



State of Wisconsin  
Department of Employee Trust Funds  
Robert J. Conlin  
SECRETARY

801 W Badger Road  
PO Box 7931  
Madison WI 53707-7931  
1-877-533-5020 (toll free)  
Fax 608-267-4549  
etf.wi.gov

**Correspondence Memorandum**

**Date:** January 30, 2017  
**To:** Group Insurance Board  
**From:** Robert J. Conlin, Secretary  
**Subject:** 2017 Uniform Benefits and Services Related to Gender Reassignment

**This memo is for informational purposes only. No Board action is required.**

At the December 30, 2017 Group Insurance Board (Board) meeting, the Board approved reinstating the exclusion of health benefits and services based on gender identity after certain contingencies were met. The contingencies included:

1. A court ruling or an administrative action that enjoins, rescinds or invalidates the rules set by the federal Department of Health and Human Services (HHS);
2. Compliance with state law, Section 40.03 (6)(c);
3. Renegotiation of contracts that maintain or reduce premium costs for the state; and
4. A final opinion of the Wisconsin Department of Justice that the action taken does not constitute a breach of the Board's fiduciary duties.

**Contingency #1:** On December 31, 2016, a federal judge in Texas issued an injunction barring enforcement of the Affordable Care Act provisions that extend anti-discrimination protections to transgender health services.

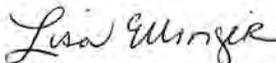
**Contingency #2:** On January 23, 2017, the Board's consulting actuary produced a memo (Attachment A), confirming that reinstating the exclusion would not increase program costs, thereby confirming compliance with Wis. Stat. 40.03 (6)(c).

**Contingency #4:** On January 13, 2017, the Wisconsin Department of Justice provided an opinion to the Board confirming that the action taken does not constitute a breach of the Board's fiduciary duties.

Upon consultation with the Board Chair that contingencies 1, 2 and 4 were addressed, ETF issued a 2017 health plan contract amendment to all participating health plans to reinstate the benefit exclusion, effective February 1, 2017 (Attachment B). This completes **Contingency #3**.

Staff will be at the Board meeting to answer any questions.

Attachment A: Segal Memorandum - Transgender Cost Estimate  
Attachment B: 2017 Contract to Participate Under Group Health Benefit Program And Uniform Benefits – Reinstatement of Benefit Exclusion Concerning Gender Reassignment

Reviewed and approved by Lisa Ellinger, Director, Office of Strategic Health Policy  
 Electronically Signed 1/30/17

Board	Mtg Date	Item #
GIB	2.8.17	4

## Attachment A



2018 Powers Ferry Road SE Suite 850 Atlanta, GA 30339-7200  
T 678.306.3100 www.segalco.com

### MEMORANDUM

**To:** Lisa Ellinger  
**From:** Kirsten R. Schatten, ASA, MAAA  
Kenneth C. Vieira, FSA, MAAA  
**Date:** January 23, 2017  
**Re:** Transgender Cost Estimate

---

Section 1557 of the ACA prohibits group health plans from discriminating on the basis of race, color, national origin, sex, age, or disability in health programs, consistent with existing federal laws, including Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and Sections 504 and 508 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act of 1990 (ADA). Group health plans and employers that accept federal funding from HHS are covered entities under the law.

The Section 1557 regulations defined discrimination on the basis of “sex” to include discrimination on the basis of pregnancy, false pregnancy, termination of pregnancy or recovery therefrom, childbirth or related medical conditions, sex stereotyping, and gender identity. This interpretation was challenged by the plaintiffs as being an impermissible definition of the term “sex.”

In *Franciscan Alliance, Inc. v Burwell, et al*, several plaintiffs challenged regulations issued by the Department of Health and Human Services (HHS) implementing Section 1557 of the Affordable Care Act (ACA). Plaintiffs included eight states (Texas, Wisconsin, Nebraska, Kansas, Louisiana, Arizona, Mississippi, and the Commonwealth of Kentucky) and three private health care providers. On December 31, 2016, Judge Reed O’Connor of the US District Court for the Northern District of Texas issued a nationwide preliminary injunction enjoining HHS from enforcing the regulation’s prohibition against discrimination on the basis of gender identity or termination of pregnancy.

This brief memo is focused on the calculation of potential cost impact to the State of Wisconsin Group Health Insurance Plan for adding transgender dysphoria benefits in 2017. Please note that there is a lack of information and data to provide specific information on estimated cost to the Plan. Therefore, we have provided a range of estimates based on potential utilization information gathered from research and treatment cost estimates from BCBS. Please also note there are wide variations in some of these studies, and past experience from various counties that have provided coverage long enough to have data to review have shown the prior estimates to be overstated.

## Key Assumptions

Three key assumptions drive our cost estimates: prevalence of transgender members, percentage of those who seek benefits (including surgery) and the cost of the various treatment options.

**Prevalence** – According to the Centers for Disease Control and Prevention (CDC) 2015 Behavioral Risk Factor Surveillance System (BRFSS), approximately 0.58% of adults in the United States self-identify as transgender. This has increased slightly from 2014 & 2013.

