January 28, 2022

The following comments are submitted to the Massachusetts Health Connector regarding the "Request for Information: Seal of Approval 2023 Policy Development" (in response to Section 1.2.1, Questions 4.a and 4.b) on behalf of the undersigned members of the Massachusetts Trans Health Coalition.

I. Covered Services & Providers

We recommend that the following categories of covered services, and their associated provider types, be considered to advance gender-affirming care coverage and access.

A. Voice therapy/Speech Language Pathologists
Provider Types: Speech language pathologists

An individual's voice can cause gender dysphoria which can be treated with vocal therapy and vocal surgery. Recently, MassHealth removed the exclusion for vocal therapy coverage, and we encourage the Connector to adopt similar coverage guidelines. Further, we recommend clear language stating that vocal therapy must be covered with details about the coverage, as this is imperative to the care of transgender individuals residing in the Commonwealth. Additionally, we encourage the Connector to require coverage of vocal surgery as it becomes more available to ensure desired vocal changes in conjunction with vocal therapy.

It is important to include specific intervention options, including, but not limited to vocal therapy and vocal surgery, as both are proven to have positive impacts on voice desirability, most notably when both measures are pursued in tandem. This section should be continuously updated with data and suggestions around vocal surgery as it becomes more available and precise.

Additionally, Voice and Communication specialists should, at the minimum, be trained in using correct pronouns, and how to truly advocate for a patient when they are being misgendered by another member of their careteam or inner-circle. It is crucial to a patient's overall wellbeing and

mental health to ensure all caregivers working with gender diverse individuals be trained and experienced in proper care for, and communication with, this community.

B. Hair removal

Provider Types: electrologists, laser hair providers (various health professionals)

MassHealth recently expanded coverage of medically necessary hair removal of the face and neck. We recommend that the Connector adapt and broaden this coverage requirement to include removal of other body hair as well. For transfeminine people who undertake feminizing hormone therapy, any changes made to the body during the person's initial puberty (such as body hair on the back and Page 2 chest) will not be reversed or diminished by that hormone therapy, regardless of how long the person has undertaken it. It is common for transfeminine people to experience gender dysphoria as a result of their body hair, as well as their facial and neck hair. Removal of such hair is crucial to lessen the experience of gender dysphoria for these people. Lack of access to the removal of body hair is also likely to result in increased experiences of harassment and discrimination, as it may be a key factor in revealing a person's transgender status.

We further recommend provider credentialing requirements that are more streamlined and achievable than the current MassHealth structure. Given that electrologists cannot be credentialed as MassHealth providers, there remains significant confusion among electrolysis professionals about what they need to do to get paid – and how much they will be paid – to deliver this MassHealth covered service. During the Coalition's meeting with MassHealth in August 2021, MassHealth mentioned there would be a new policy permitting electrologists to join medical teams on a per diem basis. This is a great idea, but we have not seen any additional information about this policy.

If this recommendation is adapted, we strongly urge the Connector to issue a Provider Bulletin or other guidance to help electrologists and credentialed providers that serve trans and gender diverse populations ensure access to these covered services. Presently, many patients are either paying out-of-pocket for electrolysis or they are simply unable to access care. It is imperative that this persistent gap be addressed when implementing coverage, particularly because electrolysis has been a covered service under MassHealth since at least 2016 and yet many members report difficulty accessing these services. It is also a racial justice issue because electrolysis is often the only safe and effective method of hair removal for many people with darker complexions.

C. Body contouring

Provider Types: Surgical providers (MD/DO)

Scientific literature supports insurance coverage of body contouring as a medically necessary surgery to address gender dysphoria for transgender and gender-diverse people. Some

insurers, specifically Medicaid programs in California, New York, and Massachusetts, already cover body contouring procedures as medically necessary treatment of gender dysphoria. Health Plans sold through the Health Connector should cover gender-affirming body contouring surgery, as well.

