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Gender Nation: State health case could have national ramifications

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Abstract

Gender Nation is a bi-weekly column by Gwendolyn Ann Smith, the founder of the Transgender Day of Remembrance, reviewing news affecting the trans, intersex, and genderqueer community. State health case could have national ramifications The state of Wisconsin may have violated the rights of two state residents by denying medical treatment related to them being transgender, [...]

Article



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State health case could have national ramifications

The state of Wisconsin may have violated the rights of two state residents by denying medical treatment related to them being transgender, claims a Federal lawsuit.

The plaintiffs, Cody Flack and Ann Makenzie, have been turned down for surgical care by the state. Wisconsin Medicaid classified treatment related to gender transition as “medically unnecessary” in 1997.

“Plaintiffs challenge a longstanding state regulation, promulgated in 1997 and enforced by the State’s Department of Health Services (‘DHS’), that expressly prohibits Wisconsin Medicaid coverage for ‘[t]ranssexual surgery’ or ‘[d]rugs, including hormone therapy, associated with transsexual surgery or medically unnecessary alteration of sexual anatomy or characteristics,’” states the lawsuit.

“Because of this categorical exclusion, both Mr. Flack and Ms. Makenzie have been denied Medicaid coverage for medically necessary treatments for gender dysphoria--the clinically significant distress associated with having a gender identity (the innate, internal sense of one’s sex, i.e., being male or female) that conflicts with the sex one was assigned at birth.”

The state’s policy apparently contradicts federal law courtesy of the Affordable Care Act, which indicates that coverage should not be withheld.

The case says that withholding this care contradicts established science on transgender care: “The Challenged Exclusion -- which flies in the face of the medical consensus that gender-confirming medical care is the only safe and effective medical treatment for gender dysphoria, and wholly disregards the harms of denying transgender people access to critical and often life-saving care -- unlawfully denies medically necessary care to transgender Medicaid beneficiaries in Wisconsin.”

Wisconsin’s Medicaid program is jointly funded by the state and the Federal Government, and would presumably be subject to the provisions of the Affordable Care Act. It was all the more interesting to see how the case goes, given that the Trump Administration is seeking to rollback transgender protections in the health care law, attempting to change the rules for health care providers and insurer receiving federal funds.

Wisconsin is one of ten states with similar rules in place. Nineteen states explicitly cover transgender-related care.

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