

April 28, 2025

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

The Honorable Ed Markey
United States Senate
Washington, DC 20510

The Honorable Angus King
United States Senate
Washington, DC 20510

Dear Senators Wyden, Markey, and King:

The undersigned organizations representing health care consumers, patients, workers, clinicians, and other stakeholders write today in strong support of your resolution expressing the sense of the Senate that the U.S. Department of Health and Human Services (HHS) should withdraw its policy statement that limits the circumstances under which HHS agencies must publish proposed rules for public comment or otherwise seek public comment on federal rulemaking before those rules are finalized.

Public notice and comment processes are critical to a transparent and evidence-based regulatory process, one that ensures health care rulemaking and implementation of laws appropriately consider the needs of all relevant consumers, communities, and stakeholders. Since 1971, bipartisan administrations operating the HHS have upheld the Richardson Waiver, which establishes that rulemaking related to HHS agency management, grants, benefits, contracts, and loans are subject to notice and comment procedures. Yet, on March 3, 2025, HHS announced it would be backtracking from over fifty years of precedent by reversing the agency's long-standing practice of soliciting public comments on the full array of proposed rules, effective immediately.

Notice and comment processes on federal rulemaking guarantee that consumer and patient stakeholders have the opportunity to inform public policy decisions that have ramifications for their everyday lives. HHS currently oversees \$1.7 trillion in health care programs – including Medicare, Medicaid, the Affordable Care Act, the Children's Health Insurance Program (CHIP), the National Institutes of Health (NIH), the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention, the Health Resources and Services Administration (HRSA), and the Substance Abuse and Mental Health Services Administration (SAMHSA) —and interprets and implements statutes that touch everything from coverage eligibility and benefits to research funding for cancer and chronic diseases to how doctors and community hospitals are reimbursed for care. While some programs run by HHS continue to have public notice-and-comment as required by statute, most programs and policy areas overseen by HHS no longer have the guarantee of

robust public input—and stakeholders impacted by any changes to these programs no longer have avenues to offer their feedback to HHS in ways that ensure the agency moves forward with the best possible policy. As HHS inevitably seeks to incorporate new health interventions and technologies into its programs, the agency will no longer have a process in place to learn how these innovations affect people and the health care system in new and sometimes unintended ways.

This is a critical moment for Members of Congress to stand up in support of their constituents and send a strong signal to the administration that it should take a different course. During his Senate confirmation process, HHS Secretary Robert F. Kennedy, Jr. vowed to oversee HHS with “radical transparency.” Eliminating notice and comment for changes to health care programs would do just the opposite, setting up the administration to fast-track major policy changes that bypass feedback from patients, employers, researchers, health care advocates, clinicians, hospitals, drug and device manufacturers, and even states and localities.

We urge the Senate to stand with health care stakeholders and support this resolution to affirm that HHS should reinstate notice-and-comment rulemaking for all programs and policies within its purview.

Sincerely,

Families USA

ACA Consumer Advocacy

AIDS Foundation Chicago

Allergy and Asthma Network

American Academy of HIV Medicine

American Association on Health and Disability

Association of Nurses in AIDS Care

AVAC

CAEAR Coalition

Center for Medicare Advocacy

Center of HIV Law and Policy

CenterLink: The Community of LGBTQ Centers

Church World Service

Colorado Consumer Health Initiative

Colorado Organizations and Individuals Responding to HIV/AIDS (CORA)

Community Catalyst

Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces

Drug Policy Alliance

Equality California

Equitas Health

Esperanza United

Five Horizons Health Services
Georgians for a Healthy Future
Health GAP (Global Access Project)
HealthHIV
Hep B United
Hepatitis B Foundation
HIV Dental Alliance
HIV Medicine Association
Housing Works
Hunger Solutions New York
Infectious Diseases Society of America
Justice in Aging
Lakeshore Foundation
Legal Action Center
NAMI Chicago
NASTAD
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance for Caregiving
National Association of Pediatric Nurse Practitioners
National Health Care for the Homeless Council
National League for Nursing
National Network to End Domestic Violence
National Partnership for Women & Families
National Working Positive Coalition
NHMH - No Health without Mental Health
NMAC
PHI
Planned Parenthood Federation of America
Positive Women's Network-USA
PrEP4All
Prevention Access Campaign
Public Citizen
RESULTS
Rural AIDS Action Network
Service Employees International Union (SEIU)
SIECUS: Sex Ed for Social Change
Silver State Equality
South Carolina Appleseed Legal Justice Center
The AIDS Institute
The Human Rights Campaign
The National Alliance for HIV Education and Workforce Development
Thrive Alabama
Treatment Action Group

U.S. PIRG
Unidos US
Vital Strategies
Vivent Health
Voice of Reason