



TRANSGENDER PEOPLE AND THE SOCIAL SECURITY ADMINISTRATION

June 2013

In June 2013, the Social Security Administration (SSA) announced a new policy to for updating Social Security records to reflect a person's gender identity. Under the new policy, a transgender person can change their gender on their Social Security records by submitting either government-issued documentation reflecting a change, or a certification from a physician confirming that they have had appropriate clinical treatment for gender transition. This policy replaces SSA's old policy, which required documentation of sex reassignment surgery.

How Is the gender in my SSA record used?

Your Social Security card only lists your name and Social Security number – not your gender. However, SSA maintains information in its computer records on everyone who has a Social Security number, including name, date of birth, and gender.

Social Security benefits do not depend on your gender, and determinations related to marriage and family relationships are not based on what gender is in your record. Aggregated data about gender and other demographic factors from SSA records is used for statistical and research purposes. In addition, as discussed below, SSA gender data is still used for identity verification by some third-party organizations.

Will changing my gender with SSA affect my Social Security benefits?

No. Social Security benefits do not depend on your gender. In addition, Social Security gender markers do not determine a person's eligibility for marriage-related benefits.

Will changing my gender with SSA affect my health benefits?

Changing your gender marker with Social Security will typically not affect your health insurance at all if you have private insurance. While some insurance plans may automatically refuse coverage of services that appear inconsistent with a gender marker in the plan's records, insurance plans generally do not base their gender data on, or match it with, Social Security records, but instead use data from enrollment forms.

An exception is that if a person is enrolled in Medicare, or is enrolled in both the Medicaid and Supplemental Security Income (SSI) programs, their insurance record will be based Social Security data. In that case, they may experience automatic refusals for coverage of services that appear inconsistent with a gender marker in Social Security records. These automatic rules were developed as a means to prevent erroneous or fraudulent billing, with the unintended consequence of sometimes affecting trans people. (This can happen with private insurance too, but that will be based on the gender in plan records, not Social Security records.) These types of denials can usually be resolved by having your provider's office either add a specific billing code, contact the plan, or help you request a formal coverage determination. For more information, see NCTE's health care and Medicare rights below.

What about "No-Match Letters?" Will my SSA record out me on the job or elsewhere?

This is much less likely than it used to be, but could still happen in some circumstances. SSA administers several programs used to verify a person's identity for purposes of employment, applying for public benefits, or other purposes. Through these various programs, SSA compares personal data submitted by a business or government agency with its own programs and reports whether the data matches.

Some of these systems include gender among the personal data that is submitted and matched, while other systems don't include gender. The largest system used by private employers, the Social Security Number Verification System (SSNVS), eliminated gender in 2011. As a result, it is now very rare for employees to be outed on the job by their SSA gender marker. However, some systems used by state government agencies still match gender against SSA records. If a person's recorded gender with the submitting agency does not match SSA records, SSA may report this back to the submitting agency.

In cases where gender data is submitted to SSA and does not match, it is important to understand that the submitting agency is under no obligation to respond in any way. Businesses or government agencies are **not** subject to **any** penalties or legal requirements when they receive a notice of gender data that does not match. The organization can simply ignore the gender mismatch so long as the other personal data matches with SSA records. For this reason, NCTE continues to advocate removing gender from these matching systems altogether.

How do I change the gender in my SSA record?

Social Security will accept *any* of the following forms of evidence for a gender marker change:

- A U.S. passport showing the correct gender,
- A birth certificate showing the correct gender,
- A court order recognizing the correct gender, or
- A signed letter from a [provider] confirming that you have had appropriate clinical treatment for gender transition

If you use a physician letter, it must come from a licensed physician with whom you have a patient relationship and who is familiar with your transition-related treatment. This may be any physician who is familiar with your treatment, including a primary care physician or a specialist. All certifications must be on the physician's office letterhead and include all of the information seen in the sample letter below, including the physician's license or certificate number.

The following is an example of a letter that meets all the Social Security requirements. You should ask your physician to use this letter and not give additional personal health information that is not included here.

