

February 17, 2026

Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
Attention: CMS-2451  
Baltimore, MD 21244-8016

Submitted Electronically

**Re: RIN 0938-AV73; CMS-2451  
Medicaid Program; Prohibition on Federal Medicaid Funding for Sex Trait  
Modification Procedures Furnished to Children and Youth**

Secretary Kennedy and Administrator Oz:

As 48 undersigned organizations committed to protecting and expanding access to sexual and reproductive health, rights, and justice, we strongly oppose the proposed rule (“proposed rule”) prohibiting Medicaid and Children’s Health Insurance Program (CHIP) funding for essential care for transgender youth. Prohibiting the use of federal funding under these programs for this critical care poses a significant threat to the health and wellbeing of transgender individuals, denies young people access to critical care, and exacerbates existing disparities in health care access. Our organizations have deep legal and policy expertise on a variety of sexual and reproductive health care issues, including abortion and transition-related health care (TRH) for transgender youth. We have witnessed the harmful impact of discriminatory policies, such as the Hyde Amendment, that ban specific forms of health care coverage for low-income individuals and families enrolled in Medicaid.<sup>1</sup> For more than 40 years, the Hyde Amendment has created unconscionable and unjust obstacles to abortion access for millions of low-income individuals and communities of color enrolled in Medicaid, CHIP, Medicare, the Indian Health Service (IHS), and other federal health care programs.<sup>2</sup> Like the Hyde Amendment, this proposed rule will have the greatest impact on communities who already face the most barriers to care and are discriminated against because of their race, class, disability, and gender.

The proposed rule is a deliberate attempt by this administration to block access to essential health care services for people with low incomes. And without a legitimate government interest beyond ideological opposition to TRH for transgender youth, the proposed rule amounts to

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<sup>1</sup> Madeline T. Morcelle, *Fostering Equitable Access to Abortion Coverage: Reversing the Hyde Amendment*, National Health Law Program, (Mar. 25, 2021), <https://healthlaw.org/wp-content/uploads/2021/03/Hyde-IB.pdf>.

<sup>2</sup> Madeline T. Morcelle, *Fostering Equitable Access to Abortion Coverage: Reversing the Hyde Amendment*, National Health Law Program, (Mar. 25, 2021), <https://healthlaw.org/wp-content/uploads/2021/03/Hyde-IB.pdf>.

discriminatory animus.<sup>3</sup> We are steadfastly opposed to the Department of Health and Human Services' (HHS) attempts to put essential care out of reach for many transgender young people and urge HHS to withdraw this proposed rule in its entirety.

**I. The proposed rule will make safe, effective, evidence-based care harder to access, causing lasting physical and psychological harm to transgender youth.**

TRH is safe, effective, best practice, and evidence-based care; for many transgender youth, access to this care is critical for their wellbeing.<sup>4</sup> TRH, provided according to established standards, is backed by extensive clinical evidence demonstrating its positive impact. Leading medical organizations, including the American Academy of Pediatrics and the American Medical Association, affirm the necessity of access to this care and oppose policies that impose barriers.<sup>5</sup>

Numerous studies show that youth receiving TRH are happier, healthier, and more successful in their relationships and academic pursuits. Research published in respected journals like the *New England Journal of Medicine* and *Pediatrics* indicates that access to TRH results in significant reductions in depression, anxiety, and suicidal ideation, alongside improvements in quality of life and body satisfaction.<sup>6</sup> For example, a 2023 study found that transgender adolescents who received hormone therapy over two years experienced notable decreases in depression and anxiety symptoms, as well as enhanced life satisfaction.<sup>7</sup> Similarly, a 2022 study reported that those starting puberty-delay medications or hormone therapy had 60% lower odds of depression and 73% lower odds of suicidality.<sup>8</sup> Additionally, early access to hormone therapy was linked to a 52% reduction in suicidality in a 2023 randomized controlled trial.<sup>9</sup> On the other hand, denial of access to care can lead to significant negative health outcomes, including increased rates of depression, anxiety, and suicidality. By denying access to critical TRH care, the proposed rule poses serious risks to the mental and physical health of transgender youth and runs contrary to the robust body of research and evidence-based care.

