

Marketplace National Regional Benefit Interpretation Document

Benefit Name	GENDER DYSPHORIA (GENDER IDENTITY DISORDER) TREATMENT AND TRANSGENDER SURGERY
Applicable State	California, Florida, Idaho, Illinois, Kentucky, Michigan, Mississippi, New Mexico, Ohio, South Carolina, Texas, Utah, Washington, Wisconsin
Benefit Definition	<p>This policy addresses surgical and non-surgical treatment for gender dysphoria.</p> <p>Covered benefits are listed in three (3) Sections - A, B and C. All services must be medically necessary. Each benefit plan contains its own specific provisions for coverage, limitations and exclusions as stated in the member’s Evidence of Coverage (EOC)/Schedule of Benefits (SOB). If there is a discrepancy between this policy and the member’s EOC/SOB, the member’s EOC/SOB provision will govern.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>A. FEDERAL/STATE MANDATED REGULATIONS</p> </div> <p>Note: The most current federal/state mandated regulations for each state can be found in the links below.</p> <p>FEDERAL:</p> <p><u>Section 1557</u> of the Patient Protection and Affordable Care Act (42 USC 18116) and its implementing regulation provide that an individual shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds prohibited under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (race, color, national origin), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (sex), the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq. (age), or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (disability), under any health program or activity, any part of which is receiving federal financial assistance; any program or activity administered by the Department under Title I of the Act; or any program or activity administered by any entity established under such Title. The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services has enforcement authority with respect to health programs and activities that receive federal financial assistance from the Department of Health and Human Services (HHS), or are administered by HHS or any entity established under Title I of the Affordable Care Act. OCR is responsible for enforcing regulations issued under Section 1557 of the Affordable Care Act (Section 1557), protecting the civil rights of individuals who access or seek to access covered</p>

health programs or activities. Section 1557 prohibits discrimination on the basis of race, color, national origin, age, disability, or sex (including pregnancy, sexual orientation, and gender identity), in covered health programs or activities. 42 U.S.C. § 18116(a).

Update (May 10, 2021)

On June 15, 2020, the U.S. Supreme Court held that Title VII of the Civil Rights Act of 1964 (Title VII)'s prohibition on employment discrimination based on sex encompasses discrimination based on sexual orientation and gender identity. *Bostock v. Clayton County, GA*, 140 S. Ct. 1731 (2020). The *Bostock* majority concluded that the plain meaning of "because of sex" in Title VII necessarily included discrimination because of sexual orientation and gender identity. *Id.* at 1753-54.

CALIFORNIA:

[CA Health and Safety Code, Article 5. Standards 1367.042](#)

[CA Health and Safety Code, Solicitation and Enrollment, Section 1365.5](#)

NEW MEXICO:

[Senate Bill 317](#)

WASHINGTON:

[WAC 284-43-5622:](#)

A health benefit plan must not be offered if the commissioner determines that:

- (a) It creates a risk of biased selection based on health status;
- (b) The benefits within an essential health benefit category are limited so that the coverage for the category is not a meaningful health benefit; or
- (c) The benefit has a discriminatory effect in practice, outcome or purpose in relation to age, present or predicted disability, and expected length of life, degree of medical dependency, quality of life or other health conditions, race, gender, national origin, sexual orientation and gender identity or in the application of Section 511 of Public Law 110-343 (the federal Mental Health Parity and Addiction Equity Act of 2008).

[WSR 21-20-110](#)- CR-103P (October 2017) (Implements [RCW 34.05.360](#))

[WAC 284-43-5150](#)- Unfair practice relating to health coverage

[WAC 284-43-5940\(1\)\(b\)\(iv\)\(B\)\(vi\)](#) states carriers can't "Deny or limit coverage, deny or limit coverage of a claim, issue automatic denials of coverage or impose additional cost sharing or other limitations or restrictions on coverage, for gender affirming treatment, when that treatment is:

- Prescribed as medically necessary, exclude facial gender affirming treatment (such as tracheal shaves), **hair removal procedures**, and other care (such as mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures, including revisions to prior treatment) as cosmetic services;”

B. STATE MARKET PLAN ENHANCEMENTS

CALIFORNIA:

Effective April 9, 2013:

[DMHC Director’s Letter 12-K](#) “Gender Non-Discrimination Requirements”

DMHC All Plan Letter: [Health and Safety Code Section 1365.5 Compliance](#)

NEW MEXICO:

Behavioral Health, or Substance Abuse drugs subject to [Senate Bill 317](#) are at No Charge. (In 2022 NM EOC)

WASHINGTON:

Effective June 25, 2014

Washington Office of the Insurance Commissioner, Commissioner’s Letter Gender Identity Non Discrimination Requirements:

<https://www.insurance.wa.gov/sites/default/files/documents/gender-identity-discrimination-letter.pdf>

C. COVERED BENEFITS

IMPORTANT NOTE: Covered benefits are listed in Sections A, B and C. Always refer to Sections A and B for additional covered benefits not listed in this Section.

Refer to the member’s Evidence of Coverage (EOC) and Schedule of Benefits (SOB) to determine coverage eligibility.

Note: Treatment for Gender Dysphoria is sometimes referred to as Gender Identity Disorder treatment, sex transformation surgery, sex change, sex reversal, gender change, transsexual surgery, transgender surgery and sex or gender reassignment. These terms may be used interchangeably throughout this document, and, for purposes of this document, are intended to have the same meaning.

