services (HHS). The State Health Plan receives between \$15 million and \$20 million annually in federal Retiree Drug Subsidy.

Failure to comply with section 1157 may result in suspension of, termination of, or refusal to grant or continue to grant Federal financial assistance, i.e. loss of the Retiree Drug Subsidy. Failure to comply also makes the State Health Plan at risk of civil action filed by an individual to challenge a Section 1557 violation.

The estimated \$350,000 to \$850,000 cost associated with this benefit change is approximately 0.011% to 0.027% of the Plan's total \$3.2 billion in annual premiums - meaning premiums would increase by less than 0.03%.

From: Brad Young
Sent: Thursday, December 08, 2016 10:13 AM
To: Lotta Crabtree <Lotta.Crabtree@nctreasurer.com>; Mona Moon

PLAN DEF0029555

<Mona.Moon@nctreasurer.com>

Cc: Beth Horner <Beth.Horner@nctreasurer.com>; Schorr Johnson

<Schorr.Johnson@nctreasurer.com>

Subject: FW: WUNC: Gender Dysphoria Coverage (noon deadline)

Good morning,

Can you clarify her question on how much this affects overall health coverage spending?

Thanks,

Brad

From: Fitzgerald, Rebecca Martinez [<mailto:rmartinez@wunc.org>]

Sent: Thursday, December 08, 2016 9:29 AM

To: Press

Subject: WUNC: Gender Dysphoria Coverage (noon deadline)

Mr. Young and colleagues,

I'm writing to request a short phone interview this morning about the State Health Plan's decision to cover gender dysphoria treatments. I've read the Segal Consulting report that this coverage could cost the state up to \$850,000 dollars annually. I'd like to ask how much this affects overall health coverage spending, and why it makes sense for the state to comply with this particular ACA requirement.

My deadline is noon today. If no one is available for a phone call, please send a written statement here.

Thank you for your help!

Rebecca Martinez

PLAN DEF0029556

Morning Edition Producer
North Carolina Public Radio, WUNC
(919) 445-9246

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PLAN DEF0029557

Exhibit 43

Corporate Medical Policy

Gender Confirmation Surgery and Hormone Therapy “Notification”

File Name: gender_confirmation_surgery_and_hormone_therapy
Origination: 7/2011
Last CAP Review: 11/2015
Next CAP Review: 11/2016
Last Review: 9/2016

Policy Effective January 1, 2017

Description of Procedure or Service

Gender Identity Dysphoria (GID) is the formal diagnosis used by professionals to describe persons who experience significant gender dysphoria (discontent with their biological sex and/or birth gender). Although it is a psychiatric classification, GID is not medically classified as a mental illness.

In the U.S., the American Psychiatric Association (APA) permits a diagnosis of gender dysphoria in adolescents and adults if the diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, (DSM-5™) are met. The criteria are:

- A. A marked incongruence between one’s experienced/expressed gender and assigned gender, of at least six month’s duration, as manifested by at least **two** of the following:
 1. A marked incongruence between one’s experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics); **OR**
 2. A strong desire to be rid of one’s primary and/or secondary sex characteristics because of a marked incongruence with one’s experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics); **OR**
 3. A strong desire for the primary and/or secondary sex characteristics of the other gender; **OR**
 4. A strong desire to be of the other gender (or some alternative gender different from one’s assigned gender); **OR**
 5. A strong desire to be treated as the other gender (or some alternative gender different from one’s assigned gender); **OR**
 6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one’s assigned gender); **AND**
- B. The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

Gender dysphoria is a medical condition when the elements of the condition noted above are present. Gender confirmation surgery is one treatment option. Gender Confirmation Surgery (GCS) is not a single procedure, but part of a complex process involving multiple medical,

Gender Confirmation Surgery and Hormone Therapy “Notification”

psychiatric, and surgical modalities performed in conjunction with each other to help the candidate for gender reassignment achieve successful behavioral and medical outcomes. Before undertaking GCS, candidates need to undergo important medical and psychological evaluations, and begin medical/hormonal therapies and behavioral trials to confirm that surgery is the most appropriate treatment choice. GCS presents significant medical and psychological risks, and the results are irreversible.

*****Note: This Medical Policy is complex and technical. For questions concerning the technical language and/or specific clinical indications for its use, please consult your provider.**

Policy

Services for gender confirmation surgery and hormone therapy may be considered medically necessary when the criteria below are met.

Please see the following section “Benefits Application” regarding specific benefit and medical management requirements.

Benefits Application

Gender confirmation surgery and hormone therapy may be specifically excluded under some health benefit plans. Please refer to the Member’s Benefit Booklet for availability of benefits.

When benefits for gender confirmation surgery and hormone therapy are available, coverage may vary according to benefit design. Some benefit designs for gender confirmation surgery may include benefits for pelvic and/or breast reconstruction. Member benefit language specific to gender confirmation should be reviewed before applying the terms of this medical policy. This medical policy relates only to the services or supplies described herein.

Prior review and certification are required by most benefit plans, and when required, must be obtained or services will not be covered. Some benefit plans provide coverage without a requirement for prior approval or medical necessity review. Please refer to the Member’s Benefit Booklet for specific prior approval or medical necessity review requirements.

If prior authorization and medical necessity review are required for hormone therapy, and related surgical procedures for the treatment of gender identity dysphoria, the medical criteria and guidelines shown below will be utilized to determine the medical necessity for the requested procedure or treatment.

When Gender Confirmation Surgery and Hormone Therapy is covered

Gender confirmation surgery and hormone therapy may be considered medically necessary when all the following candidate criteria are met and supporting provider documentation is provided:

Candidate Criteria for Adults and Adolescents age 18 years and Older (based on World Professional Association for Transgender Health (WPATH) Standards of Care):

1. The candidate is at least 18 years of age; and
2. Has been diagnosed with GID, including meeting all of the following indications:
 - a. The desire to live and be accepted as a member of the opposite sex,

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- Typically accompanied by the desire to make the physical body as congruent as possible with the identified sex through surgery and hormone treatment; and
 - b. The new gender identity has been present for at least 24 months; and
 - c. The gender identity dysphoria is not a symptom of a mental disorder or a chromosomal abnormality; and
 - d. The gender identity dysphoria causes clinical or social distress or impairment in social, occupational, or other important areas of functioning.
3. For those candidates without a medical contraindication, the candidate has undergone a minimum of 12 months of continuous hormonal therapy that is (Note: for those candidates requesting female to male surgery see item 4. below):
 - a. Recommended by a mental health professional and
 - b. Provided under the supervision of a physician; and the supervising physician indicates that the patient has taken the hormones as directed.
 4. For candidates requesting female to male surgery only:
 - a. When the initial requested surgery is solely a mastectomy, the treating physician may indicate that no hormonal treatment (as described in criteria 3. above) is required prior to performance of the mastectomy. In this case, the 12 month requirement for hormonal treatment will be waived only when all other criteria contained in this policy and in the member’s health benefit plan are met.
 5. The candidate has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender. This requirement must be demonstrated by living in their new gender while:
 - a. Maintaining part- or full-time employment; or
 - b. Functioning as a student in an academic setting; or
 - c. Functioning in a community-based volunteer activity as applicable. (For those candidates not meeting this criteria, see item 6. below.)
 6. If the candidate does not meet the 12 month time frame criteria as noted in item 5. above, then the treating clinician must submit information indicating why it would be clinically inappropriate to require the candidate to meet these criteria. When submitted, the criteria in item 5. will be waived unless the criteria noted in item 5. above are specified as required in the candidate’s health benefit plan.

Provider Documentation Criteria for Surgical and Hormone Therapy:

The treating clinicians must provide the following documentation. The documentation must be provided in letters from the appropriate clinicians and contain the information noted below.