A scientific journal article from 2017 offers a comprehensive overview of female-to-male gender-confirming surgeries and states: "female-to-male gender-confirming surgery consists of facial masculinization, chest masculinization, body contouring, and genital surgery" (emphasis added). [Morrison, S.D. et al. "An overview of female-to-male gender confirming surgery," Nature Reviews Urology, Vol. 14: 486-500, at 487 (2017)]. This article also affirms the importance of a case-by-case approach to medical necessity: "Patients might choose to undergo all or none of the procedures in their quest to align their inherent gender with their anatomy…an individualized approach is essential." Id. at 498.

A journal article from 2019 lists "body contouring" among non-genital surgeries for transmasculine individuals. [Van Boerum, M. S., et al, "Chest and facial surgery for the transgender patient." Translational andrology and urology, Vol. 8(3): 219-227 (2019), see abstract]. It discusses liposuction as a procedure "that can be used to improve body contour in transmasculine, transfeminine, and non-binary individuals," and specifies that "(l)iposuction is most commonly performed in the trunk for improved contour, though it can also be performed for excess adipose tissue of the arms and legs." Id. at 225.

Another article from 2019 provides a general overview of "radiologic correlates and select complications associated with three major surgical categories of gender affirmation surgery: genital reconstruction, body contouring, and maxillofacial contouring" (emphasis added). [Doo, F. et al. "Gender Affirming Surgery: A Primer on Imaging Correlates for the Radiologist," American journal of Roentgenology, Vol. 213: 1194-1203, at 1194 (2019)]. In the section of the article dedicated to body contouring, the authors describe phenotypical differences between cisgender male and cisgender female people and how this surgery can correct these differences as treatment for gender dysphoria:

> "Fat augmentation of the pelvis of the cis-male or cis-female patient involves the waistline, hip, buttocks, thigh curvature, and lower back curvature transition zone. This procedure is done to aesthetically achieve the ideal waist-to-hip ratio, which is 0.7 for cis females and 0.85–0.95 for cis males. The bony pelvis of a cis male has acute suprapubic angles, narrow pelvic brims, accented iliac crests, and less soft-tissue coverage. The pelvis of a cis female has more obtuse suprapubic angles, wide pelvic brims, flattened iliac crests, and generally more soft-tissue coverage. Attention to detail in soft-tissue placement, given the limitations of this natal anatomy, is crucial to achieve desired aesthetic results. Id. at 1196.

A 2018 article that focuses on transfeminine body contouring surgery explains that surgery to address gender dysphoria is warranted where hormone therapy does not adequately address a patient's body shape: "Hormonal replacement therapy is partially effective in altering the soft tissue profile in transmen and transwomen. Surgical intervention is often indicated if hormonal replacement therapy does not achieve the appropriate changes in soft tissue characteristics." [Morrison, et al. "Breast and Body Contouring for Transgender and Gender Nonconforming Individuals," Clinics in Plastic Surgery, Vol. 45(3): 333-342, at 333 (2018)].

Some state Medicaid programs already cover body contouring surgery as a medically necessary procedure to treat gender dysphoria. Medi-Cal has covered body contouring direct approvals of prior authorization, as well as through members' appeals of initial coverage denials. Some of the coverage decisions can be found online through Medi-Cal's Independent Medical Review Search page. See https://wpso.dmhc.ca.gov/imr/. A 2020 Medi-Cal hearing decision approved coverage for liposuction of the trunk (abdomen and flanks) for a transmasculine patient in his 20s. [California Department of Managed Health Care, Independent Medical Review Search, Medical Necessity Overturned Decision of Health Plan, case no. MN20-33422 MN19-31566]. The decision cited WPATH, stating: "non-genital surgical procedures are routinely performed…these surgical interventions are often of greater practical significance in the patient's daily life than reconstruction of the genitals." Id. A 2019 Medi-Cal hearing decision approved coverage for liposuction of the trunk (abdomen, flanks, and outer thighs) for a transmasculine patient between the ages of 51 and 64. [California Department of Managed Health Care, Independent Medical Review Search, Medical Necessity Overturned Decision of Health Plan, case no. MN19-31566]. The reviewer described the patient as having a "feminine fat distribution" that "causes psychological distress" despite undergoing extensive hormone therapy and found:

> "The patient is noted to continue to have gender dysphoria despite high dose testosterone therapy. Given this continued distress, it is reasonable to consider liposuction as adjunct management of the gynecoid fat distribution. Therefore, liposuction of the trunk (abdomen and flanks, outer thighs) is medically necessary for the treatment of this patient." Id.

