



July 30, 2026

Submitted via www.regulations.gov

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2454-IFC

Re: File Code CMS-2454-IFC – Interim Final Rule with Comment Period, “Medicaid Program; Community Engagement Requirement for Certain Individuals” (91 FR 33348) [42 CFR §§ 435.550–435.563]

To Whom It May Concern:

The HIV Medicine Association is submitting comments to share our significant concerns with the CMS Interim Final Rule with Comment Period (rule) titled “Medicaid Program; Community Engagement Requirement for Certain Individuals” (File Code CMS-2454-IFC). Our comments are being submitted on behalf of nearly 6,000 physicians, researchers, pharmacists, nurse practitioners, physician assistants and other healthcare professionals who work on the frontlines of the HIV epidemic. *HIVMA urges CMS to withdraw and revise the rule before it takes effect.*

The Medicaid expansion is a critical source of healthcare coverage for our patients with HIV and has been for more than a decade. Prior to the expansion, a majority of people with HIV were not eligible for Medicaid coverage until they were disabled by [advanced HIV disease or AIDS](#)¹ – a life-threatening condition that is preventable with reliable access to comprehensive healthcare services and treatment.

The CMS interpretation of the “medically frail or otherwise has special needs” exclusion is counter to the intent of the statute and will be a major setback for our patients. For people with HIV, predicated Medicaid coverage on meeting “community engagement” requirements or on documenting that they are unable to meet the requirements due to “significant impairment” will put them at risk of losing their healthcare coverage that they need to stay healthy and able to live full lives that include working and other community activities.

¹ Centers for Disease Control and Prevention. About HIV. Accessed July 30, 2026 online at: <https://www.cdc.gov/hiv/about/index.html>.

The “significant impairment” requirement is counter to the statute. [Specified excluded individuals (§ 435.554(c))]

CMS is going further than the statute by imposing subjective, administrative barriers to healthcare coverage for people with HIV and others whose lives, and ability to work, depend on uninterrupted access to care and treatment.

Congress exempted individuals from the “community engagement requirements” who are “medically frail or otherwise [have] special medical needs,” and defined that category by five conditions joined by “or”: a disability under the Social Security Act; a substance use disorder; a disabling mental disorder; a physical, intellectual, or developmental disability that significantly impairs activities of daily living; or a serious or complex medical condition. Three of the five subcategories are framed in terms of disability but “serious or complex medical condition” is not. We believe that Congress would have applied that framing across all of the categories if that was their intent.

By CMS applying a “significant impairment” test for people with HIV and other serious or complex conditions, the rule is likely to make these exemptions unavailable to the populations as intended with serious consequences for people with HIV. HIV remains a fatal condition for those without continuous access to HIV care and treatment. Disruptions in health coverage result in people with HIV experiencing care and treatment disruptions, which allow the HIV to rebound leaving them with fewer and more costly treatment options due to the development of drug resistance virus. Depending on the length of the treatment disruption, they will develop advanced stage HIV disease threatening their health and lives and leaving them unable to work or engage in other community activities.

The “significant impairment” requirement is ambiguous and subjective. [Verifying compliance with or exception or exclusion from the community engagement requirement (§ 435.557)]

By requiring documentation of “significant impairment” in order to qualify for an exception under the “medically frail or otherwise has special needs category”, CMS is introducing significant subjectivity and inconsistency to the implementation of the community engagement requirements.

While CMS is encouraging states to use “reliable information” first to determine eligibility for exceptions from the work requirements, this is not possible for determining if a condition significantly impairs a patient’s ability to meet the work or community service requirements. There are no specific diagnostic or billing codes for documenting impairment from a condition. We note that when Nebraska [implemented the work requirement](#) earlier this year², they excluded people with HIV and viral hepatitis and other conditions by using diagnostic codes without requiring impairment of disability – which allowed for the automation that CMS is encouraging states to deploy.

The ambiguity of the requirement will lead to significant variability across the states and will likely shift the responsibility to providers who are not trained in disability determinations. The HIV clinical

² Diana, Amaya and Anna Mudumala. KFF. A Closer Look at Nebraska, the First State Planning to Implement a Medicaid Work Requirement. Accessed online on July 30, 2026 at: <https://www.kff.org/medicaid/a-closer-look-at-nebraska-the-first-state-planning-to-implement-a-medicare-work-requirement/>.

workforce is already stretched thin, particularly those who work in safety-net clinics, as they face staffing shortages due to federal and state funding cuts and new immigration policies, among other challenges.

Just as concerning are the negative effect that putting providers in the position of conducting impairment assessments could have on their relationship with their patients and the potential for providers or people with HIV to need to disclose private health information for a condition that remains highly stigmatized.

After 2027, the rule significantly limits an individual's ability to demonstrate that they have special medical needs based on their own declaration under penalty of perjury. Prior to the release of the rule, more than two dozen states had planned to allow self-declaration and given that the statute does not require states to verify exemption status allowing greater flexibility beyond 2027 for self-attestation seems reasonable.

Due to all of these factors, we fear the challenges of navigating the exemption process will cause many of our patients to lose their health coverage and lifeline to HIV care and treatment even if they are impaired and unable to work. We ask CMS to outline the safeguards that they will put in place to protect Medicaid coverage for people with HIV who otherwise remain eligible for coverage impairs activities of daily living; or a serious or complex medical condition.

Revisions to the Rule

HIVMA urges CMS to remove the requirement that a condition "significantly impair" the ability to meet the work requirement and instead define "medically frail or otherwise has special medical needs" by the presence of a qualifying condition without an ability to work test. We urge CMS to clarify that people with chronic conditions requiring continuous treatment, including HIV, qualify for an exclusion without further assessment. We also encourage CMS to allow self-attestation when claims data cannot establish a condition and to identify other ways to minimize administrative burdens.

We appreciate the opportunity to comment on the rule and urge CMS to consider the harmful health and economic consequences for people with HIV and our healthcare system if this rule takes effect without revisions. Please contact the HIVMA executive director Andrea Weddle at aweddle@hivma.org with questions regarding our comments.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Person', with a long horizontal stroke extending to the right.

Anna K. Person, MD, FIDSA
Chair, HIV Medicine Association