

Congress of the United States

Washington, DC 20510

February 17, 2026

The Honorable Robert F. Kennedy Jr.
Secretary of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

RE: Medicaid Program; Prohibition on Federal Medicaid and Children's Health Insurance Program Funding for Sex-Rejecting Procedures Furnished to Children (CMS-2451-P; RIN 0938-AV73); Medicare and Medicaid Programs; Hospital Condition of Participation: Prohibiting Sex-Rejecting Procedures for Children (CMS-3481-P; RIN 0938-AV87)

Dear Secretary Kennedy:

We write to strongly oppose the two proposed rules, “Medicaid Program; Prohibition on Federal Medicaid and Children's Health Insurance Program Funding for Sex-Rejecting Procedures Furnished to Children” and “Medicare and Medicaid Programs; Hospital Condition of Participation: Prohibiting Sex-Rejecting Procedures for Children.” The first proposed rule (the “Conditions of Participation rule”) would bar hospitals that provide this care to transgender youth from participating in Medicare and Medicaid. The second proposed rule (the “Medicaid/CHIP rule”) would prohibit Medicaid funding for medically necessary healthcare, such as puberty-pausing medications and hormone therapy, for transgender people under the age of 18 and Children’s Health Insurance Program funds from covering this care for transgender people under the age of 19. If finalized, these rules will harm our transgender constituents and interfere with parents’ ability to provide their transgender children with the medically necessary care they, their children, and their doctors agree are needed. Further, these rules exceed the Centers for Medicare & Medicaid Services (CMS) statutory authority—and set a dangerous precedent of expanding the federal government’s role in the regulation of the practice of medicine. **We urge CMS to abandon any effort to finalize these rules so our transgender constituents and their families can continue to get the medical care they need.**

- I. These proposed rules would decimate access to medical care for transgender young people that is supported by every U.S. major medical association and that is beneficial to their wellbeing.**

Together, these rules dramatically expand the role of the federal government in the regulation of the practice of medicine in the United States. The Conditions of Participation rule, if finalized, would mark the first time that CMS has conditioned participation in the Medicare and Medicaid programs on cessation of a particular health care service—in this case, a service that major American medical associations recommend. Ninety-six percent of U.S. hospitals have at least half of their inpatient days funded by Medicare and Medicaid;¹ threatening to cease hospitals’ participation in these programs based on those hospitals’ provision of a particular

¹ Fact Sheet: Majority of Hospital Payments Dependent on Medicare or Medicaid, American Hospital Association (May 6, 2024), <https://www.aha.org/fact-sheets/2022-05-25-fact-sheet-majority-hospital-payments-dependent-medicare-or-medicaid>.

healthcare service leaves hospitals with few, if any, options for continuing to provide recommended care to American youth.

Transgender young people may need a range of essential, medically necessary, evidence-based care to treat gender dysphoria, including puberty-pausing medications and hormone therapy. Despite the assertions in the proposed rules, this care makes it both physically and psychologically possible for transgender people to live safely and authentically as themselves. Every major medical and mental health association in the U.S., representing more than 1.3 million U.S. doctors, supports providing age-appropriate and affirming healthcare for transgender people.² This includes the American Medical Association,³ American Academy of Pediatrics,⁴ American Psychological Association,⁵ American Psychiatric Association,⁶ American Academy of Child and Adolescent Psychiatry,⁷ and the Endocrine Society,⁸ among others.

