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Undercutting Medical Care for Trans Youth: Proposed Rules that Need Your Voice

Transgender people and others who experience gender dysphoria deserve access to evidence-based health care. Yet the Trump Administration has launched a comprehensive campaign against what it calls “gender ideology,” which seemingly intends to erase the existence of transgender people from health care. Foremost among these attacks on the trans community is an attempt to limit the availability of life-saving gender-affirming care, starting with kids—especially kids from families with low incomes. Importantly, these newest attacks include key pieces that could signal both signs of overreach—which could prevent the policies from ever taking effect—as well as an unprecedented step toward infringing upon gender-affirming care for adults by expanding restrictions to a subset of trans people who are already 18 years old.

At the end of last year, the Centers for Medicare & Medicaid Services (CMS) issued two proposed rules that would limit access to gender-affirming care for youth. In this issue of *Health Care in Motion*, we provide an overview of the proposed rules, describe how these policies are based in bad science, and share what readers can do to push back against these attacks on transgender communities.

What is CMS proposing?

CMS released two proposed rules that impact the coverage and availability of gender-affirming care for kids. The [first proposed rule](#) prohibits states from using federal Medicaid funds to pay for specific types of gender-affirming care for individuals under 18 and from using federal Children’s Health Insurance Program (CHIP) funds to pay for such care for individuals under 19. The rule focuses on “sex-rejecting procedures,” a novel term used to describe “any pharmaceutical or surgical intervention that attempts to align a child’s physical appearance or body with an asserted identity” including puberty pausing medications, hormone therapy, and surgeries. The proposed rule ignores decades of research and statutory requirements that dictate how Medicaid should cover health care services. In addition, by attempting to reach individuals under age 19, the proposed rule seeks to regulate care for 18-year-olds—people who [in most states](#) are considered legal adults and capable of making their own decisions, including around health care.

The [second proposed rule](#) prohibits hospitals that provide these types of gender-affirming care to youth under 18 from participating in the Medicaid and Medicare programs. This rule seeks to use hospitals’ participation in these health care programs (which nearly every hospital in the United States does) to control what services hospitals can provide—even when those services are paid for with other funds. This proposed rule represents a radical expansion of the [use of Medicare and Medicaid as policy weapons](#). It would essentially allow the

federal government to interfere with the [practice of medicine](#) and private decision-making in a new way by telling hospitals that if they provide this care to anyone under 18, they can no longer participate in Medicare or Medicaid—a huge financial deterrent. While this proposed rule focuses specifically on gender-affirming care for youth, if finalized, this policy would establish a dangerous precedent for other forms of health care that are politically disfavored and threaten the [fiscal stability](#) of hospitals that provide all sorts of health care to the broader community.

How are these proposed rules based in bad science?

The proposed rules rely on an unscientific and ahistorical premise, which inaccurately presents gender-affirming care as “sex-rejecting procedures” that cause significant risks to minors and warrant regulation. These claims stem largely from a report released by the U.S. Department of Health and Human Services (HHS) in May 2025 that was widely [reported](#) to contain glaring issues, including the absence of authors and misinformation concerning the [widely-agreed upon](#) standards of pediatric care for trans minors. The report, which is modeled after a known anti-trans literature review from Europe, has since been updated by HHS to include authorship but much of the misinformation remains unchanged. Along with Executive Order 14187, “[Protecting Children from Chemical and Surgical Mutilation](#),” the report lays the purported case for advancing restrictions on gender-affirming care for minors.

The Executive Order, report, and proposed rules together advance an anti-science agenda that distorts the known literature and standards of care for trans and gender-diverse youth, strategically preying upon the very health concerns that often undergird the need for transition-related care in the first place. Perhaps most illustrative is the rules’ failure to consider or engage with other recent literature reviews, such as a [comprehensive report](#) to the Utah legislature, also published in May 2025, that indicates gender-affirming care is the evidence-based and safe intervention for mental health and other psychosocial issues related to gender dysphoria in pediatric patients. In failing to do so, the rules open themselves to challenge in both [litigation and the administrative process](#), where it will be crucial to accurately contextualize the supposed mental health concerns of the Administration and to reaffirm the wealth of science that supports life-saving access to puberty blockers, hormone replacement therapy, and where appropriate, as determined in partnership with a medical professional, surgery. In other words, contrary to the assertions in the proposed rules and Executive Order, evidence-based gender-affirming care does not harm youth. Rather, youth are harmed by anti-trans stigma and willful misrepresentations about the need for lifesaving, affirming care.

