



April 11, 2025

Secretary Robert F. Kennedy, Jr.  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Administrator Mehmet Oz  
U.S. Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

**Re: Opposition to CMS-2025-0020-0011 (File Code CMS-9884-P) “Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability”**

Dear Secretary Kennedy and Administrator Oz,

The Center for HIV Law and Policy (CHLP) is a national legal and policy organization fighting to end the stigma, discrimination, and violence towards our communities experiencing racial oppression, patriarchal violence, and/or economic divestment. Our work focuses on and centers people living with and deeply affected by HIV and other stigmatized health conditions, especially people who are Black, brown, LGBTQ+, disabled, women, working class, and unhoused. We utilize legal advocacy, high-impact policy and research initiatives, and multi-issue partnerships, networks, and resources as concrete ways to support our communities working to decriminalize HIV and other stigmatized health conditions.

CHLP envisions and fights for a world where people living with HIV and other stigmatized health conditions are met with compassion and the resources and tools to thrive and our communities experience support and investment. We envision a world free from state violence, where people are not dehumanized and punished for their real or perceived health status and/or identities, and where health conditions are not met with criminalization, surveillance, and other punitive responses.

**We write to strongly oppose the proposed rule CMS-2025-0020-0011 (File Code CMS-9884-P), which would drastically eliminate and worsen health insurance coverage for**

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**millions of Americans.** With “approximately 750,000 to 2,000,000 individuals to lose coverage as a result of this rule[,]” the suggested changes would dramatically worsen public health, especially the public health of Southerners.<sup>1</sup> In addition to denouncing the plan to reduce and undermine health insurance coverage, we especially object to the targeting of recipients of Deferred Action for Childhood Arrivals (DACA) and transgender and gender non-conforming (TGNC) people through the proposed elimination of their healthcare.

**We oppose the unscientific and dehumanizing proposal to bar coverage of “sex-trait modification” as an essential health benefit (EHB) under the Patient Protection and Affordable Care Act (ACA).** The proposed prohibition would markedly restrict coverage for fundamental care for TGNC people, including puberty blockers, sex hormones, and surgical procedures. Relatedly, we oppose the adoption of any definition of “sex-trait modification,” which would likely contradict decades of scientific research and clinical practice and would further stigmatize and oppress TGNC people.

Due to structural barriers, including stigma and discrimination, TGNC Americans continue to face tremendous obstacles in accessing culturally competent healthcare.<sup>2</sup> The proposed modifications would exacerbate these barriers by discriminating against TGNC individuals in violation of statutory and constitutional law, limiting access to evidence-based care, and substantially raising costs for TGNC people. As a result, the suggested change would significantly harm the health of TGNC Americans, worsening gender dysphoria and mental health issues.

**Furthermore, we unequivocally oppose the racist and xenophobic proposal to exclude recipients of DACA from the definition of “lawfully present.”** In taking away coverage through the Marketplace for an estimated 100,000 people,<sup>3</sup> the change would greatly restrict access to health services for DACA recipients, who are predominantly Latine and remain underserved by the healthcare and public health systems caused by structural obstacles.<sup>4</sup>

Under the guise of “waste, fraud, and abuse,” many of the other proposed revisions would add to the administrative and financial burdens faced by Americans attempting to obtain and maintain health insurance. For example, the new rule would create additional premiums, establish extensive income reporting processes, narrow enrollment periods, and revise calculations for premiums, cost sharing, and de minimis thresholds for the actuarial value. It is clear that these changes would decrease the number of people being insured, decrease the quality of coverage offered, and increase expenses on American taxpayers. Consequently, more Americans would

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<sup>1</sup> <https://www.regulations.gov/document/CMS-2025-0020-0011>.

<sup>2</sup> <https://onlinelibrary.wiley.com/doi/10.1111/1475-6773.14362>;  
<https://pmc.ncbi.nlm.nih.gov/articles/PMC7430435/>.

<sup>3</sup>

<https://www.kff.org/racial-equity-and-health-policy/issue-brief/overview-and-implications-of-the-aca-marketplace-expansion-to-daca-recipients/>.

<sup>4</sup> [https://www.nilc.org/wp-content/uploads/2022/06/NILC\\_DACA-Report\\_060122.pdf](https://www.nilc.org/wp-content/uploads/2022/06/NILC_DACA-Report_060122.pdf);  
[https://www.uscis.gov/sites/default/files/document/data/Active\\_DACA\\_Recipients\\_Dec\\_FY23\\_qtr1.pdf](https://www.uscis.gov/sites/default/files/document/data/Active_DACA_Recipients_Dec_FY23_qtr1.pdf).

delay seeking services, which would elevate the risk of more frequent and severe illness<sup>5</sup> and increase emergency and safety net healthcare utilization.<sup>6</sup>

For communities disparately impacted by HIV, specifically, the costs associated with not having insurance or having inadequate insurance prevent individuals from using preventive services, such as Pre-Exposure Prophylaxis (PrEP) and testing, and inhibit many people from initiation and continued engagement in HIV treatment.<sup>7</sup> In reducing access to these health services, the planned changes would leave our people vulnerable to HIV acquisition and HIV-related illnesses. They would additionally expose our communities, especially people who are Black, brown, women, LGBTQ+, working class, engage in sex work, or use drugs, to discrimination and criminalization based on their health status.<sup>8</sup>

These potential ACA changes arrive amid the administration's onslaught against scientific research, assaults on evidence-based health practices, freezes to domestic and international health programming, and disastrous reorganization of federal health agencies. It is clear that these proposed modifications to the ACA would align with these deliberate attacks on our communities.

**We emphatically reject these blatant attempts to restrict access to high quality health services for all Americans.** All people, particularly communities that have been marginalized from healthcare and other systems, deserve access to culturally competent care that comprehensively addresses their needs and supports their ability to thrive.

**Because the proposed rule CMS-2025-0020-0011 (File Code CMS-9884-P) would devastatingly undermine healthcare and endanger our health, we vehemently oppose it, especially its unscientific, bigoted, and dehumanizing attacks against TGNC people and DACA recipients.**

We welcome the opportunity to answer any questions or concerns you may have.

Submitted,

The Center for HIV Law and Policy

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<https://www.commonwealthfund.org/publications/surveys/2023/oct/paying-for-it-costs-debt-americans-sicker-poorer-2023-affordability-survey>.

<sup>6</sup> <https://thehealtheconomicreview.biomedcentral.com/articles/10.1186/s13561-016-0137-z>.

<sup>7</sup> <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2811641>;

<https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2022.306793>;

<https://pmc.ncbi.nlm.nih.gov/articles/PMC5665096/>;

<sup>8</sup> <https://www.hivlawandpolicy.org/maps>.