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PERMANENT ADMINISTRATIVE ORDER

DMAP 28-2018

CHAPTER 410
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopt Exception Criteria for Facial Gender Confirmation Surgery

EFFECTIVE DATE: 05/02/2018

AGENCY APPROVED DATE: 05/02/2018

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ADOPT: 410-172-0745

RULE TITLE: Exception Criteria for Facial Gender Confirmation Surgery (FGCS)

NOTICE FILED DATE: 03/08/2018

RULE SUMMARY: Facial gender confirmation surgery is covered only by exception in the OHP benefit. OHP has established exception processes; however, this OAR is needed to add clarity to the general exception processes for considering facial gender confirmation surgery services. The criteria in the OAR will enable the CCOs and the state to make exception determinations in a timely and efficient manner. While each case will still be considered in its own right, the OAR will lend to greater consistency in the determinations being made across the state. OHA is adopting this coverage by a specific administrative rule, rather than through usual HERC procedures in order to enhance compliance with civil rights laws.

RULE TEXT:

(1) The following definitions apply to this rule:

(a) "Community Life Activities" means activities such as but not limited to attending school or participating in employment;

(b) "Facial Gender Confirmation Surgery" means a constellation of surgical procedures intended to produce facial features that will be perceived by others as congruent with an individual's gender identity. The goal of facial gender confirmation surgery is to reduce gender non-congruence that causes persistent gender dysphoria and severe life interruptions such as the impairment of an individual's ability to participate in community life. Facial gender confirmation surgery may include but is not limited to frontal bone reshaping, mandible bone reshaping, cheek augmentation, rhinoplasty, tracheal shaving, and electrolysis or laser hair reduction procedures, depending on the severity of non-congruence of individual facial features;

(c) "Severe Mental Health Comorbid Condition," for the purposes of this rule, means a condition such as but not limited to PTSD or anxiety including agoraphobia, severe depression, or suicidal ideation, due to experiencing or fear of experiencing physical violence based on marked facial gender non-congruence.

(2) Facial Gender Confirmation Surgery for treatment of gender dysphoria is not paired with gender dysphoria above the funded line on the Prioritized List of Health Services as referenced in OAR 410-141-0520. A member who meets the

following criteria may be considered for coverage of medically necessary and appropriate facial gender confirmation procedures:

(a) Having a severe mental health comorbid condition that prevents the member from participating in community life; and

(b) Member receives medically necessary and appropriate non-surgical treatments for mental health comorbidity as recommended by the treatment team, and non-surgical treatments are determined to be insufficient to enable participation in community life; and

(c) Member experienced a gender identity non-congruent hormonal puberty; and

(d) Purpose of the surgery is to achieve a minimum level of facial gender congruence in order to be publicly identified as gender congruent and not solely to improve appearance; and

(e) Facial gender confirmation surgery is necessary to achieve the benefits of the funded treatments for gender dysphoria: Mental health care, hormone therapy, and sex reassignment surgery also known as gender confirmation surgery; and

(f) Member meets all the applicable requirements in Guideline Note 127, Gender Dysphoria of the Prioritized List in subsections (a, b, and d) for cross-sex hormone therapy and subsection (f) for sex reassignment surgery, also known as gender confirmation surgery, as referenced in OAR 410-141-0520;

(g) All other conditions of OAR 410-141-0480(11) are met;

(h) The surgery is medically necessary and appropriate as defined in OAR 410 120 0000.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.640

STATUTES/OTHER IMPLEMENTED: ORS 413.042, ORS 430.640