GENDER DYSPHORIA

CALIFORNIA:

Molina covers medically necessary treatment of a mental health or substance use disorder, including services for the treatment of gender dysphoria, only when that disorder is listed in the mental and behavioral disorders chapter of the most recent edition of the International Classification of Diseases or is listed in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

FLORIDA, ILLINOIS, KENTUCKY, MICHIGAN, MISSISSIPPI, NEW MEXICO, OHIO, SOUTH CAROLINA, TEXAS, UTAH, WASHINGTON, WISCONSIN:

Molina and Passport cover the diagnosis or treatment of mental disorders, including services for the treatment of gender dysphoria.

IDAHO:

Molina covers inpatient and outpatient Mental Health Services. Except for involuntary admissions, all inpatient admissions, and certain outpatient services require Prior Authorization. Molina covers the diagnosis or treatment of mental disorders, including services for the treatment of gender dysphoria.

NEW MEXICO:

Reconstructive Surgery: Molina covers the following reconstructive surgery services when Prior Authorized:

- Medically necessary services related to gender affirming care and the treatment for gender dysphoria

Prosthetic Devices: Examples of prosthetic devices include, but are not limited to:

- prosthetics related to other medically necessary services related to gender affirming care and the treatment for gender dysphoria

WASHINGTON:

Gender Affirming Treatment: Molina covers Gender Affirming Treatment which is Medically Necessary and prescribed in accordance with the accepted standards of care.

TRANSGENDER SURGERY

CALIFORNIA, FLORIDA, IDAHO, ILLINOIS, MICHIGAN, MISSISSIPPI, NEW MEXICO, OHIO, SOUTH CAROLINA, TEXAS, UTAH, WASHINGTON, WISCONSIN:

Molina covers if the request is determined via DSM V and any additional criteria that the Medical Management Team requires (in compliance with Federal Law)

NEW MEXICO:

Coverage of sex specific health services and medically necessary services for transgender individuals:

For transgender people, preventive services will not be limited based on an individual's sex assigned at birth, gender identity or recorded gender. Coverage and claims will not be denied or limited or subject to additional cost sharing or other limitations or restrictions on coverage, for any health services that are ordinarily or

exclusively available to individuals of one sex, to a transgender individual based on the fact that an individual's sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available. Molina covers all medically necessary benefits and services outlined in this Agreement.

KENTUCKY:

Passport covers if the request is determined via criteria that the Medical Management Team requires

ALL STATES:

Clinical Perspective: Remove the gender restriction. Not allowed to have restrictions for men nor women.

MORE INFORMATION

Refer to the Benefit Interpretation Policy titled **Mental Health Services (Inpatient and Outpatient)**

D. NOT COVERED

Refer to the member's Evidence of Coverage (EOC) and Schedule of Benefits (SOB) to determine coverage eligibility.

HAIR LOSS OR GROWTH TREATMENT

CALIFORNIA:

Hair Loss or Growth Treatment: Items and services for the promotion, prevention, or other treatment of hair loss or hair growth are not covered. This exclusion does not apply to medically necessary treatment of a mental health or substance use disorder.

FLORIDA, IDAHO, ILLINOIS, KENTUCKY, MICHIGAN, MISSISSIPPI, NEW MEXICO, OHIO, SOUTH CAROLINA, TEXAS, UTAH, WASHINGTON, WISCONSIN:

Hair Loss or Growth Treatment: Items and services for the promotion, prevention, or other treatment of hair loss or hair growth are not covered.

TRANSGENDER SURGERY

ALL STATES:

Molina and Passport do not cover transgender surgery if criteria from Medical Management team is not met

E. DEFINITIONS

[See Glossary](#)

F. REFERENCES

American Academy of Pediatrics. Policy Statement. Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents. October 2018.

American Medical Association, October 2007, GLBT Policy Compendium; AMA Health Care Advocacy Agenda; 2005

Diagnostic and Statistical Manual of Mental Disorders (DSM-5)

Gender Identity Disorder: An Emerging Problem for Pediatricians; Walter J. Meyer III, Pediatrics 2012 <http://pediatrics.aappublications.org/content/129/3/571.full.html>

Gooren, L.J., Gilthay, E. J., Bunck, M.C; “Long Term Treatment of Transsexuals with Cross-Sex Hormones: Extensive Personal Experience”; Journal of Clinical Metabolism; 2008 93: 19-25 originally published online Nov 6, 2007

Hembree et al; “Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline”; Journal of Clinical Metabolism; 2009 94:3132-3154; Orig; pub online June 9, 2009

G. POLICY HISTORY/REVISION INFORMATION

Date	Action/Description
6/3/2021	<ul style="list-style-type: none"> Added Clinical Perspective on no benefits will be configured with a gender restrictions

Procedure Codes
(Internal Use
Only)

[BI Policy Configuration Gender Dysphoria](#)

Coding Disclaimer: Codes listed in this policy are for reference purposes only and may not be all-inclusive. Deleted codes and codes which are not effective at the time the service is rendered may not be eligible for reimbursement. Coverage is determined by the benefit document. Molina adheres to Current Procedural Terminology (CPT[®]), a registered trademark of the American Medical Association (AMA). All CPT codes and descriptions are copyrighted by the AMA; this information is included for informational purposes only. Providers and facilities are expected to utilize industry standard coding practices for all submissions. When improper billing and coding is not followed, Molina has the right to reject/deny the claim and recover claim payment(s). Due to changing industry practices, Molina reserves the right to revise this policy as needed.

Prior Authorization	<p>For the MHI PA Matrix, if a code is NOT listed, it could EITHER be:</p> <ul style="list-style-type: none"> a. Covered and No PA Required b. Not Covered <p>You cannot use the MHI PA Matrix to make coverage determinations.</p> <p>PA Lookup Tool</p>			
Approval	Departments	Product	CIM	Clinical Management
	Date	3/1/2021	4/26/2021	3/24/2021
	Revised (for 1/1/2022)	11/2/2021	3/11/2022	11/30/2021
	Revised (for 1/1/2023)			