National Center for TRANSGENDER EQUALITY

FACT SHEET ON MEDICARE COVERAGE OF TRANSITION-RELATED CARE

May 2014

Medicare is one of America's most important health programs, providing health insurance for millions of older adults and people with disabilities. For many years, Medicare categorically excluded certain medical services for transgender people regardless of medical need. In May 2014, an independent federal appeals board ruled that this policy was unreasonable and contrary to medical science. This document explains what this decision means for transgender people.

WHAT HAPPENED TO THE MEDICARE TRANSGENDER EXCLUSION?

In 1989, Medicare adopted a National Coverage Determination categorically excluding what it called "Transsexual Surgery" from Medicare coverage regardless of a person's individual medical conditions and needs. In May 2014, the U.S. Department of Health and Human Services (HHS) Departmental Appeals Board decided an appeal from a Medicare beneficiary and declared that the 1989 exclusion was based on outdated, incomplete, and biased science, and did not reflect standards of care. Accordingly, the Medicare policy of categorically excluding coverage of transition-related surgery, regardless of medical need, was invalidated. This means that decisions about coverage for transition-related care will now be made on an individual basis like all other services under Medicare.

IS THE RULING FINAL?

Yes. The Board issued an interim ruling in January 2014 and, after giving the Center for Medicare and Medicaid Services (CMS) the opportunity to submit additional evidence, issued its final decision in May 2014. By law, CMS cannot appeal the decision.

DOES THIS MEAN MEDICARE WILL NOW COVER SEX REASSIGNMENT SURGERY FOR ALL PATIENTS?

Not necessarily. The decision simply eliminates the national rule that transition-related surgeries can never be covered regardless of medical need. This means that Medicare beneficiaries will no longer have claims for transition-related medical procedures automatically denied by Medicare. Individual coverage decisions will be made on the basis of medical necessity and accepted medical standards of care, just like other services under Medicare. Patients must be approved for any procedure by their medical provider(s), the provider(s) must accept Medicare coverage, and the patient must pay any applicable deductible or copay.

WILL MY SURGICAL PROVIDER ACCEPT MEDICARE COVERAGE?

At present, many providers of transition-related procedures may not accept Medicare coverage. Because this care has always been categorically excluded from Medicare in the past, patients may encounter challenges at first in finding an appropriate provider who will accept Medicare coverage. We hope and expect that, over time, the number of qualified providers accepting Medicare will grow.

WILL THIS RULING AFFECT PRIVATE INSURANCE PLANS?

No. The Departmental Appeals Board ruling applies only to Medicare—the federal program for older adults and people with disabilities—it does not affect private plans. NCTE joins every major medical association in calling for the elimination of transgender exclusions in all health plans, and states and major employers are increasingly eliminating them. To date, five states (California, Colorado, Connecticut, Oregon, and Vermont) and the District of Columbia have

expressly prohibited such exclusions in many or all private plans. Over the next few years, we expect to see more and more plans of all kinds start to cover the medical care transgender people need.

WILL THIS RULING AFFECT MEDICAID?

No. The ruling applies only to national Medicare coverage rules; it does not affect the Medicaid program, which serves low-income individuals and families. Medicaid coverage rules are primarily determined by state and territorial agencies. For example, the District of Columbia recently clarified that its Medicaid program covers medically necessary transition-related care, and California also does so. However, most other states have not made these clarifications.

WILL THIS RULING AFFECT VETERANS HEALTHCARE?

No. The ruling applies only to national medicare coverage rules. The Veterans health coverage has a different set of rules that still excludes transition-related surgeries. See our Veterans health resource to learn more **here**.

I'M A MEDICARE BENEFICIARY—WHERE CAN I FIND OUT MORE?

For more information about Medicare and transgender people—including how to seek coverage of medically necessary procedures, and what you can do if coverage is denied—see NCTE's resource, **Medicare and Transgender People.**