News **Litigation**

EEOC Complaint Filed, Class Action Looms Against Trump Admin

At issue is coverage for gender-affirming care in two healthcare plans that provide coverage for around 2 million federal employees, family members and retirees.

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Credit: Jo Panuwat D/Adobe Stock

Opponents of the Trump administration's ban on gender-affirming care for transgender federal workers are launching a legal challenge with the Equal Employment Opportunity Commission.

The Human Rights Campaign Foundation, or HRCF, filed a complaint with the EEOC over the ban on insurance coverage for gender-affirming care under the Federal Employee Health Benefits and Postal Service Health Benefits plans. The EEOC now has 180 days to resolve the complaint before the matter could proceed to federal court as a class action, the group said.

The EEOC complaint follows another action by the Human Rights Campaign in early January, in which it complained to the U.S. Office of Personnel Management, or OPM, about the government's refusal to cover gender-affirming care.

The Human Rights Campaign was prompted to act after the Office of Personnel Management, which oversees benefits for federal employees, instructed its insurance providers to cease providing gender-affirming care.

The multi-step process is needed because federal employees have to go through an internal process before bringing a discrimination complaint against the government to court, said Cathy Harris of Correia & Puth, the Washington firm representing the HRCF.

The first step is to bring a complaint, which gives the agency 30 days to conduct informal counseling with the parties, Harris said. The attorney is not aware of any attempts by the OPM to reach a resolution.

"It would be very difficult to resolve a claim like this within 30 days, although we would hope you know that the administration would come to its senses and back down, because this is really a poisonous violation of the law. But that's where we are," Harris said.

The EEOC filing alleges OPM's prohibition on coverage for gender-affirming healthcare in the two insurance programs is in violation of Title VII. The claims are based on Title VII's protections against discrimination based on sex, which apply to the terms, conditions, and privileges of employment. The two insurance plans cover about 2 million people, Harris said.

The OPM letter that led to the dispute says insurance coverage for government employees may cover counseling for gender dysphoria but may not cover "chemical and surgical modification of an individual's sex traits (including as part of 'gender transition' services)." Insurance companies must also establish a case-by-case procedure for resolving funding issues for "enrollees who are mid-treatment within a surgical and/or hormonal regimen for diagnosed gender dysphoria," the OPM letter said.

Harris added that some people who have undergone surgical procedures as part of a gender transition "rely on that hormone therapy to be healthy and function as a healthy human being. It would be bad for people to have to stop that."

"We just think this is a very cruel attempt to try to drive transgender employees and people who have transgender family members out of the federal service, an ongoing attempt to clear the federal service of the people that the administration doesn't care for. And if you start with this group, what's to stop the administration from targeting another group?" Harris said.

Cathy Harris of Corriea & Puth. Courtesy photo

According to the HRCF, medical care for purposes of gender transition is medically necessary care

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the American Psychological Association.

“The Trump administration is weaponizing medical care to push transgender public servants and their families out of their jobs and back into the closet,” HRCF President Kelley Robinson claimed in a statement. “This policy is textbook discrimination and we will continue to advance this litigation until our federal employees and their families get the respect, care and dignity they deserve.”

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