We also understand from conversations with Legal Aid attorneys in New York that Medicaid in that state also covers body contouring procedures. The Medicaid program in Massachusetts, MassHealth, has already approved at least one member for body contouring surgery. This client was represented in an Office of Medicaid Board of Hearings appeal by Health Law Advocates, and MassHealth approved the services prior to issuance of an appeal decision.

D. Facial reconstruction surgery

Provider Types: Surgical providers (MD/DO) and multidisciplinary staff (LICSW)

MassHealth recently added several forms of coverage for facial procedures, and we urge the Connector to adopt these changes as well. However, we urge the Connector to advocate a more holistic approach, as several procedures that are important to some transgender people are not covered under these updates.

For example, rhytidectomy was moved to the MassHealth Guidelines' noncoverage list, though several other related forms of facial surgery are covered. Nonetheless, rhytidectomy is necessary for some patients who undergo significant facial reconstructive surgery as a part of gender-affirming care. It can be especially important for the many transgender individuals who have only been able to seek gender-affirming care as older adults, after their skin has slackened. Some facial procedures, like jaw contouring, may be imperceptible on these individuals without the skin and fat adjustments that rhytidectomy provides. Rhytidectomy may therefore be needed in some cases to ensure that patients can benefit from the other gender-affirming facial procedures that are currently covered.

Similarly, we urge the Connector to consider coverage for "lip reduction or enhancement," especially because lip lifts, which are commonly covered, may be considered a form of lip enhancement. Additionally, the blanket noncoverage of certain lip procedures may not account for variability in lip structure among people of different racial groups and, undoubtedly, will have a disparate impact based on an individual's racial background. For example, in many Black communities, full lips are a feminine trait and lip enhancement may be necessary in context of other procedures to feminize the face of a Black transgender person.

As these examples illustrate, a holistic and person-centered approach is vital in order to determine when procedures are necessary and aligned with other forms of covered care. In order to create a coherent system to alleviate dysphoria, rather than cherry-picking specific types of procedures and excluding others, we recommend that the insurance companies authorized to sell health plans through the Health Connector avoid categorical exclusions and instead use a medical necessity determination.

E. Durable Medical Equipment
   Provider Types: Occupational therapist, physical therapist

Durable medical equipment, such as binders and prosthetics, are commonly used as part of gender affirming medical care and may be particularly instrumental in early stages of transition. Particularly in the case of binders, lack of access to such forms of equipment can result in individuals sustaining permanent and preventable damage to tissue and lungs. In the case of adolescent patients, who are still physically developing in a number of ways, this can be particularly detrimental, and can significantly drive up health costs.

We recommend that the insurance companies authorized to sell health plans through the Health Connector cover durable medical equipment that promotes gender affirming care, such as binders and prosthetics, as a cost-saving measure.

II. Actions

We recommend that the following actions be considered to advance gender-affirming care coverage and access, as they address many of the barriers that transgender and gender diverse people in Massachusetts face in our health care system.

A. Advisory Councils

We recommend that insurance companies authorized to sell health plans through the Health Connector establish Gender-Affirming Care Advisory Councils. These Councils would be composed of network providers who provide gender-affirming care, as well as patients and their representatives. The goal of this body would be to convene regularly – ideally, quarterly or more frequently - to assure the insurer's gender-affirming coverage policy is aligned with the most current literature and clinical practice. Blue Cross Blue Shield of MA has had such an advisory body in place since early 2019. The group has had a major impact on improving the plan's coverage for gender-affirming care and has helped to streamline prior authorization processes. We would like to see all health plans adopt the best practice of creating Advisory Councils focused on gender-affirming care.

