

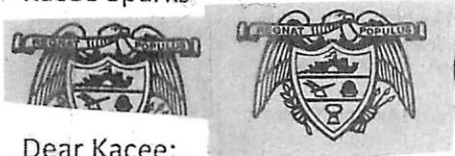


UNIVERSITY OF ARKANSAS SYSTEM

Office of the President

November 21, 2018

Kacee Sparks



Dear Kacee:

Thank you for your letter. Your willingness to share your personal experiences in support of your request and beliefs is commendable. And in today's environment I appreciate more than ever the opportunity to engage in a mutually respectful exchange on issues of concern. With that goal I would like to share the involvement and position of the University's health plan in transgender services coverage.

With ongoing compliance review we believe the University's health plan operates within all applicable federal and state regulations and meets all ACA qualified plan compliance requirements. Late in calendar year 2016 the final rules for Section 1557 of the ACA were issued by HHS. In compliance with those rules the University issued the required Notice of Non-Discrimination by October 17, 2016 and made all coverage adjustments necessary to include transgender services within the covered medical benefits for the beginning of the new plan year, January 1, 2017. On December 31, 2016, the US District Court for the Northern District of Texas issued a nationwide preliminary injunction prohibiting HHS from enforcing regulations addressing gender identity and the coverage of treatment for gender dysphoria. With that ruling (and with the ongoing challenges and modifications to the ACA) and considering the long-term plans-of-treatment involved in gender dysphoria, the University, on January 10, 2017, announced the decision to suspend gender dysphoria coverage pending the final legal outcome of the injunction or further clarification of the ACA coverage guidelines. While officially a covered plan service for only ten days, in accordance with the requirements of the ACA, the plan did continue to cover services through March 6, 2017. To say that participants and plan administrators alike have felt whipsawed by this and other changing interpretations of ACA is an understatement. These changes and issues are particularly challenging for public plans which serve hugely diverse member populations.

The University's health plan is self-funded with monthly premiums paid in by participants and campuses then paid out for health claims expenses. The plan covers about 37,000 employees and their family members at 20 separate campuses and units across Arkansas. Regardless of my personal opinion on plan design and coverage features, as the administrator of a self-

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funded group plan I must direct my staff to manage the plan in a financially responsible manner serving the majority needs of our population. Coverage first ensures the plan is compliant with all applicable federal and state law. Additional coverage is evaluated on the basis of the cost and benefit for the largest portion of our population. As examples, the plan currently covers weight loss programs and services and provides for diabetics to receive some of their diabetic supplies at no or reduced costs. In extending those benefits, not required by federal or state regulation, the University is seeking to address health issues that are unfortunately too common across our entire population and significantly impact health care expenses for all campuses.

In no way am I attempting to minimize or lessen the importance and impact on you of the coverage you are requesting, but there are others who feel equally strongly that the plan should provide for additional services specific to their conditions such as less restrictive guidelines for weight loss surgery, expanded inpatient options for wellness and mental health services, pharmacy coverage without formulary restrictions, etc.. And I believe all would feel as passionately that such coverage is essential to their mental and physical wellbeing. But the reality of health care costs requires plans to make coverage decisions and the reality of group plans is that every request cannot be accommodated.

In recent years the plan experienced similar discussions and disruptions in coverage for same-sex spouses. When Arkansas law did not recognize same-sex marriage the University's plan did not enroll same-sex spouses. When a judge in Arkansas ruled that Arkansas's prohibition of same-sex marriage was unconstitutional, the plan almost immediately implemented same-sex coverage only to suspend that coverage when a few days later the Arkansas Supreme Court stayed that judge's ruling. Ultimately when the US Supreme Court ruled on same-sex marriage the plan re-implemented coverage for same-sex married couples. With time you may see the same outcome with your goals in transgender coverage and I commit to you that we will continue to monitor all health plan compliance guidelines and continue to work to balance the needs of plan members with the realities of cost and our obligations as a public university.

Sincerely,

Donald R. Bobbitt, President  
Charles E. Scharlau Presidential Leadership Chair