

Transgender woman sues county, insurers to pay for facial surgery

By AIMEE GREEN
The Oregonian

A transgender woman who works for Clatsop County has filed a \$375,000 lawsuit against her insurance companies and her employer, saying they've discriminated against her by refusing to pay for facial surgery that would make it more likely that strangers would perceive her as female.

Christina Ketcham, 59, has already undergone sex reassignment surgery, hormone replacement therapy, worked with a voice coach and changed her name, clothes and hairstyle to reflect her gender identity, but her doctors also recommend that she undergo "facial feminization surgery" to continue on that path.

It could include rhinoplasty, reduction of her facial bones, a face lift and an eyelid lift.

Her doctors have determined the surgery is "medically necessary" to treat Ketcham's gender dysphoria. She was diagnosed with gender dysphoria four years ago but has experienced it since childhood, according to the suit.

But from 2016 to 2019, Citycounty Insurance Services, which provides coverage to Clatsop County employees, and Regence BlueCross BlueShield of Oregon, which administers the plan, have turned down Ketcham's request to cover the cost of the surgery, the suit says. Representatives from Citycounty Insurance Services and Clatsop County didn't respond to requests for comment.

Jared Ishkanian, a spokesperson for Regence, said the company couldn't discuss the pending litigation but supports "our members with comprehensive, medically necessary transgender services."

Ketcham has worked for Clatsop County for nearly 30 years, the suit says. She has worked for the county's fisheries project as a "fisheries biological aide" for 17 of those years.

She has suffered ongoing distress as she has waited for her insurance to fund her facial surgery, her lawsuit says.

"Ms. Ketcham continues to be perceived by others as male," states the suit, filed in July in Multnomah County Circuit Court. "Her facial features and



Mark Ketcham

Christina Ketcham's doctors recommended that she have facial feminization surgery as treatment for her diagnosis of gender dysphoria, but insurance refused to pay, according to her lawsuit filed in July.

the shape of her face frequently lead others to call Ms. Ketcham 'sir,' 'mister' or 'he-she,' and to treat her as a man."

The surgery, depending on what is done, can cost between \$20,000 and \$40,000, said Asaf Orr, one of Ketcham's lawyers and a staff attorney for the National Center for Lesbian Rights in San Francisco.

"Facial feminization surgery is hugely transformative," Orr said.

Lawsuits such as Ketcham's are rare, he said. Orr tracks this area of legal practice and said Ketcham's suit is the only active one he knows of in the nation. In early 2018, the National Center for Lesbian Rights was involved in successfully pushing the Oregon Health Plan to cover a facial feminization surgery for a transgender woman, Orr said.

Transgender people used to frequently have to fight insurance companies to pay for gender reassignment surgery, he said, and now the surgery is more widely covered. The legal battleground has shifted to areas such as facial feminization or facial masculinization surgeries for transgender women and men, he said.

The suit says Regence "categorically excludes coverage of facial-feminization procedures" by "wrongly deeming them 'not medically necessary'" as a treatment for gender dysphoria. But the suit says Regence covers procedures such as eyelid lifts and facial bone reduction surgeries for reasons other than gender dysphoria, and those include ingrown eyelashes and to correct jaw deformities.

The suit alleges that

the reason for denying the surgery for transgender patients is "a reflection of animus toward, or an intent to discriminate against" transgender people. The suit asks a judge to permanently order the defendants to stop categorically denying facial feminization surgery as a treatment for gender dysphoria.

According to the suit, the World Professional Association for Transgender Health states that facial feminization surgery, along with other gender confirming surgeries, "are not 'cosmetic' or 'elective' or 'for the mere convenience of the patient.'" Major health professional organizations — including the American Medical Association and the American Psychiatric Association — support that position, according to the association's website and the lawsuit.

The suit says Ketcham has "struggled with this feeling of incongruence" about her gender identity for much of her life.

"At birth, Ms. Ketcham was assigned male, but as early as childhood she understood she was a girl," the suit states.

"As a young person, Ms. Ketcham's family and community did not provide any support or options for her to live as a woman consistent with her gender identity," the suit continues. "As a result, she spent most of her life trying to conform to male stereotypes and living outwardly as a man, despite the severe emotional distress this caused her."

Ketcham is being represented by a team of attorneys, including Orr and Portland lawyers Talia Guerriero and Christina Stephenson.

Oregon takes initial step in student success plan

First employee starts work

By CLAIRE WITHYCOMBE
Oregon Capital Bureau

SALEM — Oregon's ambitious and costly plan to transform its public schools begins with one person.