Numerous studies and systematic reviews conducted over decades have confirmed the safety, efficacy, and benefits of the standard of care for transgender youth. We urge the Department to consider, for instance, the results of the systemic review of treatments for gender dysphoria that was mandated by the Utah Legislature.⁹ Unlike the rushed report by the U.S. Department of Health and Human Services which was published only a few months after President Trump took office, the Utah review took medical experts more than a year to compile. It looked at hundreds of studies with data from over 28,000 young people¹⁰ and concluded that the standard of care for transgender youth is safe and beneficial. The review also found that care for transgender young people is based on the same type of evidence as other areas of medicine, finding that the “body of evidence that [the authors] have uncovered *exceeds* the amount of evidence that often serves as the basis of FDA approval for many high-risk, new drugs approved in pediatric populations in the US...”¹¹ Based on the evidence reviewed in the report, the authors concluded that “policies to prevent access to and use of GAHT [gender-affirming hormone therapy] for treatment of GD [gender dysphoria] in pediatric patients cannot be justified based on the quantity or quality of medical science findings or concerns about potential regret in the

² *Get the Facts on Gender-Affirming Care*, Human Rights Campaign (Last Updated Jan. 7, 2025), <https://www.hrc.org/resources/get-the-facts-on-gender-affirming-care>.

³ AMA reinforces opposition to restrictions on transgender medical care, American Medical Association (June 15, 2021), <https://www.ama-assn.org/press-center/ama-press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care>.

⁴ Jason Rafferty, et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, American Academy of Pediatrics (Oct 1, 2018), <https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for>.

⁵ *Guidelines for Psychological Practice With Transgender and Gender Nonconforming People*, American Psychological Association (Dec. 2015), <https://www.apa.org/practice/guidelines/transgender.pdf>.

⁶ *Position Statement on Gender-Affirming Care for Transgender Youth*, American Psychiatric Association (Dec. 2025), <https://www.psychiatry.org/getattachment/8665a2f2-0b73-4477-8f60-79015ba9f815/Position-Treatment-of-Transgender-Gender-Diverse-Youth.pdf>.

⁷ *AACAP Statement Responding to Efforts to ban Evidence-Based Care for Transgender and Gender Diverse Youth*, American Academy of Child and Adolescent Psychiatry (Nov. 8, 2019), https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx.

⁸ *Transgender Health*, Endocrine Society (Dec. 16, 2020), <https://www.endocrine.org/advocacy/position-statements/transgender-health>.

⁹ *Gender-Affirming Medical Treatments For Pediatric Patients With Gender Dysphoria*, University of Utah and Submitted to the Utah Dep’t of Health and Human Services (Aug. 6, 2024), <https://le.utah.gov/AgencyRP/reportingDetail.jsp?rid=636>.

¹⁰ *Id.* at 90.

¹¹ *Id.* at 4.

future, and that high-quality guidelines are available to guide qualified providers in treating pediatric patients who meet diagnostic criteria.”¹² This review illustrates that these proposed rules to restrict this care cannot be justified based on the quality or quantity of science focused on these treatments.

II. These proposed rules would interfere with parents’ right to make decisions about their child’s healthcare in consultation with their child and their doctors.

We believe that families should be able to make their own medical decisions, in consultation with their providers, without interference by politicians motivated by political agendas. Politicians should not interfere with young people getting the care they need when the patient, their family, and the provider all agree it is the right next step. These proposed rules, if finalized, would strip parents of their ability to support their children in making informed healthcare decisions, in coordination with their healthcare providers. Parents of transgender children in our districts have shared that they deeply fear the finalization of these rules. Parents do not want or need the federal government prohibiting them from working with their children’s doctors to access medically necessary care that helps their child. We urge you to abandon these efforts to interfere with the medical decisions these families make.

III. These rules are unlawful and exceed CMS’ authority.

Both of these proposed rules are unlawful and exceed CMS’ authority. CMS, like all agencies, is charged with carrying out the laws that Congress passes and does not have the authority to ignore clear prohibitions passed by Congress and signed into law. Section 1801 of the Social Security Act, as amended—which governs Medicare—makes clear that CMS may not “exercise any supervision or control over the practice of medicine or the manner in which medical services are provided.” In the discussion of the Conditions of Participation rule, CMS alleges that providing transgender-related medical care “is not healthcare” and therefore is “not subsumed under the term of ‘the practice of medicine.’” As we highlighted above, the healthcare transgender young people receive is recognized as legitimate and medically necessary by every major U.S. medical and mental health association. Under CMS’ logic, they can circumvent the restraints Congress established in Section 1801 by simply declaring any medical care the President and his officials do not like as “not healthcare.” This flies in the face of the clear statutory text. The Conditions of Participation rule is clearly trying to control the practice of medicine in violation of the Social Security Act as passed by Congress and signed into law.

