

February 13, 2026

Secretary Robert F. Kennedy, Jr.
U.S. Department of Health and Human Services

Mehmet Oz, M.D.
Administrator, Centers for Medicare & Medicaid Services

RE: “Prohibition on Federal Medicaid and Children’s Health Insurance Program Funding for Sex-Rejecting Procedures furnished to Children” (CMS-2451- P) (RIN 0938-AV87)¹

Submitted to: <http://www.regulations.gov>

Dear Secretary Kennedy, Jr. and Administrator Oz,

On behalf of Fenway Health in Boston and the 33,000 patients we serve, we write in strong opposition to the proposed Federal Medicaid and CHIP rule regarding gender-affirming care for youth under age 19. The proposed rule would prohibit the use of Federal Medicaid and CHIP funds for puberty blockers, hormone therapy, or surgery for transgender youth under age 18 and 19, respectively. According to CMS, some 36.6 million children in the U.S. are on Medicaid or CHIP insurance.² This rule would mean that low-income children could not access care that is available to middle- and upper-income children. This is discriminatory.

This proposed regulation would prohibit the use of federal Medicaid and CHIP funding to cover medically necessary care for transgender youth. This could make it even more difficult for transgender young people to receive the care they need. **CMS should withdraw this rule as it violates the right of families, patients and providers to make private decisions about their health care.** It runs counter to the science and the positions of leading pediatric and adolescent

¹ Department of Health and Human Services, Centers for Medicare & Medicaid Services. 42 CFR Parts 441 and 457 [CMS-2451-P]. RIN 0938-AV73. “Medicaid Program; Prohibition on Federal Medicaid and Children’s Health Insurance Program Funding for Sex-Rejecting Procedures Furnished to Children.” A Proposed Rule by the [Centers for Medicare & Medicaid Services](#) on [12/19/2025](#). *Federal Register*.

<https://www.federalregister.gov/documents/2025/12/19/2025-23464/medicaid-program-prohibition-on-federal-medicaid-and-childrens-health-insurance-program-funding-for>

² Medicaid.gov. *October 2025 Medicaid & CHIP Enrollment Data Highlights*. Baltimore, MD: CMS. October, 2025. <https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/medicaid-chip-enrollment-data/october-2025-medicaid-chip-enrollment-data-highlights>

medical professional associations on medically necessary transition related health care for transgender and gender diverse youth. It ignores the documented harm to children and young adults caused by withholding gender-affirming care. It is also inconsistent and unlawful.

Interferes with families' decision-making autonomy on difficult and complex health decisions

Fenway Health opposes the proposed Medicaid and CHIP rule for many reasons, but first and foremost because it **inserts the federal government into already difficult and complex decisions that parents of transgender youth make in partnership with medical professionals and their children.** Such a policy should be anathema to small-government conservatives. Each individual experiencing gender dysphoria requires individualized treatment and care. Blunt federal efforts to prohibit such care from hospitals across the U.S. will only serve to make it harder for parents to care for and support their children, and for providers to treat individuals working closely with their families.

Unscientific: These policies deny medically necessary care that has been shown effective in treating gender dysphoria

Transgender health care for youth and adults with gender dysphoria has been shown to be medically necessary.^{3,4,5,6,7,8} It can improve health outcomes for transgender patients experiencing gender dysphoria. According to the American Psychiatric Association’s *Diagnostic & Statistical Manual of Mental Disorders*, “gender dysphoria” is the diagnostic term for “clinically significant distress” experienced by some transgender people resulting from the incongruence between their gender identity and the sex assigned at birth. To be diagnosed with gender dysphoria, the incongruence between one’s sex assigned at birth and one’s gender identity must persist for at least six months and be accompanied by clinically significant distress or impairment in occupational, social, or other important areas of functioning.⁹ The inability of people diagnosed with gender dysphoria to live consistent with their gender identity can significantly undermine their overall health and wellbeing. Delay or denial of medically necessary treatment for gender dysphoria is likely to create or exacerbate other medical issues, such as anxiety, depression, and suicidality. Transgender people who do not receive medically necessary gender affirming care face increased rates of victimization, substance abuse, depression, anxiety, and suicidality.¹⁰ A 2022 study found that transgender people who accessed hormone therapy in adolescence or adulthood had lower risk of past-year suicidal ideation when

³Wyckoff AS. AAP reaffirms gender-affirming care policy, authorizes systematic review of evidence to guide update. Published online August 4, 2023. Accessed October 15, 2023.