1. The letters must attest to the psychological aspects of the candidate’s GID.
 - a. One of the letters must be from a behavioral health professional with an appropriate degree (Ph.D., M.D., Ed.D., D.Sc., D.S.W., psychiatric physician assistant, Psy.D, or psychiatric nurse practitioner under the supervision of a psychiatrist) who is capable of adequately evaluating if the candidate has any co-morbid psychiatric conditions.
 - b. One of the letters must be from the candidate’s established physician or behavioral health provider. The letter or letters must document the following:
 1. Whether the author of the letter is part of a gender identity dysphoria treatment team and/or follows WPATH Standards of Care or Endocrine Society Guidelines for the Treatment of Transsexual Persons (2009) for evaluation and treatment of gender identity dysphoria; and
 2. The initial and evolving gender, sexual, and other psychiatric diagnoses (if applicable); and
 3. The duration of their professional relationship including the type evaluation that the candidate underwent; and
 4. The eligibility criteria that have been met by the candidate according to the above Standards of Care; and

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5. The physician or mental health professional’s rationale for hormone therapy and/or surgery; and
 6. The degree to which the candidate has followed the treatment and experiential requirements to date and the likelihood of future compliance; and
 7. The extent of participation in psychotherapy throughout the 12 month real-life trial, (if such therapy is recommended by a treating medical or behavioral health practitioner) and
 8. That during the 12 month, real-life experience (for candidates not meeting the 12 month candidate criteria as noted in 6 and 7, the letter should still comment on the candidates ability to function and experience in the desired gender role), persons other than the treating therapist were aware of the candidate’s experience in the desired gender role and could attest to the candidate’s ability to function in the new role.
 9. That the candidate has, intends to, or is in the process of acquiring a legal gender-identity-appropriate name change and
 10. Demonstrable progress on the part of the candidate in consolidating the new gender identity, including improvements in the ability to handle:
 - Work, family, and interpersonal issues
 - Behavioral health issues, should they exist.
- c. If the letters specified in 1a and 1b above come from the same clinician, then a letter from a second physician or behavioral health provider familiar with the candidate corroborating the information provided by the first clinician is required.
- d. For members requesting surgical treatment, a letter of documentation must be received from the treating surgeon. If one of the previously described letters is from the treating surgeon then it must contain the documentation noted in the section below. All letters from a treating surgeon must confirm that:
1. The candidate meets the “candidate criteria” listed in this policy and
 2. The treating surgeon feels that the candidate is likely to benefit from surgery and
 3. The surgeon has personally communicated with the treating mental health provider or physician treating the candidate, and
 4. The surgeon has personally communicated with the candidate and the candidate understands the ramifications of surgery, including:
 - The required length of hospitalizations,
 - Possible complications of the surgery, and
 - The post surgical rehabilitation requirements of the various surgical approaches and the planned surgery.

Candidate Criteria for Children and Adolescents under Age 18 years

Pubertal delay and gender affirming hormone therapy may be considered medically necessary when all the following candidate criteria are met and supporting provider documentation is provided:

Candidate Criteria (based on World Professional Association for Transgender Health (WPATH) Standards of Care):

1. The patient has been diagnosed with GID, including meeting all of the following indications:
 - a. The desire to live and be accepted as a member of the opposite sex,
 - Typically accompanied by the desire to make the physical body as congruent as possible with the identified sex through surgery and hormone treatment; and
 - b. The gender identity dysphoria is not a symptom of a mental disorder or a chromosomal abnormality; and

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- c. The gender identity dysphoria causes clinical or social distress or impairment in social, occupational, or other important areas of functioning.
2. The candidate has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender. This requirement must be demonstrated by living in their new gender while:
 - a. Maintaining part- or full-time employment; or
 - b. Functioning as a student in an academic setting; or
 - c. Functioning in a community-based volunteer activity as applicable. (For those candidates not meeting this criteria, see item 3. below.)
3. If the candidate does not meet the 12 month time frame criteria as noted in item 2. above, then the treating clinician must submit information indicating why it would be clinically inappropriate to require the candidate to meet these criteria. When submitted, the criteria in item 2. will be waived unless the criteria noted in item 2. above are specified as required in the candidate’s health benefit plan.

Provider Documentation Criteria for Pubertal Delay and Gender Affirming Hormonal Therapy:

The treating clinicians must provide the following documentation. The documentation must be provided in letters from the appropriate clinicians and contain the information noted below.

1. The letters must attest to the psychological aspects of the candidate’s GID.
 - a. One of the letters must be from a behavioral health professional with an appropriate degree (Ph.D., M.D., Ed.D., D.Sc., D.S.W., psychiatric physician assistant, Psy.D, or psychiatric nurse practitioner under the supervision of a psychiatrist) who is capable of adequately evaluating if the candidate has any co-morbid psychiatric conditions.
 - b. One of the letters must be from the candidate’s established physician or behavioral health provider. The letter or letters must document the following:
 1. Whether the author of the letter is part of a gender identity dysphoria treatment team and/or follows WPATH Standards of Care or Endocrine Society Guidelines for the Treatment of Transsexual Persons (2009) for evaluation and treatment of gender identity dysphoria; and
 2. The initial and evolving gender, sexual, and other psychiatric diagnoses (if applicable); and
 3. The duration of their professional relationship including the type evaluation that the candidate underwent; and
 4. The eligibility criteria that have been met by the candidate according to the above Standards of Care; and
 5. The physician or mental health professional’s rationale for hormone therapy; and
 6. The degree to which the candidate has followed the treatment and experiential requirements to date and the likelihood of future compliance; and
 7. The extent of participation in psychotherapy throughout the 12 month real-life trial, (if such therapy is recommended by a treating medical or behavioral health practitioner); and
 8. That during the 12 month, real-life experience (for candidates not meeting the 12 month candidate criteria as noted in 6 and 7, the letter should still comment on the candidates ability to function and experience in the desired gender role), persons other than the treating therapist were aware of the candidate’s experience in the desired gender role and could attest to the candidate’s ability to function in the new role.

Prepubertal children do not require medical or surgical treatment, but do require mental health services as listed above.

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Criteria for Adolescents Entering Puberty

Adolescents, having reached puberty (tanner 2), and who have met eligibility and readiness criteria can be treated with GnRH analogues.

The definition of puberty is having reached Tanner stage 2/5 and/or having LH, estradiol levels or testosterone levels, within the pubertal range. These LH, estradiol and testosterone ranges are well-known and published and are broken down by biological male vs. biological female Tanner stage, and nocturnal and diurnal levels.

Adolescents are *eligible* for GnRH treatment, (for suppression of puberty) by these eligibility criteria: (same for adults)

1. Have an established diagnosis for GID or transsexualism based on DSM V or ICD-10 criteria;
2. Have experienced puberty to at least Tanner stage 2, which can be confirmed by pubertal levels of LH, estrogen or testosterone;
3. Have experienced pubertal changes that resulted in an increase of their gender dysphoria;
4. Do not suffer from psychiatric comorbidity (that interferes with the diagnostic work-up or treatment);
5. Have adequate psychological and social support during treatment, to include having parental/guardian consent;
6. Demonstrate knowledge and understanding of the expected outcomes of GnRH analogue treatment, cross-sex hormone treatment, and gender confirmation surgeries, as well as the medical and social risks and benefits of gender reassignment; and have been counseled regarding fertility options.

Criteria for Postpubertal Adolescents under the Age of 18 Years

Post-pubertal adolescents under age 18 must meet the same criteria and documentation requirements for treatment as listed above for adults. If those criteria are met, they are eligible for gender affirmation hormonal treatment and treatment for menstrual suppression when gender affirming hormones are not successful in eliminating menses.

Gender confirmation surgery is rarely appropriate for patients under the age of 18. Requests for mastectomy for female to male transgender individuals age 17 or older may be considered only in exceptional circumstances on an individual consideration basis.

When Gender Confirmation Surgery and Hormone Therapy are not covered

Gender Confirmation Surgery and hormone therapy are non-covered benefits when the member does not have benefits for the services requested contained in their health benefit plan.

Gender Confirmation Surgery and hormonal therapy are considered not medically necessary for plans offering gender confirmation services when the candidate criteria and provider documentation criteria are not met.

