

Marketplace National Regional Benefit Interpretation Document

Benefit Name	GENDER AFFIRMING CARE
Applicable State	California, Florida, Idaho, Illinois, Kentucky, Michigan, Mississippi, Nevada, New Mexico, Ohio, South Carolina, Texas, Utah, Washington, Wisconsin
Benefit Definition	<p>This policy addresses surgical and non-surgical treatment for gender dysphoria.</p> <p>Covered benefits are listed in three (3) Sections - A, B and C. All services must be medically necessary. Each benefit plan contains its own specific provisions for coverage, limitations and exclusions as stated in the member’s Evidence of Coverage (EOC)/Schedule of Benefits (SOB). If there is a discrepancy between this policy and the member’s EOC/SOB, the member’s EOC/SOB provision will govern.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>A. FEDERAL/STATE MANDATED REGULATIONS</p> </div> <p>Note: The most current federal/state mandated regulations for each state can be found in the links below.</p> <p>FEDERAL:</p> <p>Section 1557 of the Patient Protection and Affordable Care Act (42 USC 18116) and its implementing regulation provide that an individual shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds prohibited under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (race, color, national origin), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (sex), the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq. (age), or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (disability), under any health program or activity, any part of which is receiving federal financial assistance; any program or activity administered by the Department under Title I of the Act; or any program or activity administered by any entity established under such Title. The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services has enforcement authority with respect to health programs and activities that receive federal financial assistance from the Department of Health and Human Services (HHS), or are administered by HHS or any entity established under Title I of the Affordable Care Act. OCR is responsible for enforcing regulations issued under Section 1557 of the Affordable Care Act (Section 1557), protecting the civil rights of individuals who access or seek to access covered</p>

health programs or activities. Section 1557 prohibits discrimination on the basis of race, color, national origin, age, disability, or sex (including pregnancy, sexual orientation, and gender identity), in covered health programs or activities. 42 U.S.C. § 18116(a).

Update (May 10, 2021)

On June 15, 2020, the U.S. Supreme Court held that Title VII of the Civil Rights Act of 1964 (Title VII)'s prohibition on employment discrimination based on sex encompasses discrimination based on sexual orientation and gender identity. *Bostock v. Clayton County, GA*, 140 S. Ct. 1731 (2020). The *Bostock* majority concluded that the plain meaning of "because of sex" in Title VII necessarily included discrimination because of sexual orientation and gender identity. *Id.* at 1753-54.

CALIFORNIA:

[CA Health and Safety Code, Article 5. Standards 1367.042](#)

[CA Health and Safety Code, Solicitation and Enrollment, Section 1365.5](#)

FLORIDA:

64B8-9.019 Standards of Practice for the Treatment of Gender Dysphoria in Minors.

Effective: 03/16/2023

(1) The following therapies and procedures performed for the treatment of gender dysphoria in minors are prohibited.

(a) Sex reassignment surgeries, or any other surgical procedures, that alter primary or secondary sexual characteristics.

(b) Puberty blocking, hormone, and hormone antagonist therapies.

(2) Minors being treated with puberty blocking, hormone, or hormone antagonist therapies prior to the effective date of this rule may continue with such therapies.

**This rule applies to new patients under 18. Existing patients can continue treatment indefinitely, under the medical board's order. The rule is currently in effect.*

Eff. 7/1/2023

[Bill tracking in Florida - SB 254 \(2023 legislative session\) - FastDemocracy](#)

Summary:

Treatments for Sex Reassignment; Granting courts of this state temporary emergency jurisdiction over a child present in this state if the child has been subjected to or is threatened with being subjected to sex-reassignment prescriptions or procedures; providing that, for purposes of warrants to take physical custody of a child in certain child custody enforcement proceedings, serious physical harm to the child includes, but is not limited to, being subjected

to sex-reassignment prescriptions or procedures; prohibiting certain public entities from expending state funds for the provision of sex-reassignment prescriptions or procedures; prohibiting sex-reassignment prescriptions and procedures for patients younger than 18 years of age; requiring the department to immediately suspend the license of a health care practitioner who is arrested for committing or attempting, soliciting, or conspiring to commit specified violations related to sex-reassignment prescriptions or procedures for a patient younger than 18

Notes:

SB 254 does not prohibit such care for citizens 18 or older, it establishes several requirements, including a written voluntary consent form from the patient and the necessity to seek the treatment in person (meaning no telehealth). It also establishes that the care restrictions would not apply to any individual born with a genetically or biochemically verifiable [disorder of sex development \(DSDs\)](#)

IDAHO:

[Gender-Affirming Care: HB 71](#): Signed by the Governor – 4/4/23. Effective – 01/01/2024

(2) Except as provided in subsection (4) of this section, any medical practitioner who knowingly engages in any of the following practices upon a child for the purpose of attempting to alter the appearance of or affirm the child's perception of the child's sex if that perception is inconsistent with the child's biological sex shall be guilty of a felony.

