

LGBTQ+ and Health Groups Sue to Block Florida's Anti-Transgender Medicaid Health Care Rule

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(FLORIDA – September 7, 2022) LGBTQ+ and health advocacy groups Lambda Legal, Southern Legal Counsel, Florida Health Justice Project, and National Health Law Program, together with international law firm Pillsbury Winthrop Shaw Pittman LLP, filed a federal lawsuit



today challenging Florida's anti-transgender health care rule denying coverage for transgender Medicaid beneficiaries' medically necessary gender-affirming medical care.

The lawsuit, *Dekker, et al. v. Marsteller, et al.* was filed in the U.S. District Court for the Northern District of Florida against the Florida Agency for Health Care Administration (AHCA), on behalf of four plaintiffs: August Dekker (he/him) and Brit Rothstein (he/him), as well as two minors identified under pseudonyms, Susan (represented by her parents Jane and John Doe) and K.F. (represented by his mother, Jade Ladue).

Plaintiff August Dekker. (Lambda Legal)

“It has been extremely stressful to have to worry about whether I will be able to get the medical care that I need and which is recommended by my doctors. This new Medicaid rule denies me the ability to access treatment that I cannot otherwise afford. Everyone deserves to exist in a way that feels safe, yet this ban will impact so many transgender Medicaid beneficiaries like me with very negative effects on our physical and mental health and our lives. It's truly awful and unfair to feel like the state is targeting your existence,” said **plaintiff August Dekker, a 28-year-old transgender man from Hernando County, Florida.**

The rule adopted by the Florida Agency for Health Care Administration (AHCA), which oversees Florida's Medicaid Program, went into effect on August 21 and has left thousands of

transgender people in Florida without access to critical medical care for the treatment of gender dysphoria. AHCA finalized the rule on August 1 after ignoring expert testimony and thousands of public comments during the rule-making process earlier this summer.

“We believe providing our daughter with the medical care that she needs and is recommended by her doctors for her gender dysphoria is imperative to ensure her health and well-being. The state’s decision to stop covering medically necessary gender-affirming medical care through Medicaid is tragic. It is cruel and dehumanizing. It’s frustrating to know that the same medications and care that are provided to other children for different medical reasons, will not be provided to our child. We are concerned about the message the State of Florida is sending to young transgender people like our daughter by excluding them from the Medicaid coverage to which they otherwise would be entitled simply because of who they are.” said **Jane and John Doe, parents of plaintiff Susan**, a 12-year-old transgender girl, who all are proceeding anonymously.

QUOTES FROM ORGANIZATIONS:

The new rule adopted by Florida’s Agency for Health Care Administration endangers the health, well-being, and very lives of Florida’s transgender Medicaid beneficiaries. It represents a cruel and deplorable action; one that is motivated by politics and bias rather than medicine and science. It also represents the complete abdication of AHCA’s own mission statement to “Better Health Care for *All* Floridians.” Everyone should have access to essential, medically necessary health care, and this rule excludes some of the people most in need in Florida. We are proud to stand alongside the brave plaintiffs we represent and our partners in challenging this unlawful policy.” said **Omar Gonzalez-Pagan, Counsel and Health Care Strategist at Lambda Legal**.

“The State of Florida has chosen to ignore the evidence, the science, and the consensus of medical professionals in a shameful effort to gain political points,” said **Simone Chriss, Director of the Transgender Rights Initiative at Southern Legal Counsel**. “This dangerous, scientifically-flawed ban strips medically necessary, life-saving healthcare away from the transgender Floridians with the least access to resources. As long as the state of Florida continues to attack the basic human and civil rights of its transgender community, we will continue holding to the fire the feet of those enacting the discriminatory measures.”

“With this indefensible rule, the state is targeting low-income transgender Floridians. The rule intends to cut-off access to medically necessary care for the plaintiffs and other transgender individuals covered by Medicaid,” said **Katy DeBriere, Legal Director at Florida Health Justice Project**. “Not only is this rule illegal, but it would serve to perpetuate health inequities by eliminating access to safe, reliable healthcare for some of our most marginalized residents. Florida Health Justice Project will not let the state flout its obligations under the Medicaid program and the constitution of the United States.”

