



STUART H. ALTMAN
CHAIR

The Commonwealth of Massachusetts
HEALTH POLICY COMMISSION
50 MILK STREET, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109
(617) 979-1400

DAVID M. SELTZ
EXECUTIVE DIRECTOR

To: External Review Agencies under Contract with the Health Policy Commission Pursuant to G.L. c. 176O, § 14
cc: Commercial Health Insurers, Blue Cross Blue Shield of Massachusetts, and Health Maintenance Organizations Accredited Pursuant to G.L. c. 176O
From: Jenifer Bosco, Director, Office of Patient Protection
Re: External Review for Denials of Coverage for Medical and/or Surgical Treatment of Gender Dysphoria
Date: July 2, 2015

**External Review for Denials of Coverage for
Medical and/or Surgical Treatment of Gender Dysphoria**

Prohibited Discrimination on the Basis of Gender Identity or Gender Dysphoria

The Massachusetts Division of Insurance recently determined that denying medically necessary treatment based on an individual's gender identity or gender dysphoria is prohibited sex discrimination under Massachusetts law. Therefore, if medically necessary for the individual patient, carriers must cover treatments for gender dysphoria. See Division of Insurance Bulletin *2014-03*, released June 20, 2014.

Definition of Gender Identity and Gender

Massachusetts law defines "gender identity" as "a person's gender-related identity, appearance or behavior, whether or not that gender-related identity or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Chapter 199 of the Acts of 2011. The *American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* defines gender dysphoria as the presence of:

"a marked difference between the individual's expressed/experienced gender and the gender others would assign him or her, and it must continue for at least six months. In children the desire to be of the other gender must be present and verbalized. This condition causes clinically significant distress or impairment in social, occupational, or other important areas of functioning."

Treatment Options for Gender Dysphoria

In addition to psychotherapy services, individuals diagnosed with gender dysphoria may need to access a variety of medical and/or surgical treatments based on their individual needs,

including a range of procedures to change primary and/or secondary sex characteristics. The full range of medical and/or surgical treatment options available to individuals diagnosed with gender dysphoria may include, but are not limited to, those listed in professional medical publications such as *Standards of Care, Version 7*, World Professional Association for Transgender Health (WPATH), 2012.

Eligibility for External Review

External review will be available when a health insurance carrier determines that coverage for treatment of gender dysphoria is not medically necessary or is experimental or investigational. Like external reviews for other types of medical services and treatments, the external review will be based upon the Massachusetts definition of medical necessity:

Medical Necessity or Medically Necessary means health care services that are consistent with generally accepted principles of professional medical practice as determined by whether the service:

- (1) is the most appropriate available supply or level of service for the insured in question considering potential benefits and harms to the individual;
- (2) is known to be effective, based on scientific evidence, professional standards and expert opinion, in improving health outcomes; or
- (3) for services and interventions not in widespread use, is based on scientific evidence.

See G.L. c. 176O, § 1; 958 CMR 3.020; 211 CMR 52.03.

If you have questions about external reviews relating to treatment for gender dysphoria, please contact Jenifer Bosco, Director of the Office of Patient Protection, at jenifer.bosco@state.ma.us or 617-979-1413.