...and shall be imprisoned in the state prison for a term of not more than life ten (10) years

KENTUCKY:

[Ky. Rev. Stat. § 311.372](#): Prohibition on treatments to a minor for purpose of attempting to alter the appearance or perception of the minor's sex -- Exceptions -- Penalties.

MISSISSIPPI:

[MS HB-1125 \(2023\)](#): Effective 2/28/23, gender transition procedures, including surgery, drugs or hormones, are illegal for people under age 18.

NEW MEXICO:

[Senate Bill 317](#)

UTAH:

[Transgender Medical Treatments and Procedures: SB 16](#): Signed by the Governor; Effective: 01/28/2023

- prohibits a health care provider from providing a hormonal transgender treatment to new patients who were not diagnosed with gender dysphoria before a certain date;

(2) (a) The division shall create a transgender treatment certification on or before July 1, 2023.

(d) Beginning January 1, 2024, providing a hormonal transgender treatment to a minor without a transgender treatment certification is unprofessional conduct.

(3) (a) A health care provider may provide a hormonal transgender treatment to a minor only if the health care provider has been treating the minor for gender dysphoria for at least six months.

[58-67-502](#): Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(f) performing, or causing to be performed, upon an individual who is less than 18 years old:

- (i) a primary sex characteristic surgical procedure; or
- (ii) a secondary sex characteristic surgical procedure.

**Patients diagnosed with gender dysphoria before the bill went into effect can receive treatment. Ban currently in effect.*

WASHINGTON:

[WAC 284-43-5622](#):

A health benefit plan must not be offered if the commissioner determines that:

- (a) It creates a risk of biased selection based on health status;
- (b) The benefits within an essential health benefit category are limited so that the coverage for the category is not a meaningful health benefit; or
- (c) The benefit has a discriminatory effect in practice, outcome or purpose in relation to age, present or predicted disability, and expected length of life, degree of medical dependency, quality of life or other health conditions, race, gender, national origin, sexual orientation and gender identity or in the application of Section 511 of Public Law 110-343 (the federal Mental Health Parity and Addiction Equity Act of 2008).

[WSR 21-20-110](#): CR-103P (October 2017) (Implements [RCW 34.05.360](#))

[WAC 284-43-5150](#): Unfair practice relating to health coverage

[WAC 284-43-5940\(1\)\(b\)\(iv\)\(B\)\(vi\)](#) states carriers can't "Deny or limit coverage, deny or limit coverage of a claim, issue automatic denials of coverage or impose additional cost sharing or other limitations or restrictions on coverage, for gender affirming treatment, when that treatment is:

- Prescribed as medically necessary, exclude facial gender affirming treatment (such as tracheal shaves), **hair removal procedures**, and other care (such as mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures, including revisions to prior treatment) as cosmetic services;"

B. STATE MARKET PLAN ENHANCEMENTS

CALIFORNIA:

Effective April 9, 2013:

[DMHC Director's Letter 12-K](#) "Gender Non-Discrimination Requirements"

DMHC All Plan Letter: [Health and Safety Code Section 1365.5 Compliance](#)

MISSISSIPPI:

[House Bill No. 1125](#)

NEW MEXICO:

Behavioral Health, or Substance Abuse drugs subject to [Senate Bill 317](#) are at No Charge. (In 2022 NM EOC)

NEVADA:

Coverage for drug or devices for contraception and for hormone replacement therapy in certain circumstances; prohibited actions by insurers

[NRS 689A.0415](#)

[NRS 695C.1694](#)

WASHINGTON:

[RCW 48.43.0128](#): Non-grandfathered health plans and plans issued or renewed on or after January 1, 2022—Prohibited discrimination—Rules.

[WAC 284-43-7080](#): Prohibited exclusions.

Effective June 25, 2014

Washington Office of the Insurance Commissioner, Commissioner's Letter Gender Identity Non Discrimination Requirements:

<https://www.insurance.wa.gov/sites/default/files/documents/gender-identity-discrimination-letter.pdf>

C. COVERED BENEFITS

IMPORTANT NOTE: Covered benefits are listed in Sections A, B and C. Always refer to Sections A and B for additional covered benefits not listed in this Section.

