

## Victory! Court Rules for Transgender North Carolina State Employees Denied Health Care Coverage



### In lawsuit filed by TLDEF and Lambda Legal, U.S. District Court finds that the North Carolina state health plan's categorical exclusion of medically necessary gender-affirming health care is discriminatory and unlawful

WINSTON-SALEM, NC — Today, a [federal judge ruled in favor](#) of plaintiffs in a lawsuit brought by counsel Transgender Legal Defense & Education Fund (TLDEF) and Lambda Legal challenging North Carolina's categorical exclusion of gender-affirming health care for transgender state employee health plan participants.

"I am thrilled beyond measure for this powerful victory not only for myself but other transgender employees across the state. This decision sends a message of validation to the entire transgender community in North Carolina. After years of fighting for fair treatment, finally having a court decide that these healthcare exclusions are wrong is vindicating. As government employees, all we want is equal access to healthcare, but we were denied just because we are transgender," said **Julia McKeown, an assistant professor in the College of Education at North Carolina State University.**

TLDEF and Lambda Legal filed the lawsuit, [Kadel v. Folwell](#), in 2019 on behalf of [several current and former state employees and their dependents](#) after the North Carolina State Health Plan (NCSHP), the state employee health plan, denied coverage for their medically necessary gender-affirming care.

"Like all parents, all we wanted for our child was lifesaving, medically necessary healthcare. Struggling to secure essential care for your child, while watching them be targeted for discrimination, is devastating. We hope that no other parent has to struggle this way in the future," said **Michael D. Bunting, Jr., employed by the University of North Carolina at Chapel Hill and father of his 17-year-old transgender son, C.B.**

"Gender affirming health care is essential health care. We are thrilled to know that moving forward our clients and other transgender North Carolina state employees and state employees with transgender dependents will finally have access to this lifesaving care," said **David Brown, Legal Director at TLDEF.**

The trial judge ruled that the NCSHP and North Carolina state employers violated the Equal Protection Clause of the U.S. Constitution and Title VII of the Civil Rights Act of 1964, by unlawfully discriminating based on sex and transgender status. The Court reserved a ruling on the issue of plaintiffs' claims under the health care nondiscrimination law, known as Section 1557 of the Affordable Care Act, pending rulemaking by the U.S. Department of Health and Human Services under the Biden Administration. Today's decision comes just five months after the [U.S. Supreme Court denied](#) the State of North Carolina's petition seeking review of a lower court ruling that the NCSHP, a state entity accepting federal financial assistance, was not entitled to sovereign immunity and can be sued if its actions violate the nondiscrimination provisions Section 1557 of the Affordable Care Act.

"We celebrate this decision as a significant step toward expanding access to nondiscriminatory healthcare for the transgender public servants in North Carolina. We are pleased that the court has recognized this exclusion of medically necessary care to transgender

state employees as unlawful discrimination. North Carolina was on the wrong side of history, and we hope it closes this unfortunate chapter,” said **Tara Borelli, Senior Counsel at Lambda Legal**.

[The eight](#) plaintiffs represented in the lawsuit are: Max Kadel, a transgender man employed by the University of North Carolina at Chapel Hill; Julia McKeown, a transgender woman who teaches at North Carolina State University; Jason Fleck, an employee of the University of North Carolina at Greensboro, and his transgender son, Connor; Michael D. Bunting, Jr., employed by the University of North Carolina at Chapel Hill as the Associate Athletic Director for Facility Planning and Management, and his transgender son, C.B.; Sam Silvaine, a former North Carolina State University employee with a male affirmed sex; and Dana Caraway, an employee of North Carolina Department of Public Safety.

**David Brown** and **Ezra Cukor** are the attorneys handling this case for the Transgender Legal Defense and Education Fund (TLDEF) with **Tara Borelli, Omar Gonzalez-Pagan, and Carl Charles** for Lambda Legal, and Amy E. Richardson, Lauren Snyder, Deepika Ravi, and Grace Wynn of **Harris Wiltshire & Grannis LLP**, and Michael Weaver, Dmitriy Tishyevich, Warren Haskel, Lauren Evans, and Adam Safer from **McDermott, Will & Emery LLP**.

Read more about the [Kadel v. Folwell](#) case.

Read more about the [Fourth Circuit Decision](#) on sovereign immunity claims.

Read more about the [Supreme Court's rejection](#) of North Carolina's cert petition.

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