

Transgender Benefits and Coverage

What is ACA nondiscrimination Section 1557?

Section 1557 prohibits discrimination on the grounds of race, color, national origin, sex, age, or disability in certain health programs and activities.

Key areas of the final rule implementing Section 1557 include expanded protection for transgender individuals. For example, covered entities cannot deny health services due to an individual's sex assigned at birth, gender identity, or recorded gender.

When do the regulations go into effect?

- Requirements for transgender benefits and coverage are effective for plan years beginning on or after January 1, 2017

Which organizations are required to comply with Section 1557?

The Section 1557 applies to covered entities that operate any health programs or activities receiving federal financial assistance from Health and Human Services (HHS). This includes Health Insurance Marketplace, hospitals and doctors who receive Medicare or Medicaid payments and issuers of Medicare and Medicaid plans, health plans that receive funding from HHS and any health program run by HHS. UnitedHealthcare has covered entities that meet this definition.

What gender protections apply based on Section 1557? These protections against sex discrimination include:

- Individuals cannot be denied health care or health coverage based on their sex, including their gender identity and sex stereotyping.
- Categorical coverage exclusions or limitations for all health care services related to gender transition are considered to be discriminatory.
- Individuals must be treated consistent with their gender identity. However, treatment may not be denied or limited for any health services that are ordinarily or exclusively available to individuals of one gender based on the fact that a person seeking such services identifies as belonging to another gender.
- While the recent guidance does not mandate coverage of specific medical services, when any benefits are covered, they may not be administered in a discriminatory manner.

What changes will UnitedHealthcare make for fully insured customers?

UnitedHealthcare's fully insured certificate of coverage (COC) already includes the following services related to gender dysphoria when clinical criteria are met

- **Psychotherapy and mental health services** for gender dysphoria and associated co-morbid psychiatric diagnoses.
- **Certain drug therapies including cross-sex hormone therapy, such as estrogen or testosterone therapy**, administered by a medical provider during an office visit or dispensed from a pharmacy, when the group purchases a drug rider.
- **Laboratory testing** to monitor the safety of continuous cross-sex hormone therapy.



UnitedHealthcare is amending its' fully insured standard coverage to include the following benefits for treatment of gender dysphoria when clinical criteria for eligibility are met.

- **Specified surgeries** including genital surgery for the treatment of gender dysphoria and breast surgery including bilateral mastectomies and breast reduction.
- **The exclusion for gender transformation surgery has been removed.** As before we continue to apply exclusions for services that are cosmetic, unproven, and not medically necessary
- **Puberty suppressing medications** for treatment of gender dysphoria, such as Lupron® and Supprelin® LA, which are administered in the physician's office, have been added under the medical benefit.

Are there any prior authorization requirements?

Yes, prior authorization is required for surgical benefits for gender dysphoria. Other services may need prior authorization if required in the COC or SPD.

- Other transgender services would follow the medical management or prior authorization requirements as outlined in the plan.
- Members seeking care from out-of-network providers are responsible for the prior authorization requirements outlined in the COC or SPD.

Are there specific exclusions or limitations?

Exclusions and limitations related to services that are considered cosmetic, unproven, and not medically necessary will continue to apply.

Members covered under a customer's self-funded benefit plan will need to check their benefit plan documents to determine the applicability of any exclusions or limitations.

Can annual or lifetime limits be placed on gender dysphoria coverage?

UnitedHealthcare has developed a gender dysphoria standard benefit that does not include any annual or lifetime limits for fully insured plans. A self-funded customer who adopts another approach needs to consult with its own legal counsel for analysis of its benefit design.

How does UnitedHealthcare coordinate between the medical and Rx benefits?

Coordination of Transgender benefits is no different than any other joint benefits we offer. From coordination standpoint, medications that are self-administered such as oral hormone therapy are covered through the pharmacy benefit and those administered by a physician or health care professional are covered through the medical benefit.

Will UnitedHealthcare cover puberty suppression drugs (e.g., Lupron®)?