Gender Confirmation Surgery Exclusions:

Services and procedures that are considered Cosmetic in all benefit plans are considered non-covered benefits, including but not limited to:

- Cosmetic services that may be used for gender confirmation, including, but not limited to, procedures such as: plastic surgery of the nose; face lift; lip enhancement; facial bone reduction; plastic surgery of the eyelids; liposuction of the waist; reduction of the thyroid cartilage; hair removal; hair transplants; and surgery of the larynx, including shortening of the vocal cords; chin implants; nose implants, and lip reduction.
- Fertility preservation, including but not limited to: sperm banking and embryonic freezing.

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Autologous tissue flap breast reconstructions are considered not medically necessary for gender confirmation surgery.

Policy Guidelines

Gender confirmation surgery and hormone therapy have been shown to be of benefit to transsexual people. Recognized diagnostic and eligibility criteria and care standards for applicants from the World Professional Association for Transgender Health (WPATH) and Endocrine Society Guidelines for Treatment of Transsexual Persons are increasingly being used in routine clinical practice.

Billing/Coding/Physician Documentation Information

This policy may apply to the following codes. Inclusion of a code in this section does not guarantee that it will be reimbursed. For further information on reimbursement guidelines, please see Administrative Policies on the Blue Cross Blue Shield of North Carolina web site at www.bcbsnc.com. They are listed in the Category Search on the Medical Policy search page.

ICD-10 diagnosis codes: F64.0, Z87.890

Applicable codes: 19304, 19316, 19318, 19324, 19325, 19340, 54400, 54401, 54405, 54406, 54408, 54410, 54411, 54415, 54416, 54417, 54660, 55175, 55180, 55970, 55980, 56800, 56805, 57291, 57292, 57295, 57296, 57335, C1813, C2622, J1950, J3315, J9217, J9219, J9226.

Applicable non-covered procedure codes, including, but not limited to: 11950, 11951, 11952, 11954, 15775, 15776, 15780, 15781, 15782, 15783, 15786, 15787, 15788, 15789, 15792, 15793, 15820, 15821, 15822, 15823, 15824, 15825, 15826, 15828, 15829, 15830, 15832, 15833, 15834, 15835, 15836, 15837, 15838, 15839, 15876, 15877, 15878, 15879, 17380, 21120, 21121, 21122, 21123, 21125, 21127, 21208, 21210, 21270, 30400, 30410, 30420, 30430, 30435, 30450, 67900, 92507, 92508.

BCBSNC may request medical records for determination of medical necessity. When medical records are requested, letters of support and/or explanation are often useful, but are not sufficient documentation unless all specific information needed to make a medical necessity determination is included.

Scientific Background and Reference Sources

Diagnostic and Statistical Manual of Mental Disorders Fourth Edition. Text Revision (DSM-IV-TR). American Psychiatric Association. American Psychiatric Association, Inc. July 2000

Harry Benjamin International Gender Dysphoria Association, Inc (2001). Standards of Care for Gender Identity Disorders—Sixth Version. *International Journal of Transgenderism 5 (1)*. Available at: http://www.symposion.com/ijtsoc_2001/index.htm

Day P. Trans-gender Reassignment Surgery. Tech Brief Series. New Zealand Health Technology Assessment. NZHTA Report February 2002, volume 1, Number 1. Available at: http://nzhta.chmeds.ac.nz/publications/trans_gender.pdf

Medical Director review, July 2011

The World Professional Association for Transgender Health; Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People; 7th Version; July 2012. Accessed at

Gender Confirmation Surgery and Hormone Therapy “Notification”

http://www.wpath.org/site_page.cfm?pk_association_webpage_menu=1351&pk_association_webpage=4655 on 9/21/2016.

Specialty Matched Consultant Advisory Panel 12/2012

American Psychiatric Association (APA). Gender dysphoria. *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5™)*. Arlington, VA: American Psychiatric Publishing; 2013: 451-459.

American College of Obstetricians and Gynecologists (ACOG). Healthcare for transgender individuals. Committee Opinion. No 512. December 2011. *Obstet Gynecol* 2011; 118:1454-8.

Hembree WC, Cohen-Kettenis P, et al. Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline. *J Clin Endocrinol Metab*. September 2009, 94(9):3132–3154. Accessed at <http://press.endocrine.org/doi/pdf/10.1210/jc.2009-0345> on 9/21/2016.

Specialty Matched Consultant Advisory Panel 11/2014

Specialty Matched Consultant Advisory Panel 11/2015

Specialty Matched Consultant Advisory Panel 9/2016

Senior Medical Director review 9/2016

Policy Implementation/Update Information

- | | |
|----------|--|
| 7/19/11 | New policy developed. When benefits for gender reassignment surgery are available, coverage may vary. Some benefit plans provide coverage without a requirement for prior approval or medical necessity review. Benefits for upper and/or lower body gender reassignment procedures vary by benefit plan. If prior authorization and medical necessity review are required for hormone therapy, breast augmentation surgery (mammoplasty), and mastectomy for the treatment of gender identity disorders, the medical criteria and guidelines outlined in the policy will be utilized to determine the medical necessity for the requested procedure or treatment. (adn) |
| 9/18/12 | Added diagnosis codes 302.0, 302.5, 302.50 – 302.53, 302.6, 302.85, 302.9, 313.82, 752.7 to Billing/Coding section. (sk) |
| 1/1/13 | Reference added. Specialty Matched Consultant Advisory Panel review 12/4/12. No change to policy statement. (sk) |
| 7/1/13 | ICD-10 diagnosis codes added to Billing/Coding section. (sk) |
| 10/29/13 | Reference added. Replaced DSM-IV TR criteria with DSM-5™ criteria. Removed “Sex change surgical procedures other than breast augmentation surgery (mammoplasty) and mastectomy” from the When Not Covered section. Added “pelvic reconstruction” to the When Covered section. Applicable Service Codes removed from Billing/Coding section. Senior Medical Director review. (sk) |
| 7/1/14 | Removed ICD-10 effective date from Billing/Coding section. (sk) |

Gender Confirmation Surgery and Hormone Therapy

“Notification”

- 12/9/14 Reference added. Specialty Matched Consultant Advisory Panel review 11/24/14. No change to policy statement. (sk)
- 12/30/15 Specialty Matched Consultant Advisory Panel review 11/18/2015. (sk)
- 9/30/16 Policy re-titled to Gender Confirmation Surgery and Hormone Therapy. Information regarding coverage of services for adolescents added to the “When Covered” section. Fertility preservation, including but not limited to: sperm banking and embryonic freezing added to Non-covered section. ICD 9 codes removed from Billing/Coding section. ICD 10 codes, covered codes and non-covered codes added to Billing/Coding section. Policy noticed 10/1/2016 for policy effective date 1/1/2017. (sk)

Medical policy is not an authorization, certification, explanation of benefits or a contract. Benefits and eligibility are determined before medical guidelines and payment guidelines are applied. Benefits are determined by the group contract and subscriber certificate that is in effect at the time services are rendered. This document is solely provided for informational purposes only and is based on research of current medical literature and review of common medical practices in the treatment and diagnosis of disease. Medical practices and knowledge are constantly changing and BCBSNC reserves the right to review and revise its medical policies periodically.

Exhibit 44

Message

From: Chris Almberg [chris.almberg@nctreasurer.com]
Sent: 3/30/2017 12:22:19 PM
To: chris.almberg@gmail.com
BCC: clarke.wallace@benefitfocus.com; W Owen@medcost.com; Cathryn.scivicque@itedium.com; Carl_p_hill@uhc.com; Sarah.Smith@CVSHealth.com; aimee.forehand@bcbssc.com; joyce.swetlick@dhhs.nc.gov; sally.herndon@dhhs.nc.gov; pete@rivalhealth.com; Chad.Paddock@rivalhealth.com; wmuribholmes@activehealth.net
Subject: ACA Section 1557 Compliance Questionnaire
Attachments: SHP 1557 Vendor Questionnaire - FINAL.docx

The State Health Plan is evaluating its compliance with federal disability access requirements of the Americans with Disabilities Act (ADA), the Rehabilitation act of 1973 (Rehabilitation Act), Section 1557 of the Affordable Care Act (Section 1557), and other applicable federal law. As a recipient of federal funding, the Plan is required to comply with these and all applicable federal laws. As a contractor of the Plan, you are also required to comply with all laws that apply to the Plan, as stated in our contract.

