

Florida Medicaid ban of gender-affirming care illegal, lawsuit says

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Four transgender Floridians sued the state agency that administers Florida's Medicaid program, alleging that a new rule excluding coverage of gender-affirming care is discriminatory and illegal.

The suit, filed Wednesday in federal court, alleges the rule that went into effect last month effectively deprives the two children and two adult plaintiffs of healthcare deemed necessary by their doctors. Without insurance coverage, the plaintiffs say, the treatment is cost prohibitive.

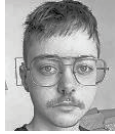
"This rule affects the most vulnerable members of our community, particularly poor trans people that otherwise would not be covered by insurance," said August Dekker, a 28-year-old Hernando County man who is one of the plaintiffs. "Because of this rule, I don't feel valued as a transgender person and feel that my health and wellbeing is not a concern for my own government."

The rule bans Medicaid coverage specifically of treatment for gender dysphoria, a medical condition that refers to the distress one feels when their gender identity doesn't align with their sex assigned at birth. Many but not all transgender people grapple with gender dysphoria, and treatments can include puberty-blocking medication, hormones and gender-affirming surgery.

However, those services are still available to people who don't have gender dysphoria, said Abbi Coursolle, a senior attorney at the National Health Law Program, during a news conference Wednesday announcing the lawsuit. That violates federal Medicaid rules, Coursolle said.

Along with that claim, the suit alleges the exclusion violates the equal protection clause of the U.S. Constitution, protections against gender-based discrimination, and a Medicaid rule governing patients under 21. The lawsuit asks the court to block enforcement of the rule.

"The state's disingenuous position that the same prescription services and procedures are somehow unsafe and ineffective only when provided to trans people should be seen for what it is: playing politics with people's health care and well being," said Simone



Dekker

Chriss, director of the Transgender Rights Initiative at Southern Legal Counsel, a nonprofit public interest law firm based in Gainesville.

Other organizations that worked on the suit included Lambda Legal, the Florida Health Justice Project and the National Health Law Program. It was filed in the Northern District of Florida against the Agency for Health Care Administration, which oversees Florida's Medicaid program, and AHCA Secretary Simone Marstiller.

A spokesman for the the agency did not immediately return a request for comment Wednesday.

The rule change came soon after the Florida Department of Health released guidance questioning the efficacy of gender dysphoria treatment for children, despite such care having endorsements from nearly every mainstream medical association.

The same day the department released that guidance, Marstiller directed her agency to look into whether gender dysphoria treatment is in line with medical standards. The agency in June released a report that said such treatments aren't effective and may cause long-term effects.

That assessment garnered widespread criticism from medical professionals, including a group of Yale professors who issued an analysis saying the AHCA report was "not a serious scientific analysis but, rather, a document crafted to serve a political agenda."

Still, AHCA moved forward with the rule, which went into effect Aug. 21. Also last month, the Florida Board of Medicine voted to move forward with the rule-making process to ban all gender-affirming care for children and to impose an abortion-style waiting period for adults seeking such care.

The diminishment of healthcare options for transgender Floridians is in line with rhetoric from Gov. Ron DeSantis, who has compared gender-affirming treatment for kids to child mutilation.

However, it is rare for a transgender child's treatment plan to include surgery. Recently released AHCA data shows that over a yearlong period ending June 30, just 12 children on Medicaid underwent gender-affirming surgery. As of July, about 5.4 million Floridians were enrolled in Medicaid, about half of whom were under 21. Estimates show that about 9,000 transgen-



Local LGBTQ+ activists planted miniature Trans Pride flags at Stargel's office to protest SB 1028, bill signed Tuesday by Gov. DeSantis barring transgender girls and women from playing sports in their identified gender. Stargel sponsored a similar bill and argued in favor of passing the ban, which has generated controversy. Lakeland, Fla., June 2nd 2021. CALVIN KNIGHT/LEDGER CORRESPONDENT

der adults are enrolled in Florida Medicaid.

For Jade Ladue, the mother of a 12-year-old plaintiff listed in the lawsuit by the initials K.F., the loss of coverage may require them to move out of Florida.

Before he began receiving gender dysphoria treatment, the boy was anxious and experienced night terrors, according to the lawsuit. But after starting on a treatment plan, K.F. "had a smile on his face, a light in his eye, and even a glow about him," the lawsuit says. His school performance and relationships with peers also improved.

"We are in this lawsuit," Ladue, of Sarasota County, said Wednesday, "because as any other parent, we want the best for our child."

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