Refer to the member's Evidence of Coverage (EOC) and Schedule of Benefits (SOB) to determine coverage eligibility.

Note: Treatment for Gender Dysphoria is sometimes referred to as Gender Identity Disorder treatment, sex transformation surgery, sex change, sex reversal, gender change, transsexual surgery, transgender surgery and sex or gender reassignment. These terms may be used interchangeably throughout this document, and, for purposes of this document, are intended to have the same meaning.

GENDER AFFIRMING CARE

CALIFORNIA:

Molina covers medically necessary treatment of a mental health or substance use disorder, including services for the treatment of gender dysphoria, only when that disorder is listed in the mental and behavioral disorders chapter of the most recent edition of the International Classification of Diseases or is listed in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM). Molina covers medically necessary treatment of gender dysphoria.

FLORIDA, ILLINOIS, KENTUCKY, MICHIGAN, MISSISSIPPI, NEW MEXICO, OHIO, SOUTH CAROLINA, TEXAS, UTAH, WASHINGTON:

Molina covers a continuum of Mental Health Services when provided by Participating Providers and facilities acting within the scope of their license. Molina covers the diagnosis or treatment of mental disorders, including services for the treatment of gender-identity or gender dysphoria, to the extent required by Federal and State Law.

IDAHO:

Molina covers the diagnosis or treatment of mental disorders, including services for the treatment of gender dysphoria.

NEVADA:

Molina covers the diagnosis or treatment of mental disorders, including services for the treatment of gender dysphoria and any type of hormone replacement therapy which is lawfully prescribed or ordered which has been approved by the Food and Drug Administration. Molina may require authorization for coverage of services, including inpatient and certain outpatient services. The concurrent review authorization process applies to all Involuntary admissions.

Gender Affirming Treatment: Molina covers Medically Necessary services for the treatment of conditions relating to gender dysphoria and gender incongruence. This

includes coverage of Medically Necessary psychosocial and surgical intervention and any other Medically Necessary treatment for such disorders provided by:

- Endocrinologists;
- Pediatric endocrinologists;
- Social workers;
- Psychiatrists;
- Psychologists;
- Gynecologists;
- Speech-language pathologists;
- Primary care physicians;
- Advanced practice registered nurses;
- Physician assistants; and
- Any other providers of medically necessary services for the treatment of gender dysphoria or gender incongruence.

Molina covers gender affirming treatment in accordance with federal law and State Law.

NEW MEXICO:

Reconstructive Surgery: Molina covers the following reconstructive surgery services when Prior Authorized:

- Medically necessary services related to gender affirming care and the treatment for gender dysphoria

Prosthetic Devices: Examples of prosthetic devices include, but are not limited to:

- prosthetics related to other medically necessary services related to gender affirming care and the treatment for gender dysphoria

WASHINGTON:

Gender Affirming Treatment: Molina covers Gender Affirming Treatment which is Medically Necessary and prescribed in accordance with the accepted standards of care.

WISCONSIN:

Molina covers the diagnosis or treatment of mental disorders, including services for the treatment of gender dysphoria, to the extent required by Federal and State Law.

TRANSGENDER SURGERY

CALIFORNIA, FLORIDA, IDAHO, ILLINOIS, MICHIGAN, MISSISSIPPI, NEVADA, NEW MEXICO, OHIO, SOUTH CAROLINA, TEXAS, UTAH, WASHINGTON, WISCONSIN:

Molina covers if the request is determined via DSM V and any additional criteria that the Medical Management Team requires (in compliance with Federal Law).

NEW MEXICO:

Coverage of sex specific health services and medically necessary services for transgender individuals:

For transgender people, preventive services will not be limited based on an individual's sex assigned at birth, gender identity or recorded gender. Coverage and claims will not be denied or limited or subject to additional cost sharing or other limitations or restrictions on coverage, for any health services that are ordinarily or exclusively available to individuals of one sex, to a transgender individual based on the fact that an 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. Molina covers all medically necessary benefits and services outlined in this Agreement, which includes medically necessary tracheal shave for gender affirming care and the treatment of gender dysphoria.

KENTUCKY:

Passport covers if the request is determined via criteria that the Medical Management Team requires.

ALL STATES:

Clinical Perspective: Remove the gender restriction. Not allowed to have restrictions for men nor women.

MORE INFORMATION

Refer to the Benefit Interpretation Policy titled **Mental Health Services (Inpatient and Outpatient)**.