To that end, we are requesting that you complete the attached questionnaire in order to help the Plan assess your current compliance with the above-named regulations and laws.

Please complete and return the questionnaire by May 1, 2017. Thank you, and please don't hesitate to contact me if you have any questions.

Chris Almberg

Compliance Officer
State Health Plan
Office: (919) 814-4428

3200 Atlantic Avenue, Raleigh, NC 27604
www.SHPNC.org



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law. It may be subject to monitoring and disclosed to third parties, including law enforcement personnel, by an authorized state official.

IMPORTANT: When sending confidential or sensitive information, encryption should be used.



March 30, 2017

Please complete and return the below questionnaire in order to help the State Health Plan assess your organization's current compliance with federal law.

Thank you for your assistance.

Sincerely,

Chris Almberg
 Compliance Officer
 State Health Plan
 Phone: (919) 814-4428

Question	Yes	No	Comments
1. Is your organization considered a "Covered Entity" for purposes of Section 1557 of the Affordable Care Act (ACA)? If no, please explain why not.			
2. Does your organization understand that the North Carolina State Health Plan is a Covered Entity and is required to comply with applicable portions of Section 1557?			
Language Assistance			
3. Has your organization developed and implemented a language access plan for those with limited English proficiency (LEP)?			
4. Please describe the steps your organization has taken to provide individuals with limited English proficiency meaningful access to health programs or activities.			
5. Does your organization offer, free of charge, the services of a qualified interpreter when reasonable for oral communications? Please describe the process used to determine whether an individual needs an interpreter.			

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6. Has your organization taken steps to assure that children are not asked to serve as interpreters for a family member?			
7. Does your organization use a qualified translator for written content in paper or electronic form? If yes, please describe how the translator is selected and which documents are translated.			
8. How do you assess the spoken language proficiency of your staff and interpreters who provide language assistance to individuals with LEP?			
Notices and Taglines			
9. Has your organization posted notices of nondiscrimination and taglines, in certain physical locations and on its website, that alert individuals with limited English proficiency to the availability of language assistance services?			
10. Please confirm that your organization includes the notice of nondiscrimination and taglines with significant publications and communications.			
Assistance to Individuals with a Disability			
11. Has your organization made reasonable modifications in policies, practices, and procedures to avoid disability-based discrimination?			
12. Does your organization have an effective compliance plan that meets Americans with Disabilities Act (ADA) guidelines?			
13. Please describe the steps your organization has taken to ensure effective communication with people with disabilities.			

<p>14. Has your organization performed an assessment of its website or other electronic communication methods, to ensure that they are accessible to people with disabilities and compliant with the accessibility requirements of Title II of the ADA? If yes, please note when this assessment was last performed, and by whom.</p>			
<p>15. Please confirm that your organization provides, free of charge, appropriate auxiliary aids and services to people with impaired sensory, manual, or speaking skills (e.g., TTY device).</p>			
<p>16. Please confirm that your organization gives primary consideration to the choice of aid or service requested by the person who has a disability.</p>			
<p>Physical Accessibility</p>			
<p>17. Do you have an Americans with Disabilities Act Accessibility Guidelines (ADAAG) Transition Plan?</p>			
<p>Gender Coverage</p>			
<p>18. Has your organization modified its coding to address gender-coding mismatch? Please describe.</p>			
<p>19. 1557 does not permit denying or limiting health services to a transgender individual based on the fact that the individual's sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available. Please confirm that your organization does not deny or limit health services that are ordinarily or exclusively available to individuals of one sex.</p>			
<p>General Nondiscrimination</p>			
<p>20. Does your organization administer coverage or benefits in any way that discriminates on the basis of race, color, national origin, sex, age, or</p>			

disability?			
21. Has your organization implemented any marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, age, or disability?			
22. Does your organization deny or limit coverage, or impose additional cost sharing or other limits, on the basis of race, color, national origin, sex, age, or disability?			

Compliance Coordinator and Grievance Process			
23. Has your organization appointed and trained at least one Section 1557 coordinator to coordinate your efforts to comply with and carry out your responsibilities under Section 1557?			
24. Has your organization adopted a grievance procedure that incorporates appropriate due process standards and provides prompt and equitable resolution of grievances under Section 1557?			

[KEYWORDS]

Exhibit 45

From: Caroline Smart <Caroline.Smart@nctreasurer.com>
Sent: Fri, 04 Aug 2017 09:34:42 -0400
To: 'Aimee Forehand' <Aimee.Forehand@bcbsnc.com>
Subject: RE: Hold Harmless

That would be great.

Thanks.

From: Aimee Forehand [mailto:Aimee.Forehand@bcbsnc.com]
Sent: Friday, August 04, 2017 9:34 AM
To: Caroline Smart <Caroline.Smart@nctreasurer.com>
Subject: Hold Harmless

Hi Caroline-

I have confirmed with Brian that you would need to sign a hold harmless if the plan decided not to cover gender dysphoria.

Do you want me to go ahead and get a copy of that document?

Aimee

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Exhibit 46

From: Andrew Norton <andrew.norton@nctreasurer.com>
Sent: Thu, 28 Sep 2017 10:05:48 -0400
To: Dee Jones <Dee.Jones@nctreasurer.com>
Subject: RE: Medical Policy Development #\$\$*

Thanks for this.

Andrew J. Norton
Assistant General Counsel
Office of the State
Treasurer
Office: (919) 814-3815

3200 Atlantic Avenue,
Raleigh, NC 27604
www.NCTreasurer.com



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

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From: Dee Jones
Sent: Thursday, September 28, 2017 9:48 AM
To: Andrew Norton <andrew.norton@nctreasurer.com>
Subject: FW: Medical Policy Development #\$\$*

I met with Susan yesterday and we discussed this topic and I asked for the BCBS Medical Policy policy and how something becomes incorporated into their Medical Policy using gd as an example. See below...

Dee Jones

Executive Administrator
State Health Plan
Office: (919) 814-4407

3200 Atlantic Avenue, Raleigh,
NC 27604
www.SHPNC.org



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

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From: Susan Murray [<mailto:Susan.Murray@bcbsnc.com>]
Sent: Wednesday, September 27, 2017 2:53 PM
To: Dee Jones <Dee.Jones@nctreasurer.com>
Cc: Aimee Forehand <Aimee.Forehand@bcbsnc.com>
Subject: Medical Policy Development #\$\$*

Hi, Dee. It was good to see you this morning!

Following up on our discussion about the gender dysphoria medical policy, I've attached some general information about our overall medical policy development, maintenance and communication. In addition, following is some information specific to the development of our policy for gender dysphoria:

This specific policy was developed using the following Scientific Background and Reference Sources:

Diagnostic and Statistical Manual of Mental Disorders Fourth Edition. Text Revision (DSM-IV-TR). American Psychiatric Association. American Psychiatric Association, Inc. July 2000

Harry Benjamin International Gender Dysphoria Association, Inc (2001). Standards of Care for Gender Identity Disorders—Sixth Version. International Journal of Transgenderism 5 (1). Available at:

http://www.symposion.com/ijt/soc_2001/index.htm

Day P. Trans-gender Reassignment Surgery. Tech Brief Series. New Zealand Health Technology Assessment. NZHTA Report February 2002, volume 1, Number 1. Available at:

http://nzhta.chmeds.ac.nz/publications/trans_gender.pdf

Medical Director review, July 2011

Specialty Matched Consultant Advisory Panel 12/2012

Specialty Matched Consultant Advisory Panel 11/2014

Specialty Matched Consultant Advisory Panel 11/2015

The World Professional Association for Transgender Health; Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People; 7th Version; July 2012. Accessed at <http://www.tmeltzer.com/assets/wpathsocv7.pdf>

on 9/21/2016.

American Psychiatric Association (APA). Gender dysphoria. Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5™). Arlington, VA: American Psychiatric Publishing; 2013: 451-459.

American College of Obstetricians and Gynecologists (ACOG). Healthcare for transgender individuals. Committee Opinion. No 512. December 2011. Obstet Gynecol 2011; 118:1454-8.

