

Court Prohibits Exclusions for Gender-Affirming Care and Requires Reprocessing of Denied Claims

January 25, 2024

PRACTICES ERISA and Other Benefits Litigation, Employee Benefits and Executive Compensation

As discussed in our prior blog post [here](#), a U.S. District Court in Washington previously ruled that Blue Cross Blue Shield of Illinois (“**BCBSIL**”) violated anti-discrimination provisions under the Affordable Care Act when it administered discriminatory exclusions for gender-affirming healthcare in self-funded health plans governed by ERISA. Last month, the court issued an order granting class-wide declaratory and permanent injunctive relief. The prospective injunction prohibits BCBSIL from administering or enforcing plan exclusions (and any policies or practices) that exclude or limit coverage of gender-affirming healthcare, as defined in the order.

In addition, class members who were denied for pre-authorization and/or post-service based solely upon plan exclusions for such care will have 90 days from the date the class notice is provided to them to submit claims for gender-affirming healthcare. Subject to this court order, BCBSIL is required to accept and process these benefits claims consistent with the remaining terms of the plans, the applicable Administrative Services Agreements, other contracts, and indemnification agreements, without administering the exclusions.

Employers whose self-funded health plans contain exclusions related to gender-affirming healthcare should contact their third-party claims administrators to determine how this case may impact continued administration of such exclusions.

The opinion in *Pritchard et al. v. Blue Cross Blue Shield of Illinois* is available [here](#).