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Will New Obamacare Rule Force Insurers To Fund Sex-Changes?

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Taxpayers could wind up paying for sex-change operations under an Obamacare rule proposed by the Department of Health and Human Services. Yes, the same Obama administration that effectively endorsed Planned Parenthood's organ-trafficking scheme is going after insurance companies that refuse to pay for sex-change procedures. While the wording of the newly-proposed regulation doesn't technically force insurance companies to start paying for gender reassignment surgeries, it does say that HHS would investigate and sue insurers if they refused to pay for them.

Insurers and their customers aren't the only ones on the hook for these procedures though. Plans on the Obamacare exchanges are subsidized with taxpayer money for anyone whose income is up to 400 percent of the federal poverty line. So federal guidelines pressuring insurers to cover hormone therapies or even sex-change surgery for transgender individuals would mean public funding for sex-changes.

If implemented, the 51-page set of regulations would add requirements to the ever-growing heap of bureaucratic nonsense formally known as the Patient Protection and Affordable Care Act, aka Obamacare. Section 1557, the "civil rights" section of the law, has already gained a reputation for being controversial last year after the Obama administration expanded it to allow patients access to whatever gendered facilities match up with their "gender identity," regardless of their birth gender. Basically, if a male patient who identifies as a female wanted to use the women's restroom at a hospital, he should be allowed to do so according to HHS.

But this newly proposed regulation would take it a step further, and make it illegal to try to prevent a transgendered or gender dysphoric patient from "treating their condition," which could include a sex-change operation.

The language of the rule is a bit confusing on what exactly would be considered mandatory for insurance plans sold on the Obamacare exchanges to cover. While it may not explicitly require insurers to cover reassignment surgeries, the authority granted to HHS to investigate and prosecute insurers when denying treatment to a transgender patient could be enough to effectively force insurers into paying for them. Because we all know how insurers feel about

getting sued, it's likely they would err on the side of covering anything and everything related to gender transitions, in order to avoid investigations and lawsuits.

The rule states (emphasis added):

OCR proposes to apply basic nondiscrimination principles in evaluating whether a covered entity's denial of a claim for coverage of treatment related to transition-related care is the product of discrimination. **Based on these principles, an explicit, categorical (or automatic) exclusion of coverage for all health services related to gender transition is unlawful on its face under paragraph (b)(4);** in singling out the entire category of services and treatments for transition-related care, such an exclusion systematically denies services and treatments for transgender individuals and is prohibited discrimination on the basis of sex.

Moreover, we propose in § 92.207(b)(5) to **bar a covered entity from denying or limiting coverage, or denying a claim for coverage, for specific health services related to gender transition** where such a denial or limitation results in discrimination against a transgender individual.

If you're unclear as to what the rule is actually saying, you're not alone. Michael Cannon, a health policy expert at the libertarian CATO Institute, wasn't exactly sure either:

"I am not sure this is a requirement to cover reassignment surgery. It could instead be a prohibition on any insurance companies' blanket refusal to cover care that might be associated with such a surgery. Then again, that would come pretty close to requiring coverage of the surgery," Cannon said in an email to The Federalist.

Contacted for comment, HHS clarified this indeed is not a mandate on insurers to provide specific procedures in the sex-change process, but a ban on insurance companies from "categorically excluding from coverage all gender transition related services."

In essence, it tells insurers to pony up and pay for sex-change procedures or risk facing a discrimination suit, which — as Cannon explained — could have the same practical effect as a coverage mandate.

Section 1557 isn't the only section of Obamacare that gives sweeping new powers to unelected HHS bureaucrats. Remember 2013, when Obamacare had already subjected Americans to 20,000 pages of new regulations? Sex-changes are only the newest thing HHS would get to force taxpayers to pay for, and it doesn't appear to be slowing down anytime soon. An HHS press release announcing the rule change deemed it as the "next step in advancing equality," which alludes to the possibility of more regulations along these lines.

If you don't think taxpayers should have to fit the bill for sex-changes, you have until Nov. 9, when the period for public comment closes, to weigh in on the regulation.