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State of Illinois
Gender-Affirming Surgeries and Services
Frequently Asked Questions

As of January 1, 2020, the Illinois Department of Healthcare and Family Services ("the Department") reimburses for gender-affirming surgeries and services subject to the establishment of medical necessity and prior authorization. Specifically, the Department adopted amendments to 89 Ill. Adm. Code Sections 140.412, 140.413, and 140.440 regarding the provision of gender-affirming surgeries and services to medical assistance program participants. The following is a list of frequently asked questions relating to gender-affirming surgeries and services.

General

- **Question: Does the federal rule implementing Section 1557 of the Affordable Care Act that eliminates certain sex and gender identity nondiscrimination protections impact Illinois Medicaid's coverage of gender-affirming surgeries and services?**
  Answer: No. That federal rule does not impact the Department's coverage of gender-affirming services. The Illinois Human Rights Act prohibits unlawful discrimination on the basis of sex and sexual orientation, which includes "actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1) and (Q). Illinois Medical Assistance Program providers are required to deliver services in full compliance with all applicable provisions of State laws and regulations pertaining to nondiscrimination.

Prior Authorizations

- **Question: Who qualifies as a physician authorized to complete the Prior Authorization for Gender-Affirming Services form?**
  Answer: A physician means a doctor of Medicine (M.D.) or Osteopathy (D.O.) who holds a valid Illinois (or state of practice) license to practice medicine in all its branches.

- **Question: Who is authorized to write prescriptions for hormone management?**
  Answer: Providers with prescriptive authority may provide this service.

- **Question: Are Advance Practice Nurses authorized to submit a letter on behalf of an individual for a non-genital gender-affirming surgery under the new requirements?**
  Answer: No. The individual's primary care physician or the physician managing the individual's gender-related healthcare must submit a letter for both genital and non-genital surgeries.

- **Question: Is there a once-per-quarter limit on submitting pre-approval requests for gender-affirming services if the request has not been modified?**
  Answer: The Department's rules do not place a limit on how many requests an individual can submit per quarter. The Department has instructed Medicaid Managed Care Organizations ("MCO") not to limit the number of requests that may be submitted per quarter.

- **Question: Does an individual need to resubmit a request for prior approval that was previously denied on the basis of 89 Ill. Adm. Code 140.412 or can the MCO reevaluate and approve the original request? If the request does not need to be resubmitted, what steps do doctors and/or patients need to take in order to reverse the denial?**
  Answer: Requests prior approval for individuals not enrolled in an MCO should be resubmitted to HFS at HFS.GA-service@illinois.gov. New requests for prior approval will also be accepted at this email address. Upon submission, HFS will reconsider the prior approval request and will give the individual's primary care physician or the physician managing the individual's gender-related healthcare a reasonable opportunity to demonstrate that the conditions of 89 Ill. Adm. Code 140.413(a)(16) are satisfied and to cure any deficiencies in the previously submitted prior approval request. Requests for individuals enrolled in an MCO should be submitted or resubmitted to the appropriate MCO.

- **Question: The Prior Authorization for Gender-Affirming Services form states the procedures can be approved for those under 21 years old if sufficient medical necessity for the treatment being requested is met based on the provider's documentation. What else is needed for a member under 21 years of age to receive approval?**
  Answer: HFS will make decisions regarding prior authorization for patients under 21 years of age on a case by case basis when medical necessity is demonstrated. HFS will make such evaluations using the criteria outlined in 89 Ill. Adm. Code 140.413, based upon physician review and professionally recognized standards of health care.

- **Question: Is there a timeframe requirement for psychotherapy services prior to submission of the Prior Authorization for Gender-Affirming Services form?**
  Answer: Psychotherapy is only required if indicated for that particular individual. If psychotherapy is indicated, there is no requirement that such psychotherapy services be provided in a certain timeframe prior to submitting the Prior Authorization form.

- **Question: To determine medical necessity, is there any objective criteria or is the need for medical necessity based on the documentation from the provider?**
  Answer: The Department has provided the criteria that must be met for approval of gender-affirming surgery in 89 Ill. Adm. Code 140.413. A medical necessity determination based on the adequacy and completeness of the documentation from the provider(s).

- **Question: Will the Department approve needed corrections for subsequent gender-affirming surgeries if the original surgery was performed prior to January 1, 2020?**
  Answer: The Department will approve gender-affirming surgeries if it determines that such surgery is medically necessary.

- **Question: Do procedures such as hysterectomies, oophorectomies, and orchiectomies qualify as "genital surgery?"**

Answer: Yes. Procedures such as hysterectomies, oophorectomies, and orchiectomies qualify as genital surgeries and, as a result, the individual must live for at least 12 months in the gender role that is congruent with their gender identity prior to receiving prior authorization for the procedure.

Billing, Claiming and Payment

- **Question: Will the Department's fee schedule be updated to include gender transition related procedure codes?**
  Answer: Yes. An updated practitioner fee schedule has been posted.

Appeals

- **Question: Will pending requests for State Fair Hearings for denials based on the prior version of 89 Ill. Adm. Code 140.412 be dismissed due to mootness or do attorneys have to submit requests for withdrawal? What will happen with cases that have been heard and have decisions pending?**
  Answer: The Department's Bureau of Administrative Hearings plans to issue Final Administrative Decisions remanding cases seeking requests for gender-affirming services to the Department or appropriate MCO with clear directives on how to review the individual's prior approval request in accordance with 89 Ill. Adm. Code 140.413.