Both rules are also unlawful under the statutes governing Medicaid. By banning coverage of healthcare that every major medical association supports for transgender young people and by coercing hospitals to stop providing this care in order to participate in the Medicaid program, the CMS rules undermine “the best interests of the recipients.”¹³ Further, the proposed rules would violate Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirements, which set out that Medicaid must cover all medically necessary services for children under age 21.¹⁴ Lastly, the rules prohibit coverage of treatments such as puberty-pausing medications and

¹² *Id.* at 91.

¹³ *See* 42 U.S.C. § 1396a(a)(19).

¹⁴ *See* 42 U.S.C. § 1396d.

hormone therapy for transgender young people while allowing the *same* treatments for non-transgender young people. This violates the provision of law that provides that “the medical assistance made available to any individual...shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual.”¹⁵ CMS is required to follow the law, as enacted by Congress, yet both these proposed rules violate key provisions of the laws governing Medicaid and Medicare.

IV. Conclusion

The medical care that transgender young people receive is medically necessary and supported by every major U.S. medical and mental health association. These proposed rules would severely restrict the ability of parents of transgender young people to get their children the medical care they need and run afoul of federal law. We strongly oppose these proposed rules being finalized and urge CMS to abandon this rulemaking.

Sincerely,



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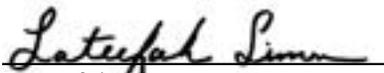


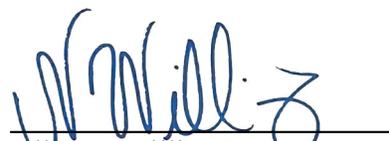
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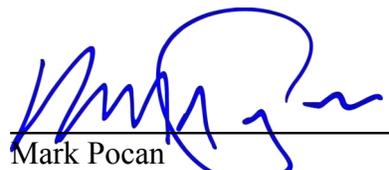
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¹⁵ 42 U.S.C. § 1396a(a)(10)(B)(i).

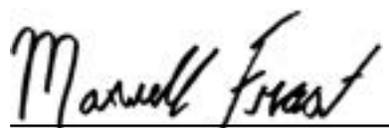

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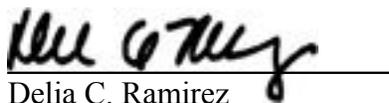

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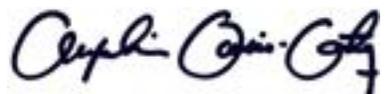

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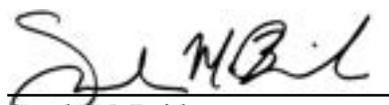

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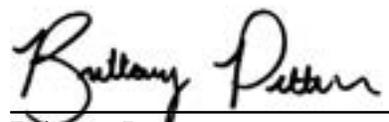

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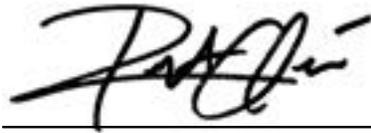

