

Iowa Senate Republicans propose banning use of Medicaid dollars on transgender surgery

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Medicaid payment for transgender surgery would once again be limited in Iowa under a proposal from Republican state senators.

The proposal was introduced Friday, on one of the final days of the legislative session.

It would prohibit any state or local government unit or tax-supported district from providing sex reassignment surgery. It applies to any other cosmetic reconstructive or plastic surgery procedure related to "transsexualism, hermaphroditism, gender identity disorder, or body dysmorphic disorder."

The provision is a response to [an Iowa Supreme Court ruling](#) in March that was regarded as a landmark decision. The ruling struck down a ban on Medicaid payments for "surgeries for the purpose of sex reassignment."

The Department of Human Services had classified gender-transition related surgeries as "cosmetic, reconstructive or plastic surgery." The Iowa Supreme Court unanimously determined the ban violated the Iowa Civil Rights Act's gender-identity protections.

The Iowa Senate voted 31-19 Friday afternoon, mostly along party lines, to advance the provision. The Republican-controlled House was expected to review it Friday night. It would also need approval from GOP Gov. Kim Reynolds.

Mark Stringer, executive director of the ACLU of Iowa, said gender-transition surgery is matter of life or death for transgender Iowans, adding the proposal has "no basis in medicine or science."

"This amendment is a clear violation of the equal protection under the Iowa Constitution because it would discriminate against people simply because they are transgender," he said.

Alexandra Gray, a transgender Iowan, spoke against the proposal at the Capitol. She said there are already plenty of barriers for transgender people trying to access health care.

"I am speaking to you as a person who is currently jumping through hoops for her own gender affirming surgery," she said.

Gray said she had been rejected from getting insurance coverage and had setbacks in medical procedures because workers have said she doesn't understand the procedures she has requested.

She also noted cisgender women — women who were designated female at birth and do not have to transition — do not have to go through mental health or insurance screenings in order to have breast augmentation surgeries.

"We don't do this because it's a joke. We don't do this because it's cosmetic," Gray said. "... Those are the things we have to go through to be who we are."

Sen. Mark Costello, R-Imogene, defended the provision during floor debate Friday, saying he was trying to change the administrative code back to the way it was for years before the lawsuit. He said he

didn't feel such procedures are "always medically necessary."

Civil rights advocates said the March ruling apparently was the first time a state's highest court held that transgender people have the right to use public money for transition-related surgeries.

The new proposal would be added as an amendment to a health budget bill. The restrictions would go into effect immediately if enacted.

Daniel Hoffman-Zinnel, executive director for One Iowa Action, an LGBTQ rights group, released a statement Friday condemning the amendment.

"Protecting transgender people from discrimination is settled law in Iowa, and has been since 2007. The Iowa Supreme Court made clear that the Iowa Civil Rights Act protects transgender Iowans against Medicaid discrimination in their unanimous ruling just over one month ago.

"In response, a small group of legislators want to pick and choose who deserves protections under the law, and it's clear they think of transgender Iowans as second-class citizens. This amendment is a harmful attempt to deny transgender Iowans medically necessary care, and it will not stand up to legal muster."

Medicaid is a joint federal and state health-care program that covers care for more than 600,000 poor or disabled Iowans. It is overseen by the Iowa Department of Human Services, which sets coverage rules.

The Supreme Court ruling in March upheld a 2018 decision by Polk County Chief District Judge Arthur Gamble.

Gamble wrote that state officials have an "obligation to keep up with medical science." He ruled the ban on Medicaid payment for gender reassignment surgery violated the Constitution.

But the Iowa Supreme Court stopped short of ruling that the Medicaid ban was a violation of the equal protection clause in the Iowa Constitution. Supreme Court Justice Susan Christensen wrote that the court didn't need to decide that question in order to rule in the case.

Sharon Malheiro, a Des Moines-based lawyer and civil rights advocate, said that left the door open to legislators to change laws.

The Supreme Court ruling ended an almost two-year legal battle over whether transition-related surgery was "medically necessary" or a procedure provided solely for psychological purposes.

The plaintiffs in the case were Carol Ann Beal and EerieAnna Good, who sued the Department of Human Services in 2017. They alleged that the Iowa Department of Human Services' blanket ban denying their use of public funds for doctor-prescribed surgery singled them out solely because of their gender identity.

In the district court ruling, Gamble wrote that state officials did not "rebut the medical evidence that gender affirming surgery is medically necessary treatment" and that Good and Beal's denials were issued "without regard to the law and facts."

"The agency acted in the face of evidence upon which there is no room for difference of opinion among reasonable minds," the judge wrote.

The state appealed, arguing the ban is not discriminatory because the department denies all surgeries performed primarily for psychological reasons — which is how it has characterized transition-related surgeries.