Dear Secretary Becerra,  

November 13, 2023  

On behalf of the American Public Human Services Association (APHSA), the bipartisan membership association representing state and local human services agencies, and its affinity group, the National Association of Public Child Welfare Agencies (NAPCWA), we are grateful for the opportunity to review and provide comment in response to the Notice of Proposed Rulemaking (NPRM) *Discrimination on the Basis of Disability in Health and Human Service Programs or Activities*, RIN 0945-AA15.

The feedback detailed in this comment provides responses to the child welfare provisions of the NPRM. It was gathered from child welfare leaders responsible for the oversight of child welfare systems who play a key role in the successful implementation of the proposed changes in the rule.

Child welfare agencies recognize the need to do better in the spirit of the rule to ensure protections are in place for the appropriate treatment of individuals with disabilities in the child welfare system. There is significant work to do in ensuring people with disabilities have the support, services and programs needed. There are existing challenges that impede child welfare systems in meeting the needs of people with disabilities that the proposed rule does not address including, provider capacity, and adequate resources to build the necessary capacity within the child welfare system.

Agencies need tools to support them in providing the best level of care for people with disabilities, including identifying and mitigating bias to ensure they have the knowledge and skills to do so. There are likely opportunities to bridge the gap between disability serving and child welfare agencies with the intentional focus of helping child welfare staff through dedicated resources and technical assistance.

In review of the proposed rule to prevent discrimination on the basis of disability in health and human service programs we believe that certain key considerations should be addressed in the final rule to ensure that it is effective in achieving its intended purpose.

Child welfare agencies expressed concerns about having adequate resources to meet the needs of
customers with disabilities. Many of our members are concerned about the resource constraints they face in adequately serving individuals with disabilities. Addressing this issue is crucial for successful implementation.

We would like to emphasize the following recommendations to ensure child welfare agencies have the tools needed to serve people with disabilities:

**Provide Training and Technical Assistance to Support State and Local Rule Implementation** - We request ACF (Administration for Children & Families) provide training and technical assistance necessary to support federally funded child welfare agencies and programs when working with people with disabilities to ensure imminent safety and comprehensive assessments, provide reasonable modifications of services, and utilize strategies to support people with disabilities involved in child welfare systems. It is crucial that child welfare agencies and programs receive adequate guidance and resources to better serve individuals with disabilities, ensuring their safety and well-being.

**Provide Resources to Create Necessary Capacity in the Child Welfare System** - We support placing children with disabilities in the most integrated setting possible, including in family foster homes whenever possible and avoiding the use of congregate care as default placement options for children with disabilities. The shortage of providers and resources, particularly in the field of therapeutic foster homes and behavioral health services, directly affects the well-being of individuals with disabilities. The workforce crisis is impacting provider capacity and is an important consideration when providing services to people with disabilities. While beyond the purview of the proposed rule, addressing this crisis is essential to prevent discrimination and ensure access to necessary services.

**Alignment with the Disability Field on Best Practices** - We request alignment with the disability services field to foster support for child welfare agencies with best practices and technical assistance in areas such as screening and assessment at intake and Child Protections Services (CPS) investigation procedures, appropriate referrals to services in the communities, case staffing’s, and working in partnership with disability serving agencies.

APHSA, NAPCWA and its members appreciate the efforts made by the Department of Health and Human Services to combat discrimination on the basis of disability in health and human service programs. We believe that by incorporating the above concepts into the final rule, it can be a powerful tool for fostering inclusion, safety, and support for individuals with disabilities. We are committed to working collaboratively with the Department to achieve these goals.
Thank you for considering our feedback and for your dedication to ensuring equal access and opportunities for individuals with disabilities in human services systems. We look forward to continued engagement on this important matter.

Sincerely,

Vannessa Dorantes  
Chair, National Association of Public Child Welfare Agencies  
Commissioner, Connecticut Department of Children & Families

Christine Johnson  
Assistant Director of Policy  
APHSA