B. Remove Gender Dysphoria Letters Requirement and Require Prior Authorization Transparency

Requiring referral letters from mental health professionals as a prerequisite to gender-affirming surgery creates significant barriers and delays care, disrupting the relationship between patient and therapist, and adding at best only minimal clinical benefit. MassHealth currently requires up to two referral letters from qualified mental health providers prior to gender-affirming surgery. Although this requirement reflects the current WPATH Standards of Care, WPATH is due to publish updated Standards of Care in 2022, and the anticipated new WPATH guidance "is expected to address concerns about referral letters requirements." Randy Dotinga, *Stop Burdening Transgender Patients With Paperwork, Surgeons Say*, MedPage Today (October 25, 2021), https://www.medpagetoday.com/meetingcoverage/smsna/95244. Rather than requiring letters from mental health providers prior to surgery, insurance companies should instead adopt requirements that embrace an informed consent model and focus on the patient's actual readiness for surgery. Timothy Cavanaugh et al., *Informed Consent in the Medical Care of Transgender and Gender-Nonconforming Patients*, 18 AMA J. Ethics 1147 (2016), https://journalofethics.ama-assn.org/sites/journalofethics.ama-assn.org/files/2018-07/sect1-1611.pdf; H.M. Brown et al., *Blessing or BS? The therapy experiences of transgender and gender nonconforming clients*

obtaining referral letters for gender affirming medical treatment, 51 Professional Psychology: Research and Practice 571 (2020), https://psycnet.apa.org/record/2019-61768-001.

Requiring patients to prove their gender to mental health providers in order to obtain medically necessary, life-saving surgery "invalidates and pathologizes" transgender and gender diverse patients, and contributes to distrust of mental health professionals within transgender communities. Brown et al. at 572. To obtain required referral letters, many patients feel pressure to create "stereotypical narrative[s] . . . in which their authentic gender is described in binary terms, as either male or female, even if this narrative would not truly represent their authentic gender identity development, dysphoria, or understanding of their gender affirmation needs." Cavanaugh et al. at 1150. Additionally, many therapists lack cultural competency to work with transgender and gender diverse patients, and are thus unprepared to act as "gatekeepers" in this scenario, potentially relying on "cisnormative beauty standards and other discriminatory beliefs" to make referral decisions. Brown et al. at 572.

Rather than relying on referral letters from mental health providers, surgeons themselves should determine whether a particular procedure is appropriate for a patient, and the process should be streamlined so as not to cause unnecessary delay. *See* Nance Yuan et al, *Requirement of mental health referral letters for staged and revision genital gender-affirming surgeries: An unsanctioned barrier to care*, 9 Andrology 1765 (May 2021), https://onlinelibrary.wiley.com/doi/10.1111/andr.13028. ("Universal referral letter requirements provide minimal clinical value, delay care, increase costs, and exacerbate gender dysphoria by invalidating gender transition. As with all procedures, surgeons themselves should be responsible for assessing patients' surgical readiness."); *see also* Lichtenstein M. et al., *The Mount Sinai patient-centered preoperative criteria meant to optimize outcomes are less of a barrier to care than WPATH SOC 7 criteria before transgender-specific surgery*, 5 Transgender Health 166 (2020), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7906222 ("Surgical readiness criteria need to be based on good surgical outcomes. Thus, our team believes future criteria should remove gender identity verification and focus on outcome-oriented surgical readiness."). As an alternative to referral letters written by mental health providers in advance, patients could be evaluated by "a social worker or therapist from within the surgical team." Yuan et al. at 1770.

