U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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Washington, DC 20548

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September 23, 2026

The Honorable Mike Crapo
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Brett Guthrie
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare & Medicaid Services: Medicaid Program; Prohibition on Federal Medicaid and Children's Health Insurance Program Funding for Sex-Rejecting Procedures Furnished to Children*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) entitled "Medicaid Program; Prohibition on Federal Medicaid and Children's Health Insurance Program Funding for Sex-Rejecting Procedures Furnished to Children" (RIN: 0938-AV73). We received the rule on August 13, 2026. It was published in the *Federal Register* on August 13, 2026. 91 Fed. Reg. 52406. The stated effective date of the rule is October 13, 2026.

According to CMS, this rule requires that a state Medicaid plan must provide that the Medicaid agency will not make payment under the plan for "sex-rejecting procedures" for children under 18, and prohibits the use of federal Medicaid dollars to fund "sex-rejecting procedures" for individuals under the age of 18. CMS stated that the rule also requires that a separate state Children's Health Insurance Program (CHIP) plan must provide that the CHIP agency will not make payment under the plan for "sex-rejecting procedures" for children under 19, and prohibits the use of federal CHIP dollars to fund "sex-rejecting procedures" for individuals under the age of 19. CMS further stated that for Medicaid and CHIP beneficiaries who are actively receiving cross-sex hormone therapy, state Medicaid and CHIP agencies may continue to claim federal

financial participation for those hormone therapy medications for a period of up to 6 months from the effective date of the rule.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on August 13, 2026. 91 Fed. Reg. 52406. The House of Representatives received the rule on August 13, 2026. 172 Cong. Rec. H5835, H5978 (daily ed. Sept. 16, 2026). The Senate received the rule on August 17, 2026. 172 Cong. Rec. S4639, S4657 (daily ed. Sept. 14, 2026). The stated effective date of the rule is October 13, 2026. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.

Enclosed is our assessment of CMS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Christina Kang
Regulations Coordinator
Department of Health and Human Services

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE & MEDICAID SERVICES
ENTITLED
"MEDICAID PROGRAM; PROHIBITION ON FEDERAL MEDICAID AND CHILDREN'S HEALTH INSURANCE PROGRAM FUNDING FOR SEX-REJECTING PROCEDURES FURNISHED TO CHILDREN"
(RIN: 0938-AV73)

(i) Cost-benefit analysis

The Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) prepared an analysis of the costs and benefits of this rule. *See* 91 Fed. Reg. 52406, 52464–73 (Aug. 13, 2026). CMS estimated that the rule will reduce federal Medicaid spending by about $175 million from fiscal year (FY) 2027 through FY 2036, in real 2027 dollars. *Id.* at 52464. CMS estimated that the rule would result in annualized monetary transfers of $13.6 million to the federal government and $9.5 million to the states at a seven percent discount rate, reflecting a reduction in payments for these services to healthcare providers, and annualized transfers of $13.7 million to the federal government and $9.6 million to the states at a three percent discount rate. *Id.* at 52472. CMS also stated that the rule may result in several costs, including costs for states associated with updating state plans or waivers, as well as costs associated with the prevention or delay for individuals from receiving these healthcare services. *Id.* at 52466.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

CMS stated that the Secretary of HHS has certified that this rule will not have a significant economic impact on a substantial number of small entities. 91 Fed. Reg. at 52470. CMS also stated that the Secretary has certified that the rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals. *Id.*

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

CMS determined that this rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of $100 million in 1995 dollars, updated annually for inflation, in any one year. 91 Fed. Reg. at 52471.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On December 19, 2025, CMS published a proposed rule. 90 Fed. Reg. 59441. CMS stated that it received comments from various interested parties. 91 Fed. Reg. at 52421. CMS responded to comments in the rule. *See id.*

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

CMS determined that this rule contains information collection requirements under the Act. 91 Fed. Reg. at 52462.

Statutory authorization for the rule

CMS promulgated this rule pursuant to section 1302 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

CMS stated that this rule is significant under section 3(f) of the Order. *See* 91 Fed. Reg. at 52464. CMS stated that it submitted the rule to the Office of Management and Budget for review. *Id.*

Executive Order No. 13132 (Federalism)

CMS determined that this rule will have a substantial direct effect on the ability of states to receive federal Medicaid funds for "sex-rejecting procedures" furnished to children under age 18 and on the ability of states to receive federal Children's Health Insurance Program funds for "sex-rejecting procedures" furnished to children under age 19. 91 Fed. Reg. at 52471.