



February 17, 2026

Mehmet Oz, Administrator  
Centers for Medicare & Medicaid Services,  
Department of Health and Human Services  
7500 Security Boulevard, Baltimore, MD 21244-1850

**Consortium of Constituents with Disabilities Comments Re: HHS Docket  
CMS-2451-P, 90 Fed. Reg. 59441 (Dec. 19, 2026)**

The undersigned members of the Health Care, Rights, and Long Term Services and Supports Task Forces of the Consortium for Constituents with Disabilities (CCD) write to express our strong opposition to the proposed rule prohibiting Medicaid and CHIP reimbursement for transition-related health care for minors. CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

The unprecedented actions proposed by the Department of Health and Human Services betray the intent of the Medicaid statute to expand access to health care for underserved communities. Instead, the Department seeks to restrict health care access for a politically disfavored minority community with the intent of ending a range of care this community relies on for their health and well-being. The discriminatory animus underlying this regulation is extremely clear. As the Department acknowledges, both the rulemaking and the HHS “umbrella review” it predominantly relies on for evidentiary basis were conducted pursuant to Executive Order (E.O.) 14187, titled “Protecting Children from Chemical and Surgical Mutilation.” This EO both directs the Secretary to take all appropriate actions consistent with applicable law to end what the order refers to as the chemical and surgical mutilation of children, including regulatory and sub-regulatory actions for specific programs, including Medicaid.<sup>1</sup> and further ordered:

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<sup>1</sup>90 FR 8771,  
<https://www.federalregister.gov/documents/2025/02/03/2025-02194/protecting-children-from-chemical-and-surgical-mutilation>

- (i) agencies shall rescind or amend all policies that rely on WPATH guidance, including WPATH's "Standards of Care Version 8"; and
- (ii) within 90 days of the date of this order, the Secretary of Health and Human Services (HHS) shall publish a review of the existing literature on best practices for promoting the health of children who assert gender dysphoria, rapid-onset gender dysphoria, or other identity-based confusion.<sup>2</sup>

In other words, long before HHS had collected any evidence to justify this rule, the fix was already in, as this E.O. unambiguously directed HHS to pursue a predetermined outcome by prohibiting this medical care and rejecting available clinical guidelines supporting it. This animus is further illustrated by the adoption of the term "sex-rejecting procedures" to refer to a broad range of transition-related health care services. This term has no basis in either established clinical terminology or in the popular lexicon for transition-related health care, nor does it reflect a neutral, non-derogatory description of the services encompassed, nor even the language of the preceding E.O. Rather, HHS appears to have adopted this term in response to continued politicization of and animus toward a minority population.

### **The proposed prohibitions discriminate based on disability**

The proposed rule discriminates based on disability. While patients with other diagnoses such as precocious puberty, 5-alpha reductase deficiency, Klinefelter syndrome, Turner Syndrome, or growth hormone deficiency may access Medicaid and CHIP-funded hormone therapy and related care, patients who need such care based on gender dysphoria may not. Denying reimbursement for medically necessary and physician-prescribed healthcare because the patient has a disfavored diagnosis is disability discrimination.

Further, the proposed rule would disproportionately burden and harm individuals with disabilities. Medicaid and CHIP are the largest payor in America for both adults and children with disabilities, with Medicaid serving more than one third of individuals with disabilities<sup>3</sup>. Providing health care services for these underserved populations is part of Medicaid's statutory mandate. At the same time, individuals with disabilities experience severe constraints on their access to medical care due to limited provider networks, limited accessibility of medical offices and equipment, discrimination in health care settings, limited provider networks, and extremely low incomes. By denying

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<sup>2</sup> *Ibid.*

<sup>3</sup> Burns, A and Cervantes, S. (2025, February 7). 5 Key Facts About Medicaid Coverage for People with Disabilities. Kaiser Family Foundation  
<https://www.kff.org/medicaid/5-key-facts-about-medicaid-coverage-for-people-with-disabilities/>

reimbursement through Medicaid and CHIP, this prohibition would thus selectively burden the rights of individuals with disabilities to access necessary care. For the above-discussed reasons, individuals with disabilities are severely constrained in their ability to seek alternative avenues of care or to self-pay for essential medical care that insurers fail to cover. The Department's economic and regulatory analysis of this proposed rule fails to recognize or consider the disproportionate burden that this prohibition will have on individuals with disabilities, just as it refuses to consider the well-established body of evidence supporting psychological and social benefits for individuals in need of transition-related health care.

Individuals with disabilities have experienced an invidious history of having their rights to medical consent and to self-determination being overridden by state action. Often, in undertaking efforts to deny these rights to individuals with disabilities, the government has invoked paternalistic claims that individuals with disabilities are unable to know themselves and their self-interests well enough to engage in the decision-making process. At times, the government has even extended that paternalism to the parents and caregivers of disabled individuals, and to disabled parents themselves, stripping them additionally of their parental rights to advocate and make decisions in collaboration with and in the best interests of their children. With this proposal, the government seeks to echo this ugly history once again, targeting politically disfavored and medically underserved communities anew. We urge the Department to rescind the proposed rulemaking.

Signed,

Access Ready

American Music Therapy Association

Autistic Self Advocacy Network

Autistic Women & Nonbinary Network

Bazelon Center for Mental Health Law

Caring Across Generations

Center for Law and Social Policy (CLASP)

Deaf Equality

Disability Rights Education and Defense Fund (DREDF)

Family Voices NJ

Institute for Exceptional Care

Justice in Aging

National Disability Institute

National Partnership for Women and Families

SPAN Parent Advocacy Network

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