Hembree WC, Cohen-Kettenis P, et al. Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline. J Clin Endocrinol Metab. September 2009, 94(9):3132–3154. Accessed 9/2016.

Specialty Matched Consultant Advisory Panel 9/2016

Senior Medical Director review 9/2016

We will get updated claim information to you in early-November. Let me know if you need more information.

Thanks-

Susan

Susan Murray | Vice President State Segment

919.765.1669 | 919.943.7081 | susan.murray@bcbsnc.com



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Exhibit 47

From: Caroline Smart <Caroline.Smart@nctreasurer.com>
Sent: Wed, 06 Dec 2017 10:44:02 -0500
To: Andrew Norton <andrew.norton@nctreasurer.com>, Ted Enarson <Ted.Enarson@nctreasurer.com>, Dee Jones <Dee.Jones@nctreasurer.com>
Subject: FW: Gender Transition Services Amendment
Attachments:
· Gender Transition Services Amendment.docx (31 kb)

How would you like me to respond?

From: Aimee Forehand [mailto:Aimee.Forehand@bcbsnc.com]
Sent: Wednesday, December 06, 2017 10:00 AM
To: Caroline Smart <Caroline.Smart@nctreasurer.com>
Cc: Susan Murray <Susan.Murray@bcbsnc.com>
Subject: Gender Transition Services Amendment

Caroline-

Per your email confirming you do not want to cover gender transition services for 2018, we will need to execute an amendment in order to update the benefits for 2018. I know we had discussed this process with the Plan previously. Please review the attached (this is the same document we sent in August) and let us know if you have any revisions you would like us to consider. We cannot change the coding for this benefit until we have an executed document so if you can send any edits back to us as soon as possible we will move things along quickly on our end.

Thanks,

Aimee

Aimee Forehand | Client Manager

Office 919.765.4899 | Cell 203.873.9117 | Aimee.Forehand@bcbsnc.com



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AMENDMENT NUMBER TBD
TO THE
THIRD PARTY ADMINISTRATION SERVICES CONTRACT
AND
AGREEMENT TO HOLD HARMLESS, INDEMNIFY, AND DEFEND

THIS AMENDMENT (“Amendment”) to the Third Party Administration Services Contract (“TPA Contract” or “Contract”), dated the 20th day of August, 2012, is between the North Carolina State Health Plan for Teachers and State Employees (“Plan”) and BLUE CROSS AND BLUE SHIELD OF NORTH CAROLINA (“BCBSNC” or “Contractor”), each, a “Party” and collectively, the “Parties.”

Background

The Plan has contracted with BCBSNC under the TPA Contract to perform certain services with respect to administration of the State Health Plan.

The Plan has notified BCBSNC that the Plan intends to maintain in its Benefit Booklet(s) a standard exclusion for gender transition services, including but not limited to surgery and pharmaceutical services, and not to provide coverage for these services (“the Benefit Exception”), notwithstanding the issuance of a new regulation by the Department of Health and Human Services, Office of Civil Rights implementing Section 1557 of the Patient Protection and Affordable Care Act, amended by the Health Care and Education Reconciliation Act, commonly known as the Affordable Care Act (“ACA”).

Agreement

1. **Assertions.** The Plan asserts that the plan benefits related to gender transition services is not discriminatory and does NOT violate Section 1557 of the ACA.
2. **The Plan Assumes ALL Risk.** The Plan acknowledges that maintaining the Benefit Exception for the Plan could be held to violate provisions of state and federal law, including Section 1557 of the ACA.
3. **Hold Harmless, Indemnify and Defend.** The Plan agrees to indemnify, hold harmless, and defend BCBSNC, and its contractors, licensors and suppliers, and their parents, subsidiaries, affiliates, and their officers, directors, trustees, subcontractors, agents and employees (each, individually, an “Indemnified Party”) against all costs, expenses, liabilities, losses, claims, settlements, judgments, awards and damages (including reasonable attorney’s fees) of every kind and nature (including, without limitation, actual, special, punitive, incidental and consequential), incurred by any Indemnified Party in connection with any claims or complaint arising out of: (i) the Administration of this Benefit Exception; (ii) the Plan design; and (iii) The Plan’s breach of any of its obligations set forth in this Amendment. The Plan shall not settle any such claim without the written consent of the applicable Indemnified Party.

**BLUE CROSS AND BLUE SHIELD OF NORTH
CAROLINA**

By:_____

By:_____

Name:_____

Name:_____

Title:_____

Title:_____

Exhibit 48

From: Lorraine Munk

Sent: Thu, 25 Oct 2018 18:32:51 +0000

To: Charles Perusse; Donald Martin; Kim Hargett; Margaret Way; Pete Robie; Peter Chauncey; Ted Brinn; Wayne Fish

CC: Dale Folwell; Dee Jones ; Andrew Norton; Beth Horner; Frank Lester

Subject: Message from Treasurer Folwell

Sent on behalf of Dee Jones

Board Members,

It is my understanding that many, if not all, of you have received an inquiry about the board meeting this past Monday. Please note the following statement that was released just before noon today. Give me a call if you have any questions.

Statement from Treasure Dale R. Folwell, CPA, on State Health Plan Coverage of Sex Change Operations

October 25, 2018

The State Health Plan's policy of not covering sex change operations as a benefit, is the same now as it was during the entire eight years of Treasurer Janet Cowell's administration and all previous North Carolina Treasurers.

The legal and medical uncertainty of this elective, non-emergency procedure has never been greater.

Until the court system, a legislative body or voters tell us that we "have to," "when to," and "how to" spend taxpayers money on sex change operations, I will not make a decision that has the potential to discriminate against those who desire other currently uncovered elective, non-emergency procedures.

We empathize with all members' health conditions, but cannot provide them all with every elective, non-emergency procedure they want.

Lorraine Munk
Executive Assistant
State Health Plan
Office: (919) 814-4409

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Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

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Exhibit 49

From: Susan Murray <Susan.Murray@bcbsnc.com>
Sent: Thu, 25 Oct 2018 20:16:24 +0000
To: Tracy Linton <Tracy.Linton@nctreasurer.com>, Caroline Smart <Caroline.Smart@nctreasurer.com>, Andrew Norton <andrew.norton@nctreasurer.com>
CC: Dee Jones <Dee.Jones@nctreasurer.com>, Brian Vick <Brian.Vick@bcbsnc.com>, Aimee Forehand <Aimee.Forehand@bcbsnc.com>
Subject: Pharmacy appeals related to gender dysphoria or transgender services

Recently, we have received several appeals for CVS pharmacy benefit denials for testosterone being used to treat gender dysphoria. CVS denied the claims based on lack of medical necessity. As we are handling these appeals, we believe that the denial should be upheld, based on the Plan's benefits, not based on lack of medical necessity.

For medical appeals, our policy is to first determine if the service is a covered benefit. If the service is not covered, a benefit denial is upheld based on no benefit. Only if the benefit is covered do we then review based on medical policy. One reason for this is that the statutory definition of medical necessity in NCGS 58-3-200(b) does not incorporate any consideration of the benefits offered by a plan. As a result, a service could be medically necessary for the treatment of a specific condition, but denied based on lack of benefit coverage by a plan. Because the services associated with the treatment of gender dysphoria generally meet the statutory definition of medical necessity, we believe that these pharmacy denials should be handled as lack of benefits, rather than lack of medical necessity.

According to the Plan's benefit booklets' grievance and appeals language:

"Grievances are not allowed for benefits or services that are clearly excluded by this benefits booklet or for deductibles, coinsurance or out-of-pocket limit, as well as other aspects of coverage excluded from appeal by law."

The Plan clearly excludes these services:

"Treatment or studies leading to or in connection with sex changes or modifications and related care"

Denying this treatment due to lack of medical necessity sends the appeal down the medical necessity path, as required by NCQA regulations, rather than down the path of Plan benefits. We have concerns about the inconsistency created when CVS denies a claim based on lack of medical necessity, then we uphold the denial for a different reason – due to the benefit not being covered.

For our appeals process to follow NCQA regulations, and uphold the denial of testosterone for gender reassignment at the appeals level, we are asking that CVS consider denying testosterone for gender reassignment as a benefit exclusion.

