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**COMES NOW** Petitioner Mika Covington (“Ms. Covington”), by her counsel, and respectfully submits the following supplement to the brief requesting judicial review filed on June 18, 2021, in *Vasquez v. Iowa Department of Human Services*, Case No. CVCV061729, which was consolidated with *Covington v. Iowa Department of Human Services*, Case No. CVCV062175, on August 13, 2021.

## **INTRODUCTION**

This supplement to the brief requesting judicial review filed on June 18, 2021, contains information pertinent to the “Procedural History” and “Factual Background” sections appearing at pages 11 and 19 of that brief under the heading “Statement of the Case.”

## **SUPPLEMENT TO STATEMENT OF THE CASE**

### **I. Supplement to Procedural History**

On December 3, 2020, Ms. Covington, through her physician, submitted a request to Amerigroup seeking Medicaid preauthorization for expenses related to a vaginoplasty necessary to treat her gender dysphoria. (Covington AR 318.) Three medical providers—a general-care physician and two clinical psychologists—concluded that the requested surgery is medically necessary. (Covington AR 596–615.) Despite the consensus of Ms. Covington’s health-care providers, Amerigroup denied coverage for the surgery under the Regulation. (Covington AR 337.) After Amerigroup denied Ms. Covington’s request, she initiated an internal appeal using Amerigroup’s grievance procedures, which Amerigroup denied. (Covington AR 146, 275.)

Ms. Covington subsequently appealed Amerigroup’s decision to DHS and, at a hearing before an ALJ, presented un rebutted evidence that the surgical treatment she requested was medically necessary. (Covington AR 144, 525, 582–84.) Following the hearing, the ALJ issued a proposed decision affirming Amerigroup’s decision. (Covington AR 581.) On further review,

DHS's director adopted the ALJ's ruling as the agency's final decision regarding Ms. Covington's appeal. (Covington AR 728.)

On July 19, 2021, Ms. Covington timely filed her petition in this Court. The petition challenges DHS's denial of Medicaid coverage as unconstitutional, unlawful, disproportionately harmful, arbitrary, and capricious in accordance with sections 17A.19(10)(a), (b), (k), and (n) of the APA. *See* Iowa Code §§ 17A.19(10)(a), (b), (k), (n) (2021). Ms. Covington seeks declaratory and injunctive relief barring further application of the Regulation and an order reversing DHS's denial of her request for Medicaid coverage.

## **II. Supplement to Factual Background**

### **D. Ms. Covington**

Ms. Covington is a thirty-year-old transgender woman who has known that she is female since her early childhood. (Covington AR 632, ¶¶ 1, 4.) Ms. Covington has expressed her female identity in various ways since the age of six. (*Id.*, ¶ 4.) In 2009, Ms. Covington began the process of socially transitioning from male to female by using the pronouns "she," "her," and "hers." (AR 633, ¶ 7.) In 2014, Ms. Covington legally changed her name to reflect her identity as a woman. (*Id.*, ¶ 8.) Ms. Covington has also changed the gender markers on her identification documents to reflect her female gender identity. (AR 634, ¶¶ 16–18.)

In January 2015, Ms. Covington was diagnosed with gender dysphoria and began receiving hormone therapy. (AR 633, ¶ 11.) Ms. Covington is severely distressed with her genitalia, which does not align with her gender identity and exacerbates her depression and anxiety. (AR 634, ¶ 14; AR 635, ¶ 19.)

In or around December 2020, Ms. Covington began the process of seeking Medicaid coverage for gender-affirming surgery from her MCO, Amerigroup. (Covington AR 318.) Ms.

Covington, a participant in Iowa Medicaid, is eligible for Medicaid reimbursement. (AR 635, ¶ 21.)

Ms. Covington’s health-care providers have uniformly concluded that surgery is necessary to treat her gender dysphoria. Dr. Nicole Nisly is Mr. Vasquez’s primary-care physician. (AR 597, ¶ 2.) She has treated Ms. Covington since 2015. (*Id.*, ¶ 3.) In January 2021, she stated:

In my professional medical opinion and judgment the sex designation of [Ms.] Covington has been permanently changed. All of the treatments [Ms.] Covington received under my care were medically necessary, clinically appropriate, and in accord with the standards and guidelines for treatment of Gender Dysphoria . . . by the World Professional Association for Transgender Health, American Medical Association, American Psychiatric Association, American Psychological Association, and the American College of Obstetricians and Gynecologists.

Gender affirming vaginoplasty surgery is medically necessary to treat [Ms. Covington’s] gender dysphoria and I support this decision and referral.

(AR 600.)

David Drustrup (“Mr. Drustrup”) is a clinical psychologist. (AR 603, ¶ 2.) In January 2021, Mr. Drustrup assessed Ms. Covington, stating:

[Ms. Covington] has met the WPATH Standards for receiving gender reaffirming bottom surgery. She has persistent, well-documented gender dysphoria and her other mental health concerns are well controlled. Additionally, she has the capacity to make an informed decision and at the time of surgery, and at the time this letter was written, is over the age of 18. I believe that receiving gender reaffirming bottom surgery will help [Ms. Covington] make significant progress in treating her gender dysphoria. Therefore, I recommend that [Ms. Covington] receive gender reaffirming bottom surgery.

(AR 608.)

Mary A. Ball (“Ms. Ball”) is a clinical psychologist. (AR 610, ¶ 2.) In January 2021, Ms. Ball assessed Ms. Covington, stating:

[Ms. Covington] has met the WPATH Standards for receiving gender reaffirming bottom surgery. She has persistent, well-documented gender dysphoria and her

other mental health concerns are addressed. Additionally, she has the capacity to make an informed decision and is over the age of 18. I believe that receiving gender reaffirming bottom surgery will help [Ms. Covington] to make significant progress in treating her gender dysphoria. Therefore, I recommend that [Ms. Covington] receive gender reaffirming bottom surgery.

(AR 615.)

**CONCLUSION**

For the reasons stated in the brief filed on June 18, 2021, and the reply filed on August 6, 2021, Ms. Covington respectfully requests the entry of an order granting her the relief requested in her petition for judicial review.

Dated: August 23, 2021

Respectfully submitted,

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