I, (physician's full name), (physician's medical license or certificate number), (issuing U.S. State/ Foreign Country of medical license/certificate), am the physician of (name of patient), with whom I have a doctor/patient relationship and whom I have treated (or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated).

(Name of patient) has had appropriate clinical treatment for gender transition to the new gender (specify male or female).

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Signature
Typed Name
Date

What does "Appropriate Clinical Treatment" mean?

The new policy recognizes that people's medical needs vary, and that treatment options must be decided by health care professionals on an individual basis. You are entitled to an updated gender marker if you have had the clinical treatment determined by your health care providers to be appropriate, in your individual case, to facilitate gender transition. **No specific type of treatment is required, and details of your treatment should**

not be included in the letter from your physician to SSA. NCTE encourages you and your doctor to only state in the letter that you have had the clinical treatment determined by your health care providers to be appropriate. Details about surgery, hormone treatment, or other treatments are unnecessary and not helpful.

How can I change my name in my Social Security record?

Social Security's procedures for name changes have not changed. You can change the name on your Social Security card and record by applying through the mail or in person at a local Social Security office. This can be done separately from, or together with, applying for a gender change. You will need to submit an Application for a Social Security Card, proof of your identity and citizenship or immigration status, as well as acceptable proof of the name change.

In general, SSA will accept any of the following as proof of a name change:

- Name change court order (original or certified copy);
- Marriage, civil union, or domestic partnership certificate (original or certified copy);
- Divorce decree (original or certified copy); or,
- Certificate of citizenship or naturalization (original only).

The new card will be sent to you in the mail, as will any original documents submitted with your application.

Note: Marriage, civil union, or domestic partnership certificates showing a name change can be used so long as they are recognized by the issuing state. For name change purposes, it does not matter whether the federal government or the applicant's state of residence recognize the relationship. However, locally-issued domestic partnership certificates not recognized by a state cannot be used for this purpose.

How does Social Security treat marriages involving transgender people?

Social Security recognizes as valid any marriage that was recognized under state law as being a valid, different-sex marriage when it was entered into. Any marriage that was valid when it was entered continues to be valid regardless of a spouse's transition.

Social Security looks to state law and government-issued documents (such as birth certificates and court orders) to determine marital status – it is not based on the gender marker in your Social Security record. For this reason, changing your gender marker with Social Security will not affect your or your spouse's right to Social Security benefits.

What If I have a problem?

Social Security employees are instructed to treat transgender customers with respect, including using appropriate pronouns, and to not ask unrelated personal questions. If you encounter improper requests for information, unprofessional treatment, or other difficulties in a local Social Security office or with other SSA employees, contact NCTE, your SSA Regional Office, or your U.S. Senator's Office. NCTE is monitoring implementation of the new policy.

In addition, if you believe you have been subject to discriminatory treatment by an SSA office or staff, you may file a formal complaint of discrimination with SSA. SSA accepts complaints of discrimination in services and programs based on race, color, national origin (including English language ability), religion, sex (including gender identity), sexual orientation, age, disability, or in retaliation for filing a complaint. The purpose of this process is not to provide compensation but to resolve unfair actions and prevent future incidents. Complaints must be filed within 180 days of the discriminatory action, or be accompanied by an explanation for filing later. The complaint form can be found at: <http://www.ssa.gov/online/ssa-437.pdf>.

Additional Resources

Health Care Rights and Transgender People: http://www.transequality.org/Resources/HealthCareRight_UpdatedAug2012_FINAL.pdf

Medicare Benefits and Transgender People: http://transequality.org/Resources/MedicareBenefitsAndTransPeople_Aug2011_FINAL.pdf

SSA Gender Change Policy: <https://secure.ssa.gov/poms.nsf/lnx/0110212200>

Application for Social Security Card: <http://ssa.gov/ssnumber/ss5.htm>

Social Security Office Locator: <https://secure.ssa.gov/ICON/main.jsp>

Social Security phone numbers: 1-800-772-1213 or, for TTY, call 1-800-325-0778

SSA Discrimination Complaint Form: <http://www.ssa.gov/online/ssa-437.pdf>