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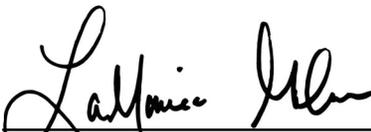
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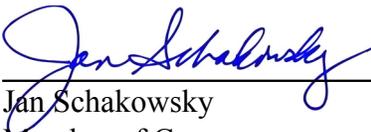
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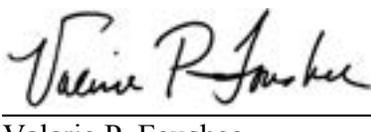
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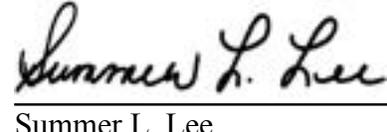
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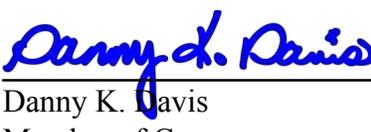
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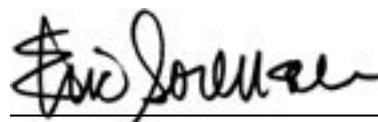
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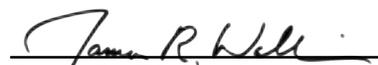
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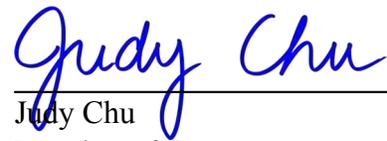
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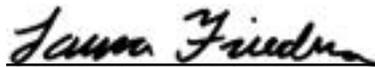
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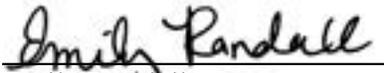
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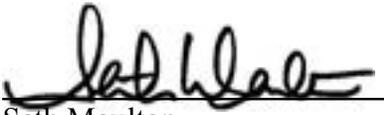
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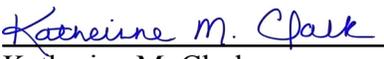
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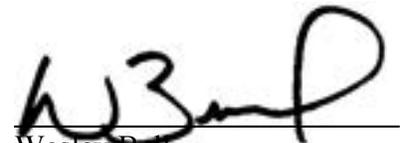

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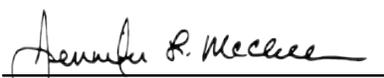

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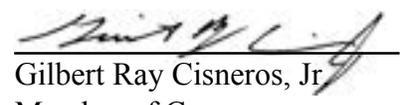

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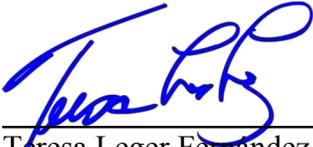

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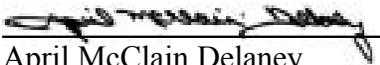
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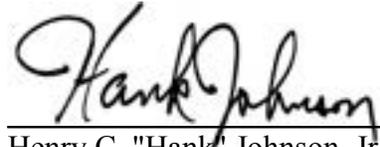
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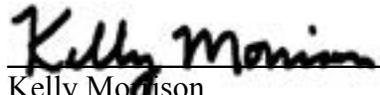
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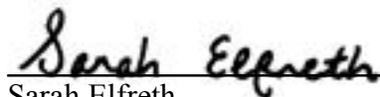
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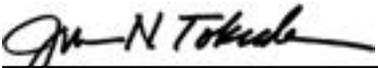
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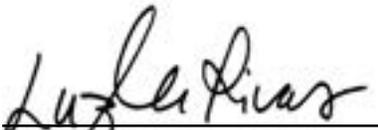
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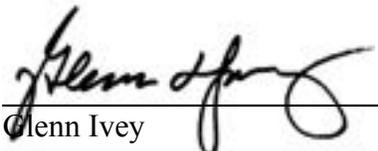
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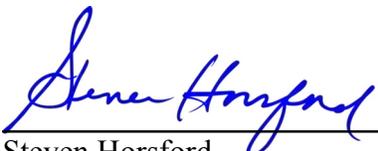
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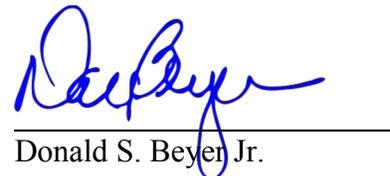
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Doris Matsui
Member of Congress

cc: The Honorable Mehmet Oz, Administrator, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244