



Written by [Dave Bohon](#) on April 9, 2012

## Transgender Man Eligible for Health Insurance of “Husband”

But when officials with Calvin’s health insurance fund — the Miscellaneous Drivers and Helpers Union Local #638 Health, Welfare, Eye and Dental Fund — saw a document in “Christine’s” medical file noting that he had changed sexes, they sent a letter to the couple notifying them that “Christine” was being dropped from coverage.

“The Fund has learned, for the first time, that Christine underwent a male to female sex reassignment surgery prior to your marriage,” the health fund administrators wrote. “In reviewing the terms of the Fund, it is the judgment of the Claims Administrator that despite the amendment of Christine’s birth certificate and your subsequent marriage, the basis for your marriage is not one that is currently recognized under any express provisions of Minnesota Law,” the letter said. “Accordingly, Christine is not an eligible dependent under the Fund.”



The health fund canceled “Christine’s” health coverage, retroactive to the time of his “marriage” to Radtke, and demanded repayment of \$80,411 in past medical benefits, plus interest.

The couple sued the health plan fund on the grounds that it had improperly denied “Christine” medical coverage as the spouse of Radtke. In turn, the health fund counter-sued the couple, charging that the two had fraudulently obtained a marriage license based on “Christine’s” false representation of being a woman.

In court the health fund’s attorneys noted that when “Christine” was born in 1965 the name on his birth certificate was Richard William Barker. Barker had his name changed to Christine in 1986, underwent a sex-change operation in 2003 and, reported the [Minneapolis Star Tribune](#), “got a court order in Goodhue County [Minnesota] directing Wisconsin to change her birth certificate in 2005 to reflect her name and sex change. The Radtkes got a marriage certificate a month later.”

But the health fund lawsuit argued that Barker had “wrongfully obtained a replacement birth certificate from the State of Wisconsin, falsely certified on the Minnesota Application for Marriage License that one of the applicants is a man and the other is a woman, fraudulently and illegally obtained a Certificate of Marriage from the State of Minnesota, and by and through her agent Calvin Radtke, falsely represented to the Fund that Plaintiff is the legal spouse of Calvin Radtke.”

In his ruling in favor of “Christine” Radtke, Chief U.S. District Judge Michael Davis said that, under



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Minnesota law, a married individual's sex is determined at the time he or she is married. In his opinion, Davis wrote that the health fund had "ignored all evidence" concerning Minnesota law about the issue, and said its treatment of the plaintiff "was a flagrant violation of its duty under any standard of review."

The *Star Tribune* reported that Davis rejected the health fund's argument "that recognizing the Radtkes' marriage would violate a 1971 Minnesota Supreme Court decision that same-sex marriages are void. Radtke's argument is that she has an opposite-sex marriage, Davis said. He found that she has complied with all of the state's procedural requirements for a valid marriage."

Wrote Davis in his opinion: "There is no law in Minnesota that prohibits recognition by the state of a person's changed sex. Minnesota is among 43 jurisdictions, including Wisconsin, that permit individuals who have undergone sex reassignment surgery to change their birth records to recognize change of sex."

Davis noted that "Minnesota law recognizes the Radtkes' marriage as a marriage between a man and a woman because Minnesota law recognizes Plaintiff's sex as female. Every piece of evidence related to this Plaintiff that was presented to the Fund supported the conclusion that the State of Minnesota recognized her marriage — from her name change order, to her Goodhue County Court order requiring amendment of her birth certificate, to her marriage license and marriage certificate."

"Christine" called the decision a "good win" for him and "husband" Calvin. "I just felt we were targeted and railroaded," he told the *Star Tribune*. "For two years this has just been a stressful, painful mess for Calvin and myself. Financially, it's been hard. It's been really hard."

The *American Independent* noted that the controversial ruling of Davis actually bucks the recent trend of courts to rule against transgender plaintiffs in similar cases. "In Texas last summer, the family of a firefighter who died in the line of duty sued his widow, a transgender woman, for his assets," reported the online news site. "The judge posthumously voided the marriage because the widow was born male. The court said that the state's marriage laws apply to the sex a person is assigned at birth, not the one the person has legally transitioned to."

Recent cases in Kansas and Florida resulted in similar verdicts. "Each decision pointed to the states Defense of Marriage Acts or to state constitutional amendments banning same-sex marriage as reasons to invalidate marriages," reported the *Independent*.

Phil Duran of the homosexual advocacy group OutFront Minnesota expressed his hope that the puzzling decision of Davis could reflect a coming change in how activist judges view such confusing and objectionable relationships. "Chief Judge Davis' ruling ... sets a new course for understanding the legal rights of transgender people to marry the people they love," Duran said.

Photo: Goodhue County (Minnesota) Court administration building



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