Yes, subject to medical management.

Does Section 1557 allow for religious exemption from coverage?

The rule does not include a blanket religious exemption, but does clarify that any requirement in the rule **would not be required if deemed to violate Federal protections for religious freedom and conscience.**

UnitedHealthcare will not offer fully insured products that categorically exclude all services related to gender transformation.



What is required for self-funded customers?

It is up to the plan sponsor to consult with their legal counsel to determine whether or not they are a covered entity under Section 1557 and to review their plan as well as other relevant laws, such as Title VII of the Civil Rights Act, for any changes that may be necessary.

- UnitedHealthcare will provide sample SPD benefit language to self-funded customers to review with their legal counsel. This language reflects the standard benefit we would provide under our fully insured plans.
- We can also support custom benefit designs for self-funded customers.
- UnitedHealthcare's account team is available to discuss customization of benefits. Using our Basic Benefit Plan Guide, we can help employers determine a plan that provides a positive response to the Corporate Equality Index survey benefit questions.

Does UnitedHealthcare's standard coverage for gender dysphoria align with evidence-based guidelines and/or World Professional Association for Transgender Health (WPATH) guidelines?

UnitedHealthcare's standard coverage aligns with scientifically-based clinical evidence and WPATH guidelines.

What's more, national standards for many services provided in the treatment of gender dysphoria have not been established. Therefore, established medical necessity criteria may not exist at this time.

What is the Corporate Equality Index (CEI) survey and do UnitedHealthcare's standard plans meet the survey requirements?

The Corporate Equality Index Survey (CEI Survey) is a voluntary survey developed and distributed annually by the Human Rights Campaign. CEI rates American workplaces on lesbian, gay, bisexual, and transgender equality. Employers can earn up to 100 points on the survey. This year's 2017 survey benefits section has added some new questions that will not be scored. They are being collected for information purposes.

- The 2017 survey will be scored for health benefits for transgender individuals, which will include the treatment of gender dysphoria.
- The benefits section accounts for 10 of the total of 100 survey points.
- UnitedHealthcare fully insured coverage approach meets the 10 benefit points that are part of the 2017 Corporate Equality Index Survey.

Is there a network of providers who provide services related to gender dysphoria?

UnitedHealthcare maintains a broad network of facilities and medical professionals who provide multi-disciplinary health services to all our members, including those seeking transgender health services. These include surgical, endocrine, primary care, behavioral health, and other related specialties.

What is UnitedHealthcare doing to help make transgender network and benefit coverage information accessible for the members?

UnitedHealthcare is working with our provider community to identify facilities that provide surgical and other services for transgender persons.

Members can call the member services number on their ID card for support including:

Beginning on renewal after January 1, customer service will be prepared to respond to member benefit inquiries by:

- Helping them understand the new benefits provided by UnitedHealthcare
- Answering questions to help them become more informed
- Offering assistance in finding a network provider for services provided by UnitedHealthcare



Will there be any Medical coding changes made based on the new transgender guidance?

Currently, gender edits are applied during claims processing to avoid incorrect payments due to billing and data entry errors and to support clinical guidelines.

UnitedHealthcare will be removing gender edits and some age edits effective Jan. 1, 2017 to support plan compliance with antidiscrimination laws.

UnitedHealthcare will continue to monitor fraud, waste, and abuse, and those situations will be handled accordingly.

Note:

- UnitedHealthcare removed gender edits for Preventive medical services in 2015.
- Age edits for medical services will continue to be in place when based on clinical or evidenced-based guidelines (e.g., by USPSTF.)

Are there any pharmacy coding changes made based on the new transgender guidance?

- For pharmacy benefits, UnitedHealthcare will remove gender edits and select age edits from specified pharmacy medications related to Section 1557 guidance.
- Changes to the clinical criteria to allow coverage for additional quantities of cross-sex hormones needed for gender transformation will also be made.
- Customers that wish to modify custom pharmacy programs will need to discuss with their account representative.

Where should I go for more information?

Contact your UnitedHealthcare account team.