To lower the hurdles people face when accessing gender-affirming care, qualified health plans sold on the Connector should use simplified prior authorization requirements that eliminate the burdensome requirement for referral letters from non-surgical providers. Additionally, all plans should have prior authorization requirements for gender-affirming care public and easily accessible. Potential enrollees deserve to know what challenges they may face in a particular plan when accessing gender affirming care. This transparency will also assist patient navigators who too often have difficulty determining the most current policies and any associated timing or expiration concerns. Prior authorization policies should be clearly linked in a standardized manner across all plans, and should be regularly updated such that enrollees, members, and patient

navigators can easily see changes that have occurred in gender-affirming health care policies and corresponding justifications. We encourage the Connector to conduct an audit of how prior authorization requirements are currently listed among qualified health plans and to work with stakeholders (including transgender and gender diverse individuals) to identify a standard way to publicize these policies.

C. Address Claims Coding Issues

Claims coding issues can arise for transgender and gender diverse people, such as denials relating to claims associated with the "wrong" gender marker. This puts the onus on members to navigate insurance billing and appeals processes in order to get proper coverage of their care. To better address health equity for transgender and gender diverse individuals, qualified health plans should be expected to take affirmative steps to prevent and address claims coding issues that may cause unnecessary denial of services that are covered under the plan. Specifically, the Connector should require issuers to attest during the Seal of Approval process that they have implemented procedures to manually review all rejections of coverage that are due to sex marker issues, prior to a member receiving notice of the coverage denial. Issuers should also provide training on sex-marker coding issues for employees who evaluate claims data to ensure transgender and gender nonconforming members do not bear the brunt of fixing inappropriate coverage denials.

D. Cultural Competency and Transgender Navigators

To sell a plan on the Connector, issuers should publicize what efforts have been taken to ensure potential enrollees and members are treated in a respectful, nondiscriminatory manner and to address the health disparities faced within the community. These efforts should be informed by community-led recommendations and member experiences, including service complaints and reported difficulties in accessing culturally competent care or services. Additionally, issuers should publicize what efforts they have taken to ensure providers in their networks meet a similar standard, including what actions will be taken if a provider is reported to be transphobic or discriminatory on the basis of gender identity.

Issuers authorized to sell health plans through the Connector should clearly designate a "transgender health navigator" team to serve both as an internal resource and as a point of contact for members seeking gender-affirming care. A transgender health navigator or similar position would be a safe and knowledgeable point of contact for potential enrollees, members, and patient navigators and would provide technical assistance and establish internal protocols to deal with any common issues a member faces with an issuer when accessing gender-affirming care. While members should expect *all* of an issuer's employees to be respectful and knowledgeable about this care information, a transgender health navigator could streamline access to care by ensuring plan employees make, and plan members face, fewer errors about what care is covered and create accountability for issuers when errors are made.

E. Capacity Assessment

To ensure that an Issuer is appropriately covering care necessary for their transgender and gender diverse members, Issuers should conduct regular needs assessments for plans they sell on the Connector. These assessments would review what services are covered or excluded, whether networks include an adequate number of providers in a service area, whether prior authorization requirements are medically-appropriate and not unnecessarily burdensome, and whether Issuer employees are treating members in a culturally competent manner. The assessment should involve stakeholders from the community, including transgender and gender diverse individuals and patient navigators who have professional experience with Issuers across the Commonwealth.

F. Improve Access to Out-of-State Services and Telehealth

While Massachusetts serves as a home to many providers who specialize in gender-affirming care, Issuers need to ensure that their networks can provide timely access to care and that networks include providers that offer a robust range of services. Where a service may not be available in a timely manner within the commonwealth, the Connector should require Issuers to provide coverage for members to seek such services outside of Massachusetts. Similarly, where services may not be readily available in certain areas of Massachusetts and care can be conducted via telehealth, Issuers should allow members to receive care in-person or via telehealth. The option of telehealth care can greatly expand access to care for members who are remote or who do not have a safe, reliable method of meeting a provider in person.

Submitted by the undersigned members of the Massachusetts Trans Health Coalition:

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