




ANDREW M. CUOMO
Governor

ANN MARIE T. SULLIVAN, M.D.
Commissioner

CHRISTOPHER TAVELLA, Ph.D.
Executive Deputy Commissioner

MEMORANDUM

TO: Plan Administrators

FROM: Thomas E. Smith, Chief Medical Officer, New York State Office of Mental Health 

DATE: March 18, 2020

SUBJECT: Clinical Review Criteria for the Treatment of Gender Dysphoria

Chapter 57 of the Laws of 2019 added a new provision to the utilization review program standards in Insurance Law § 4902 and Public Health Law § 4902. The new provision requires that, when conducting utilization review for purposes of determining health care coverage for a mental health condition, health maintenance organizations and insurers, and their contracted utilization review agents (collectively, “UR Agents”), utilize evidence-based and peer-reviewed clinical review criteria that are appropriate to the age of the patient and which have been deemed appropriate and approved for use in determining health care coverage for the treatment of mental health conditions by the Commissioner of the NYS Office of Mental Health (OMH), in consultation with the Commissioner of Health, and the Superintendent of Financial Services.

Gender dysphoria, as defined in the DSM-5, “refers to the distress that may accompany the incongruence between one’s experienced or expressed gender and one’s assigned gender. Although not all individuals will experience distress as a result of such incongruence, many are distressed if the desired physical interventions by means of hormones and/or surgery are not available.”¹ Gender dysphoria replaces gender identity disorder in the DSM-IV and focuses on the dysphoria as the clinical problem, not the identity. Medical and surgical treatment of gender dysphoria can lead to significant relief of psychological distress and decreased utilization of mental health services.²

The State is requiring that all UR Agents develop evidence-based, peer-reviewed, and age-appropriate clinical review criteria for all gender-affirming treatments for gender dysphoria in adults, adolescents, and children, and submit to the State for review and approval. Clinical review criteria must be submitted for all applicable assessments, treatments, and procedures including, but not limited to, specialized psychological assessments, puberty-suppressing hormonal treatment, feminizing/masculinizing hormone therapy, augmentation mammoplasty, mastectomy, hysterectomy, salpingo-oophorectomy, phalloplasty or metoidioplasty (with or without urethral reconstruction), vaginectomy, scrotoplasty, implantation of erection and/or testicular prostheses, penectomy, orchiectomy, vaginoplasty, clitoroplasty,

¹ American Psychiatric Association, DSM-5 Task Force. (2013). Diagnostic and statistical manual of mental disorders: DSM-5™ (5th ed.). American Psychiatric Publishing, Inc.
<https://doi.org/10.1176/appi.books.9780890425596>

² Bränström R and Pachankis JE. Reduction in Mental Health Treatment Utilization Among Transgender Individuals After Gender-Affirming Surgeries: A Total Population Study. *American Journal of Psychiatry*; published on-line October 4, 2019 at: <https://doi.org/10.1176/appi.ajp.2019.19010080>.

vulvoplasty, liposuction, lipofilling, thyroid cartilage reduction, pectoral implants, gluteal augmentation, hair reconstruction, voice surgery, and facial feminization surgery.³ The State will not approve policies and procedures that include categorical exclusion of any gender-affirming treatments. UR Agents should indicate in their submissions if any of the services listed above are exempt from utilization review.

Mainstream Medicaid Managed Care Plans, HIV Special Needs Plans, and Health and Recovery Plans (MMCPs), which have existing State-approved clinical review criteria for all gender-affirming treatments for gender dysphoria in adults, adolescents, and children, are not required to resubmit and can continue to use their State-approved clinical review criteria. MMCPs must continue to comply with NYS regulations codified at 18 NYCRR 505.2(l) and related State-issued guidance regarding gender-affirming care. MMCPs that have altered or changed their clinical criteria and/or related policies and procedures since receiving State approval must resubmit their criteria for review and approval.

In order to comply with these provisions, insurers and/or any contracted UR Agents must submit all clinical review criteria, and associated policies and procedures used to determine coverage for treatment of gender dysphoria to OMH for review and approval as soon as possible, but no later than Monday, April 13, 2020. If an insurer and/or UR Agent intends to implement new or revised clinical review criteria for any gender-affirming treatments, they must submit such criteria to OMH no later than 60 days prior to the date of implementation. New or revised review criteria may not be implemented without prior approval from the State.

Submissions must be sent to OMH.Parity@omh.ny.gov. The email submission must include the subject line "*Plan Name* Gender Dysphoria Clinical Review Criteria Submission #1." Each email can be no larger than 35 megabytes. Larger submissions may be broken into several emails; however, if a submission requires multiple emails, insurers must change the submission number in the subject line appropriately.

Please direct any questions to OMH.Parity@omh.ny.gov.

CC:

³ Procedure list obtained from World Professional Association for Transgender Health. Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People. Version 7. <https://www.wpath.org/publications/soc>