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<sup>3</sup> *U.S. Dep't of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) (“[I]f the constitutional conception of ‘equal protection of the laws’ means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest.”); See also Scott Skinner-Thompson, *Trans Animus*, 65 B.C. L. REV. 965 (2024) <https://bclawreview.bc.edu/articles/3125>.

<sup>4</sup> Eli Coleman et al., *Standards of Care for the Health of Transgender and Gender Diverse People*, 23 *Int'l J. Transgender Health* 1 (2022) (corrected in Sept. 2022) <https://pmc.ncbi.nlm.nih.gov/articles/PMC9481143/>.

<sup>5</sup> Alyson Sulaski Wyckoff, *AAP Reaffirms Gender-Affirming Care Policy, Authorizes Systematic Review of Evidence to Guide Update*, *American Acad. of Pediatrics News*, (Aug. 4, 2023) <https://publications.aap.org/aapnews/news/25340/AAP-reaffirms-gender-affirming-care-policy> (describing the AAP's re-affirmation of its gender-affirming care policy); see James L. Madara, *AMA to States: Stop Interfering in Health Care of Transgender Children*, *American Medical Association* (Apr. 26, 2021) <https://www.ama-assn.org/press-center/ama-press-releases/ama-states-stop-interfering-health-care-transgender-children>; see also Asa Radix, *WPATH Statement Regarding Executive Order 'Protecting Children From Chemical and Surgical Mutilation'*, *World Pro. Ass'n for Transgender Health* (Jan. 28, 2025) <https://wpath.org/wp-content/uploads/2025/01/01.28.25-WPATH-Board-Statement-Regarding-Executive-Order.pdf>.

<sup>6</sup> Whitman-Walker Inst., *Understanding Medically Necessary Care for Transgender People*, (Mar. 2024) [https://assets.aclu.org/live/uploads/2024/06/Understanding-Medically-Necessary-Care-for-Transgender-People\\_Branded2.pdf](https://assets.aclu.org/live/uploads/2024/06/Understanding-Medically-Necessary-Care-for-Transgender-People_Branded2.pdf) (describing the medical diagnosis of gender dysphoria and its individualized and age-appropriate treatments).

<sup>7</sup> Diane Chen et al., *Psychosocial Functioning in Transgender Youth after 2 Years of Hormones*, 388 *New England J. Med.* 240 (2023) <https://www.nejm.org/doi/pdf/10.1056/NEJMoa2206297>.

<sup>8</sup> Diana M. Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, 5 *JAMA Network Open* 1 (Feb. 25, 2022) <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2789423> (corrected on July 26, 2022).

<sup>9</sup> Brendan J. Nolan et al., *Early Access to Testosterone Therapy in Transgender and Gender-Diverse Adults Seeking Masculinization: A Randomized Clinical Trial*, 6 *JAMA Network Open* 1 (2023), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2809058>.

The proposed rule’s coercive federal funding restrictions will put TRH out of reach for many youth and their families.<sup>10</sup> Barring federal Medicaid and CHIP funds for TRH can leave many transgender youth and their families unable to afford essential services, making it difficult or even impossible to access the care they need. As a result, many young people and their families could be compelled to delay or forgo treatment entirely, putting their health and wellbeing at risk. This harm would likely disproportionately impact transgender youth of color: Data on youth of color overall shows that they are more likely to be enrolled in Medicaid, and they are more likely to be impacted by the proposed rule.<sup>11</sup> For people enrolled in Medicaid and CHIP, coverage restrictions may force them into untenable positions: risk their financial security and their well-being in order to pay for it themselves or forgo essential care altogether.

This rule would exacerbate existing barriers that transgender youth already face in accessing care, including state laws restricting access and cost barriers.<sup>12</sup> Many transgender youth also face barriers to finding providers who offer this care, especially where providers have been deterred from doing so by the threat of criminal penalties, baseless investigations, and harassment—a crisis that has been worsened through a range of federal actions targeting these providers.<sup>13</sup> The proposed rule would compound these barriers, making it even more difficult for transgender youth to access care. And with the proposed rule’s disproportionate impact on transgender youth of color and those from low-income families—who already face especially significant barriers to care—the harm those youth could experience if the rule is finalized may be magnified even further.

