

**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 COURTNEY SHERWIN

I, Courtney Sherwin, declare as follows:

1. I am one of the plaintiffs in the above-captioned action. I have personal knowledge of the matters stated in this declaration.
2. I was born in Illinois and have lived in Wisconsin for approximately the past four years. I currently live in Janesville, Wisconsin. I live with my former partner and our young son.
3. I am a 35-year-old woman. I am transgender. I was assigned male at birth but I am female.
4. I have been eligible for and enrolled in Wisconsin Medicaid for approximately two years. I rely on Wisconsin Medicaid for my health care needs.
5. I have been diagnosed with gender dysphoria by my medical providers.

6. I have known myself to be female for about 25 years, since I was about 10 years old. I came out as transgender in December 2017 and have been undergoing a gender transition since then. I have lived full-time as a woman since early 2018.

7. I am currently seeking a court-ordered name change from my traditionally male birth name to my chosen name, Courtney. I petitioned the Court for a name change in September 2018 and a hearing on my petition is scheduled for November 2018. After I receive my name change, I plan to correct my Social Security records, Illinois birth certificate, and Wisconsin driver's license to reflect my new name and female sex.

8. Before starting my gender transition last December, I suffered terrible anxiety, depression, and stress because I was uncomfortable in my own skin. The person I knew myself to be inside was not the same person others knew and thought I was. My blood pressure was terrible. I thought about taking my own life on several occasions. I finally decided to come out to my family and friends a week after Christmas last year. I couldn't bear lying to myself and others anymore about who I am. Even knowing the negative consequences of coming out—including losing friends and the support of my family—I had no choice but to finally move forward with my transition because that's how I was born and that's who I am.

9. As part of my gender transition, I grew out my hair, began wearing women's clothes, and began using my new name, Courtney. I also started medical care and treatments to further my transition and to treat my gender dysphoria.

10. I have experienced significant gender dysphoria because of my male-appearing physical characteristics, including my genitals and my facial and body hair, and from my masculine voice.

11. In March 2018, as part of my gender transition and to treat my gender dysphoria, I started hormone therapy under the care of my primary care doctor. My doctor prescribed me a testosterone blocker (spironolactone), estrogen, and progesterone. I have been on these treatments ever since.

12. The hormone treatments have reduced the gender dysphoria I have experienced because of my body and voice. I lost my facial and body hair, and my body looks more feminine than it did before. In public, others see me as a woman. My voice has also become a little more feminine than before, but others still mistake me as a man when they hear me talk, which distresses me greatly and causes me extreme social anxiety and symptoms of depression.

13. Wisconsin Medicaid has covered my testosterone blockers but has not covered my estrogen or progesterone treatments. I am also on finasteride, a medication to promote hair growth, which is also not covered by Wisconsin Medicaid. As a result, I have been forced to pay about \$90/month out of pocket for those medications, which has been a financial burden.

14. Despite the positive effects of hormone therapy, I have experienced a number of adverse side effects from the testosterone blockers. Because of the blockers, I have experienced worsened symptoms of irritable bowel syndrome, respiratory problems, nausea, fatigue, dizziness, difficulty focusing, and dry mouth. I am also worried about the effect of this medication on my liver. I also periodically experience blackouts as a side effect of the blockers, and I'm worried that I or others will be in physical danger if I have a blackout when I'm driving.

15. Because of my problems with testosterone blockers, my primary care doctor, Adrienne R. Hampton, M.D., referred me last spring to a urologist for a consultation about obtaining an orchiectomy, a surgical procedure that would stop my natural production of testosterone and allow me to stop taking the blockers.

16. In May 2018, I consulted with a urologist, Dr. Andrea Wozniak, about obtaining an orchiectomy. Dr. Wozniak determined that an orchiectomy was a medically necessary treatment for me and that I was eligible for the surgery because of my adverse reaction to the testosterone blockers.

17. Dr. Wozniak agreed to perform an orchiectomy on me and submitted a prior authorization request to my Wisconsin Medicaid managed care organization at the time, Dean Health Plan, seeking coverage for the procedure. The prior authorization request included letters of support for surgery from my primary care doctor, Dr. Hampton, and my treating. The prior authorization request also included a report by a clinical psychologist, Georgien Dudzek, Psy.D., at Crossroads Counseling Center. At my doctor's referral, Dr. Dudzek performed an independent psychological evaluation of me on July 16, 2018 in connection with my request for voice therapy. Dr. Dudzek confirmed my gender dysphoria diagnosis and recommended that I obtain voice therapy as a treatment for gender dysphoria.

18. Dean Health Plan denied the prior authorization request for an orchiectomy because of Wisconsin Medicaid's exclusion on transition-related surgeries. I appealed that decision with Dean and it was denied.

19. I don't have the money to pay for an orchiectomy myself. Because of the denial of Medicaid coverage, I am unable to get the procedure. As a result, I have continued to experience adverse side effects from testosterone blockers. To address these side effects, my doctor has reduced my dosage of blockers. Unfortunately, because of this reduced dosage, many of the positive effects from my hormone therapy have started to reverse since my body is again producing testosterone. I have begun to grow facial hair again, which is embarrassing, causes me anxiety, and forces me to cover my face when I am in public. I have also experienced

unexpected, painful erections, sometimes in public, that I did not experience when I was on the full dosage of blockers. I am distressed and experience more social anxiety because of these reversals. I felt comfortable in my own skin and now I fear I am losing all the progress I made. If I had been able to get an orchiectomy when I first needed it, I would not be going through any of this now.

20. I am also seriously concerned about the worsening harms to my physical health and my overall well-being if I cannot get an orchiectomy soon.

