



Until recently, Medicare has not had specific guidance about how to address the unique needs of transgender older adults. That is changing.

Medicare Changes for Transgender Older Adults

A Time of Change

The U.S. Department of Health and Human Services (HHS) has taken two important steps. First, Medicare has begun covering Gender Reassignment Surgery but has not issued detailed coverage rules. Second, new HHS regulations will help protect transgender older adults from sex discrimination in healthcare. Here's what you need to know now and what is coming down the road.

Medicare now covers Gender Reassignment Surgery (GRS). In 2013, Medicare changed its policy and began covering medically necessary Gender Reassignment Surgery. Though GRS coverage has been available since 2013, there have not been clear guidelines on who should get coverage. So far, few people have actually gotten covered.

Gender designation on a Medicare card does not determine whether care is covered. Medicare will not deny coverage for procedures that are sex-specific just because your Medicare card or other identification reflects a different gender identity. A Medicare card identifying you as male, for example, cannot be the basis for denying coverage of a pelvic examination if it is medically appropriate for you. If you are denied coverage, you should appeal the denial. You can also file a complaint with the HHS Office of Civil Rights, www.hhs.gov/civil-rights, about actions by providers or by Medicare Advantage plans.

Medicare does not cover many transition-related drugs. Many drugs prescribed for use in gender transition are prescribed

Coming Soon: HHS is deciding whether to issue some specific guidelines for GRS or, instead, continue determining coverage on a case-by-case basis. Either way, as the Medicare program gets more experience in covering GRS, we can expect to get a better picture of coverage criteria.

“off label,” which means that the specific use has not been approved by FDA. Medicare covers off label uses of prescription drugs in only limited circumstances, so you cannot get Medicare coverage for many transition-related drugs.

With final regulations now in place, healthcare providers will likely change their manuals and processes to meet the new requirements. Also, the federal government will put more emphasis on making sure that healthcare providers follow the rules.

Medicare providers may not discriminate on the basis of sex. The Affordable Care Act has a section, called Section 1557, that prohibits discrimination, including sex discrimination.

Healthcare entities or providers who receive federal funds, either directly or indirectly cannot discriminate based on sex. In May of 2016, the federal government released regulations interpreting Section 1557. **These rules specifically state that sex discrimination includes discrimination on the basis of gender identity.** The rules cover all health providers receiving federal funds, not just Medicare.

Changes are coming in Medicaid too.

Right now, fewer than half of state Medicaid programs cover GRS. Medicaid programs, however, frequently decide to cover the same procedures as Medicare. Also, Section 1557 applies to Medicaid programs and provides new protections from discrimination. So, some limits that state Medicaid programs now have for healthcare for transgender beneficiaries—including limits on GRS—may be discriminatory. **Watch for how your state responds to these developments.**

The information in this fact sheet is current as of June 13, 2016. For more or updated information, visit:

GLBTQ Legal Advocates and Defenders
www.glad.org

Justice in Aging
www.justiceinaging.org

Lambda Legal
www.lambdalegal.org

National Center for Lesbian Rights
www.nclrights.org

National Center for Transgender Equality
www.transequality.org

National Resource Center on LGBT Aging
www.lgbtagingcenter.org

Services & Advocacy for GLBT Elders
www.sageusa.org

Transgender Law Center
www.transgenderlawcenter.org



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