

September 13, 2012

Robert Doar
Commissioner
New York City Human Resources Administration
180 Water Street
New York, New York 10038

Jacqueline Dudley
Deputy Commissioner
HIV/AIDS Services Administration
180 Water Street
New York, New York 10038

cc: Elizabeth R. Berlin, Executive Deputy Commissioner
New York State Office of Temporary and Disability Assistance

Christine Quinn, Speaker
New York City Council

Dear Commissioner Doar and Deputy Commissioner Dudley:

We are a group of legal, medical and social services providers who assist New Yorkers with low or no incomes to protect their health, well-being and rights. We write to you to address the Human Resources Administration's (HRA) lack of a uniform and appropriate method of processing recipients' requests to change their gender markers (the gender listed in HRA records and on benefits cards). With this letter we propose a policy that would limit the discrimination and abuse faced by recipients and increase HRA's efficiency.

In the past five months we have heard more than 30 reports of disrespectful and discriminatory treatment at HRA and HIV/AIDS Services Administration (HASA) offices in New York City. The majority of those reporting state that the unjust treatment was based on their gender identity, sexual orientation or HIV-positive status. The abuse is varied and includes: refusal to use recipients' preferred names and pronouns, homophobic and transphobic criticisms of recipients' lifestyles and appearances, and denials of requests to change recipients' gender markers.

Despite adoption of a Best Practices Guide for serving transgender and gender non-conforming people in 2009, as far as we know, HRA does not have a policy governing requests for changes of gender markers. In cases where recipients have attempted to change their gender marker, there has been no clarity about the application process, no clear steps the applicant can take, no consistent explanation for why the request is denied, and no reference to a particular governing policy. Instead, recipients are told everything from "sure, fill out this form" to "only God can change gender."

Without an established policy, the staff imposes inconsistent standards on recipients in an arbitrary manner, leading to harmful outcomes. For instance, we have seen many recipients who were issued a benefits card with the appropriate gender but are later given a new card - with their

birth assigned genders - without notice. Some of these recipients have had their cases closed (causing a direct loss of benefits) while many others encounter problems trying to access their benefits. These barriers often prevent recipients from satisfying their basic needs of food, shelter and medicine. Furthermore, as many low-income people use their HRA Benefits Cards as a primary form of identification, they are being “outed” as transgender every time they use their card, opening the door to daily discrimination and harassment.

We have heard of no occasion where the agency encountered problems because a gender marker change was made. Further, benefits cards which accurately reflect recipients’ identities and appearance will protect the agency from fraud and other abuses. It is in the agency’s interest to make sure that identification documents properly reflect the name and gender identity of the recipient.

As you may be aware, the Federal government recently updated its policies regarding gender marker changes to identity documents to align itself with currently accepted standards of health care.¹ The U.S. Department of State, the Office of Personnel Management, and the Citizenship and Immigration Services now require those requesting a change to their gender marker to submit a physician certificate that confirms that they have received appropriate clinical treatment for gender transition or, for some departments, another form of identification with the updated gender marker. Similarly, the New York State Department of Motor Vehicles requires one written statement on letterhead from a physician, a psychologist, or a psychiatrist certifying the individual’s main gender.

Furthermore, the United States Department of Health & Human Services recently clarified that Section 1557 of the Affordable Care Act - which prohibits federally funded health programs and activities from excluding, denying benefits to, or discriminating against individuals based on their race, color, national origin, sex, age, or disability – “extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and will accept such complaints for investigation.”²

We propose that you enact a policy that requires HRA employees to change the gender marker on a recipient’s benefits card and records when presented with either (1) a government-issued identification document that reflects their preferred gender or (2) a letter from a licensed medical or mental health professional that confirms that the recipient has had appropriate clinical treatment for gender transition.

Attached is the U.S. Department of State’s policy for gender marker changes on U.S. passports. The policy may be useful as a template for the HRA policy.

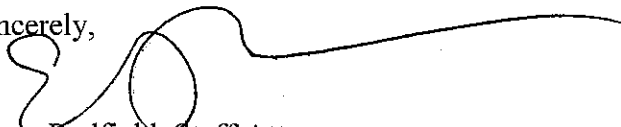
¹ The American Psychological Association, the American Psychiatric Association and the World Professional Association of Transgender Health are among the well-respected organizations supporting the right of transgender people to access identity documents consistent with their gender identity.
<http://www.apa.org/about/policy/transgender.aspx>

²Letter from Leon Rodriguez, Director, Office of Civil Rights, Department of Health and Human Services (July 12, 2012), Attached.


We are confident that an appropriate policy will protect recipients' rights and promote their health and well-being while aiding the HRA's efficiency. Furthermore, adopting a clear and accessible policy on gender change is consistent with the Best Practices Guide adopted by HRA in 2009.

We will be happy to meet with you to discuss these issues further. Please feel free to contact Dan Pepitone at 646-442-3144 or Elana Redfield at 212-337-8550 ext. 304.

Sincerely,



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