## **II. The discriminatory basis of the proposed rule causes significant harm, echoing the Hyde Amendment’s impact, and amounting to discriminatory animus.**

This proposed rule is discriminatory and will undoubtedly have devastating consequences, as research and lived experience have documented the harm of similar policies, like the Hyde Amendment, for the past 50 years. As advocates for sexual and reproductive health care, we are

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<sup>10</sup> Laura D. Lindberg, Julie Maslowsky, & Paz Baum, *Implications of Abortion Restrictions for Adolescents*, 179 JAMA Pediatrics 675 (2025) <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2832264>. The Supreme Court’s erroneous decision in *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022), to overturn the constitutional right to abortion has worsened existing health and social inequalities affecting two-thirds of U.S. adolescents who already encounter significant barriers to accessing abortion care, such as transportation issues, financial constraints, and potential parental involvement requirements. See Bianca A. Allison, Kinsey Vear, Andrea J. Hoopes, & Julie Maslowsky, *The Perceived Impact of a Post-Dobbs Landscape on U.S. Adolescents and Young Adults*, 138 Contraception 1 (2024) <https://pubs.nclm.nih.gov/articles/PMC11365779/>; See also Laura D. Lindberg, Julie Maslowsky, & Paz Baum, *Implications of Abortion Restrictions for Adolescents*, 179 JAMA Pediatrics 675 (2025) <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2832264>.

<sup>11</sup> Medicaid and CHIP Payment and Access Comm’n, *Access in Brief: Experiences in Accessing Medical Care by Race and Ethnicity* (Feb. 2022) [https://www.macpac.gov/wp-content/uploads/2022/02/MACPAC-Access-in-Brief-Race-and-Ethnicity-Feb-2022.pdf#:~:text=The%20majority%20of%20Medicaid%20beneficiaries%20are%20racial.Native%20\(AIAN\)%2C%20or%20multi%2D%20racial%20\(MACPAC%202021a\).](https://www.macpac.gov/wp-content/uploads/2022/02/MACPAC-Access-in-Brief-Race-and-Ethnicity-Feb-2022.pdf#:~:text=The%20majority%20of%20Medicaid%20beneficiaries%20are%20racial.Native%20(AIAN)%2C%20or%20multi%2D%20racial%20(MACPAC%202021a).)

<sup>12</sup> Roberto Abreu, Jules P. Sostre, Kirsten A. Gonzalez, Gabriel M. Lockett, Em Matsuno, & Della v. Mosley, , *Impact Of Gender-Affirming Care Bans on Transgender and Gender Diverse Youth: Parental Figures’ Perspective*, 36 J. Fam. Psych. 643 (2022) (showing the impact of state bans on health care for transgender youth, including on access, physical and mental health, safety, and families); Human Rights Watch, *They’re Ruining People’s Lives’: Bans on Gender-Affirming Care for Transgender Youth in the US* (June 3, 2025), <https://www.hrw.org/report/2025/06/03/theyre-ruining-peoples-lives/bans-on-gender-affirming-care-for-transgender-youth>.

<sup>13</sup> Tara Weixel & Beth Wildman, *Geographic Distribution of Clinical Care for Transgender and Gender-Diverse Youth*, 150 Pediatrics 1 (2022), <https://publications.aap.org/pediatrics/article/150/6/e2022057054/190126/Geographic-Distribution-of-Clinical-Care-for-transgender-youth?autologincheck=redirected> (identifying the barriers to accessing pediatric gender clinics due to anti-trans policies in different regions, capacity of clinics, and geographical restrictions).

acutely aware of the impact such restrictions have on people’s health, safety, and financial security throughout their lives, particularly for those who face compounded barriers to care based on race, gender, disability, and class. In particular, the proposed rule threatens to replicate the damaging legacy of the discriminatory Hyde Amendment, which bars federal funds from covering abortion procedures except in extremely limited circumstances that often prove illusory.

