15 States Challenge New HHS Rules Over “Gender Identity” Protections



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On May 30, 2024, the Tennessee Attorney General announced a multi-state lawsuit challenging new regulations promulgated by the U.S. Department of Health and Human Services (HHS) under the Affordable Care Act that redefines the law’s definition of “sex” to include “gender identity.” The lawsuit was filed jointly by 15 states, and seeks to stay the regulations before their effective date of July 5, 2024. The regulations were announced by HHS pursuant to a final rule that was issued on April 26, 2024, and are intended to strengthen nondiscrimination protections and advance civil rights in the healthcare space. The final rule comes in response to the previous administration’s actions to limit such protections under the Affordable Care Act.

According to the lawsuit, the regulations would require medical providers to perform surgeries and administer hormone drugs to both children and adults for the purpose of gender transition, regardless of a doctor’s medical judgement. The new regulations would further require providers to allow patients into sex-segregated spaces, and would require health care workers to use gender-affirming pronouns. Tennessee, along with other states, currently prohibit certain procedures for minors that may be part of a minor’s gender transition, such as mastectomies, and do not cover procedures or treatments such as “sex change or transformation surgery” under their Medicaid programs.

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