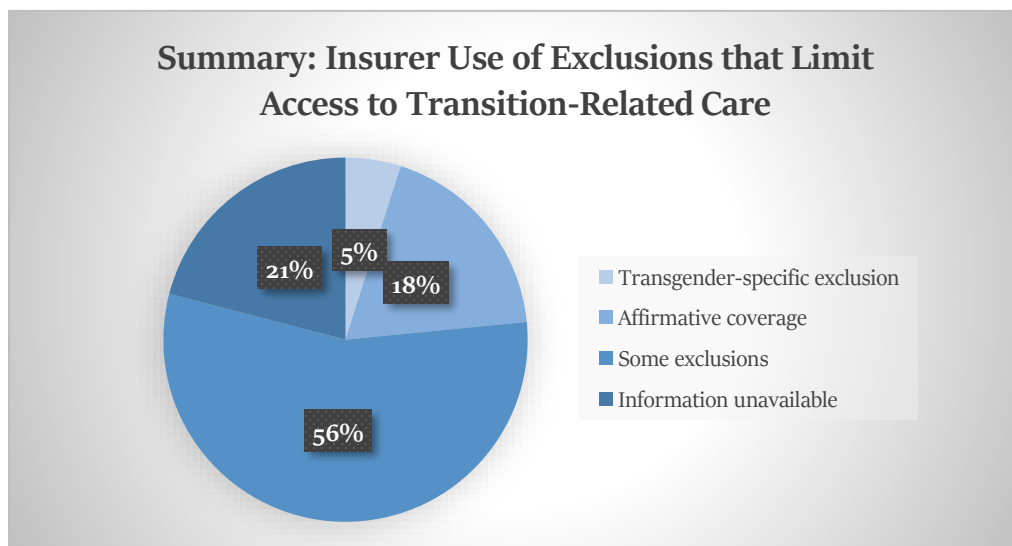


To assess the degree to which insurers adjusted their plan offerings to comply with Section 1557 for the 2017 plan year, Out2Enroll collected and analyzed 866 silver marketplace plan options from 81 insurers in 16 states. The following report includes a summary of findings, methodology, a discussion of the findings, a conclusion, and two appendices. Appendix I is a state-level summary of each insurer’s approach to exclusions.

Summary of Findings

- **Most insurers removed transgender-specific exclusions.** The vast majority of insurers (95.1% studied) removed transgender-specific exclusions from their 2017 silver marketplace plan options. Only plans from four insurers—Cigna in Missouri, Humana in Missouri, Blue Cross and Blue Shield of Kansas City in Missouri, and Cigna in Virginia—continued to use discriminatory transgender-specific exclusions.
- **Some insurers affirmatively stated that medically necessary transition-related care was covered.** Nearly one-fifth of insurers (18.5% studied) incorporated plan language that indicated that all or some medically necessary transition-related care would be covered by the plan.
- **Many insurers had exclusions that were not transgender-specific but would limit access to medically necessary transition-related care.** About half of insurers (55.5% studied) did not include transgender-specific exclusions but explicitly excluded a transition-related procedure or incorporated broad cosmetic exclusions (or narrowly construed reconstructive benefits) that would deny access to medically necessary transition-related care.
- **Consumers continue to find it challenging to obtain and review certificates of coverage.** Out2Enroll could not access plan documents from 17 insurers (20.9% studied) to review their treatment of transition-related care. This lack of access will continue to present challenges to transgender consumers when assessing coverage options.



Methodology

From October 2016 to December 2016, Out2Enroll reviewed 2017 silver plans sold through HealthCare.gov in 16 diverse states. Plans were identified using the 2017 Plan Attributes PUF files, which include plan- and insurer-level information for certified qualified health plans from states participating in the federally facilitated marketplace. Out2Enroll limited its review to silver plans because these plans continue to be the most popular, garnering nearly 70 percent of enrollment nationwide in 2016. Out2Enroll also excluded dental-only plans, SHOP plans, cost-sharing reduction variation plans, off-marketplace plans, and child-only plans from its review. Once identified, Out2Enroll located each plan's Summary of Benefits and Coverage and Certificate of Coverage to assess whether the plan included 1) an exclusion with a transgender-specific reference; 2) an exclusion with a procedure commonly used in transition-related care; or 3) an exclusion for cosmetic or reconstructive services that would affect access to transition-related care. In total, Out2Enroll collected and analyzed 866 silver marketplace plan options from 81 insurers in 16 states.

Findings

Most insurers have removed discriminatory transgender-specific exclusions in compliance with the Office for Civil Rights' final rule on Section 1557; however, marketplace plans continue to include exclusions that limit access to medically necessary transition-related care. Of the plans reviewed from 81 insurers, only four insurers—Cigna in Missouri, Humana in Missouri, Blue Cross and Blue Shield of Kansas City in Missouri, and Cigna in Virginia—continued to use discriminatory transgender-specific exclusions. The language of these exclusions varies but all four appear to be categorical exclusions of all transition-related care, including, for instance, hormone therapy, mental health services, and surgical procedures. Cigna's plans in Missouri did not include transgender exclusions in their Certificate of Coverage but did, however, exclude transition-related care in their plan brochure, a practice that was not widely observed by other insurers and may serve to discourage transgender consumers from enrolling in Cigna plans.

Three of the four insurers with transgender exclusions offer these plans in Missouri where CCIIO has direct enforcement authority over the review and certification of qualified health plans sold through the marketplace. These exclusions suggest that additional review of plans by CCIIO in, at a minimum, direct enforcement states is necessary to ensure that plans do not discriminate against transgender people.