Like the Hyde Amendment, the proposed rule deliberately seeks to restrict access to vital health care for low-income individuals, which will exacerbate existing disparities based on race, gender, and socioeconomic status. Decades of evidence demonstrate the harms of such policies: Due to the Hyde Amendment, many abortion patients enrolled in Medicaid are forced to pay out-of-pocket for care, with low-income individuals often experiencing delays in obtaining care due to the time and effort required to gather the necessary funds.<sup>14</sup> As a result, one in four women<sup>15</sup> enrolled in Medicaid who are seeking an abortion are forced to continue an unwanted pregnancy.<sup>16</sup> Research shows that being denied a wanted abortion can have devastating short- and long-term consequences for a person’s overall health and wellbeing. For example, women who cannot access the abortion they desire are four times more likely to live in poverty and three times more likely to be unemployed six months later.<sup>17</sup> Abortion is essential health care that should be accessible to all, regardless of income or insurance type, yet for the last five decades, the Hyde Amendment has prevented millions of individuals enrolled in Medicaid, Medicare, and CHIP from using their health insurance for this crucial care.<sup>18</sup>

Similarly, the proposed rule forces low-income families of young people enrolled in Medicaid and CHIP into an impossible situation: They must find a way to pay for care for their loved one or face the potentially severe consequences of forgoing this critical care. As the impacts of the Hyde Amendment demonstrate, the loss of access to needed care or the financial burdens of paying out-of-pocket can have lasting reverberations on the lives of Medicaid and CHIP enrollees. The proposed rule represents a deliberate attempt to block access to essential health care services for low-income individuals, thereby widening existing disparities based on race, gender, and socioeconomic status.

### **III. The proposed rule is based in discriminatory animus, not in a legitimate government interest.**

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<sup>14</sup> Guttmacher Inst.. *The Hyde Amendment: A Discriminatory Ban on Insurance Coverage of Abortion* (May 2021) <https://www.guttmacher.org/sites/default/files/factsheet/hyde-amendment-fact-sheet.pdf>.

<sup>15</sup> While the data is specific to cisgender women, we acknowledge that other people may need abortion care as well, including transgender men and many nonbinary individuals. See e.g. Heidi Moseson, et al., *Abortion Experiences and Preferences of Transgender, Nonbinary, and Gender-Expansive People in the United States*, 224 Am. J. Obstetrics Gynecology 376.e1 (2021), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7518170/pdf/main.pdf>.

<sup>16</sup> Guttmacher Inst.. *The Hyde Amendment: A Discriminatory Ban on Insurance Coverage of Abortion* (May 2021) <https://www.guttmacher.org/sites/default/files/factsheet/hyde-amendment-fact-sheet.pdf>.

<sup>17</sup> Guttmacher Inst.. *The Hyde Amendment: A Discriminatory Ban on Insurance Coverage of Abortion* (May 2021) <https://www.guttmacher.org/sites/default/files/factsheet/hyde-amendment-fact-sheet.pdf>.

<sup>18</sup> Guttmacher Inst.. *The Hyde Amendment: A Discriminatory Ban on Insurance Coverage of Abortion* (May 2021) <https://www.guttmacher.org/sites/default/files/factsheet/hyde-amendment-fact-sheet.pdf>.

Although the proposed rule claims to be based on statutory interpretation, the reasoning provided by CMS indicates that its motivation is, at least in part, based on discriminatory animus towards transgender youth more generally. The proposed rule, like the Hyde Amendment, was specifically created to block access to care for Medicaid enrollees. Representative Henry Hyde, the Hyde amendment's main proponent, made this intent clear during House floor debate, by stating "I would certainly like to prevent, if I could legally, anybody having an abortion: a rich woman, a middle class woman, or a poor woman. Unfortunately, the only vehicle available is the... Medicaid bill."<sup>19</sup> From his first day back in office, President Trump made plain via an executive order with anti-trans sentiments, that his administration would follow in the footsteps of Representative Hyde by subverting the intent of federal health care funding to promote coercive policies that discriminate against transgender people.<sup>20</sup>