<https://publications.aap.org/aapnews/news/25340/AAP-reaffirms-gender-affirming-care-policy>

⁴ “AMA reinforces opposition to restrictions on transgender medical care [press release].” American Medical Association, 2021. <https://www.ama-assn.org/press-center/ama-press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care>

⁵ Position Statement on Gender-Affirming Care for Transgender Youth. American Psychiatric Association, December 2025. <https://www.psychiatry.org/getattachment/8665a2f2-0b73-4477-8f60-79015ba9f815/Position-Treatment-of-Transgender-Gender-Diverse-Youth.pdf>.

⁶ American Academy of Child and Adolescent Psychiatry Statement Responding to Efforts to Ban Evidence-Based Care for Transgender and Gender Diverse Youth [press release]. 2019. https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx

⁷ The Endocrine Society Calls on Congress to Reject Efforts to Ban Access to Gender-Affirming Care. News release. Society Letters. July 18, 2023. Accessed March 24, 2024. <https://www.endocrine.org/advocacy/society-letters/2023/opposing-efforts-to-ban-gac>

⁸ WPATH. Statement in Response to Proposed Legislation Denying Evidence-Based Care for Transgender People Under 18 Years of Age and to Penalize Professionals who Provide that Medical Care [press release]. 2020. <https://wpath.org/wp-content/uploads/2024/11/FINAL-Joint-Statement-Opposing-Anti-Trans-Legislation-Jan-28-2020.pdf>

⁹ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, Washington, DC: APA, 5th edition, 2013, pp. 452-453.

¹⁰ Restar AJ, Layland EK, Davis B, Thompson H, Streed C. The Public Health Crisis State of Transgender Health Care and Policy. *Am J Public Health*. 2024 Feb;114(2):161-163.

compared with those desiring but never accessing gender affirming hormones. The earlier hormone therapy was started the greater the reduction in suicidal ideation.¹¹

The American Academy of Pediatrics,¹² the Society for Adolescent Health and Medicine,¹³ and every other major medical society¹⁴ has stated the importance of transgender health care for youth experiencing gender dysphoria. Various studies have shown that transgender health care is associated with decreased suicidal ideation and lower rates of anxiety and depression among transgender and gender diverse (TGD) adults.^{15,16,17} The literature on transgender youth also shows overwhelmingly positive mental health outcomes as a result of

¹¹ Turban JL, King D, Kobe J, Reisner SL, Keuroghlian AS. Access to gender-affirming hormones during adolescence and mental health outcomes among transgender adults. *PLoS One*. 2022 Jan 12;17(1):e0261039. doi: 10.1371/journal.pone.0261039. Erratum in: *PLoS One*. 2023 Jun 12;18(6):e0287283. doi: 10.1371/journal.pone.0287283. PMID: 35020719; PMCID: PMC8754307.

¹²Wyckoff AS. AAP reaffirms gender-affirming care policy, authorizes systematic review of evidence to guide update. Published online August 4, 2023. Accessed October 15, 2023.

<https://publications.aap.org/aapnews/news/25340/AAP-reaffirms-gender-affirming-care-policy>

¹³ Society for Adolescent Health and Medicine. "SAHM Supports Protecting Access to Comprehensive Clinical Care for Transgender and Nonbinary Adolescents and Young Adults, and the Clinicians Who Provide Such Care." Press release. October 25, 2024. https://adolescenthealth.org/press_release/sahm-supports-protecting-access-to-comprehensive-clinical-care-for-transgender-and-nonbinary-adolescents-and-young-adults-and-the-clinicians-who-provide-such-care/

¹⁴ UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA EVANSVILLE DIVISION AUTUMN CORDELLIONÉ, also known as JONATHAN RICHARDSON, Plaintiff, v. COMMISSIONER, INDIANA DEPARTMENT OF CORRECTION, in her official capacity. Defendant. Case No. 3:23-cv-135-RLY-CSW STATEMENT OF INTEREST OF THE UNITED STATES. Filed August 28, 2023. <https://www.justice.gov/crt/media/1339316/dl>