21. I also experience gender dysphoria because of my chest and my male-appearing genitals. I am self-conscious about my genitals, especially when I am in public, and make sure to cover up sufficiently so others don't notice my genitals. I also engaging in a practice called tucking to hide my genitals, which at times has been uncomfortable and painful.

22. After switching to Quartz as my Wisconsin Medicaid managed care organization on October 1, 2018, I had a consultation with Dr. Dan Gralnek at UW Health, a urologist in the Quartz network earlier this month. Dr. Gralnek recommended I obtain an orchiectomy. He also recommended that I get full genital reconstruction (including a vaginoplasty) at the same time to reduce scar tissue and avoid the risks and inconvenience of a second surgery. He referred me to Dr. Katherine Gast, a plastic surgeon at UW Health, to discuss these surgeries. I am waiting to hear from Dr. Gast's scheduler to set up an appointment. My primary care doctor, Dr. Hampton, has agreed to write another letter of support for these surgeries because they are medically necessary treatments for my gender dysphoria.

23. As I mentioned above, I also experience significant gender dysphoria related to my voice. Transgender women like me often have difficulty sounding feminine without voice therapy or even surgery. Although my voice is a less deep than it used to be because of my

hormone therapy, strangers are still shocked when they hear me talk. My voice causes me a lot of social anxiety and stresses me out. I try to avoid social situations and interactions with strangers because of that.

24. Although most people see me as a woman when they look at me, that changes immediately when they hear my voice. I have been badly harassed by strangers after they hear my voice. One man recently called me a “f---ing freak” and threatened to kill me the next time he saw me. I am terrified about what might happen to me at the hands of a stranger who discovers I’m transgender just because of the sound of my voice.

25. I have also been misgendered because of my voice. As one example, I recently ordered fast food at a drive-through restaurant. When the person who took my order over the speaker saw me drive up, I could tell he was confused because he was expecting to see a man because of my voice. He then called me “sir,” which upset me. I was so embarrassed.

26. Because of the gender dysphoria related to my voice, Dr. Hampton, referred me to a speech pathologist to discuss obtaining voice therapy as part of my gender transition and treatment for gender dysphoria. I had a consultation with a speech pathologist in June 2018. The speech pathologist submitted a prior authorization request to Dean Health Plan, which was denied. In July 2018, I had a consultation with another speech pathologist, Jennifer Knishka, who also recommended voice therapy treatments. On or about July 19, 2018, Ms. Knishka contacted Dean Health Plan, which informed her that the service was not covered because of the Medicaid exclusion.

27. Dr. Dudzek, the psychologist who conducted an independent psychological evaluation of me in July, wrote in her report that my voice “causes significant anxiety and stress and makes it difficult for [me] to pass as female” and “strongly recommended that [I] participate

in voice therapy to develop gender specific vocal characteristics and non-verbal communication patterns that facilitate comfort with her gender identity.” Dr. Dudzek also wrote that “[t]here may also be options for voice feminization surgery to consider if voice therapy is not sufficient.”

28. In July 2018, I filed an appeal with Dean Health Plan regarding the denial of coverage for voice therapy. In August 2018, I appeared telephonically before Dean Health Plan’s Grievance and Appeal Committee to contest the denial of prior authorization for voice therapy. I decided to participate by phone, rather than in person, so that the Committee could hear my voice and understand why I need this treatment so badly. At the hearing, I told the Committee that my voice causes me significant gender dysphoria and triggers anxiety and depression. I also told the Committee that my inability to obtain this care causes me social anxiety and is forcing me to turn into a hermit.

29. On or about September 7, 2018, Dean Health Plan verbally notified me by phone that the Committee had upheld the prior authorization denial and that coverage for voice therapy would be denied because it was a transgender service. The Dean representative advised me to file a grievance directly with Wisconsin Medicaid after I received the formal denial letter. In September, I filed a grievance challenging this denial with the Wisconsin Medicaid ombudsperson in the Wisconsin Department of Health Services. On October 12, 2018, I received a letter from DHS notifying me it was upholding Dean’s denial of coverage for voice therapy.

30. I experienced extreme emotional distress each time I learned of the prior authorization denials for orchiectomy and voice therapy. I felt hopeless and thought about taking my own life. Although I am not currently suicidal, I worry constantly that I may lose hope if I cannot receive these treatments, which terrifies me.

31. I want others to see—and *hear*—me as a woman. But I cannot afford voice therapy or surgery without my Wisconsin Medicaid insurance and I feel stuck.

32. If covered by Wisconsin Medicaid, I would begin voice therapy and seek an orchiectomy and full genital reconstruction as soon as possible. I also plan to seek top surgery (chest augmentation), and hope to complete my medical transition in the next year.

33. My Wisconsin Medicaid coverage is preventing me from being a full-time woman physically and socially. In seeking Wisconsin Medicaid approval for my transition-related care, the only thing I have ever asked for is to have my voice heard. After getting all these denials, I feel like my voice has never actually been heard. My needs have gone in one ear and out the other—they're just going by "policy" and are not considering my health needs on a case by case basis. If they did, I think I have given them more than enough evidence about why I need these medical treatments.

34. I decided to participate in this lawsuit both so I can get the medical care I need and because I want to help other transgender people like me who can't get transition-related health care because of Wisconsin Medicaid's discriminatory policies. Those policies prevent me and others like me from feeling whole as a person. It's important to me to step up to help others like me. It gives me inspiration to take steps to improve my own life and to be an advocate for transgender people to help them get through these rough times. I hope that by stepping forward and sharing my story with the Court that I can help improve a lot of people's lives.

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

Executed this 18th day of October, 2018.


COURTNEY SHERWIN