

FAQs on Florida Proposed Rule Prohibiting Medicaid Coverage for Medically-Necessary Gender-Affirming Medical Care

On June 17, 2022, the Florida Agency for Health Care Administration (AHCA) issued a Notice of [Proposed Rule](#) for a new rule that would deny Medicaid coverage for *all* medically necessary gender-affirming care for both youth and adults. Southern Legal Counsel, Florida Health Justice Project, Lambda Legal, and National Health Law Program are engaging in and carefully monitoring the rule-making process, and you can read their statements and obtain more information at www.protectFLtranshealth.org.

The Proposed Rule is the product of the DeSantis administration's clear intent to limit access to medically necessary care for Florida's transgender community. It follows the issuance of "[Guidelines](#)" by the Florida Department of Health opposing access to gender-affirming medical care for transgender youth and a scientifically-flawed, politically-motivated [report](#) questioning the efficacy and safety of gender-affirming medical care, all in direct conflict with well-established and widely-accepted medical guidelines as well as the opinions of every major medical association in the United States. The Florida Department of Health "Guidelines" were issued in response to the U.S. Department of Health and Human Services' [Guidance](#) on treating gender dysphoria for children and adolescents, which relies on carefully and deliberately considered studies, expert opinions, and national guidelines.

Southern Legal Counsel, Florida Health Justice Project, Lambda Legal, and National Health Law Program oppose this Proposed Rule, and urge others to let the Florida Agency for Health Care Administration know that the Proposed Rule endangers the health and wellbeing of transgender Floridans and is bad for Florida.

Below are some answers to some frequent questions people may have.

What is the history of Proposed Rule?

- **April 20, 2022:** Florida Department of Health issued "[Guidelines](#)" titled "Treatment of Gender Dysphoria in Adolescents and Children" attacking the propriety of medically necessary gender-affirming care for transgender youth, including social transitioning.
- **June 2, 2022:** The Florida Agency for Health Care Administration (AHCA) published [GAPMS \(Generally Accepted Professional Medical Standards\) Report](#) concluding that gender-affirming medical care for adults and minors, including puberty blockers, hormone therapy, and surgeries, are experimental and should not be covered under Medicaid;
- **June 17, 2022:** AHCA issues [Notice of Proposed Rule](#) that is published in Florida Register seeking to prohibit Florida's Medicaid from providing coverage for any medical

care for the treatment of gender dysphoria, also known as gender-affirming care, for transgender youth and adults in Florida.

What does it say?

Notice of Proposed Rule, amending 59G-1.050 General Medicaid Policy:

(7) Gender Dysphoria

(a) Florida Medicaid does not cover the following services for the treatment of gender dysphoria:

1. Puberty blockers;
2. Hormones and hormone antagonists;
3. Sex reassignment surgeries; and
4. Any other procedures that alter primary or secondary sexual characteristics.

(b) For the purpose of determining medical necessity, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), the services listed in subparagraph (7)(a) do not meet the definition of medical necessity in accordance with Rule 59G1.010, F.A.C.

What does this mean?

Under Florida law, Medicaid covers health services that are consistent with the “generally accepted medical standards” (GAPMS), which are defined as “standards based on reliable scientific evidence published in peer reviewed scientific literature generally recognized by the relevant medical community or practitioner specialty associations’ recommendations.” Fla. Admin. Code R. 59G-1.035. In order for the health service to be covered under the Florida Medicaid program, it must not be deemed “experimental or investigational.”

If finalized, the Proposed Rule would preclude coverage for gender-affirming care for all Medicaid recipients by deeming such care experimental and not consistent with GAPMS.

Many organizations and medical associations have provided responses in opposition to the State’s attempt to exclude coverage for gender-affirming medical care, including the Human Rights Campaign (HRC) who published a [report](#) titled “Rebutting the Florida Department of Health Memo Misleading the Public on the Science Behind Gender-Affirming Care.” In addition, legal and medical experts from Yale and the University of Texas published a [report](#) debunking the misleading claims upon which AHCA’s report is based.

While the Notice of the Proposed Rule seemingly carries forward AHCA’s discriminatory intent forward, at this time, it remains true that:

- AHCA's intended rulemaking and report do not currently prevent any doctor in Florida from providing medically necessary and essential medical care to transgender patients;
- Private health insurance must still cover medically necessary gender-affirming care; and
- No finalized rulemaking has occurred. Therefore, Florida Medicaid still should provide coverage and reimbursement for medically necessary gender-affirming care.

What happens next?

The timeframe for submitting public comments in response to the Proposed Rule runs through **July 8th, 2022**. Comments can be submitted online through the following portal: https://www.flrules.org/gateway/View_Notice.asp?id=25979915.

On **July 8th, 2022**, there will be a public hearing in Tallahassee, Florida where people can provide in person testimony in opposition to the Proposed Rule. The hearing will take place from 3 p.m. to 5 p.m. at the Auditorium in the Florida Department of Transportation, 605 Suwannee St, Tallahassee, FL 32399.

I am interested in submitting a comment, what should I say or do?

We encourage individuals, organizations, and health care providers, particularly those who stand to be most affected by the Proposed Rule, to submit comments to AHCA in response to the Proposed Rule. People should share their stories, how the Proposed Rule would impact, why access to and coverage of gender-affirming medical care is important.

If possible, we encourage interested persons to attend the hearing on the Proposed Rule. Regardless of whether a person can attend the hearing on the Proposed Rule, we encourage all interested persons to submit written comments.

I, or someone I know, stand to be impacted or lose coverage as a result of the Proposed Rule, who should I contact?

If you, your child, or someone you know are a transgender Florida Medicaid participant and stand to lose coverage for your medically necessary gender-affirming care, we want to hear from you! Please contact Southern Legal Counsel, Florida Health Justice Project, Lambda Legal, and National Health Law Program to share your story at www.protectFLtranshealth.org. Southern Legal Counsel, Florida Health Justice Project, Lambda Legal, and National Health Law Program are working together to respond the Proposed Rule and defend the rights of transgender people in Florida, including the right to nondiscriminatory health care coverage.