

Comment on the Proposed Rule CMS-3481-P

Medicare and Medicaid Programs: Hospital Condition of Participation: Prohibiting “Sex-Rejecting Procedures” for Children.

The European Professional Association for Transgender Health (EPATH) expresses its serious opposition to the proposed rule CMS-3481-P that would prohibit hospitals in the USA participating in Medicare and Medicaid from providing gender-affirming medical care to minors. This rule would prohibit access to a broad range of gender-related medical interventions, including puberty blockers, hormone therapies, and gender-affirming surgeries.

The proposed rule is based on the HHS overview of systematic reviews evaluating the evidence of the benefits and harms gender-related medical interventions, concluding that gender-affirming care is inherently harmful. EPATH does not agree with this conclusion and recognizes that individualized gender-affirming care, when provided in accordance with established clinical guidelines (Coleman et al., 2022, Hembree et al., 2017), can be essential to supporting the health and well-being of transgender and gender-diverse youth in indicated cases.

EPATH comes to a different conclusion regarding the growing body of peer-reviewed research demonstrating that such care is associated with improvements in gender dysphoria, mental health, reduced distress, and better overall functioning. While EPATH acknowledges that further research is necessary, EPATH considers that the evidence is sufficient to recommend that providing medical affirming treatment including blockers and/or hormones is helpful when indicated, while withholding such treatment may lead to increased gender dysphoria and adversely affect psychological functioning.

EPATH is deeply concerned that restricting hospitals from providing medically indicated, individualized gender-affirming care will increase health disparities and place young transgender and gender-diverse people at heightened risk of adverse mental and physical health outcomes, including harmful self-medication. Limiting clinicians’ ability to offer care undermines professional autonomy, compromises ethical medical practice, and further marginalizes an already vulnerable population. It also places undue strain on families seeking appropriate support for their children.

EPATH therefore urges the Centers for Medicare & Medicaid Services to withdraw or revise the proposed rule. Policies surrounding the care of transgender and gender-diverse youth must be grounded in the three principles of Evidence Based Medicine; scientific evidence, clinical expertise, and respect for patient values, ensuring that all transgender and gender-diverse young people and their families can access appropriate gender-related medical healthcare when indicated.