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Medi-Cal and Gender Reassignment Procedures

An information and resource publication of:

The Transgender Law Center

and

The Community Health Advocacy Project

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Does Medi-Cal cover gender reassignment?

Yes! Despite what many Medi-Cal recipients have heard, Medi-Cal will cover some procedures. It is true that Medi-Cal still sometimes tries to deny coverage for gender reassignment procedures. However, California courts have, on several occasions, overruled these denials and ordered Medi-Cal to pay for the requested treatment.

Because it is possible that Medi-Cal will continue to automatically deny some requests for treatment, applicants should prepare their requests with that in mind. This pamphlet contains suggestions on filing an effective request and information about getting help in filing an appeal if your request is denied by Medi-Cal.

What types of procedures might be covered?

Medi-Cal should cover hormone treatment, gender reassignment surgery, and other necessary procedures. Medi-Cal is required by law to evaluate requests on a case-by-case basis. They must approve those requests that they find to be medically necessary so long as the procedure is not considered to be “experimental.” Medi-Cal’s definition of experimental does not include gender reassignment surgery.

What steps do I need to take to get Medi-Cal to cover gender reassignment procedures?

The first thing you'll need to do is find a health care provider who is registered with Medi-Cal. Anyone who is providing you health services related to your transition should be able to become a Medi-Cal provider.

Providers who are not already signed-up with Medi-Cal should be encouraged to do so. Your provider can get more information on registering with Medi-Cal by calling (800) 541-5555.

If getting gender reassignment surgery (GRS) is a part of your prescribed or desired medical treatment, you are likely to have a difficult time finding an experienced surgeon who accepts Medi-Cal. To begin the process, your surgeon will need to submit a Treatment Authorization Request (TAR) to Medi-Cal. A TAR is an explanation about why the services you are requesting are medically necessary and should be paid for by Medi-Cal.

Your TAR is incredibly important in getting your request approved. You'll need to work with your provider in order to insure that the best possible request is submitted. Your TAR should include letters from your therapist or therapists, a letter from your primary physician, and a letter from you. These letters should all explain why the requested procedure is medically necessary for you.

How long does it take to get a decision?

Medi-Cal has 30 days to take action on the TAR. It can sometimes take longer if your request is complicated. When Medi-Cal has made a decision, they will send letters to you and your provider.

What should I do if Medi-Cal denies coverage?

If Medi-Cal decides not to pay for the services that you requested, they will send you a "Notice of Action." You should use the form on the back of this notice to request a state "Fair Hearing." You have **90 days** from the date you received your Notice of Action letter to file your request. Once your request is processed, you will be given a date for a hearing. You are strongly encouraged to seek legal help or representation for the hearing.

Where can I get a lawyer?

If you live in the Bay Area and are low-income, **Bay Area Legal Aid** provides free legal help. If you live outside of the Bay Area, the Transgender Law Center may be able to help you find an attorney close to you.

If you choose not to use an attorney, or one is not available in your area, you should ask a friend, relative or community advocate to help you prepare your case. This person should also go with you to your hearing.

What additional information should I give to Medi-Cal before I go to the state hearing?

At the state hearing, the judge will be looking for evidence that gender reassignment is medically necessary for you. You should provide as much evidence as you can to prove that this is true. This can include letters from other health care providers, updated medical reports, letters from friends and family, and/or social science reports that discuss gender identity disorder. You can contact the Transgender Law Project for copies of appropriate reports.

What happens after the hearing?

The judge looks at all of the evidence from both sides and renders a decision. The law says that you must receive a decision within 90 days of filing your request for a hearing (unless you waive that right in writing).

What can I do if I lose at the state hearing?

If the judge rules to deny you coverage, you have the right to a rehearing. If you lose the rehearing, you have the right to appeal the decision in California Superior Court.

You should also be aware of something called an “alternate decision.” If the judge grants you coverage, the Director of Medi-Cal has the power to over-rule the decision. If the Director does this in your case (it sometimes happens in gender reassignment applications), you’ll have to appeal the Director’s decision in California Superior Court. If you decide to go to Superior Court and have not already obtained legal assistance, we strongly advise that you do so at this stage.

Special Issues to Consider

The Harry Benjamin Standards of Care

If you have not already heard of the Harry Benjamin Standards of Care, you will probably begin to hear about them as you enter this process. The Harry Benjamin International Gender Dysphoria Association has created guidelines for providing health services to people with Gender Identity Disorder (GID). Not all transgender people have GID. Of those who do, some choose to utilize these guidelines as a way to plan the health care they will receive.

Some successful Medi-Cal applicants and health care advocates believe that the best way to apply for Medi-Cal coverage is by following these guidelines. Their argument is that Medi-Cal is most likely to find a procedure “medically necessary” if you can prove that it is a part of these physician and psychiatrist approved treatment guidelines. While we are not advocating these guidelines as the only health care plan that Medi-Cal will find “medically necessary,” we believe that applications that follow them have a greater chance of being approved. You can access the guidelines on the internet at: www.hbigda.org.

What if I have chosen to be part of an HMO as my Medi-Cal service provider?

Some HMO's deny gender reassignment to their members. If you are a member of an HMO that will not cover gender reassignment, Medi-Cal should still cover the cost.

Your medical provider must first send the treatment request to the HMO. The provider will receive a denial of payment. The provider then has to send that denial along with a TAR to Medi-Cal for payment. If Medi-Cal denies the TAR, you can request a state "Fair Hearing." (See above section: "What should I do if Medi-Cal denies coverage?")

Will Medi-Cal cover electrolysis or other necessary procedures related to transitioning?

It is unclear what services Medi-Cal considers medically necessary for gender reassignment. Possible covered procedures include tracheal shave, breast construction (for MTFs), and electrolysis.

If you are in need of any procedure as a part of your transition, you should get help from a medical health care professional who is a Medi-Cal provider and follow the application steps set out in this pamphlet to request coverage for the procedure. If Medi-Cal denies coverage, see the above section on what to do if Medi-Cal denies coverage.

Medicare and Medi-Cal

If you are a recipient of both Medicare and Medi-Cal, you will need to take an additional step prior to applying to Medi-Cal for transition related procedures. Since Medicare is your primary health insurance, you need to first apply for coverage from Medicare. Once your application is denied (Medicare explicitly excludes transition related procedures), you can follow the above steps for getting approval from Medi-Cal.

TLC's Community Legal Services Project is partially sponsored by:

The Horizons Foundation

The VanLobenSels/RembeRock Foundation

The information in this pamphlet is not meant to substitute for advice from an attorney or appropriate agency. Because of the changing nature of the law, we cannot be responsible for any use to which it is put.

May 2002