This administration has not shied away from expressing prejudice or ideological opposition towards transgender people and their health care, including via the executive order issued on his first day back in office calling for a whole-of-government attack on their rights.<sup>21</sup> Within days of issuing this executive order, President Trump released yet another executive order promoting disinformation about care for transgender youth, stoking fear and hatred through inflammatory claims, and charting a path for policies denying that care.<sup>22</sup> The proposed rule fails to provide a legitimate governmental interest, supported by widely accepted evidence, to justify these discriminatory efforts to block access to essential health care for transgender youth. Prejudice or ideological opposition to specific forms of health care, without a legitimate government interest, amounts to discriminatory animus and cannot justify these cruel efforts to block access to essential services.<sup>23</sup>

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We strongly urge the agency to withdraw the proposed rule prohibiting federal Medicaid and CHIP funding for care for transgender youth, as it poses a significant threat to their health and wellbeing and exacerbates existing barriers to care. Access to essential health care should not be contingent on socioeconomic status nor restricted by ideological opposition, and every individual deserves access to the care they need. We also request that you incorporate the cited materials into the record and comply with Administrative Procedure Act requirements.

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<sup>19</sup> See Heather D. Boonstra, *The Heart of the Matter: Public Funding of Abortion for Poor Women in the United States*, 10 Guttmacher Pol'y Rev., (Mar. 5, 2007) <https://nwlc.org/resource/hyde-amendment-creates-unacceptable-barrier-women-getting-abortions/>; <https://www.guttmacher.org/gpr/2007/03/heart-matter-public-funding-abortion-poor-women-united-states>.

<sup>20</sup> Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025) <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>.

<sup>21</sup> Exec. Order No. 14168, 90 Fed. Reg. 19 (Jan. 20, 2025) <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>; *U.S. Dep't of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) ("[I]f the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest."); See also Scott Skinner-Thompson, *Trans Animus*, 65 B.C. L. REV. 965 (2024) <https://bclawreview.bc.edu/articles/3125>.

<sup>22</sup> Exec. Order No. 14187, 90 Fed. Reg. 8771 (Jan. 28, 2025) <https://www.whitehouse.gov/Presidential-Actions/2025/01/Protecting-Children-From-Chemical-And-Surgical-Mutilation/>.

<sup>23</sup> *U.S. Dep't of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) ("[I]f the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest."); See also Scott Skinner-Thompson, *Trans Animus*, 65 B.C. L. REV. 965 (2024) <https://bclawreview.bc.edu/articles/3125>.

For further information, please contact Bridget Winkler, Senior Counsel at the National Women’s Law Center, at [bwinkler@nwlc.org](mailto:bwinkler@nwlc.org).

Signed,

ACCESS REPRODUCTIVE JUSTICE

Advocates for Youth

All\* Above All

American Atheists

American Civil Liberties Union

American Humanist Association

Arkansas Black Gay Men's Forum

Autistic Self Advocacy Network

Autistic Women & Nonbinary Network

California LGBTQ Health and Human Services Network

Caring Across Generations

Center for Law and Social Policy (CLASP)

Clearinghouse on Women's Issues

Community Catalyst

Defend Public Health

Disability Rights California

Equality California

Feminist Majority Foundation

Guttmacher Institute

Healthcare Across Borders

Healthy Teen Network

Ibis Reproductive Health

If/When/How: Lawyering for Reproductive Justice

Maryland National Organization for Women

National Abortion Federation

National Asian Pacific American Women's Forum

National Council of Jewish Women

National Latina Institute for Reproductive Justice

National Network of Abortion Funds

National Organization for Women

National Partnership for Women & Families

National Women’s Law Center

New Disabled South

Physicians for Reproductive Health

Planned Parenthood Action Fund

Population Institute

Positive Women's Network-USA

Power to Decide

Prevention Institute

Religious Community for Reproductive Choice

Reproductive Freedom for All  
Reproductive Health Access Project  
SEIU  
SIECUS: Sex Ed for Social Change  
Silver State Equality  
The Institute for Health Research & Policy at Whitman-Walker  
The TransLatin@ Coalition  
UltraViolet Action