



October 15, 2021

The following statement is submitted to the Massachusetts Division of Insurance regarding Bulletin 2021-11 [Continuing Applicability of Guidance Regarding Prohibited Discrimination on the Basis of Gender Identity or Gender Dysphoria Including Medically Necessary Gender Affirming Care and Related Services](#) on behalf of the undersigned members of the Massachusetts Trans Health Coalition:

State protections against discrimination on the basis of gender identity or gender dysphoria have been critically important to ensuring access to health care in Massachusetts. We thank the Division of Insurance for issuing Bulletin 2021-11 which incorporates some of the advances the Commonwealth has made in regards to nondiscrimination protections for transgender and gender diverse people and identifies that Carriers must comply with applicable mental health parity requirements.

It is an unfortunate reality that transgender and gender diverse people continue to face discrimination in the Commonwealth. People have reported harassment when seeking health care services and have identified a need for expanded access to trans-affirming and culturally-competent health care.¹ It is crucial that insurance plans cover medically necessary services and that transgender and gender diverse people have access to knowledgeable providers who treat them with dignity. Community members and advocates can readily point to insurance policies and practices that create discriminatory and unnecessary barriers to health care. Enforcement of nondiscrimination protections, particularly those identified in the Bulletin, will be critical for ensuring that transgender and gender diverse people experience the full protections of these laws.

We applaud the Division of Insurance for issuing a Bulletin that addresses many of the ways that health insurance policies discriminate on the basis of gender identity or gender dysphoria. Relevant gender-affirming care can include psychological services, vocal training, permanent hair removal, as well as medical or surgical procedures, including but not limited to hormone therapies (including puberty-delaying medications) and facial, chest, and genital reconstructive surgeries. We support Carriers aligning their coverage with the most up-to-date medical standards and welcome any Carrier interested in conducting a collaborative review of their coverage policies to contact members of the Massachusetts Trans Health Coalition. We support the Division of Insurance's inclusion of Carriers Acting as Administrators in the Bulletin and strongly oppose any Carrier being permitted to discriminate or abet discrimination by administering a discriminatory product (such as one that imposes categorical exclusions) on behalf of another entity.

We also appreciate the explicit acknowledgement that Carriers cannot impose stricter requirements for coverage of a service when used to treat or ameliorate symptoms of gender dysphoria than when used to treat other conditions. Prior authorization requirements for gender-affirming care are often onerous

¹ See Massachusetts Transgender Political Coalition, [Working for Lived Equity: 2019 Community Needs Assessment Report](#) (April 2020).

and require multiple patient advocates and coordination between several providers to navigate. In some cases, time limits and other prior approval requirements do not permit enough time for pre-service procedures to be completed; the resulting requests for extensions or renewed approvals can delay health care and subject members to significant out-of-pocket costs. Overall, prior authorization requirements for gender-affirming care can be unnecessarily burdensome for patients, as well as their providers and advocates, ultimately making it much harder to access care.

We applaud the Division of Insurance for recognizing that where a second procedure is required in preparation for, as a component of, as a follow-up to, or as a revision of a medically necessary procedure, the second procedure is considered medically necessary as well. Refusal to cover pre-service procedures can result in unfair financial burdens placed on transgender and gender diverse members, even though such procedures are a necessary requirement to accessing covered care. We are hopeful that this Bulletin will encourage Carriers to evaluate whether coverage of a service is compromised by a denial of pre-service procedures.

Finally, we want to emphasize the importance of addressing the discriminatory trend of categorically excluding gender-affirming care for minors. As many of the providers and advocates in our coalition can attest, early access to puberty suppression medications, hormone therapy, surgeries, and other gender-affirming care is crucial for the treatment of gender dysphoria among youth. The use of gender-affirming medical interventions for minors based on case-by-case assessments is a widely-accepted standard of care and supported by major medical associations, including the Endocrine Society, the Pediatric Endocrine Society, and the World Professional Association for Transgender Health (WPATH).²

We thank the Division of Insurance for the opportunity to submit this statement regarding Bulletin 2021-11. We look forward to continued communications regarding efforts to address discrimination on the basis of gender identity or gender dysphoria in the Commonwealth.

Submitted by the undersigned members of the Massachusetts Trans Health Coalition:

Boston Medical Center for Transgender Medicine and Surgery

Center for Health Law and Policy Innovation, Harvard Law School

Fenway Health

Health Law Advocates

Massachusetts Transgender Political Coalition

Planned Parenthood League of MA

² See Endocrine Society, Press Release, [Discriminatory policies threaten care for transgender, gender diverse individuals](#) (Dec. 16, 2020); WPATH, [Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People Version 7](#) (2012); WPATH, [Joint Letter from USPATH and WPATH](#) (Oct. 12, 2021).