

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

CODY FLACK,
SARA ANN MAKENZIE,
MARIE KELLY, and
COURTNEY SHERWIN,

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF
HEALTH SERVICES and
LINDA SEEMEYER, in her official capacity
as Secretary of the Wisconsin Department of
Health Services,

Defendants.

Case No. 3:18-cv-00309-wmc

Judge William Conley

DECLARATION OF MARIE C. KELLY

I, Marie C. Kelly, declare as follows:

1. I am one of the named plaintiffs in the above-captioned action. I have personal knowledge of the matters stated in this declaration.
2. I was born in Chicago, Illinois. I have lived in Wisconsin for approximately 22 years. I currently live in Milwaukee, Wisconsin.
3. I am a 38-year-old transgender woman. I was assigned male at birth but I am female, and I have lived my truth – living fully as a woman – for the last eight years or so.
4. I have been diagnosed with gender dysphoria.
5. Since approximately 2014, I have been enrolled in Wisconsin Medicaid. I rely on Wisconsin Medicaid for my health care needs.
6. Ever since I was little, I knew myself to be a girl. For as long as I can remember, I always sat down to use the bathroom, instead of standing. When I was 5 or 6 years old, I

remember watching Janet Jackson in the music video of “When I Think of You” and wanting to move like her. She does a skip at the end of the video, and after watching, I tried to imitate that move. When I was 10 or 11 years old, we took a school field trip to the beach and I did not want to take off my shirt. I did not want anyone to see my bare chest. In my teenage years, I used to take my genitalia and try to push it back inside of me. Obviously, it never stayed, but I always wished it would.

7. Approximately 12 years ago, when I was in my late 20s, I put on my mother’s wig. I looked at myself in the mirror and I got the biggest smile on my face. I then started making halter dresses out of my sweaters. After years of living in denial, I decided it was enough. I knew that I wanted to live my truth.

8. In 2009, I started seeing a therapist. She was very supportive of who I knew myself to be – a woman. She was very comforting and helped me open up about what I was experiencing. She encouraged me to meet other transgender individuals and so I started to participate in local gender identity support groups. It just clicked. I knew I needed to live fully as the woman I knew myself to be.

9. When I was 30, I began to live as a woman full time. I threw out the last piece of clothing – a pair of men’s sneakers – that reminded me of all the years I lived in denial. I started to only wear women’s clothing. The clothes help bring out what was already inside of me from the beginning. It felt great. I finally felt free and happy.

10. In 2012, I obtained a court-ordered name change from my traditionally male birth name to my chosen female name, Marie Claire Kelly. That same year, I also obtained a Wisconsin state identification card with my chosen name and a female sex marker.

11. When I first started my gender transition, I would cover up all the parts of my body that would make my appearance more masculine. I would wear sweaters with long sleeves to cover up the muscles on my arms and I would wear wigs.

12. I started taking hormones in 2011 – first, under the care of my doctors at Sixteenth Street Health and now, under the care of Linda Wesp, APNP, at Greater Milwaukee Center for Health and Wellness. While my femininity was always inside me, the hormones helped make me look and feel more like myself. Specifically, my hips and thighs started to look more feminine, and I started to feel more comfortable showing my arms and my back. The hormones have helped reduce my gender dysphoria.

13. My hormone treatments are currently covered by Wisconsin Medicaid but, because of Wisconsin Medicaid's exclusions on transition-related care, I don't know if they will continue to be covered for as long as I need them.

14. Even though my gender dysphoria has reduced with the hormones, I continue to experience significant gender dysphoria because of my male-appearing genitalia, my male-appearing chest, and my facial hair.

15. I experience significant anxiety, every day, related to my genitalia. I am constantly worried that someone may notice my genitalia and attack me.

16. I also experience daily anxiety related to my chest. Simply looking at my body in the mirror is painful for me. I often attempt to push my chest together. When I first started living fully as a woman, I used to stuff my chest with tissues. I also wore breast forms for approximately a year. The breast forms felt wonderful – it helped my body match the woman I know I am. However, the breast forms were heavy, and they hurt my back. I continued to wear

them for a long time, despite the pain, because they made me happy. Eventually, though, the pain got too severe and I had to stop.

17. I also feel significant dysphoria and daily anxiety around my facial hair. I shave every day to make sure that my face feels perfectly smooth and that no one can see the hair. If I am not able to shave one day, I wear a scarf high on my neck so that no one can see hair on my face.

18. To further live my truth and treat my gender dysphoria, I want to continue my medical transition. On my doctor's recommendation, I would like to obtain an orchiectomy as soon as possible to stop my body's production of testosterone. I would also like to obtain female genital reconstruction, female chest reconstruction, and electrolysis for facial hair removal to treat my gender dysphoria. For years, I have thought about getting these surgeries and procedures to affirm my female gender identity and treat my gender dysphoria. I have also discussed these procedures with my therapist and my doctors. My primary care provider, Linda Wesp, APNP, recommended that I obtain these procedures as they are medically necessary to treat my gender dysphoria.

19. Three or four years ago, I called Anthem Blue Cross, my Wisconsin Medicaid managed care organization at the time, to ask whether they would cover transition-related medical procedures. They told me that those procedures were not covered because of Wisconsin Medicaid's exclusion. I was upset by this and distressed at the idea of being unable to obtain these surgeries to further my transition, affirm my truth, and treat my gender dysphoria.

20. In August 2018, I called Children's Community Health, my current Wisconsin Medicaid managed care organization, to ask if they covered transition-related care. They also told me that these services are not covered because of Wisconsin Medicaid's exclusion. Hearing

this information was disheartening. I can't imagine myself with male genitalia and other physical traits for the rest of my life. That thought is very upsetting.

21. Because Wisconsin Medicaid will not cover these procedures and because I cannot pay for these procedures myself, I haven't been able to obtain any transition-related surgical treatments.

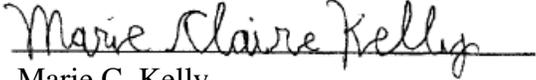
22. In my heart and soul, I know that I am a woman. If I had not transitioned and begun to live my truth, I think I may have hurt myself, and I do not know if I would be here today. Getting these surgeries would help me further my transition, help my outside match my inside, and give me a huge sense of freedom and relief. I would be so happy.

23. I care deeply about the transgender community. To that end, I am involved with several trans advocacy and support groups, including FORGE (an anti-violence transgender support group), Gemini Gender Group, SHEBA (Sisters Helping Each Other Battle AIDS), UBLAC (Uplifting Black Liberation and Communities), and Black Trans Women, Inc.

24. I decided to participate in this lawsuit not only to get the medical care I need, but also because I want to help the transgender community and other individuals who can't get transition-related care because of Wisconsin Medicaid's discriminatory policy. I see this lawsuit as part of the fight for equality and dignity for the transgender community. This fight is not only for me but for future generations of transgender individuals. If it wasn't for the trans community, I wouldn't be the woman I am today. This is my way of giving back.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 15th day of October, 2018.


Marie C. Kelly