

CMS Community Engagement Requirement: Initial Summary & Analysis

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The Centers for Medicare & Medicaid Services (CMS) this week released an interim final rule with comment period (IFC) that interprets and implements the community engagement requirement in Medicaid established by HR 1. The IFC specifies the requirements and expectations for states; defines the Medicaid applicants and beneficiaries who must demonstrate community engagement as a condition of their eligibility and the types of qualifying activities that satisfy the community engagement requirement; and, describes the criteria to meet an exception or a specified exclusion from the requirement. It also specifies requirements for verification of qualifying activities, outreach to affected populations, steps states must take if they determine individuals are noncompliant, and additional operational considerations for states. The IFC also specifies implementation timing and establishes new state reporting requirements.

CMS reinforces that the statute plainly indicates that the community engagement requirements only apply to adults aged 19 - 64 who are enrolled in the expansion group or 1115 with similar eligibility requirements. Therefore, individuals who are eligible for Medicaid on the basis of their disability, their SSI status, or for other non-MAGI related reasons are not subject to the community engagement requirements.

Caregiver Exclusion

The regulation lays out three paths by which an individual can qualify as a “family caregiver” who is excluded from the community engagement requirements. The caregiver must provide assistance “that occurs on a regular basis and is not solely incidental in nature,” and must either primarily reside with the individual they are assisting, be related to them, or provide at least 80 hours of assistance per month. The rule does not appear to provide guidance regarding the type of documentation or other verification processes a state should use to determine whether an individual meets these criteria.

CMS clarifies that the unpaid work of a family caregiver who does not qualify for an exclusion, can qualify as unpaid work—therefore, an individual who neither resides with or is a family member of the individual they support, and who provides less than 80 hours of assistance and so does not qualify for the caregiver exemption, can count their caregiving hours toward the 80 hour requirement.

Medical Frailty Exclusion

CMS defines a medically frail individual as someone who falls into one of the five statutorily described categories (blind or disabled; with a SUD; with a disabling mental disorder; with a physical, intellectual, or developmental disability that significantly impairs their ability to perform one or more ADLs; or with a serious or complex medical condition) AND “whose physical, mental, or other behavioral health condition significantly impairs the individual’s ability to comply with the community engagement requirement.”

The agency “decline[s] to further define a physical, intellectual, or developmental disability that significantly impairs an individual’s ability to perform one or more ADLs in [the] regulation,” arguing that “it would be incredibly difficult to set one standard that appropriately defines individuals who would qualify for such an exclusion,” and instead “direct[s] States to consider the effect of the physical, intellectual, or developmental disability on an individual’s ability to comply with the community engagement requirement.” This leaves states with considerable flexibility in terms of the process they use to determine whether someone has an intellectual or developmental disability, but indicates that individuals with I/DD shall not be considered excluded from the community engagement requirements unless they have difficulty performing at least one ADL AND their condition would significantly hamper their ability to comply with the community engagement requirements. The rule makes clear that an individual who “is able to demonstrate community engagement by performing 80 hours per month of qualifying community engagement activities, notwithstanding their physical, mental, or other behavioral health condition,...would not qualify as medically frail and would not be a specified excluded individual.”

According to the rule, states must “use lists of diseases, diagnoses, disorders, or other health conditions” to help define these categories and identify individuals who might potentially qualify as medically frail,” and these lists must be “auditable, justifiable, and consistent with the definitions established” in the regulation--CMS anticipates that the lists “will generally take the form of health care code sets (for example, ICD-10 codes, etc.)” However, CMS also indicates that states should have reasonable processes and criteria in place for individuals who are not reflected by the list to request consideration for inclusion in the medically frail exemption.

Verification of Exclusions

CMS emphasizes that states must “first attempt to verify compliance with, or exception or exclusion from, the community engagement requirement using reliable information available to the State, without requiring additional information from an applicant or

beneficiary," and defines information available to the state for the purpose of verifying an individual's status as "information necessary for determining eligibility to which the state has access or should have access," listing a wide but non-exhaustive variety of potential state sources. The rule elaborates that "states may use an approach that relies on lists of qualifying diagnosis codes combined with utilization data and other factors, such as severity of conditions, to determine medical frailty or otherwise having other special medical needs."

Recognizing that such data may not be available for individuals newly enrolling in Medicaid, CMS indicates that beginning on January 1, 2028, states may "use a statement or other information provided under penalty of perjury one time during an individual's period of enrollment, to verify eligibility as a specified excluded individual on the basis of medical frailty or having other special medical needs." (emphasis added). At the next regularly scheduled renewal, the state must verify the individual's medically frail status through an ex parte review, or, failing that, "require the individual provide documentation demonstrating the individual's current medical frailty status."

Comments must be received by July 31, 2026, the date the rule becomes effective. States are required to implement the new requirement no later than January 1, 2027.

FMI: Find the rule at <https://www.federalregister.gov/public-inspection/2026-11094/medicaid-program-community-engagement-requirement-for-certain-individuals>