**Section 2603.35 Prohibited Gender Identity Discrimination**

a) A company that offers or provides group or individual health insurance coverage that is neither a grandfathered plan nor a plan offering excepted benefits shall not discriminate on the basis of an insured's or prospective insured's actual or perceived gender identity, or on the basis that the insured or prospective insured is a transgender person. The discrimination prohibited by this Section includes any of the following:

1) discriminatory exclusionary clauses;

2) provisions that exclude from, limit, charge a higher rate for, or deny a claim for coverage of hospital and medical benefits for gender dysphoria if benefits covered by the policy are provided for other medical conditions;

3) cancelling, limiting or refusing to issue or renew an insurance policy on the basis of an insured's or prospective insured's actual or perceived gender identity, or for the reason that the insured or prospective insured is a transgender person, or because the insured or prospective insured has undergone, or is in the process of undergoing, gender transition;

4) designating an insured's or prospective insured's actual or perceived gender identity, or the fact that an insured or prospective insured is a transgender person, as a preexisting condition for which coverage will be denied or limited;

5) provisions that exclude from, limit, charge a higher rate for, or deny a claim for coverage for the surgical treatments for gender dysphoria;

6) denying or limiting coverage, or denying a claim, for services due to an insured's actual or perceived gender identity, or for the reason that the insured is a transgender person or has undergone, or is in the process of undergoing, gender transition, including, but not limited to, denials or limitations relating to health care services that are ordinarily available to individuals of one sex based on the fact that an individual's sex assigned at birth, actual or perceived gender identity, or gender otherwise recorded is different from the one to which such services are ordinarily available; or

7) denying or limiting coverage, or denying a claim, for a covered service relating to gender transition based on a categorical age limitation.

b) Temporary Exemption for Transitional Small Group Plans. A group plan having fewer than 51 members that was sold before January 1, 2014 and renewed between January 1, 2015 and October 1, 2015 will not be required to comply with the requirements of this Section until after the expiration of the 2015 plan year.

c) Nothing in this Section is intended to determine, or restrict a company from determining, whether a particular health care service is medically necessary.

(Source: Amended at 44 Ill. Reg. 13352, effective July 31, 2020)