

## **Initiation of EEO Counseling with the Office of Personnel Management**

### **\*\*\*\*CLASS ACTION\*\*\*\***

We are federal employees making a discrimination claim regarding an employment benefit; i.e., health insurance. We make this claim on behalf of ourselves and a class of similarly-situated federal employees. The class comprises federal employees enrolled in the Federal Employee Health Benefits program (FEHB) or the Postal Service Health Benefits program (PSHB) who have been or will be denied their or their dependents' claims for insurance coverage for certain gender-affirming medical care due to the Office of Personnel Management's (OPM) policy to eliminate insurance coverage for this care as of January 1, 2026. We and the class allege that this denial of care, arising from OPM's FEHB Program Carrier Letter, Letter Number 2025-01b, is discriminatory on the basis of sex.

OPM's FEHB Program Carrier Letter, Letter Number 2025-01b states:

For Plan Year 2026, chemical and surgical modification of an individual's sex traits through medical interventions (to include "gender transition" services) will no longer be covered under the FEHB or PSHB Programs. This exclusion expands upon Carrier Letter 2025-01a and applies regardless of age.

The policy provides for a narrow exceptions process that only applies to beneficiaries who are mid-treatment within a surgical and/or hormonal regimen for diagnosed gender dysphoria.

<https://www.opm.gov/healthcare-insurance/carriers/fehb/2025/2025-01b.pdf>.

The OPM Carrier Letter is in effect as of January 1, 2026. The PSHB Plan Year starts on January 1, 2026. The FEHB Plan Year starts on January 11, 2026, the first day of the first full pay period in January 2026, at which point all FEHB plans will implement the Carrier Letter.

The Federal government provides its employees with health insurance benefits through FEHB or PSHB as a term, condition, or privilege of their employment. OPM's categorical exclusion of certain gender-affirming medical care from insurance coverage is discrimination on the basis of sex. OPM's policy that forces us and others to seek exceptions is further discrimination on the basis of sex.

OPM's policy specifically excludes gender-affirming care under the FEHB and PSHB and provides for a narrow and opaque exception that only applies to those who are "mid-treatment." This policy plainly discriminates on the basis of sex against federal employees who seek to obtain coverage under their FEHB or PSHB insurance plans for gender-affirming care, either for themselves or for their dependents who are covered under the plans.

### **Complainants (Class Representatives)**

I, [REDACTED], am an employee of the United States Department of State and am an enrollee in the FEHB plan. My healthcare providers recommend that I undergo a phalloplasty procedure to treat my diagnosed gender dysphoria, which is in accordance with medical literature and standards of care. OPM's policy will categorically deny insurance coverage for this procedure. My healthcare providers also recommend that I continue Hormone Replacement Therapy for my diagnosed gender dysphoria. OPM's policy now requires me to go through an exception process to continue this medically necessary care.

I, [REDACTED], am an employee of the United States Department of Health and Human Services and am an enrollee in the FEHB plan. I previously obtained my FEHB benefits through the National Association of Letter Carriers Health Benefit Plan, which will no longer be an FEHB carrier in Plan Year 2026. My healthcare providers recommend that I undergo a chest surgery revision to treat my diagnosed gender dysphoria, which is in accordance with medical literature and standards of care. OPM's policy will categorically deny insurance coverage for this procedure. My healthcare providers also recommend that I continue Hormone Replacement Therapy for my diagnosed gender dysphoria. OPM's policy now requires me to go through an exception process to continue this medically necessary care. However, as I must change to a new insurance carrier in Plan Year 2026, I may not be eligible to apply for the exception for continued care.

I, [REDACTED], am an employee of United States Postal Service and am an enrollee in the PSHB plan. My daughter is a dependent on my PSHB plan. My daughter's doctors recommend that she obtain a new subcutaneous implant (puberty blocker) in the next 18 to 24 months for her diagnosed gender dysphoria, which is in accordance with medical literature and standards of care. OPM's policy will categorically deny insurance coverage for this treatment. My daughter's doctors also anticipate that Hormone Replacement Therapy will become medically necessary to treat her diagnosed gender dysphoria in the coming years. OPM's policy also categorically denies insurance coverage for this treatment.

I, [REDACTED], am an employee of the United States Department of State and am an enrollee in the FEHB plan. I have not yet begun surgical or hormonal gender-affirming care for my diagnosed gender dysphoria. My healthcare providers recommend that I receive hormonal and surgical treatment, in accordance with medical literature and standards of care. OPM's policy will categorically deny my insurance coverage for any such gender-affirming care.

## Relief Sought

We seek:

- Rescission of OPM's policy that denies insurance coverage for gender-affirming care and any associated policy changes;
- Entrance of a declaratory judgment that OPM's categorical coverage exclusion for certain gender-affirming medical care contained in its Carrier Letter, both facially and as applied to Complainants and members of the proposed class, violates Title VII by discriminating against us and all similarly-situated individuals on the basis of sex;
- A directive from OPM that each FEHB and PSHB plan must remove from their Plan Documents any discriminatory exclusions for gender-affirming care;
- For each FEHB or PSHB plan brochure effective in 2026, inclusion of a nondiscrimination provision stating, in plain language, that all coverage decisions will be made using nondiscriminatory standards and criteria, and that a plan member's gender identity and the fact that a service or benefit is needed in connection with gender-affirming care will not be factors in the denial of any service or benefit under the plan;
- A minimum of four hours of in-person or virtual interactive training, organized and executed by OPM, for the FEHB and PSHB administrators regarding their responsibilities under EEO laws, particularly with respect to Title VII and transgender individuals;
- Retroactive coverage for care denied under OPM's policy;
- Economic damages, including interest;
- A permanent injunction enjoining OPM from any enforcement of the categorical coverage exclusion of gender-affirming medical care in the Carrier Letter or any other OPM policy or practice that categorically excludes coverage for gender-affirming medical care;
- Compensatory damages and Attorneys' fees and costs on behalf of the class representatives and the class as a whole; and
- All other appropriate relief.

We are represented by:

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Dates: