

Coverage for IVF services for same-sex couples

Your insurer is prohibited from discriminating based on your personal characteristics, including age, sex, sexual orientation, marital status, or gender identity.

- Insurers must provide health insurance coverage for basic infertility treatments (for example diagnostic testing, artificial insemination, etc.) for individuals covered under the policy who are unable to conceive due to their sexual orientation or gender identity.
- Large group policies must also cover three cycles of IVF, and the prescription drugs prescribed for that treatment for individuals covered under the policy. Large group means a group of more than 100 employees.
- Insurers that cover IVF procedures may consider whether basic infertility treatments, such as intrauterine insemination procedures, are medically appropriate for the individual to attempt prior to covering IVF.

Trans Safe Haven and Shield Laws

If you come to New York from another state to receive gender-affirming or reproductive care, New York laws protect you.

New York law enforcement, insurers, and health care providers are not permitted to cooperate with out-of-state legal action related to legally protected health care activity.

Privacy

Under federal HIPAA and New York laws, you have the right to keep your medical records and history private. Health care providers and insurance companies cannot share your personal health information (PHI) with anyone, with certain exceptions.

Questions and Complaints About Insurance Coverage

- If you have general insurance questions, call DFS at **(800) 342-3736** (Monday through Friday, 8:30 AM to 4:30 PM).
- You can file an external appeal online at www.dfs.ny.gov/externalappeal or a complaint with DFS online at www.dfs.ny.gov/Complaint. DFS will investigate your complaint. Please be aware that DFS will share a copy of your complaint with your insurer.

To file a complaint about discrimination in a health care setting contact the Civil Rights Bureau of the New York Attorney General's Office at www.AG.NY.Gov or the New York State Division of Human Rights at www.DHR.NY.Gov.

Get help: Non-Government Advocates and Legal Services

- Advocates for Trans Equality (A4TE) at **646.862.9396** or Transhealthproject.org has resources, educational information on choosing an appropriate insurance plan, and a comprehensive list of where to file discrimination complaints at both the State and Federal level.
- Community Health Advocates can help answer healthcare questions at **(888) 614-5400** (Monday to Friday, 9:00 AM to 4:00 PM), via email to cha@cssny.org or by visiting CommunityHealthAdvocates.Org
- LawHelpNY.Org at **(212) 613-5000** or www.lawhelpny.org can help you find free legal services in New York State.



dfs.ny.gov



How New York Supports LGBTQ+ New Yorkers



This guide is provided for informational purposes only and does not constitute legal advice.

All individuals have the right to be treated with dignity, respect, and professionalism in health care settings. New York is proud to protect, defend and affirm our LGBTQ+ community.

Your Health Care Provider Can't Discriminate Against You

Health care providers practicing in New York cannot discriminate against you because of your sexual orientation, gender identity or expression, transgender status, sex characteristics, or reproductive anatomy.

- You may receive medical, dental, health, and hospital care even if you are younger than 18 and have left your legal residence without the consent of your parent, legal guardian, or legal custodian or do not have a home.
- You do not have to have a name or gender change ordered by a court or updated identification documents to receive health care.
- You do not have to have a name or gender change ordered by a court or updated identification document to use and be called your preferred name in a healthcare setting.
- A doctor cannot refer you to another doctor for discriminatory reasons. They may refer you to another doctor if they do not have enough experience treating gender dysphoria, and they want you to have a doctor who is more qualified to treat you.

Health Insurance for Transgender New Yorkers

If you have health care coverage that you or your employer bought in New York State you have certain rights and protections for trans-related health care, like hormones and surgery.

Your Insurer Can't Discriminate Against You

Health Insurers covered by New York state law cannot discriminate against you because of your sexual orientation, gender identity or expression, transgender status, sex characteristics, or reproductive anatomy

- Your insurer can't refuse to cover you, terminate your coverage, or charge you higher premiums because of your sexual orientation, gender identity or expression, or transgender status.
- Your insurer can't deny you deny you medically necessary infertility treatment that is otherwise covered under the policy.
- Your insurer can't deny you treatment and rehabilitation for addiction and substance use disorder that is otherwise covered under the policy.
- Your insurer can't apply annual or lifetime limits on most treatment.
- Life, accident, and health Insurers can't discriminate against individuals who are prescribed medication for HIV prevention.

Your Insurer Must Cover Certain Treatments

Insurers create their own clinical review criteria (medical guidelines) for approving and denying benefits, but it must be evidence-based, peer reviewed, and age-appropriate. You have a right to a copy of your insurer's clinical review criteria at any time.

- Your health insurer cannot exclude medically necessary treatment for "gender dysphoria" such as surgery, hospital stays, mental health care, and office visits.
- If there is no in-network provider with the training and experience to meet your health care needs, you can ask for care from a qualified out-of-network provider and file an appeal if the insurer issues a denial. However,

you must request an out-of-network provider before you receive services.

- You can request coverage of a prescription drug that is not on your insurer's list of covered drugs and file an appeal if the insurer issues a denial.

Sex-Specific Care and Gender Marker Mismatches

DFS issued guidance that Insurers should not deny a claim for a health service provided to an individual – such as gynecological visits, contraception, or prostate exams – because the individual is seemingly not of the gender to whom the service is typically or exclusively provided without seeking additional information to determine whether the service was appropriately provided.

- Insurers may take reasonable steps and request more information from you or your provider to determine if you are eligible for services.
- A provider may be able to prevent a denial from occurring by using modifier codes. Some insurance companies have specific billing guidance for transgender patients. Call your insurer to find out.

Access to PrEP and PEP Medication

New York's HIV testing laws align with the Centers for Disease Control & Prevention's guidance, which recommends HIV testing as part of routine care.

- Providers are required to give patients information about the availability of PEP and PrEP and Insurers must cover the three FDA-approved PrEP formulations, along with specified baseline tests and monitoring.
- Insurers may not charge copayments for PrEP or or in most instances for PEP and cannot require prior authorization for covered antiretroviral drugs for the treatment or prevention of HIV or AIDS, including PrEP or PEP.
- Insurers are not permitted to use medical management techniques, like step therapy, to direct individuals prescribed PrEP or PEP to use one formulation over another.