

# Congress of the United States

Washington, DC 20510

December 12, 2019

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Secretary Azar:

We write with great dismay regarding the Department of Health and Human Services' (HHS or the Department) proposed rule seeking to rescind a provision preventing federally-funded programs and services from discriminating against individuals, including because of their religion, sexual orientation, or gender identity. The proposed rule will open the door to widespread discrimination and have profound consequences for children, patients, and families. Given the scope and potential impact of the proposed rule, we strongly urge the Department to rescind the current notice of non-enforcement and extend the comment period by an additional 30 days, so that the public has sufficient opportunity to raise concerns and provide feedback before the Department begins finalizing or implementing the proposed change.

On November 19, 2019, HHS issued a proposed rule modifying § 75.300 of 45 CFR to require that "no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services, to the extent doing so is prohibited by federal statute." This proposed change would eliminate additional regulatory protections that are currently in place to prevent discrimination on the basis of non-merit factors such as age, disability, sexual orientation, gender identity, race, color, national origin, or religion. At the same time the proposed rule was released, the Department issued a notice of non-enforcement, which would immediately put into effect these new weakened discrimination standards. While the potential implications of removing the nondiscrimination provision are extensive, one of the largest impacts will be to open the door for federal service providers to discriminate because of someone's religion, sexual orientation, or gender identity.

The proposed regulation will impact a wide variety of grant programs, from foster and adoption programs, to HIV/AIDS health initiatives, to programs serving migrant children, and more. Permitting discrimination cruelly isolates individuals from federally funded programs simply because of their religion, sexual orientation, or gender identity and will deprive children and families of much needed services. HHS should provide every opportunity for impacted communities to fully explain the devastating consequences of finalizing the proposed rule before taking such a drastic step.

The communities affected by the proposed rule deserve sufficient time to examine the implications of the rule and non-enforcement of current protections and to deliver feedback to

the Department. We urge the Department to rescind the notice of non-enforcement and extend the comment period for an additional thirty days.

Sincerely,



---

PATTY MURRAY  
Ranking Member  
U.S. Senate Health, Education, Labor, and  
Pensions Committee



---

ROBERT C. "BOBBY" SCOTT  
Chairman  
U.S. House Committee on Education and Labor



---

CAROLYN B. MALONEY  
Chairwoman  
U.S. House Committee on Oversight and  
Reform