What can you do?

For now, these two proposals are just that: proposals. They forecast what the Trump Administration *wants* to do, but these proposals will *not* be official policies until they are finalized and published in the Federal Register. Before the Trump Administration can finalize these policies (as is or with changes), they must read through and consider comments submitted by the public.

Public comments allow decisionmakers an opportunity to hear perspectives that they may not have considered when drafting proposals. Oftentimes, decisionmakers will ask those most likely to be affected by a proposed rule to provide their opinions or share their experiences. Organizations and individuals can submit comments

directly through the government’s [comment portal](#) or use third-party portals (like the [Human Rights Campaign’s portal](#)) that help make the comment process more accessible.

Opportunities for public engagement have [historically changed policymaking](#) on both the state and federal levels. But even if the Trump Administration does not change these proposed rules after the public comment process, *your comments still matter*.

Public comments make up what is called the “[administrative record](#).” If a federal agency does not adequately consider the administrative record when finalizing a rule, a judge may ultimately invalidate the rule and make the government reconsider its policies. (Indeed, in a [2018 case](#) challenging the federal government’s approval of a Section 1115 waiver, the judge determined that the government had failed to adequately [consider public comments](#) that asserted work requirements would “significantly reduce low-income people’s participation in health coverage programs.”) Therefore, it is important that government officials hear all the ways these proposed rules will harm our communities so that, in the future, [lawyers](#) can cite to a robust administrative record that shows judges how the government did not adequately consider public comments when finalizing these rules.

Next Steps

These two rules don’t just impact transgender youth—they represent a threat to transgender adults, to people living with conditions that require specialized care, to people living with low incomes, and to people who rely on hospitals to provide care that addresses a person’s whole self. Health care that affirms a young person’s identity and allows for such care to be integrated with other forms of care sets them up for better health outcomes as an adult. And kids enrolled in Medicaid and CHIP are just as deserving of high-quality, evidence-based health care as those enrolled in other forms of health care coverage. One need not be a kid seeking gender affirming care or a parent or guardian of such a kid to be alarmed about these proposed rules.

When drafting comments, take a moment to reflect on what you want to tell the federal government about these proposed rules. How has accessing gender-affirming care from a trusted provider impacted you or a loved one? How would adding barriers to this care in Medicaid and CHIP impact your community? Be clear about what you support or don’t, but don’t worry about writing something long or responding to every point in the proposed rules. Your voice and expertise deserve to be heard.

Click on the following links to submit your comments for the [first](#) and [second](#) proposed rules. Comments are due by **February 17th at 4:59 pm Eastern Time**. (For readers who wish to prepare comments on behalf of an advocacy organization, click [here](#) to request a rule comment toolkit or e-mail chlpi@law.harvard.edu.)

Comments are Public

Comments submitted to the federal government will be publicly posted on Regulations.gov. Please be aware that referencing personally identifiable information or including information about where you or loved ones access gender-affirming care could carry additional risks. If you are concerned about metadata that may be associated with submitting a comment, consider submitting your comment through portals such as [this](#). Only submit comments if you feel safe doing so.

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Health Care in Motion is written by Carmel Shachar, Health Law and Policy Clinic Faculty Director; Kevin Costello, Litigation Director; Elizabeth Kaplan, Director of Health Care Access; Maryanne Tomazic, Clinical Instructor; John Card, Staff Attorney; and Rachel Zacharias, Clinical Fellow.

For further questions or inquiries please contact us at chlpi@law.harvard.edu.