¹⁵ Hughto JMW, Gunn HA, Rood BA, Pantalone DW. Social and Medical Gender Affirmation Experiences Are Inversely Associated with Mental Health Problems in a U.S. Non-Probability Sample of Transgender Adults. *Arch Sex Behav*. 2020;49(7):2635-2647. doi:10.1007/s10508-020-01655-5

¹⁶ Scheim AI, Baker KE, Restar AJ, Sell RL. Health and Health Care Among Transgender Adults in the United States. *Annu Rev Public Health*. 2022;43:503-523. doi:[10.1146/annurev-publhealth-052620-100313](https://doi.org/10.1146/annurev-publhealth-052620-100313)

¹⁷Bränström R, Pachankis JE. Reduction in Mental Health Treatment Utilization Among Transgender Individuals After Gender-Affirming Surgeries: A Total Population Study. *Am J Psychiatry*. 2020;177(8):727-734. doi:[10.1176/appi.ajp.2019.19010080](https://doi.org/10.1176/appi.ajp.2019.19010080)

gender-affirming care for transgender youth.^{18,19,20,21} In general surgery is rarely provided to minor patients for the purposes of gender affirmation.²²

Inconsistent in that it allows unnecessary, nonconsensual operations on intersex youth to continue

The proposed rule is inconsistent, in that it allows procedures on intersex minors, which are often performed without consent on infants and which can cause damage.²³ The majority of these surgeries are not medically necessary and can be delayed until the individual can participate in the decision. There is no evidence demonstrating the benefits of cosmetic genital surgery to an intersex child's long-term mental or physical health, nor is there evidence of any risk to delaying the procedures until the individual can decide if they wish to have the surgery.^{24,25,26,27}

Many intersex people experience multiple adverse side effects from these deferrable early genital surgeries, including scarring, chronic pain, loss of sensation, urinary and sexual dysfunction, and other complications that require repeated follow-up surgeries. Intersex people

¹⁸Allen LR, Watson LB, Egan AM, Moser CN. Well-being and suicidality among transgender youth after gender-affirming hormones. *Clinical Practice in Pediatric Psychology*. 2019;7(3):302-311. doi:[10.1037/cpp0000288](https://doi.org/10.1037/cpp0000288)

¹⁹Chen D, Berona J, Chan YM, et al. Psychosocial Functioning in Transgender Youth after 2 Years of Hormones. *N Engl J Med*. 2023;388(3):240-250. doi:[10.1056/NEJMoa2206297](https://doi.org/10.1056/NEJMoa2206297)

²⁰Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared With Cisgender General Population Peers - *ClinicalKey*. Accessed February 7, 2024. <https://www-clinicalkey-com.ezproxy.library.tufts.edu/#!/content/playContent/1-s2.0-S1054139X20300276?returnurl=null&referrer=null>

²¹Kuper LE, Stewart S, Preston S, Lau M, Lopez X. Body Dissatisfaction and Mental Health Outcomes of Youth on Gender-Affirming Hormone Therapy. *Pediatrics*. 2020;145(4):e20193006. doi:[10.1542/peds.2019-3006](https://doi.org/10.1542/peds.2019-3006)

²²Freitag T, *Gender-affirming care for adolescents: Understanding the fundamental components and scientific support for lifesaving gender affirmation*. Boston: The Fenway Institute, 2024. <https://fenwayhealth.org/policy-briefs/gender-affirming-care-for-adolescents-understanding-the-fundamental-components-and-scientific-support-for-lifesaving-gender-affirmation/>

²³Roen K. Intersex or diverse sex development: critical review of psychosocial health care research and indications for practice. *J Sex Res*. 2019;56(5):511-528.

²⁴Almasri J, Zaiem F, Rodriguez-Gutierrez R, et al. Genital reconstructive surgery in females with congenital adrenal hyperplasia: A systematic review and meta-analysis. *J Clin Endocrinol Metab*. 2018;103:4089-4096.

²⁵Jones T, Hart B, Carpenter M, Ansara G, Leonard W, Lucke J. *Intersex: Stories and Statistics from Australia*. Cambridge, UK: Open Book Publishers; 2016.

²⁶Kreukels BPC, Cohen-Kettenis PT, Roehle R, et al. Sexuality in adults with differences/disorders of sex development (DSD): findings from the DSD-LIFE Study. *J Sex Marital Ther*. 2019;45:688-705.