These exclusions must be addressed. However, the vast majority of insurers (95.1% studied) removed transgender-specific exclusions from their 2017 silver marketplace plan options. This analysis, although limited to 16 states, suggests that insurers largely came into compliance with 45 C.F.R. § 92.207(b)(4), which prohibits insurers subject to Section 1557 from “[h]av[ing] or implement[ing] a categorical coverage exclusion or limitation for all health services related to gender transition.”

Affirmative coverage language. Nearly one-fifth of insurers (18.5% studied) incorporated language indicating that all or some medically necessary transition-related care would be covered by the plan. The language of this affirmative coverage varied significantly. For instance, plans offered by UnitedHealthcare in Virginia included a comprehensive, multi-page section on the coverage of services to treat gender dysphoria. Other plans—such as those offered by Florida Blue—noted simply that “[g]ender reassignment surgery and [s]ervices related to gender dysphoria or gender transition are covered,” while plans offered by Humana in Michigan explicitly authorized the coverage of “[t]ransgender services for the treatment of gender dysphoria, formerly known as gender identity disorder (GID), including hormone therapy and gender reassignment surgery. Covered expenses will be equal to those allowed for any other covered expense.”

All 15 insurers that had affirmative coverage language had other exclusions that would limit access to medically necessary transition-related care. In addition to the exclusions that were common among all plans (discussed in more detail below), some of these plans explicitly excluded certain procedures to treat gender dysphoria. For instance, in the section on coverage for the treatment of gender dysphoria, plans offered by UnitedHealthcare in Virginia explicitly excluded services such as augmentation mammoplasty and breast implants; facial bone remodeling for facial feminizations; thyroid cartilage reduction, reduction thyroid chondroplasty, and trachea shave; voice modification surgery; and voice lessons and voice therapy. Plans offered by Blue Cross Blue Shield of Michigan noted that the plan does not pay for “[g]ender reassignment surgery, reversal of prior gender reassignment surgery or any other surgical procedures related to Gender Identify Disorder, including, but not limited to surgical procedures involving the face, vocal cords, breasts, abdomen, or hips.”

Conclusion

Insurers that offer marketplace plans made significant progress in coming into compliance with some of the requirements of Section 1557, but significant gaps remain in the nondiscriminatory coverage of medically necessary transition-related care. We urge state regulators to 1) ensure that marketplace plans remove remaining transgender-specific exclusions pursuant to 45 C.F.R. § 92.207(b)(4); 2) issue guidance to insurers on the types of procedural and cosmetic exclusions that could be considered discriminatory against transgender people under 45 C.F.R. § 92.207; and 3) ensure that plans include a direct link to detailed plan documents pursuant to 45 C.F.R. § 147.200(a)(2)(i)(J). We also urge state regulators to encourage insurers to affirmatively state in their plan documents that medically necessary transition-related care is covered for transgender people. Such a statement should not be a safe harbor but would better guarantee that transgender people have a minimal level of access to medically necessary transition-related care.

APPENDIX I: STATE-LEVEL SUMMARY OF INSURER APPROACHES TO TRANS EXCLUSIONS

State	Affirmative Coverage	Some Exclusions	Trans-specific Exclusions	Information Unavailable
AZ		EverydayHealth		Ambetter Balanced Care
FL	Florida Hospital Care Advantage	Humana		
	Florida Health Care Plans	Molina		
	Florida Blue	Ambetter Balanced Care		
GA		Kaiser Permanente		Alliant
		Humana		
		BlueCross BlueShield Healthcare Plan of Georgia		
		Ambetter Balanced Care		
IL	Cigna	BlueCross BlueShield of Illinois		Ambetter Balanced Care
		Health Alliance Medical Plans		
		Humana		
LA		Humana		Blue Cross and Blue Shield of Louisiana
		Vantage Health Plan		
MI	Blue Cross Blue Shield of Michigan	Molina		PriorityHealth
	Physicians Health Plan			HAP
	Humana			MeridianChoice
				Total Health Care USA
MO		Anthem Blue Cross Blue Shield	Cigna	
			Humana	
			Blue Cross and Blue Shield of Kansas City	
NC	Cigna	Blue Cross and Blue Shield of North Carolina		
NV	Prominence HealthFirst	Anthem BlueCross BlueShield		Health Plan of Nevada
OH	Paramount Insurance	Molina		Premier Health Plan
	SummaCare	Humana		Aultcare
		Anthem Blue Cross and Blue Shield		Medical Mutual
		Ambetter Balanced Care		
		CareSource		
OK		BlueCross BlueShield of Oklahoma		
OR	BridgeSpan Health Company	ATRIO Health Plans		PacificSource
		Providence Health Plan		
		Kaiser Permanente		
		Moda Health Plan		
PA		UPMC Health Plan		Geisinger Health Plan
		Highmark Blue Cross Blue Shield		Independence Blue Cross
		Capital Blue		
TN	BlueCross BlueShield of Tennessee	Humana		
		Cigna		
TX		Oscar		CHRISTUS Health Plan
		Humana		Sendero Health Plans
		Molina		
		FirstCare Health Plans		
		Community Health Choice		
		Ambetter Balanced Care		
		BlueCross BlueShield of Texas		
		Prominence Health Plan		
VA	UnitedHealthcare	Anthem HealthKeepers	Cigna	
	Aetna	CareFirst BlueChoice		
		Piedmont Community HealthCare		
		Optima Health		
		Kaiser Permanente		