

Victory! North Carolina's Transgender Employees and Family Members to Have Their Day in Court

Federal Judge Rules TLDEF and Lambda Legal's Lawsuit Against North Carolina Officials for Denying Health Care Coverage to Transgender Employees and Children Can Proceed



(NEW YORK, NY - March 11, 2020) A U.S. District Court judge today denied North Carolina state officials' request to dismiss a lawsuit filed last March challenging North Carolina's blanket exclusion of medically necessary transition-related health care from the state's employee health plan. In the lawsuit, Transgender Legal Defense and Education Fund (TLDEF) and Lambda Legal represent several current and former state employees and their children who were denied coverage under the plan.

"We commend the court for denying North Carolina's attempt to dismiss this important lawsuit on behalf of transgender state employees and their families," said **TLDEF Executive Director Andy Marra**. "North Carolina has failed its transgender employees and their families who, like all people, have pressing health needs at certain times in their lives. Especially now, it is vital to listen to doctors and not spread misinformation or rely on junk science. All mainstream medical associations, including the American Medical Association, recognize that transition-related care is safe, effective, and medically necessary."

"Today we are one step closer to justice and ensuring that North Carolina stops depriving transgender employees and family members access to essential health care services," said **Tara Borelli, counsel at Lambda Legal**. "We are pleased that the court recognized that this exclusion is sex discrimination, plain and simple, which ensures that the plaintiffs will get to have their day in court."

From the ruling:

"Discrimination is not always obvious. A policy may appear facially neutral, but nonetheless be discriminatory by design or applied in a discriminatory fashion. ... Plaintiffs argue that that is the case here, ... and the Court agrees. ... The characteristics of sex and gender are directly implicated; it is impossible to refer to the Exclusion without referring to them. ... In short, the Exclusion facially discriminates on the basis of gender, and heightened scrutiny applies."

"I hope this decision from the court prompts North Carolina state officials to open their eyes to the fact that denying transgender employees and their family members access to health care just because they are transgender is discriminatory and unlawful," said **Taylor Meredith Brown, former Lambda Legal lead counsel in the Kadel lawsuit**. "As 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 does not reflect the true values of the state of North Carolina nor those of North Carolinians. Access to health care for transgender people is life-saving and is medically-necessary: denying it is not only cruel but heightens vulnerability to potentially deadly healthcare outcomes for transgender people. It is time for North Carolina to reconsider its position, legally and morally, and recognize they are fighting a losing battle."

Background

Notwithstanding the extraordinary fallout North Carolina suffered after enacting anti-transgender bills HB 2 and HB 142, some state

officials continue to take aim at transgender people. In 2016, an independent consulting company advised state officials that the ban should be removed to comply with the Affordable Care Act's nondiscrimination mandate. The next year in 2017, the state removed the exclusion from the North Carolina State Health Plan (NCSHP). However, just one year later, in 2018, newly elected State Treasurer Dale Folwell delivered on his campaign promise to eradicate transition-related coverage, and a blanket exclusion was reinstated. The exclusion is sweeping, denying the transgender state employees and transgender dependents coverage for any medically necessary transition-related health care, from surgery to hormone therapy.

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

In the lawsuit, TLDEF and Lambda Legal 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 ruling here: [Case 1:19-cv-00272-LCB-LPA Document 45 Filed 03/11/20](#)

Read more about the case, Kadel v. Folwell, here: [TLDEF and Lambda Legal Sue North Carolina for Denying Trans-inclusive Health Care Coverage](#)

For more information about the plaintiffs, visit: <https://www.lambdalegal.org/kadel-v-folwell-nc-plaintiffs>

David Brown, Alejandra Caraballo, and Noah Lewis are the attorneys handling this case for the Transgender Legal Defense & Education Fund (TLDEF) with Tara Borelli and Omar Gonzalez-Pagan from Lambda Legal, and Amy E. Richardson, Lauren Snyder, and Deepika Ravi of Harris Wiltshire & Grannis LLP.

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Content last updated on Jul 13, 2021 - PDF generated from: <https://transgenderlegal.org/stay-informed/victory-north-carolinas-transgender-employees-and-family-members-have-their-day-court/> on May 18, 2024.

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