

October 18, 2013

Director Tom Frieden  
Centers for Disease Control and Prevention  
1600 Clifton Rd.  
Atlanta, GA 30333

Dear Dr. Frieden,

On behalf of the Human Rights Campaign and the National Center for Transgender Equality, I write in regard to a current CDC policy that appears to deny critically needed preventive care. It has recently come to our attention that the CDC has issued guidelines denying subsidized cancer screening to low-income transgender women under the Breast and Cervical Cancer Mortality Prevention Act of 1990 because they are not considered “women.”<sup>1</sup> This policy is clearly discriminatory, dangerous to the health of an at-risk population, inconsistent with prevailing recommendations for transgender health care and at odds with current federal policy ensuring access to care for transgender individuals.

As documented by a 2010 Institute of Medicine report, transgender individuals face formidable and well-documented barriers to health care nationwide. The CDC policy denying transgender women equal access to cancer screening puts individuals at personal risk and generally exacerbates the health disparities and poor health outcomes experienced by the transgender community. It is as true for transgender women as for other women that routine cancer screening is a highly effective way to detect disease early, administer lower-impact treatment and save lives. In fact, guidelines for transgender healthcare published by the American Congress of Obstetricians and Gynecologists, as well as the Center of Excellence for Transgender Health at the University of California, San Francisco, reiterate the need for age-appropriate screening for breast cancer and cervical cancer for transgender individuals.<sup>2</sup>

Recognizing the importance of screening as a means to increase treatment and survival rates, the Breast and Cervical Cancer Mortality Prevention Act of 1990 provides grant funding to states to conduct preventive exams. This program is specifically designed to address the needs of “underserved women, including those who are older, have low incomes, or are members of racial

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<sup>1</sup> 40 U.S.C. 300k.

<sup>2</sup> American Congress of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women, Committee Opinion, available at: [http://www.acog.org/Resources\\_And\\_Publications/Committee\\_Opinions/Committee\\_on\\_Health\\_Care\\_for\\_Underserved\\_Women/Health\\_Care\\_for\\_Transgender\\_Individuals](http://www.acog.org/Resources_And_Publications/Committee_Opinions/Committee_on_Health_Care_for_Underserved_Women/Health_Care_for_Transgender_Individuals); University of California, San Francisco Center for of Excellence for Transgender Health, General Prevention and Screening, available at: <http://transhealth.ucsf.edu/trans?page=protocol-screening#S1X>.

and ethnic minority groups.”<sup>3</sup> Despite this clear charge to provide care for vulnerable populations, the CDC published the following guidance in response to a question from grantees administering the program:



## Ask Dr. Miller

January 2012

**The following questions were posed by NBCCEDP grantees during the month of January:**

**Question:** If a transgender person (male to female) receives a CBE/Mammogram screening using other funds and needs a diagnostic screening for an abnormal finding can they be enrolled in the program? I've previously heard that the eligibility was determined by the sex at birth.

**Answer:** The Breast and Cervical Cancer Mortality Prevention Act of 1990, which authorizes the NBCCEDP, specifically states coverage for women. Therefore CDC's position has been to only cover clients who are genetically female. So we will cover transgender female to male clients who have not undergone bilateral mastectomy or total hysterectomy since their cancer risk remains the same. But we do not cover transgender male to female patients.

The statutory language affirms that the Act's purpose is to "screen women for breast and cervical cancer as a preventive health measure."<sup>4</sup> There is no statutory or regulatory language excluding transgender women from coverage. In fact, as an underserved community facing higher levels of poverty, transgender women should clearly be covered, based on both CDC guidance and the purpose of the statute.

In addition to this lack of exclusionary language, recent federal administrative precedent indicates that the federal government recognizes gender transitions and considers transgender women to be fully eligible for preventive care. For example, the Federal Employee Health

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<sup>3</sup> Centers for Disease Control, National Breast and Cervical Cancer Early Detection Program (NBCCEDP) <http://www.cdc.gov/cancer/nbccedp/legislation/law.htm>

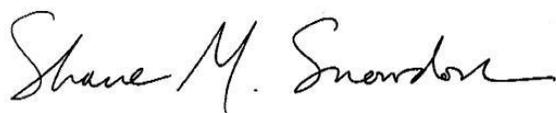
<sup>4</sup> 40 U.S.C. 300k.

Benefits Plan (FEHB) requires carriers to provide all necessary preventive benefits and services for insured patients, including transgender individuals: it is clear that the FEHB recognizes transgender women as women and transgender men as men, without question.<sup>5</sup> Further, the Department of Health and Human Services has published guidance interpreting Section 1557 of the Affordable Care Act to prohibit discrimination on the basis of sex, including on the basis of gender identity or sex stereotyping.<sup>6</sup>

The CDC policy excluding transgender women from critical cancer screening is inconsistent with well-established administrative precedent and the strong federal commitment to ending health disparities resulting from lack of access to care. We urge you to revisit these discriminatory guidelines immediately and to implement new guidance clarifying that all women, including those who are transgender, have access to lifesaving cancer screening on the same basis.

We thank you for the opportunity to bring these issues to your attention. Please do not hesitate to contact me if we can serve as a resource for you going forward.

Sincerely,



Shane Snowdon, M.A.  
Director, Health & Aging Program  
Human Rights Campaign Foundation



Harper Jean Tobin, Esq.  
Director of Policy  
National Center for Transgender Equality

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<sup>5</sup> FEHB Program Carrier Letter, Gender Reassignment, May 27, 2011, available at: <http://www.opm.gov/healthcare-insurance/healthcare/carriers/2011/2011-12.pdf>.

<sup>6</sup> Department of Health and Human Services, Questions Regarding Section 1557 of the Affordable Care Act, available at: [http://www.hhs.gov/ocr/civilrights/resources/laws/section1557\\_questions\\_answers.html](http://www.hhs.gov/ocr/civilrights/resources/laws/section1557_questions_answers.html).