²⁷Rynja SP, de Jong TP, Bosch JL, de Kort LM. Functional, cosmetic and psychosexual results in adult men who underwent hypospadias correction in childhood. *J Pediatr Urol*. 2011;7:504-515.

also report symptoms of post-traumatic stress disorder, depression, feelings of loneliness, and fear of intimacy due to surgeries performed on them before they were old enough to participate in the decision themselves.²⁸

Unlawful

According to U.S. law, CMS must ensure that care is provided in the best interest of enrollees.²⁹ Federal law mandates that CHIP funding be provided in an efficient and effective manner that is coordinated with other health coverage for children.³⁰ The mandatory Early and Periodic Screening, Diagnostic and Treatment clause³¹ requires states to cover medically necessary services. According to the American Medical Association, “[e]very major medical association in the United States recognizes the medical necessity of transition-related care for improving the physical and mental health of transgender people.”³²

The proposed rule also violates the Comparability clause which requires 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.”³³ The proposed rule dismisses this concern by saying that different uses of the services have different risk/benefit profiles without sufficient evidence that this distinction makes a material difference.

Introducing uncertainty, reducing access to care, and increasing mistrust

From our physicians’ perspective (as not just practicing clinicians but also as professors of medicine training our next generation of primary care doctors) this proposed rule extends far

²⁸ Carpenter M. Intersex Variations, human rights, and the International Classification of Diseases. *Health Hum Rights*.2018;20:205-214.

²⁹ (§ 1902(a)(19) [42 U.S.C. 1396a(a)(19)]).

³⁰ (§ 2101(a) [42 U.S.C. 1397aa]).

³¹ (§ 1905(r) [42 U.S.C. 1396d]).

³² UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA EVANSVILLE DIVISION AUTUMN CORDELLIONÉ, also known as JONATHAN RICHARDSON, Plaintiff, v. COMMISSIONER, INDIANA DEPARTMENT OF CORRECTION, in her official capacity. Defendant. Case No. 3:23-cv-135-RLY-CSW STATEMENT OF INTEREST OF THE UNITED STATES. Filed August 28, 2023. <https://www.justice.gov/crt/media/1339316/dl>

³³ ([42 U.S.C. § 1396a(a)(10)(B)(i)]).

beyond transgender care. By allowing political ideology to override clinical standards, it introduces uncertainty into routine pediatric and adolescent practice, forcing clinicians and institutions to second-guess evidence-based decisions. This destabilizes care pathways, disrupts long-term patient relationships, and places providers at risk for inconsistent enforcement. The result is not improved oversight, but reduced access, delayed care, and a measurable loss of trust in the healthcare system.

Conclusion: Proposed Medicaid and CHIP rule would restrict access to care.

Transgender youth are a sizable population. A 2023 Massachusetts Department of Public Health report on the 2021 Massachusetts Youth Risk Behavior Survey and Massachusetts Youth Health Survey found that 2.6 percent of high school students reported that they were transgender.³⁴ At the national level, data from the 2023 Youth Risk Behavior Survey showed that 3.3 percent of U.S. high school students identified as transgender, and an additional 2.2 percent identified as questioning.³⁵

This sizable population of young people needs support and access to health care. They and their families deserve health care informed by science and clinical experience. They do not deserve arbitrary restrictions on their ability to access care motivated by ideology and politics. Fenway Health appreciates the opportunity to provide feedback on the proposed CMS Medicaid and CHIP rule. We strongly urge CMS to withdraw this proposed rule. If you have any questions, please email information@fenwayhealth.org.

Sincerely,

Dallas Ducar, MSN, RN, NP, CNL, FAAN

³⁴Massachusetts Department of Public Health (MDPH). *Health and Risk Behaviors of Massachusetts Youth, 2021*, pg. 74. Published December 2023. <https://www.mass.gov/doc/health-and-risk-behaviors-of-massachusetts-youth-2021/download>

³⁵ Suarez NA, Trujillo L, McKinnon II, et al. Disparities in School Connectedness, Unstable Housing, Experiences of Violence, Mental Health, and Suicidal Thoughts and Behaviors Among Transgender and Cisgender High School Students — Youth Risk Behavior Survey, United States, 2023. *MMWR Suppl 2024;73(Suppl-4):50–58*. DOI: <http://dx.doi.org/10.15585/mmwr.su7304a6>.

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