The Williams Institute in June of 2016 published a paper entitled "How Many Adults Identify as Transgender in the United States?" which goes a little further by drilling down on prevalence by state and also providing ranges. This paper estimated a prevalence range of 0.31% to 0.62% for Wisconsin adults ages 18-64.

**Percentage Who Seek Benefits** – The number of transgender people seeking benefits is difficult to predict since a new benefit may alter past patterns. One study was published by Olyslager, F. & Conway, L. (September 2007) entitled "On the Calculation of the Prevalence of Transsexualism." This paper was presented at the WPATH 20th International Symposium, Chicago, Illinois. This study from 2007 estimates that, of those who identify as transgender, between 0.1% and 0.5% have taken some steps to transition from one gender to another.

The State of Wisconsin Group Health Insurance Plan membership from age 18 through 64 is approximately 159,000. Applying the prevalence and utilization assumptions above, we would expect 2 to 5 members to use transgender benefits.

For those who seek benefits, the vast majority of cost comes from members choosing to have gender reassignment surgery. There are a couple of sources we found (Mohammed A. Memon, MD; February 22, 2016; "Gender Dysphoria and Transgenderism: Epidemiology" Medscape, as well as HealthResearchFunding.Org) that site prevalence rates for adults seeking reassignment surgery of 1 in 30,000 for males and 1 in 100,000 for females. Using these statistics, we would expect 3 males and 1 female in our expected scenario, and we have applied a range of +/- 50% to get a range of 2-5 adults in total.

**Cost of Treatment** – Information was provided at a very high level from a national medical vendor. Their pricing analysis was based entirely on external studies and sources:

- For male to female surgery they assumed roughly \$28K, with \$3,600 in hormonal therapy
- For female to male surgery they assumed about \$56K, with \$7,200 in hormonal therapy

They also noted that there would be fairly substantial counseling costs associated with the surgery—roughly \$10K in a given year.

## Financial Impact

Using the above, we have estimated the annual cost to range from \$100,000 to \$250,000. The costs are highly variable based on the assumptions described above. Below is brief summary;

		Prevalence		Estimated Cost (per Treatment)	Cost Estimate	
		Low	High		Low	High
Surgical Benefits	Male	1.26	3.79	\$ 41,600	\$ 52,569	\$ 157,706
	Female	0.42	1.13	\$ 73,200	\$ 30,460	\$ 82,738
	Total	1.68	4.92		\$ 83,028	\$ 240,443
Non-Surgical Benefits	Male	0.61	0.02	\$ 17,200	\$ 10,525	\$ 370
	Female	0.14	-	\$ 13,600	\$ 1,903	\$ -
	Total	0.75	0.02		\$ 12,428	\$ 370
Total Using Benefits	Male	1.88	3.81	\$ 58,800	\$ 63,094	\$ 158,076
	Female	0.56	1.13	\$ 86,800	\$ 32,363	\$ 82,738
	Total	2.43	4.94		\$ 95,456	\$ 240,814
Adult Members (18-64)					159,043	
Total PMPM					\$ 0.05	\$ 0.13

There are a few other sources we found and reviewed that provide similar information and would bring us to a similar range of cost estimates. Based on approximately \$1.3 billion of non-Medicare premiums, the cost for the State of Wisconsin Group Health Insurance Plan is estimated to be 0.007% to 0.018% of premium.

The cost to cover services related to transgender dysphoria was not anticipated during rate development and negotiations for 2017; therefore, the 2017 premiums were not changed to reflect potential transgender claims. Also note that many vendors' increases were capped at 5%, leaving no margin to add additional benefits within their current contractual rates. Reinstating the exclusion for coverage of transgender services should have no impact on program costs for 2017.



State of Wisconsin  
Department of Employee Trust Funds  
Robert J. Conlin  
SECRETARY

801 W Badger Road  
PO Box 7931  
Madison WI 53707-7931

1-877-533-5020 (toll free)  
Fax 608-267-4549  
etf.wi.gov

**Date:** January 31, 2017  
**To:** All Health Plans  
**RE:** 2017 Contract To Participate Under Group Health Benefit Program And  
Uniform Benefits:  
Reinstatement of Benefit Exclusion Concerning Gender Reassignment

Pursuant to action taken by the Group Insurance Board on December 30, 2016, the following Exclusion is reinstated in Section IV. Exclusions and Limitations in the 2017 Uniform Benefits:

- 1. Surgical Services
  - c. Procedures, services, and supplies related to surgery and sex hormones associated with gender reassignment.

Health Plan must acknowledge receipt of the amendment referenced above by providing the required information below. We request that an official with authority to bind the Plan sign this form and return it to the Department of Employee Trust Funds. With receipt of this amendment, the contingency to negotiate this contract change is satisfied and the above-noted benefit no longer is part of Uniform Benefits. This rescission of the benefit is effective February 1, 2017.

\_\_\_\_\_  
Name of Health Plan

\_\_\_\_\_  
Authorized Printed Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date