D. NOT COVERED

Refer to the member's Evidence of Coverage (EOC) and Schedule of Benefits (SOB) to determine coverage eligibility.

HAIR LOSS OR GROWTH TREATMENT

CALIFORNIA:

Hair Loss or Growth Treatment: Items and services for the promotion, prevention, or other treatment of hair loss or hair growth are not covered. This exclusion does not apply to medically necessary treatment of a mental health or substance use disorder.

FLORIDA, IDAHO, ILLINOIS, KENTUCKY, MICHIGAN, MISSISSIPPI, NEVADA, NEW MEXICO, OHIO, SOUTH CAROLINA, TEXAS, UTAH, WASHINGTON, WISCONSIN:

Hair Loss or Growth Treatment: Items and services for the promotion, prevention, or other treatment of hair loss or hair growth are not covered.

TRANSGENDER SURGERY

ALL STATES:

Molina and Passport do not cover transgender surgery if criteria from Medical Management team is not met

E. DEFINITIONS

[See Glossary](#)

F. REFERENCES

American Academy of Pediatrics. Policy Statement. Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents. October 2018.

American Medical Association, October 2007, GLBT Policy Compendium; AMA Health Care Advocacy Agenda; 2005

Diagnostic and Statistical Manual of Mental Disorders (DSM-5)

Gender Identity Disorder: An Emerging Problem for Pediatricians; Walter J. Meyer III, Pediatrics 2012 <http://pediatrics.aappublications.org/content/129/3/571.full.html>

Gooren, L.J., Gilthay, E. J., Bunck, M.C; “Long Term Treatment of Transsexuals with Cross-Sex Hormones: Extensive Personal Experience”; Journal of Clinical Metabolism; 2008 93: 19-25 originally published online Nov 6, 2007

Hembree et al; “Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline”; Journal of Clinical Metabolism; 2009 94:3132-3154; Orig; pub online June 9, 2009

G. POLICY HISTORY/REVISION INFORMATION

Date	Action/Description
6/3/2021	<ul style="list-style-type: none"> Added Clinical Perspective on no benefits will be configured with a gender restrictions
5/24/2023	<ul style="list-style-type: none"> Changed Policy Name for Gender Dysphoria/Transgender Surgery to Gender Affirming Care

	7/1/2023	<ul style="list-style-type: none"> Added NV 2024 EOC Language 																						
Codification	Marketplace Benefit Interpretation Policies Codification																							
Prior Authorization	<p>For the MHI PA Matrix, if a code is NOT listed, it could EITHER be:</p> <ol style="list-style-type: none"> Covered and No PA Required Not Covered <p>You cannot use the MHI PA Matrix to make coverage determinations.</p> <p>PA Lookup Tool</p>																							
Approval	<table border="1"> <thead> <tr> <th data-bbox="443 800 678 873">Departments</th> <th data-bbox="678 800 919 873">Product</th> <th data-bbox="919 800 1154 873">CIM</th> <th data-bbox="1154 800 1406 873">Clinical Management</th> </tr> </thead> <tbody> <tr> <td data-bbox="443 873 678 911">Date</td> <td data-bbox="678 873 919 911">3/1/2021</td> <td data-bbox="919 873 1154 911">4/26/2021</td> <td data-bbox="1154 873 1406 911">3/24/2021</td> </tr> <tr> <td data-bbox="443 911 678 984">Revised (for 1/1/2022)</td> <td data-bbox="678 911 919 984">11/2/2021</td> <td data-bbox="919 911 1154 984">3/11/2022</td> <td data-bbox="1154 911 1406 984">11/30/2021</td> </tr> <tr> <td data-bbox="443 984 678 1058">Revised (for 1/1/2023)</td> <td data-bbox="678 984 919 1058">11/18/2022</td> <td data-bbox="919 984 1154 1058">4/5/2023</td> <td data-bbox="1154 984 1406 1058">11/18/2022</td> </tr> <tr> <td data-bbox="443 1058 678 1127">Revised (for 1/1/2025)</td> <td data-bbox="678 1058 919 1127">12/11/2024</td> <td data-bbox="919 1058 1154 1127">-</td> <td data-bbox="1154 1058 1406 1127">12/11/2024</td> </tr> </tbody> </table>				Departments	Product	CIM	Clinical Management	Date	3/1/2021	4/26/2021	3/24/2021	Revised (for 1/1/2022)	11/2/2021	3/11/2022	11/30/2021	Revised (for 1/1/2023)	11/18/2022	4/5/2023	11/18/2022	Revised (for 1/1/2025)	12/11/2024	-	12/11/2024
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