

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST
VIRGINIA HUNTINGTON DIVISION

CHRISTOPHER FAIN and SHAUNTAE
ANDERSON; individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

WILLIAM CROUCH, *et al.*,

Defendants.

CIVIL ACTION NO. 3:20-cv-00740
HON. ROBERT C. CHAMBERS

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56(a), Plaintiffs Christopher Fain and Shauntae Anderson (collectively, "Plaintiffs"), on behalf of themselves and the proposed class, respectfully move the Court for summary judgment on all claims, seeking declaratory and permanent injunctive relief on their claims under the Equal Protection Clause of the Fourteenth Amendment, U.S. Const. amend. XIV; Section 1557 ("Section 1557") of the Patient Protection and Affordable Care Act ("ACA" or "Affordable Care Act"), 42 U.S.C. § 18116¹; and the Comparability and Availability requirements of the federal Medicaid Act, 42 U.S.C. §§ 1396a(a)(10)(A)-(B).

Plaintiffs seek a judgment as to liability on their claims that Defendants' enforcement of the exclusion of gender-confirming care for transgender West Virginia Medicaid participants

¹ In light of *Cummings v. Premier Rehab Keller, P.L.L.C.*, No. 20-219, 2022 WL 1243658 (U.S. Apr. 28, 2022), Plaintiffs no longer seek damages in their individual capacities under the Affordable Care Act. Accordingly, the only relief Plaintiffs request in this case is declaratory and injunctive relief and no damages issues remain for trial.

constitutes unlawful discrimination based on sex and transgender status in violation of the Equal Protection Clause and Section 1557 of the ACA. Defendants' exclusion of gender-confirming care also violates Medicaid's Comparability and Availability requirements. Plaintiffs respectfully request that this Court issue a declaratory judgment finding that Defendants' enforcement of the exclusion violates the rights of Plaintiffs and all others similarly situated under the Equal Protection Clause, Section 1557 of the ACA, and Medicaid's Comparability and Availability requirements, and permanently enjoin Defendants, their agents, employees, successors, and all others acting in concert with them, from enforcing the exclusion for gender-confirming care.

Dated: May 31, 2022

Respectfully submitted,

/s/ Walt Auvil

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, and any attachments, were served electronically on May 31, 2022 on the following counsel for Defendants in this case:

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Dated: May 31, 2022

Respectfully submitted,

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