



# Trans Health Project

*Working for Transgender Equal Rights*

## New York Health Insurance Guidance

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New York has explicit insurance guidance on transgender-related health care.

### Regulations:

[11 NYCRR 52.72](#)

#### Summary:

"Discrimination because of sex shall include discrimination on the basis of pregnancy, false pregnancy, termination of pregnancy, or recovery therefrom, childbirth or related medical conditions, sex stereotyping, sexual orientation, gender identity or expression, and transgender status."

[11 NYCRR 52.75](#)

### Bulletins and Announcements:

**Bulletin:** [Health Insurance Coverage of Infertility Treatments Regardless of Sexual Orientation or Gender Identity](#)

**Issued on:** Feb. 21, 2021

**Bulletin:** [Discrimination Based on Sexual Orientation, Gender Identity or Expression, and Transgender Status and Coverage for Preventive Care and Screenings](#)

**Issued on:** June 28, 2020

#### Summary:

"Section 52.75(a)(2) provides that discrimination prohibited by § 52.75 includes denying, limiting, or otherwise excluding medically necessary services or treatment otherwise covered by a policy or contract on the basis that the treatment is for gender dysphoria. An issuer must provide an insured with the utilization review appeal rights required by Insurance Law and Public Health Law Articles 49 for gender dysphoria treatment that is denied based on medical necessity. Exclusions are not permitted for specific care or treatment unless such exclusions are permitted under § 52.16(c). *While § 52.16(c) permits an exclusion for cosmetic surgery, any denial of a service as cosmetic is a medical necessity denial, as set forth in § 56.0 and subject to internal and external appeal rights under Insurance Law and Public Health Law Articles 49.* Thus, an issuer may not deny a specific procedure to treat gender dysphoria on the basis that such procedure is deemed always cosmetic or experimental or investigational for all insureds without conducting an internal review and providing external appeal rights."

**Bulletin:** [Discrimination Based on Sexual Orientation, Gender Identity or Expression, or Transgender Status](#)

**Issued on:** July 23, 2019

**Bulletin:** [Discrimination Based on Sexual Orientation, Gender Identity and/or Gender Dysphoria](#)

**Issued on:** June 15, 2018

**Bulletin:** [Coverage for Health Services Provided to Transgender Individuals](#)

**Issued on:** Aug. 16, 2017

**Guidance:** [Insurance Circular Letter No. 7, Health Insurance Coverage for the Treatment of Gender Dysphoria \(2014\)](#)

**Issued by:** New York Department of Financial Services

**Issued on:** Dec. 11, 2014

**Summary:**

Noting that “[a]n issuer of a policy that includes coverage for mental health conditions may not exclude coverage for the diagnosis and treatment of gender dysphoria,” and noting that Insurance Regulation 62 “prohibits an insurer from limiting coverage by type of illness, treatment, or medical condition. See 11 NYCRR § 52.16(c).”

The Letter also notes that categorical exclusions for treatments of gender dysphoria are unlawful under the following laws:

- Mental Health Parity and Addiction Equity Act of 2008
- N.Y. Civ. Serv. Law Article 11
- N.Y. Ins. Law §§ 3221 and 4303 and Article 49
- N.Y. Pub. Health Law Article 49
- Chapter 748 of the Laws of 2006, as amended by Chapter 502 of the Laws of 2007
- 45 C.F.R. § 146.136

**Enforcement Actions:**

[AG fines Emblem for insufficient coverage of gender-reassignment surgery](#)

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