Please let us know if you would like to discuss.

Thank you.

Susan

Susan Murray | Vice President State Segment

919.765.1669 | 919.943.7081 | susan.murray@bcbsnc.com



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Exhibit 50

Corporate Medical Policy

Gender Affirmation Surgery and Hormone Therapy

File Name: gender_affirmation_surgery_and_hormone_therapy
Origination: 7/2011
Last CAP Review: 4/2021
Next CAP Review: 4/2022
Last Review: 6/2021

Description of Procedure or Service

Gender Dysphoria (GD) is the formal diagnosis used by professionals to describe persons who experience significant gender dysphoria (discontent with their biological sex and/or birth gender). Although it is a psychiatric classification, GD is not medically classified as a mental illness.

In the U.S., the American Psychiatric Association (APA) permits a diagnosis of gender dysphoria in adolescents and adults if the diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, (DSM-5™) are met. The criteria are:

- A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least six month's duration, as manifested by at least **two** of the following:
 1. A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics); **OR**
 2. A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics); **OR**
 3. A strong desire for the primary and/or secondary sex characteristics of the other gender; **OR**
 4. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender); **OR**
 5. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender); **OR**
 6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender); **AND**
- B. The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

Gender dysphoria is a medical condition when the elements of the condition noted above are present. Gender affirmation surgery is one treatment option. Gender affirmation surgery is not a single procedure, but part of a complex process involving multiple medical, psychiatric, and surgical modalities performed in conjunction with each other to help the candidate for gender affirmation achieve successful behavioral and medical outcomes. Before undertaking gender affirmation surgery, candidates need to undergo important medical and psychological evaluations, and begin medical/hormonal therapies and behavioral trials to confirm that surgery is the most appropriate treatment choice. Gender affirmation surgery presents significant medical and psychological risks, and the results are irreversible.

*****Note: This Medical Policy is complex and technical. For questions concerning the technical language and/or specific clinical indications for its use, please consult your provider.**

Gender Affirmation Surgery and Hormone Therapy

Policy

Services for gender affirmation surgery and hormone therapy may be considered medically necessary when the criteria below are met.

Please see the following section “Benefits Application” regarding specific benefit and medical management requirements.

Benefits Application

Gender affirmation surgery and hormone therapy may be specifically excluded under some health benefit plans. Please refer to the Member’s Benefit Booklet for a availability of benefits.

When benefits for gender affirmation surgery and hormone therapy are available, coverage may vary according to benefit design. Some benefit designs for gender affirmation surgery may include benefits for pelvic and/or breast reconstruction. Member benefit language specific to gender affirmation should be reviewed before applying the terms of this medical policy. This medical policy relates only to the services or supplies described herein.

Prior review and certification are required by most benefit plans, and when required, must be obtained or services will not be covered. Some benefit plans provide coverage without a requirement for prior approval or medical necessity review. Please refer to the Member’s Benefit Booklet for specific prior approval or medical necessity review requirements.

If prior authorization and medical necessity review are required for hormone therapy, and related surgical procedures for the treatment of gender dysphoria, the medical criteria and guidelines shown below will be utilized to determine the medical necessity for the requested procedure or treatment.

When Gender Affirmation Surgery and Hormone Therapy is covered

Gender affirmation surgery and hormone therapy may be considered **medically necessary** when all the following candidate criteria are met and supporting provider documentation is provided:

SURGERY

Candidate Criteria for Adults and Adolescents age 18 years and Older for Gender Affirmation Surgery

1. The candidate is at least 18 years of age; and
2. Has been diagnosed with gender dysphoria, including meeting all of the following indications:
 - a. A strong conviction to live as some alternative gender different from one’s assigned gender.
 - Typically accompanied by the desire to make the physical body as congruent as possible with the identified sex through surgery and hormone treatment; and
 - b. The new gender identity has been present for at least 6 months; and
 - c. If significant medical or mental health concerns are present, they must be reasonably well-controlled; and
 - d. The gender dysphoria causes clinical or social distress or impairment in social, occupational, or other important areas of functioning.
3. For those candidates without a medical contra indication, the candidate has undergone a minimum of 12 months of continuous hormonal therapy that is (Note: for those candidates requesting female to male surgery see item 4. below):

Gender Affirmation Surgery and Hormone Therapy

- a. Recommended by a mental health professional and
 - b. Provided under the supervision of a physician; and the supervising physician indicates that the patient has taken the hormones as directed.
4. For candidates requesting female to male surgery only:
- a. When the initial requested surgery is solely a mastectomy, the treating physician may indicate that no hormonal treatment (as described in criteria 3. above) is required prior to performance of the mastectomy. In this case, the 12 month requirement for hormonal treatment will be waived only when all other criteria contained in this policy and in the member's health benefit plan are met.
5. The candidate has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender. This requirement may be demonstrated by living in their new gender while:
- a. Maintaining part- or full-time employment; or
 - b. Functioning as a student in an academic setting; or
 - c. Functioning in a community-based volunteer activity as applicable. (For those candidates not meeting this criteria, see item 6. below.)
6. If the candidate does not meet the 12 month time frame criteria as noted in item 5. above, then the treating clinician must submit information indicating why it would be clinically inappropriate to require the candidate to meet these criteria. When submitted, the criteria in item 5. will be waived unless the criteria noted in item 5. above are specified as required in the candidate's health benefit plan.

Provider Documentation Criteria for Gender Affirmation Surgery:

The treating clinicians must provide the following documentation. The documentation must be provided in letters from the appropriate clinicians and contain the information noted below.

1. The letters must attest to the psychological aspects of the candidate's gender dysphoria.
 - a. One of the letters must be from a licensed behavioral health professional with an appropriate degree (Ph.D., M.D., L.C.S.W., Ed.D., D.Sc., D.S.W., psychiatric physician assistant, Psy.D, or psychiatric nurse practitioner under the supervision of a psychiatrist) with established competence and clinical expertise in the assessment and treatment of gender dysphoria, who is capable of adequately evaluating if the candidate has any co-morbid psychiatric conditions. When patients with gender dysphoria are also diagnosed with severe psychiatric disorders and impaired reality testing (e.g., psychotic episodes, bipolar disorder, dissociative identity disorder, borderline personality disorder) an effort must be made to improve these conditions with psychotropic medications and/or psychotherapy before surgery is contemplated. Reevaluation by a mental health professional qualified to assess and manage psychotic conditions should be conducted prior to surgery, describing the patient's mental status and readiness for surgery. It is preferable that this mental health professional be familiar with the patient. No surgery should be performed while a patient is actively psychotic.
 - b. One of the letters must be from the candidate's established physician or behavioral health provider. The letter or letters must document the following:
 1. Whether the author of the letter is part of a gender dysphoria treatment team and/or follows current WPATH Standards of Care or Endocrine Society Guidelines for the Endocrine Treatment of Gender-Dysphoric/ Gender-Incongruent Persons for evaluation and treatment of gender dysphoria; and
 2. The initial and evolving gender, sexual, and other psychiatric diagnoses (if applicable); and
 3. The duration of their professional relationship including the type evaluation that the candidate underwent; and
 4. The eligibility criteria that have been met by the candidate according to the above Standards of Care; and
 5. The physician or mental health professional's rationale for hormone therapy and/or surgery; and

Gender Affirmation Surgery and Hormone Therapy

6. The degree to which the candidate has followed the treatment and experiential requirements to date and the likelihood of future compliance; and
 7. The extent of participation in psychotherapy throughout the 12 month real-life trial, (if such therapy is recommended by a treating medical or behavioral health practitioner) and
 8. That during the 12 month, real-life experience (for candidates not meeting the 12 month candidate criteria as noted in 6 and 7, the letter should still comment on the candidate's ability to function and experience in the desired gender role), persons other than the treating therapist were aware of the candidate's experience in the desired gender role and could attest to the candidate's ability to function in the new role.
 9. Demonstrable progress on the part of the candidate in consolidating the new gender identity, including improvements in the ability to handle:
 - Work, family, and interpersonal issues
 - Behavioral health issues, should they exist.
- c. If the letters specified in 1a and 1b above come from the same clinician, then a letter from a second physician or behavioral health provider familiar with the candidate corroborating the information provided by the first clinician is required.
- d. For members requesting surgical treatment, a letter of documentation must be received from the treating surgeon. If one of the previously described letters is from the treating surgeon, then it must contain the documentation noted in the section below. All letters from a treating surgeon must confirm that:
1. The candidate meets the "candidate criteria" listed in this policy and
 2. The treating surgeon feels that the candidate is likely to benefit from surgery and
 3. The surgeon has personally communicated with the treating mental health provider or physician treating the candidate, and
 4. The surgeon has personally communicated with the candidate and the candidate understands the ramifications of surgery, including:
 - The required length of hospitalizations,
 - Possible complications of the surgery, and
 - The post-surgical rehabilitation requirements of the various surgical approaches and the planned surgery.

