

TLDEF and Lambda Legal Sue North Carolina for Denying Trans-inclusive Health Care Coverage

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(DURHAM, NC - March 11, 2019) - Transgender Legal Defense & Education Fund (TLDEF) and Lambda Legal filed a federal lawsuit against North Carolina officials today for discrimination in state employee health care. The North Carolina State Health Plan (NCSHP), the state employee health plan, categorically excludes coverage for gender-confirming health care. TLDEF and Lambda Legal are representing several current and former state employees and their children who were denied coverage under the plan for medically necessary health care because they are transgender.

"In 2018 I was finally in a position to move forward with surgical care, an important part of my transition," said Julia McKeown, an assistant professor in the College of Education at North Carolina State University. "I did not expect I would have to raid my retirement and savings accounts for treatment prescribed by my doctors, when other state employees would be covered for the same procedures. It is demeaning and fundamentally unfair."

"Revoking health insurance coverage for transgender employees puts the state of North Carolina on the wrong side of history," said **TLDEF Senior Staff Attorney Noah E. Lewis**. "North Carolina otherwise provides excellent health care benefits, so it's a real betrayal to have the state unfairly turn its back on its own employees and their families who face pressing health care needs."

"The only reason our plaintiffs are being denied coverage for medically necessary health care is because they are transgender or they have children who are transgender," said Lambda Legal Staff Attorney Taylor Brown. "In 2017, NCSHP covered medically necessary gender-confirming health care, but then State Treasurer Dale Folwell took office and revoked the coverage. This is clearly unlawful discrimination that jeopardizes the health of hardworking state employees and their families. It stigmatizes them and brands them as second-class. I am a transgender woman, born and raised in North Carolina and an alumna of UNC-Chapel Hill. This kind of targeted discrimination is shameful to me personally and it does not represent the true values of this state or North Carolinians."

"Every dad wants to be able to ensure his child can get the medical care they need. It's infuriating to think that I work just as hard as any of my coworkers, but the coverage I receive for my family is not the same as theirs because my son is transgender," said Michael D. Bunting, Jr., employed by the University of North Carolina at Chapel Hill and father of his 13-year-old transgender son, C.B.

Notwithstanding the extraordinary fallout North Carolina suffered after enacting anti-transgender bills HB 2 and HB 142, anti-LGBT extremists in the state continue to take aim at transgender people. In 2017, state officials removed the exclusion from the state employee health plan, giving state employees a year of inclusive coverage. However, in 2018 newly elected State Treasurer Dale Folwell delivered on his campaign promise to eradicate transition-related coverage, and a blanket exclusion was reinstated for NCSHP plan years 2018 and 2019. The exclusion is sweeping, denying the state's transgender employees and employees with transgender children dependents coverage for any medically necessary transition-related care, from surgery to hormone therapy.

In 2016, an independent consulting company advised state officials that the ban should be lifted in order for the plan to comply with the Affordable Care Act's nondiscrimination mandate. The consultant also estimated that eliminating the exclusion would likely cost the state plan between \$350,000 to \$850,000, or roughly 0.011% to 0.027% of the total premiums that the plan pays annually for medical and pharmacy coverage.

The seven plaintiffs represented in this lawsuit are: Max Kadel, a 36-year-old transgender man employed by the University of North Carolina at Chapel Hill; Julia McKeown, a 43-year-old transgender woman who teaches at North Carolina State University; Jason Fleck, an employee of the University of North Carolina at Greensboro, and his 16-year-old transgender son, Connor; Michael D. Bunting, Jr., employed by the University of North Carolina at Chapel Hill as the Associate Athletic Director for Facility Planning and Management, and his 13-year-old transgender son, C.B.; and Sam Silvaine, a 30-year-old former North Carolina State University employee with a male affirmed sex.

In the lawsuit, TLDEF and Lambda Legal and argue that North Carolina officials are violating the Equal Protection Clause of the U.S. Constitution, Title IX of the Education Amendments of 1972, and the nondiscrimination provision of the Affordable Care Act, by unlawfully discriminating based on sex and transgender status.

All mainstream medical associations, including the American Medical Association and the American Psychological Association, recognize that transition-related care can be medically necessary and life-saving. The AMA and other medical organizations have called for an end to discriminatory exclusions of transition-related medical care from public and private health insurance policies.

• Read the full [complaint](#).

- Read more about the case [Kadel v. Folwell](#).
- Read more [about the plaintiffs](#).

Noah Lewis is the attorney handling this case for TLDEF with Taylor Brown, Tara Borelli, Omar Gonzalez-Pagan from **Lambda Legal** and Amy E. Richardson, Lauren Snyder, and Deepika Ravi of **Harris Wiltshire & Grannis LLP**.

Media Contact

Jonathan Adams, Director of Communications

Phone: [646-845-4205](tel:646-845-4205)

Email: communications@transgenderlegal.org

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