



February 17, 2026

Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
Attention: CMS-3481-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

RE: Medicare and Medicaid Programs; Hospital Condition of Participation: Prohibiting Sex-Rejecting Procedures for Children

Dear Secretary Kennedy and Administrator Oz:

On behalf of the American Speech-Language-Hearing Association (ASHA), I am writing in response to the Medicare and Medicaid Programs; Hospital Condition of Participation: Prohibiting Sex-Rejecting Procedures for Children proposed rule.

ASHA is the national professional, scientific, and credentialing association for 241,000 members, certificate holders, and affiliates who are audiologists; speech-language pathologists (SLPs); speech, language, and hearing scientists; audiology and speech-language pathology assistants; and students.

ASHA opposes efforts to inhibit patient access to care and attempts to specifically restrict the ability of SLPs to provide services within their scope of practice. We believe that all individuals, including those who are transgender and gender-nonconforming and people with disabilities, have a right to bodily autonomy, self-determination, and equal access to health care. By restricting Medicaid funding for these services, the Administration is limiting access to health care services that patients and their health care teams have determined are medically necessary.

ASHA's vision is to make effective communication, a human right, accessible and achievable for all. One of our core values is that scientifically based professional practice advances the discipline of human communication sciences and disorders. Therefore, ASHA encourages federal agencies to focus on access and affordability issues for all people rather than proposing regulations that would restrict essential medical care to a small segment of the U.S. population.

### **Conditions of Participation**

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The Conditions of Participation (CoPs) developed by the Centers for Medicare & Medicaid Services (CMS) are requirements that hospitals must meet to participate in the Medicare and Medicaid programs. Historically, these standards have focused on health and safety, quality improvement, and protecting beneficiaries. This proposed rule is unprecedented; CMS has not previously used CoPs to bar licensed providers from administering health care to a discrete segment of the population, as is being proposed in this rule.

Title 42, Chapter IV, Subchapter H, Section 482.13, addressing Conditions of Participation: Patient's Rights, requires hospitals ensure that patients are actively involved in the development, implementation, and revision of their plan of care. It further requires hospitals to plan care, with patient participation, to meet patients' psychological and medical needs.

The proposed rule creates an untenable situation in which hospitals would have to risk their participation in federally funded programs to fulfill their obligation to meet a patient's psychological and medical needs if they are expressly prohibited from providing care deemed necessary by the multidisciplinary care team in consultation with the patient.

### **Provider/Family Relationship and Parent Choice**

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ASHA believes medical decisions should stay between patients, families, and their trusted health care professionals. The executive branch does not have the authority to unilaterally determine what medical care can be covered or to arbitrarily exclude hospitals from Medicare and Medicaid.

Parental consent is a foundational civil rights safeguard. Parents and children are best positioned to understand both the child's acute and long-term voice and communication needs. They have the right to have access to the full range of speech-language pathology services necessary to ensure effective, safe, and authentic communication. Decisions about care should be made by patients, their families, and their health care providers together, based on evidence-based, age-appropriate care.

Health care in the United States is facing both an access and an affordability crisis. These proposals would further undermine access to life-saving health care. ASHA encourages the Department to focus on lowering health care costs for everyone rather than focusing on care decisions that should rest with patients, their families, and their providers who treat them—not the government.

### **Impact on Access for All**

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ASHA strongly opposes punitive action against states, hospitals, and other medical providers that provide treatment to transgender youth. No provider should be forced between adhering to their professional code of ethics and maintaining federal funding.

The proposed regulation threatens access to affordable care for all patients, as the vast majority of hospitals rely on the funding they receive through these programs to sustain operations. Hospitals depend on federal funding to serve all patients—not only transgender youth. Loss of federal funding would force hospitals to reduce services, cut staff, and increase costs, harming patients across communities.

### **Chilling Effect**

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Although this proposed rule does not yet have legal effect, it is already causing confusion, barriers to care, and a chilling effect on all health care for this population. Hospitals and other health care institutions may currently provide legal gender-affirming care to young people consistent with existing law. However, providers—fearful of retribution through funding cuts—are unclear about which services they may provide and to whom. This issue

falls within the jurisdiction of the legislative branch and should be addressed through the legislative process.

Thank you for considering ASHA's comments. If you have questions, please contact Rebecca Bowen, MA, CCC-SLP, ASHA's director for health care policy for value & innovation, at [rbowen@asha.org](mailto:rbowen@asha.org).

Sincerely,

A handwritten signature in cursive script that reads "Linda I. Rosa-Lugo".

Linda I. Rosa-Lugo, EdD, CCC-SLP  
2026 ASHA President