On Thursday, the first employee — one of dozens — charged with putting the Student Success Act into action joined the state Department of Education.

Lawmakers voted in May to raise new tax dollars to boost the amount of money flowing toward Oregon's public schools by \$1 billion every year.

It's a major effort to increase academic achievement, improve students' mental health, boost high school graduation rates and improve Oregon kids' long-term prospects.

That first employee, Tamara Dykeman, will coordinate, plan and put into action the programs paid for by the Student Success Act, according to the job description.

While she has myriad duties, much of the work will involve shepherding the agency through the landmark new program.

Dykeman, who previously worked as an analyst for the legislative policy and research office, is expected to work with multiple teams, offices and divisions of the education department and advise department leaders on how the agency can innovate, grow and improve.

She will report to the department's director and deputy superintendent of

public instruction, Colt Gill.

Among her other duties, Dykeman is also supposed to foster relationships inside and outside the agency, bringing together students, teachers, school districts and other interested people and groups to make the legislation effective.

The money raised by the new tax will support new and ongoing state efforts to renew Oregon's flagging public education system.

Those efforts range from increasing preschool slots to helping Latino, Native American and black students do better in school to cutting class sizes.

Over the next year, the department plans to hire about 70 new workers to make the expanded programs run, including grant managers and research analysts.

Lawmakers authorized \$25 million to pay for those positions, contracts and "other costs necessary" to implement the law.

Legislators directed the department to improve education for Oregon students who aren't being adequately served by its public schools, Gill said.

For example, a good share of the money will go to school districts and charter schools for "student investment."

The state will apply the same formula the state normally uses to distribute money for schools, but with a key tweak.

The process will be weighted to account for poverty in a given school district to boost the education money available for poor students.

"I think that's a critical

aspect," Gill said.

School districts have to have a plan for spending the money that has been approved by the education department to get the extra state money, according to legislative records.

Those positions will include auditors to check that all that new money is spent properly.

"The Legislature was really clear around designing the implementation of this process around two things," Gill said. "One is that we keep equity at the forefront, and the second is that we are accountable for the public dollars that we're spending."

Local school districts won't start seeing the new money until the 2020-21 school year.

Gill noted that the Student Success Act is the state's largest investment in education in at least three decades.

"It's one that we are diving into as quickly as possible, but as cautiously and thoughtfully as possible," Gill said.

Two other state agencies are expanding to brace for the expanded schools effort. The state Department of Revenue got an extra \$4 million to put in place the system to collect the new corporate tax and the state Department of Justice received \$460,000 to work on legal issues around the new tax.

The Oregon Capital Bureau is a collaboration between EO Media Group, Pamplin Media Group and Salem Reporter.



Brown signs a bill narrowing death penalty

By DIRK VANDERHART
Oregon Public Broadcasting

It will soon be much harder for Oregon prosecutors to seek the death penalty.

On Thursday, Gov. Kate Brown signed Senate Bill 1013, which limits the types of crimes punishable by death to terrorist acts and murders of children and police officers, among other things.

"Oregon's Legislature made the wise decision to 'close the front door' — most of the way, at least — to death row, reserving death sentences for only the rarest and most heinous murders," Brown said at a signing ceremony, according to prepared remarks. "This is an important step, in Oregon and nationally, toward one day eliminating the death penalty nationwide."

In a state with a fickle past concerning capital punishment, SB 1013 presented a novel approach. Rather than asking voters to scrub the death penalty from the books, lawmakers decided to use their own authority to limit which offenses are punishable by death.

Aggravated murder, the only capital offense under state law, currently contains a list of 19 factors that could qualify someone for the death penalty. Those include

things like paying another person for a murder, killing someone in the course of torturing them, and murdering someone to conceal a crime.

When SB 1013 takes effect in late September, the definition will be more simple. Under the change, terrorist attacks that kill at least two people, premeditated murders of children under age 14, and the premeditated murder of a law enforcement officer would qualify. Convicted murderers who kill another prisoner while incarcerated are also included.

The bill also alters the questions Oregon jurors must answer in order to sentence a defendant to death, removing a query about

whether the person is likely to be dangerous in the future. Death penalty opponents argue that question is impossible to answer and could result in Oregon's law being found unconstitutional.

The bill saw final passage in the frenetic final days of this year's legislative session, but not without objection. Prosecutors have argued that it too strictly narrows the death penalty and say that voters should decide changes to capital punishment. Family members of murder victims also testified against the bill — and had a hand in forcing a late amendment adding murders of law enforcement officers to the bill.

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