

Publications

September 24, 2026 • Updates

Medicaid Work Requirements Are Coming: Yet Another Path for Medical Frailty?

Key Updates

- The Centers for Medicare & Medicaid Services (CMS) quietly released new guidance on Sept. 8 addressing how states may identify Medicaid beneficiaries who qualify for the medical frailty exclusion from federal community engagement requirements, including an optional three-tier framework. Despite the guidance, significant implementation questions remain unresolved.
- Five Medicaid beneficiaries, six provider organizations and the City of Columbus, Ohio filed a second federal lawsuit on Sept. 18 challenging CMS's June 1 interim final rule with comment (IFC) implementing Medicaid community engagement requirements.¹
- CMS is reportedly reviewing more than 44,000 public comments submitted in response to the IFC. It remains unclear whether CMS will undertake additional rulemaking in response to those comments.

Why It Matters

- The community engagement work requirements take effect Jan. 1, 2027, leaving states with little time for implementation. States must determine how to reliably identify and verify medical frailty while navigating evolving federal guidance, unresolved operational questions and pending litigation.

Next Steps

- States must translate CMS's framework into state-specific eligibility requirements processes, coding methods and data-sharing arrangements. At the same time, Medicaid agencies, managed care organizations, providers and vendors should closely monitor further legislative developments, CMS guidance and litigation, while evaluating whether existing claims, clinical and care-management systems contain sufficiently reliable data to support medical frailty determinations.

Background

Related People

- Jennifer L. Evans
- Cody Pyke, M.D.
- Kathy L. Schaeffer

Related Capabilities

- Health Care
- Health Care Compliance

Beginning Jan. 1, 2027, certain Medicaid expansion adults will be required to demonstrate approved community engagement unless they qualify for an exclusion or exception. Individuals considered medically frail are excluded from these requirements.

H.R. 1 identifies five categories of medical frailty, including individuals who are blind or disabled, have a substance use disorder or disabling mental disorder, have a significant physical, intellectual or developmental disability, or have a serious or complex medical condition.

The IFC goes beyond the statutory “medically frail” definition by imposing a new two-part test, requiring states to also consider whether the frailty would significantly impair an individual’s ability to comply with the community engagement requirement. CMS instructs states to develop a list of diseases, diagnoses, disorders or other health conditions to identify individuals who are medically frail. The lists will generally take the form of health code sets (i.e., ICD-10 codes, etc.). Per the IFC, states are not authorized to categorically exclude individuals from the community engagement requirements based solely on a diagnosis or condition, but recent guidance appears to soften this prohibition.

Whether CMS exceeded its authority under H.R. 1 by imposing this additional requirement of determining whether an individual’s condition significantly impairs their ability to comply with the community engagement requirements remains unresolved and is among the issues currently being litigated in two federal district court cases.

CMS’s Optional Three-Tiered Framework

On Sept. 8, CMS released a slide presentation with updated guidance on implementing the medical frailty exclusion from the community engagement requirements.² Although the guidance provides states with a potential roadmap, it is informal, optional and leaves significant questions unresolved.

The informal guidance illustrates how states may — but are not required to — implement the medical frailty exclusion. The framework is designed to allow states to make determinations *ex parte* using reliable information already available to them, primarily through adjudicated claims or encounter data.

States may use the following three-tiered framework to identify individuals who may qualify as medically frail based on their conditions:

- **Tier 1:** Conditions for which a state can determine from ICD-10 code data alone that an individual’s ability to comply with community engagement requirements is significantly impaired. For this tier, additional information is not needed from a beneficiary or applicant to demonstrate individual impairment.
- **Tier 2:** Conditions that may indicate medical frailty but require additional information to determine whether the individual’s ability to comply is significantly impaired.
- **Tier 3:** Cases in which available information is insufficient to make a determination under Tiers 1 or 2, triggering an individualized review that may require additional documentation, including self-attestation where permitted or additional provider documentation.

According to CMS, the framework is intended to minimize administrative burden by using reliable information already available to states and requiring additional documentation only when necessary.

The Uncertainty Continues

CMS continues to issue both formal and informal guidance as the Jan. 1, 2027

implementation deadline approaches, but the ultimate requirements remain uncertain.

Before issuing the IFC, CMS provided informal guidance and webinars to help states prepare for implementation. The IFC subsequently adopted requirements that differed materially from earlier guidance, including the two-part test for establishing medical frailty. That discrepancy is among the issues raised in the pending federal litigation. CMS has taken the position that its earlier guidance was informal and nonbinding and did not prevent the agency from adopting a different standard in the IFC.

CMS is also reportedly considering the more than 44,000 comments submitted on the IFC but has not formally announced whether it will revise its policy, issue additional guidance or undertake further rulemaking.

What Should Providers Do Next?

- **Monitor developments.** Continue tracking CMS guidance, pending litigation and state implementation decisions as requirements evolve.
- **Engage with state Medicaid agencies.** Providers, health systems, managed care organizations and other stakeholders should participate in state implementation efforts, including development and refinement of diagnosis, procedure and other code lists used to support medical frailty determinations.
- **Prepare for documentation requests.** Providers and health systems should consider standardized processes, including a simple provider attestation form, for supplying information when existing state data is insufficient.
- **Plan now, but remain flexible.** Stakeholders should move forward with operational planning while designing processes that can be modified if CMS guidance or policy changes before implementation.

To discuss the community engagement requirements and other Medicaid-related issues, please contact Jennifer Evans, Cody Pyke, Kathy Schaeffer, a member of the Health Care Team or your preferred Polsinelli attorney.

[1] *Taylor v. Kennedy*, Case 1:26-cv-03705-GLR, Sept. 18, 2026 (D. Md), *available at* https://healthlaw.org/wp-content/uploads/2026/09/Taylor-et-al.-v.-Kennedy-Jr.-et-al_Complaint.pdf.

[2] CMS, Implementing Medical Frailty Under Community Engagement (Section 71119 of WFTC Legislation), Sept. 8, 2026, *available at* <https://www.medicaid.gov/resources-for-states/working-families-tax-cut-legislation/community-engagement/ImplementingMedicalFrailtyDeck.pdf>.