



The Honorable Robert F. Kennedy, Jr.

Secretary

U.S. Department of Health and Human Services

200 Independence Ave SW

Washington, DC 20201

Re: Notice: Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of “Federal Public Benefit”

The Muscular Dystrophy Association (MDA) stands in stark opposition to the Department of Health and Human Services’ (HHS) interpretation of the Federal Public Benefit of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

For 75 years, MDA has led the way in accelerating research, advancing care, and advocating for support and inclusion of families living with neuromuscular conditions. MDA’s mission is to empower the people we serve to live longer, more independent lives. In support of that mission, MDA advocates for policies to improve the lives of people affected by neuromuscular disease, including policies that strengthen access to Medicaid, which provides critical access to care, therapies, equipment, transportation, and home- and community-based services that empower the neuromuscular community to live independently. The increased utilization management contemplated by this interpretation will throw up unnecessary barrier for all those who deserve timely access to care.

### **Legal Justification:**

In the first instance, HHS’ action here is based on flawed legal reasoning. As mentioned in the preamble to the rule,<sup>1</sup> HHS cites to a Department of Justice order on the implementation of the Federal Public Benefit that in turns to Justice Thomas’ concurring opinion in *Dep 't of Homeland Sec. v. Regents of the Univ. o/California*, 140 S. Ct. 1891 , 1930 (2020). Justice Thomas’ concurrence does not represent binding legal doctrine, and more to the point, the central holding in *regents* remains that the Administrative Procedures Act Applies, and the “important aspects” the animating statute here must be considered.<sup>2</sup> Reliance on Justice Thomas’ opinion here not only flies in the face of legal principles, but also contravenes the majority’s own holding in the instant case. Given this context, the agency should set aside these changes as arbitrary and capricious.

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<sup>1</sup> <https://www.regulations.gov/document/AHRQ-2025-0002-0001>

<sup>2</sup> See, *Dep 't of Homeland Sec. v. Regents of the Univ. o/California*, 140 S. Ct. 1891 , (2020). Chief Justice Roberts.

**Policy Perspective:**

From a Policy perspective we largely echo our colleagues at the National Health Law Program in their comments as they mention the many burdens this places on those who would need to administer this change in policy, and the many harms this would do to our communities. We would also mention as we have previously, that DACA recipients would be unduly burdened by these program changes only placing more strained on struggling systems such as emergency services providers.<sup>3</sup>

Thank you for providing the neuromuscular disease community with the opportunity to review and comment on this rulemaking process. If you have questions regarding our comments, please contact Joel Cartner at [jcartner@mdausa.org](mailto:jcartner@mdausa.org)

Sincerely,



Joel Cartner, Esq.

Director, Access Policy

Muscular Dystrophy Association