“Medicaid is meant to ensure access to necessary health care for people most in need and those with the fewest resources. ACHA’s decision will take away life-saving care from

Medicaid beneficiaries only because they are transgender. Without Medicaid coverage, our clients will not have access to these important health care services. ACHA's rule is callous." said **Abbi Coursole, Senior Attorney at the National Health Law Program.**

BACKGROUND:

In June, the Florida Agency for Health Care Administration (AHCA) initiated a rule-making process and, in July, conducted a sham hearing on its Notice of Proposed Rule that would deny Medicaid coverage for all medically necessary gender-affirming care for both youth and adults. The stacked and biased hearing elevated junk science and discredited providers holding themselves out as medical experts in an effort to push through a deliberately discriminatory and harmful new rule.

Just a week before the AHCA hearing, a federal district court in North Carolina ruled that an exclusion in that state's health plan similar to that proposed by AHCA is unconstitutional. In addition, this July, legal and medical experts from the Yale School of Medicine's Child Study Center and Departments of Psychiatry and Pediatrics, Yale Law School, and the University of Texas Southwestern issued an in-depth report debunking the misleading claims upon which AHCA's report is based. The report states that AHCA's report "makes unfounded criticisms of robust and well-regarded clinical research and instead cites sources with little or no scientific merit, including journalism, a blog entry, letters to the editor, and opinion pieces." The report, "A Critical Review of the June 2022 Florida Medicaid Report on the Medical Treatment of Gender Dysphoria," is available [here](#).

Furthermore, separate from the AHCA rulemaking process, the Florida Board of Medicine (the "Board") voted in August at its full board meeting to move forward with initiating the rulemaking process to develop a "standard of care" for the treatment of gender dysphoria. This vote was made in response to a Petition to Initiate Rulemaking from the Florida Department of Health (DOH). However, the DOH's biased, and politically motivated petition runs counter to well-established medical guidelines for the treatment of gender dysphoria, such as those published by the World Professional Association for Transgender Health (WPATH) and the Endocrine Society, and the overwhelming medical consensus in the United States and internationally, and would in effect deny essential, medically necessary, and often life-saving care to transgender people, including transgender youth.

Read more about the case here:

<https://www.lambdalegal.org/in-court/cases/dekker-v-marstiller>

Read the Complaint here:

https://www.lambdalegal.org/in-court/legal-docs/dekker_fl_20220907_complaint

Meet the Plaintiffs:

https://www.lambdalegal.org/blog/fl_20220907_meet-the-plaintiffs-dekker-v-marstiller

Find a digital version of this press release here:

https://www.lambdalegal.org/news/dekker_fl_20220907_sue-to-block-floridas-anti-transgender-medicaid-rule

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Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV through impact litigation, education and policy work. www.lambdalegal.org

Southern Legal Counsel (SLC) is a Florida statewide not-for-profit public interest law firm that is committed to the ideal of equal justice for all and the attainment of basic human and civil rights. SLC's Transgender Rights Initiative protects the rights of Florida's LGBTQ+ community through federal impact litigation, policy advocacy, and individual representation. www.southernlegal.org

Florida Health Justice Project is a statewide Florida not-for-profit that recognizes that access to quality and affordable health care is a human right and engages in comprehensive advocacy to expand healthcare access and promote health equity for vulnerable Floridians. www.floridahealthjustice.org

The National Health Law Program, founded in 1969, protects and advances health rights of low-income and underserved individuals and families. We advocate, educate and litigate at the federal and state levels to advance health and civil rights in the U.S. www.healthlaw.org

Pillsbury Winthrop Shaw Pittman LLP is an international law firm with a particular focus on the technology & life sciences, energy, financial, and real estate & construction sectors. Recognized as one of the most innovative law firms by *Financial Times* and one of the top firms for client service by BTI Consulting, Pillsbury and its lawyers are highly regarded for their forward-thinking approach, their enthusiasm for collaborating across disciplines and their authoritative commercial awareness. www.pillsburylaw.com

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