Surgical procedures

The following surgical procedures may be considered **medically necessary** if the above general criteria have been met AND the procedures are being performed only as a part of the overall treatment plan for gender dysphoria:

1. Genital procedures:
 - a. Male to Female
 - Vaginoplasty
 - Vulvoplasty
 - Repair of introitus
 - Penectomy
 - Orchiectomy
 - b. Female to Male
 - Vaginectomy
 - Vulvectomy
 - Metoidioplasty
 - Phalloplasty
 - Penile prosthesis
 - Urethroplasty/urethromeatoplasty
 - Hysterectomy
 - Salpingo-oophorectomy
 - Scrotoplasty

Gender Affirmation Surgery and Hormone Therapy

- Testicular prostheses
- Testicular expanders

- 2. Chest procedures
 - a. Male to Female
 - Breast reconstruction including augmentation with implants

 - b. Female to Male
 - Mastectomy
 - Nipple-areola reconstruction related to mastectomy reconstruction
 - Breast reduction
 - Pectoral implants

- 3. Facial procedures for facial feminization or masculinization:
 - Blepharoplasty
 - Brow lift
 - Cheek/malar implants
 - Chin contouring and implants
 - Face lift (only if done as necessary in conjunction with other facial procedures)
 - Facial bone osteoplasty
 - Forehead reduction and contouring
 - Mandible reduction, contouring, augmentation
 - Rhinoplasty

Revision surgery to correct complications or functional impairment resulting from initial gender affirming surgery may be considered **medically necessary**.

MISCELLANEOUS SERVICES

The following are considered **medically necessary** as part of the overall treatment plan for gender dysphoria if the general criteria for treatment have been met:

- Chondrolaryngoplasty (tracheal shave)
- A limited number of electrolysis or laser hair removal sessions to prepare for approved genital surgery when the surgeon makes a recommendation documented in the medical record
- Voice therapy/voice lessons, up to 12 lessons

HORMONAL THERAPY

Pubertal delay and gender affirming hormone therapy may be considered **medically necessary** when all the following candidate criteria are met and supporting provider documentation is provided:

Candidate Criteria (based on World Professional Association for Transgender Health (WPATH) Standards of Care):

1. The patient has been diagnosed with gender dysphoria, including meeting all of the following indications:
 - a. A strong conviction to live as some alternative gender different from one's assigned gender,
 - Typically accompanied by the desire to make the physical body as congruent as possible with the identified sex through surgery and hormone treatment; and
 - b. Any co-existing psychological, medical, or social problems that could interfere with treatment (e.g., that may compromise treatment adherence) have been addressed, such that the adolescent's situation and functioning are stable enough to start treatment; and
 - c. The gender dysphoria causes clinical or social distress or impairment in social, occupational, or other important areas of functioning.

Gender Affirmation Surgery and Hormone Therapy

2. The candidate has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender. This requirement may be demonstrated by living in their new gender while:
 - a. Maintaining part- or full-time employment; or
 - b. Functioning as a student in an academic setting; or
 - c. Functioning in a community-based volunteer activity as applicable. (For those candidates not meeting this criteria, see item 3. below.)
3. If the candidate does not meet the 12 month time frame criteria as noted in item 2. above, then the treating clinician must submit information indicating why it would be clinically inappropriate to require the candidate to meet these criteria. When submitted, the criteria in item 2. will be waived unless the criteria noted in item 2. above are specified as required in the candidate's health benefit plan.

Provider Documentation Criteria for Pubertal Delay and Gender Affirming Hormonal Therapy:

The treating clinicians must provide the following documentation. The documentation must be provided in letters from the appropriate clinicians and contain the information noted below.

1. The letters must attest to the psychological aspects of the candidate's gender dysphoria
 - a. One of the letters must be from a licensed behavioral health professional with an appropriate degree (Ph.D., M.D., Ed.D., D.Sc., D.S.W., psychiatric physician assistant, Psy.D, or psychiatric nurse practitioner under the supervision of a psychiatrist) with established competence and clinical expertise in the assessment and treatment of gender dysphoria, who is capable of adequately evaluating if the candidate has any co-morbid psychiatric conditions.
 - b. One of the letters must be from the candidate's established physician or behavioral health provider. The letter or letters must document the following:
 1. Whether the author of the letter is part of a gender dysphoria treatment team and/or follows current WPATH Standards of Care or Endocrine Society Guidelines for the Endocrine Treatment of Gender-Dysphoric/ Gender-Incongruent Persons for evaluation and treatment of gender dysphoria; and
 2. The initial and evolving gender, sexual, and other psychiatric diagnoses (if applicable); and
 3. The duration of their professional relationship including the type evaluation that the candidate underwent; and
 4. The eligibility criteria that have been met by the candidate according to the above Standards of Care; and
 5. The physician or mental health professional's rationale for hormone therapy; and
 6. The degree to which the candidate has followed the treatment and experiential requirements to date and the likelihood of future compliance; and
 7. The extent of participation in psychotherapy throughout the 12 month real-life trial, (if such therapy is recommended by a treating medical or behavioral health practitioner); and
 8. That during the 12 month, real-life experience (for candidates not meeting the 12 month candidate criteria as noted in 6 and 7, the letter should still comment on the candidate's ability to function and experience in the desired gender role), persons other than the treating therapist were aware of the candidate's experience in the desired gender role and could attest to the candidate's ability to function in the new role.

Prepubertal children do not require medical or surgical treatment, but do require mental health services as listed above.

Criteria for Adolescents Entering Puberty

Adolescents, having reached puberty (Tanner 2), and who have met eligibility and readiness criteria can be treated with GnRH analogues.

The definition of puberty is having reached Tanner stage 2/5 and/or having LH, estradiol levels or testosterone levels, within the pubertal range. These LH, estradiol and testosterone ranges are well-known and published and are broken down by biological male vs. biological female Tanner stage, and nocturnal and diurnal levels.

Adolescents are eligible for GnRH treatment, (for suppression of puberty) by these criteria: (same for adults)

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1. Have an established diagnosis for GD based on DSM V or ICD-10 criteria;
2. Have experienced puberty to at least Tanner stage 2, which can be confirmed by pubertal levels of LH, estrogen or testosterone;
3. Have experienced pubertal changes that resulted in an increase of their gender dysphoria;
4. Do not suffer from psychiatric comorbidity (that interferes with the diagnostic work-up or treatment);
5. Have a adequate psychological and social support during treatment, to include having parental/guardian consent;
6. Demonstrate knowledge and understanding of the expected outcomes of GnRH analogue treatment, cross-sex hormone treatment, and gender affirmation surgeries, as well as the medical and social risks and benefits of gender affirmation; and have been counseled regarding fertility options.

Criteria for Postpubertal Adolescents under the Age of 18 Years

Post-pubertal adolescents under the age 18 must meet the same criteria and documentation requirements for treatment as listed above for adults. If those criteria are met, they are eligible for gender affirmation hormonal treatment and treatment for menstrual suppression when gender affirmation hormones are not successful in eliminating menses.

Gender affirmation surgery is rarely appropriate for patients under the age of 18. Requests for mastectomy for female to male transgender individuals age 17 or older may be considered only in exceptional circumstances on an individual consideration basis.

