



February 17, 2026

Dr. Mehmet Oz, Administrator
Centers for Medicare and Medicaid Services
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 Proposed Rule (CMS-3481-P)

Dear Administrator Oz,

On behalf of the California Public Employees' Retirement System (CalPERS) and Covered California, we are writing in response to the Centers for Medicare and Medicaid Services (CMS) Hospital Condition of Participation proposed rule that would prohibit Medicare and Medicaid-participating hospitals from providing gender affirming care for minors.

CalPERS is the largest purchaser of public employee health benefits in California and the second largest public purchaser in the nation after the federal government. In 2024, we spent over \$12.4 billion to purchase health benefits for active and retired members and their families on behalf of the State of California (including the California State University system) and nearly 1,200 public agencies and schools. In the same year, CalPERS spent approximately \$728 million to provide benefits for 330,811 Medicare Advantage and Medicare Supplement members.¹

Covered California, the nation's largest state-based health insurance marketplace, has provided coverage to over 6.3 million Californians – about one in six residents – since its launch in 2014. As the 2026 open enrollment period deadline approaches, Covered California continues to provide health insurance to nearly two million Californians accessing health insurance through the Marketplace in 2025.

We are committed to providing equitable, high-quality, and compassionate care for all our members, including our transgender and gender-diverse members, and we rely on the role of evidence-based care delivered by health care professionals. As such, CalPERS and Covered California strongly oppose the proposed rule and urge CMS to

¹ See CalPERS' Health Benefits Program, 2024 Annual Report, November 2025, *available at* <https://www.calpers.ca.gov/documents/health-benefits-program-annual-report-2025/download?inline>

withdraw it, as restricting federal funding based on the provision of gender-affirming care to minors would restrict access to medically necessary, evidence-based care for transgender youth and penalize providers that provide such care. Conditioning participation in Medicare and Medicaid on compliance with this policy disregards established evidence-based medical standards, intrudes on providers' clinical judgment, eliminates access to medically necessary care for patients and families nationwide, and ultimately deprives patients of the right to make their own medical decisions.

As public purchasers of high-quality health care, we believe it is fundamental that covered and accessible services are grounded in peer-reviewed, evidence-based standards of care, and independent clinical judgement of qualified medical professionals. Decisions regarding medically appropriate and necessary treatment for children and adolescents should be made by patients, families, and their health care teams, with physicians exercising their professional autonomy and clinical judgement grounded in evidence-based standards of care. Federal agencies should neither interfere in the patient-provider relationship nor impose restrictions that compromise the ability of providers to deliver medically appropriate care.

Health care providers follow rigorous, well-established, and evidence-based standards when caring for transgender and gender-diverse patients of all ages. This care is delivered by interdisciplinary health care teams that evaluate both physical and behavioral health needs and adhere to internationally recognized standards, including those developed by the World Professional Association for Transgender Health, the Endocrine Society, and the Pediatric Endocrine Society.² These standards are grounded in decades of peer-reviewed research and clinical experience and continue to be refined based on all available evidence, as is the case with all medical interventions.³

Consistent with ethical, professional, and legal requirements in the United States, providers ensure patients and families receive comprehensive information on risks, benefits, and alternatives for any medical intervention, including gender-affirming care. Adolescents and their families engage in extensive evaluation with multidisciplinary teams, often over months or years, prior to any intervention, with informed consent, ongoing assessment, and careful monitoring central to care delivery. By prohibiting providers from delivering medically necessary care that follows these established practices, the proposed rule undermines physician autonomy and scope of practice, and destabilizes the patient-provider relationship that is essential to delivering appropriate care.

Physician autonomy and patient choice are fundamental principles of delivering high quality care. Medical professionals must have the ability to exercise their clinical judgement without interference or fear of reprisal, while patients and families must have the freedom to make informed decisions about care in consultation with their trusted

² See JAMA Clinical Guidelines Synopsis, Standards of Care for Transgender and Gender Diverse People, *available at* https://jamanetwork.com/journals/jama/fullarticle/2805345#google_vignette

³ See International Journal of Transgender Health, Standards of Care for the Health of Transgender and Gender Diverse People, *available at* <https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644>

health care providers. Restricting access to evidence-based care undermines these principles, jeopardizes the trust between patients and providers, and ultimately harms the individuals who rely on the health care system for support and treatment.

The consequences of this proposal are particularly concerning, given its potential impact on the mental health of children and adolescents with gender dysphoria. The science consistently shows that gender-affirming care is associated with improved mental health outcomes for transgender and gender diverse individuals, especially youth. This care is a critical protective factor, linked to lower rates of depression, anxiety, and suicidality.⁴ Restricting access to such care heightens the risk of psychological distress and harm for youth who are already vulnerable.

For these reasons, CalPERS and Covered California implore CMS to rescind the proposed rule. Rather than imposing restrictions that undermine evidence-based medicine and patient access to care, CMS should implement policies that respect clinical expertise, protect patient choice, and ensure that patients and families can make informed health care decisions in consultation with their trusted medical professionals. CMS has consistently prioritized evidence-based health care and patient choice. Rescinding the proposed rule is the only way to maintain these priorities.

Please do not hesitate to contact Julia Logan, CalPERS Chief Clinical Director, at (916) 795-0404, or Danny Brown, CalPERS Chief of the Legislative Affairs Division, at (916) 795-2565; Monica Soni, Covered California's Chief Medical Officer, at (916) 954-3225, or Kelly Green, Covered California's Director of External Affairs and Community Engagement, at (916) 228-8309, if we can be of any assistance.

Sincerely,

Marcie Frost
Chief Executive Officer
CalPERS

Jessica Altman
Director
Covered California

⁴See JAMA Network Open, Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care, available at <https://pubmed.ncbi.nlm.nih.gov/35212746/>