

Congress of the United States

Washington, DC 20515

April 2, 2025

The Honorable Robert F. Kennedy, Jr.
Secretary
United States Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Robert F. Kennedy Jr.,

We write to express our alarm regarding your decision to authorize agencies to bypass public notice and comment on “matters relating to agency management or personnel or to public property, loans, grants, benefits, or contracts” at the U.S. Department of Health and Human Services (HHS).¹ A significant departure from more than 50 years of precedent, foregoing notice and comment on rulemaking and other relevant HHS actions would eviscerate transparency and squander opportunities for patients, health care providers, and the public to voice concerns about policies that directly affect their lives and livelihoods. As lawmakers, we are also concerned that this decision deviates from the standard operating protocol under which we and our predecessors have written laws for HHS for the last five decades.

Public comment has long exposed—and allowed HHS to address—potential problems with even the most well-intentioned proposals. Comments received through the public notice and comment process improve the quality, accuracy, and effectiveness of agency policies by incorporating real-world insights from people that will be affected by the policy—and, in many cases, from the people and organizations that will be expected to implement the policy correctly. Republican and Democratic administrations alike have long modified proposed rules in response to issues and concerns exposed through public comment, often clarifying a rule’s intended meaning and correcting unforeseen errors.

Adopted in 1971, the Richardson Waiver ensured that public notice and comment procedures for HHS would include rules related to public property, loans, grants, benefits, and contracts.² The 1971 directive built on legal requirements laid out by the Administrative Procedure Act of 1946 (APA) to allow the public greater input in agency matters. For over 50 years, the Richardson waiver has ensured transparency, public participation, and accountability in the rulemaking process at HHS—across Republican and Democratic administrations alike. The Richardson Waiver has ensured that HHS policies are shaped by the experiences of those they impact the most—including patients and providers—and acted as a safeguard against policies that may overlook or unintentionally harm those communities.

Rescinding the Richardson Waiver contradicts your stated commitment to “radical transparency.”³ It is a declaration that unilateral decision-making by the executive branch is the best approach to meeting the needs of Americans who rely on the actions of HHS agencies for their health.

¹ <https://www.federalregister.gov/documents/2025/03/03/2025-03300/policy-on-adhering-to-the-text-of-the-administrative-procedure-act>

² [HHS Abandons Public Comment Practices Under the Richardson Waiver | Maynard Nexsen - JDSupra](#)

³ <https://www.whitehouse.gov/remarks/2025/02/remarks-by-president-trump-and-secretary-of-the-department-of-health-and-human-services-robert-f-kennedy-jr-during-swearing-in-ceremony/>

The rescission of the Richardson Waiver has the potential to reduce transparency and accountability in the HHS decision-making process and create uncertainty for health care providers, research institutions, and advocacy groups in grantmaking processes. Without the opportunity to publicly comment on HHS decisions, there would be greater uncertainty regarding the intended interpretation of regulations governing contracts and grants.

Indeed, HHS' rescission of the Richardson Waiver has created uncertainty regarding when public notice and comment requirements apply, when HHS will adhere to long-standing public notice and comment processes, and what HHS will consider to be a "good cause" exception to statutory public notice and comment requirements in the future.⁴ In light of this, we seek clarification on the following questions.

1. What specific concerns with the long-standing public notice and comment processes led to the decision to rescind the Richardson waiver? What benefits did HHS anticipate in reducing its obligations to receive public input on policies that impact HHS notice and comment rulemaking procedures?
2. How does HHS anticipate modifying processes for rulemaking, grantmaking, and other agency activity that otherwise would have been subject to the Richardson Waiver? What agency actions does HHS intend for the rescission of the Richardson Waiver to apply to and which (if any) agency actions does HHS not intend for it to apply to? For example, will HHS commit to utilize longstanding notice-and-comment rulemaking for purposes of promulgating rulemaking with respect to Medicaid and the Children's Health Insurance Program (CHIP)?
3. Does HHS plan to implement any measures to prevent unintended consequences stemming from reduced opportunities for public notice and comment?
4. What steps does HHS plan to take to ensure there is public notice and comment on HHS agency rulemaking and other actions that were otherwise subject to the Richardson Waiver?

Please respond to these questions by April 16, 2025. We also strongly urge you to reverse the decision to rescind the Richardson Waiver to ensure that public engagement in health care rulemaking remains a standard in the United States.

Sincerely,



Gabe Amo
Member of Congress



Lizzie Fletcher
Member of Congress

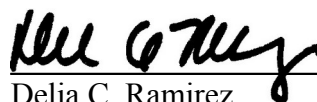


Mike Quigley
Member of Congress

⁴ <https://www.congress.gov/crs/product/R44356#:~:text=While%20the%20Administrative%20Procedure%20Act,requirement%20if%20good%20cause%20exists.>



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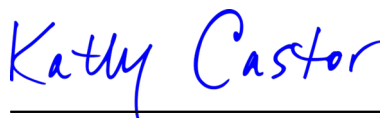
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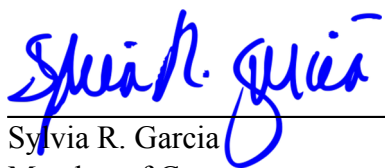
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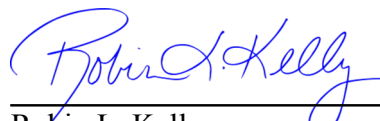
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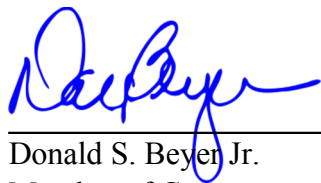
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