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Transgender Medicaid Beneficiaries File Lawsuit Against State of Wisconsin Health Officials for Discriminatory Health Care Ban

Lawsuit Lodged in Wisconsin Federal Court Says State Medicaid Policy is Harming the Health and Well-Being of Transgender Residents

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Washington –Two transgender Wisconsin residents today filed a [lawsuit](#) in federal court challenging a Wisconsin state regulation that prohibits low-income Medicaid beneficiaries from obtaining medically necessary treatments for gender dysphoria. The plaintiffs, Cody Flack of Green Bay, and Sara Makenzie of Baraboo, are represented by the National Health Law Program, the civil rights law firm [Relman, Dane & Colfax PLLC](#), and the Wisconsin law firm [McNally Peterson, S.C.](#)

The lawsuit alleges that Wisconsin's categorical ban on treatments for gender dysphoria violates Section 1557, the Affordable Care Act's non-discrimination provision; the federal Medicaid Act, which requires states to cover medically necessary services; and the Fourteenth Amendment's Equal Protection Clause.

National Health Law Program Senior Attorney [Abigail Coursolle](#) said "the Wisconsin policy is nonsensical, not supported by the medical community, and continues to exacerbate gender dysphoria that Mr. Flack and Ms. Makenzie experience."

"Wisconsin is ignoring the medical consensus around treatment for gender dysphoria and Mr. Flack's and Ms. Makenzie's health needs, and instead is treating transgender Medicaid beneficiaries like second-class citizens," added Senior Attorney [Catherine McKee](#).

Indeed, the lawsuit notes, "There is no medical or scientific support for Wisconsin's mistaken notion that transition-related health care for transgender people with gender dysphoria is 'medically unnecessary.' To the contrary, there is strong consensus among medical and mental health professionals that gender-confirming surgical procedures and hormonal treatments are effective treatments for the gender dysphoria experienced by transgender individuals."

[Joseph J. Wardenski](#), attorney with Relman, Dane & Colfax PLLC, said the lawsuit asks the U.S. District Court for the Western District of Wisconsin, to declare that Wisconsin's regulation violates federal law and the Constitution, and to order state health officials to stop blocking the vital health care Mr. Flack and Ms. Makenzie need.

“The state is ignoring the medical consensus that surgeries and hormone therapy are safe and effective treatments for gender dysphoria,” Wardenski said. “We are confident the federal court will strike down this blanket exclusion because it violates federal law, is unconstitutional, and imposes needless suffering on our clients and other transgender Wisconsin residents.”

[Robert Pledl](#), Senior Attorney at McNally Peterson, S.C. said, “The State officials who denied coverage to our client, Cody Flack, acknowledge that the requested surgery is an effective treatment for gender dysphoria but that they denied coverage without ever considering whether that treatment was medically necessary. We seek the assistance of the federal court to enjoin this grave injustice.”

“I am bringing this lawsuit to get the medical care I need to finally feel like myself, on the inside and the outside,” said Cody Flack. “I hope to get the treatment I need and to help other transgender people who have suffered because of Wisconsin’s discriminatory policy. Having the court recognize that my health care needs are real will make a world of difference in my life.”

“No one should have to struggle just to be who they are,” added Sara Ann Makenzie. “It’s important to me to do my part to help other transgender people, and myself, get the basic medical care we need. Wisconsin needs to know that our lives matter.”

Access photos of Cody Flack and Sara Ann Makenzie [here](#). (Photo of Flack is courtesy of Cody Flack, photo of Makenzie is courtesy of Spencer Micka.)

Wisconsin is one of just 10 states with Medicaid policies that categorically and illegally exclude coverage for gender-confirming care for transgender beneficiaries.

Read the lawsuit [here](#).

Contact the National Health Law Program at diantonio@healthlaw.org or leaming@healthlaw.org, or Joseph J. Wardenski of Relman, Dane & Colfax PLLC at jwardenski@relmanlaw.com for additional comment and information on this case, *Flack v. Wisconsin Department of Health Services*.

[*National Health Law Program*](#), founded in 1969, advocates for the rights of low-income and underserved people to access quality healthcare.

[*Relman, Dane & Colfax PLLC*](#) is a national civil rights law firm based in Washington, D.C. It litigates civil rights cases in the areas of housing, lending, employment, public accommodations, education, and police accountability. The firm recently represented Ashton Whitaker, a transgender student, in his landmark lawsuit against the Kenosha, WI school district, resulting in a landmark decision from the Seventh Circuit holding that federal civil rights laws protect transgender students from discrimination at school.

[*McNally Peterson, S.C.*](#) is a Wisconsin law firm handling litigation in an array of areas including personal injury, product liability, environmental, disability, civil rights, mental health and family law matters.