When Gender Affirmation Surgery and Hormone Therapy are not covered

Gender Affirmation Surgery and hormone therapy are non-covered benefits when the member does not have benefits for the services requested contained in their health benefit plan.

Gender Affirmation Surgery and hormonal therapy are considered **not medically necessary** for plans offering gender affirmation services when the candidate criteria and provider documentation criteria are not met.

The following procedures as part of gender affirmation surgery are considered **not medically necessary**:

Abdominoplasty

Calf implants

Collagen injections

Hair transplantation

Lip filler/lip enhancement

Neck lift/tightening

Skin resurfacing (e.g. dermabrasion, chemical peels)

Laryngoplasty/voice modification surgery is considered **investigational**.

Reversal of gender affirmation surgery, except for revision surgery as outlined in the when covered section, is considered **investigational**.

Autologous tissue flap breast reconstructions are considered **not medically necessary** for gender affirmation surgery.

Fertility preservation, including but not limited to: sperm banking and embryonic freezing is considered **not medically necessary**.

Policy Guidelines

Gender affirmation surgery and hormone therapy candidate criteria and care standards are based, in part, on the World Professional Association for Transgender Health (WPATH) and Endocrine Society Guidelines for Endocrine Treatment of Gender-Dysphoric/ Gender-Incongruent Persons.

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Billing/Coding/Physician Documentation Information

This policy may apply to the following codes. Inclusion of a code in this section does not guarantee that it will be reimbursed. For further information on reimbursement guidelines, please see Administrative Policies on the Blue Cross Blue Shield of North Carolina web site at www.bcbsnc.com. They are listed in the Category Search on the Medical Policy search page.

ICD-10 diagnosis codes: F64.0, F64.1, F64.2, F64.8, F64.9, Z87.890

Applicable codes: 15820, 15821, 15822, 15823, 15824, 15825, 15826, 15828, 17380, 19304, 19316, 19318, 19324, 19325, 19340, 21120, 21121, 21122, 21123, 21125, 21127, 21137, 21138, 21139, 21208, 21209, 21270, 21299, 21499, 30400, 30410, 30420, 54400, 54401, 54405, 54406, 54408, 54410, 54411, 54415, 54416, 54417, 54660, 55175, 55180, 55970, 55980, 56800, 56805, 57291, 57292, 57295, 57296, 57335, 67900, C1813, C2622, J1950, J3315, J9217, J9219, J9226.

Applicable non-covered procedure codes, including, but not limited to: 11950, 11951, 11952, 11954, 15775, 15776, 15780, 15781, 15782, 15783, 15786, 15787, 15788, 15789, 15792, 15793, 15829, 15830, 15832, 15833, 15834, 15835, 15836, 15837, 15838, 15839, 15876, 15877, 15878, 15879, 21208, 21210, 30430, 30435, 30450, 92507, 92508.

BCBSNC may request medical records for determination of medical necessity. When medical records are requested, letters of support and/or explanation are often useful, but are not sufficient documentation unless all specific information needed to make a medical necessity determination is included.

Scientific Background and Reference Sources

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American College of Obstetricians and Gynecologists (ACOG). Healthcare for transgender individuals. Committee Opinion. No 512. December 2011. *Obstet Gynecol* 2011; 118:1454-8.

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Medical Director review 9/2020

Hembree WC, Cohen-Kettenis P, et al. Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline. *J Clin Endocrinol Metab.* November 2017, 102(11):3869-3903. Accessed at <https://academic.oup.com/jcem/article/102/11/3869/4157558> on 9/25/2020.

Medical Director review 3/2021

Policy Implementation/Update Information

- 7/19/11 New policy developed. When benefits for gender reassignment surgery are available, coverage may vary. Some benefit plans provide coverage without a requirement for prior approval or medical necessity review. Benefits for upper and/or lower body gender reassignment procedures vary by benefit plan. If prior authorization and medical necessity review are required for hormone therapy, breast augmentation surgery (mammoplasty), and mastectomy for the treatment of gender identity disorders, the medical criteria and guidelines outlined in the policy will be utilized to determine the medical necessity for the requested procedure or treatment. (adn)
- 9/18/12 Added diagnosis codes 302.0, 302.5, 302.50 – 302.53, 302.6, 302.85, 302.9, 313.82, 752.7 to Billing/Coding section. (sk)
- 1/1/13 Reference added. Specialty Matched Consultant Advisory Panel review 12/4/12. No change to policy statement. (sk)
- 7/1/13 ICD-10 diagnosis codes added to Billing/Coding section. (sk)

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- 10/29/13 Reference added. Replaced DSM-IV TR criteria with DSM-5™ criteria. Removed “Sex change surgical procedures other than breast augmentation surgery (mammoplasty) and mastectomy” from the When Not Covered section. Added “pelvic reconstruction” to the When Covered section. Applicable Service Codes removed from Billing/Coding section. Senior Medical Director review. (sk)
- 7/1/14 Removed ICD-10 effective date from Billing/Coding section. (sk)
- 12/9/14 Reference added. Specialty Matched Consultant Advisory Panel review 11/24/14. No change to policy statement. (sk)
- 12/30/15 Specialty Matched Consultant Advisory Panel review 11/18/2015. (sk)
- 9/30/16 Specialty Matched Consultant Advisory Panel review 9/2016. Policy re-titled to Gender Confirmation Surgery and Hormone Therapy. Information regarding coverage of services for adolescents added to the “When Covered” section. Fertility preservation, including but not limited to: sperm banking and embryonic freezing added to Non-covered section. ICD 9 codes removed from Billing/Coding section. ICD 10 codes, covered codes and non-covered codes added to Billing/Coding section. Policy noticed 10/1/2016 for policy effective date 1/1/2017. (sk)
- 6/30/17 Specialty Matched Consultant Advisory Panel review 5/31/2017. (sk)
- 6/29/18 Specialty Matched Consultant Advisory Panel review 5/23/2018. (sk)
- 7/16/19 Specialty Matched Consultant Advisory Panel review 6/28/2019. (sk)
- 6/23/20 Reference added. Specialty Matched Consultant Advisory Panel review 5/20/2020. (sk)
- 8/25/20 Medical Director review. Provider Documentation Criteria updated to include “licensed” behavioral health professional, and “with established competence and clinical expertise in the assessment and treatment of gender dysphoria”. (sk)
- 11/10/20 Medical Director review. Policy title changed from “Gender Confirmation Surgery and Hormone Therapy” to “Gender Affirmation Surgery and Hormone Therapy”. The word “confirmation” changed to “affirmation” throughout the policy. In the When Covered section, Candidate Criteria for Adults and Adolescents age 18 years and older, criteria 2, wording changed from “the desire to live and be accepted as a member of the opposite sex” to “A strong conviction to live as some alternative gender different from one’s assigned gender”. In the When Covered section, Candidate Criteria for Children and Adolescents under a age 18 years, criteria 1a, wording changed from “the desire to live and be accepted as a member of the opposite sex” to “A strong conviction to live as some alternative gender different from one’s assigned gender”. When Covered section updated to include information on medically necessary hair removal prior to genital surgery. References updated. (sk)
- 3/23/21 Medical Director review. Removed “That the candidate has, intends to, or is in the process of acquiring a legal gender-identity appropriate name change and” from the list of Provider Documentation Criteria for Gender Affirmation Surgery. (sk)
- 7/1/21 Medical necessity criteria added for facial surgery. Added specificity for which genital and chest procedures are covered. Tracheal shave and voice lessons added as medically necessary. Laryngoplasty added as investigational. Reversal surgery added as investigational. Several not

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medically necessary surgical and cosmetic services added as not medically necessary.
Billing/Coding section updated. (hb/sk)

Medical policy is not an authorization, certification, explanation of benefits or a contract. Benefits and eligibility are determined before medical guidelines and payment guidelines are applied. Benefits are determined by the group contract and subscriber certificate that is in effect at the time services are rendered. This document is solely provided for informational purposes only and is based on research of current medical literature and review of common medical practices in the treatment and diagnosis of disease. Medical practices and knowledge are constantly changing and BCBSNC reserves the right to review and revise its medical policies periodically.