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DEPART
Centers for Medicare & Medicaid Services
42 CFR Parts 431, 435, 438, 457, and 600
[CMS-2454-IFC]
RIN 0938-AV98
Medicaid Program; Community Engagement Requirement for Certain Individuals

Correction

In rule document 2026-11094, beginning on page 33348 in the issue of Wednesday, June 3, 2026, make the following changes:

Beginning on page 33476, § 435.557 and §435.558 should read as follows:

§ 435.557 Verifying compliance with or exception or exclusion from the community engagement requirement.

(a) *Definitions*. For purposes of this section —

Period of enrollment means a continuous period of enrollment in coverage under the State plan or waiver without the individual being disenrolled, regardless of the number of consecutive eligibility periods, of redeterminations or renewals, or of transitions between eligibility groups.

Reliable information available to the State means, for purposes of verifying compliance, deemed compliance or exclusion from the community engagement requirement in accordance with §§ 435.550 through 435.563, information necessary for determining eligibility to which the agency has access or should have access including, but not limited to:

(i) Information from electronic data sources that the agency has determined to be effective consistent with paragraph (b)(1)(ii) of this section, as documented in the agency's verification plan in accordance with paragraph (b)(1)(iii) of this section;

(ii) Information from other State or local agencies;

(iii) Information related to community engagement from Federal agencies and other data sources provided through the electronic service established by the Secretary, in accordance with § 435.949;

(iv) Information in the State's eligibility system;

(v) Information in the individual's case record;

(vi) Payroll data;

(vii) Claim(s) relevant to the individual that have been adjudicated in the preceding 12 months, including those that have been paid, pended or denied; and

(viii) Encounter data, as relevant to the individual, for the preceding 12 months.

(b) *Requirement to verify eligibility*. The agency must establish processes to use reliable information available to the State to verify that an applicable individual has demonstrated community engagement in accordance with §§ 435.552 and 435.556, or was deemed to have demonstrated community engagement under § 435.553 or, if applicable, § 435.555, or that an individual is a specified excluded individual under § 435.554, before requesting additional information from the individual.

(1) The agency —

(i) Must identify data sources that provide reliable information relevant to verifying that that an applicable individual demonstrated or is deemed to have demonstrated community engagement or that an individual is a specified excluded individual.

(ii) May determine that establishing a connection to or process to obtain information from a data source would not be effective, but the agency must consider such factors as the administrative costs associated with establishing and using the data match compared with the administrative costs associated with relying on documentation and the impact on program integrity in terms of the potential for ineligible individuals to be enrolled and for eligible individuals to be denied coverage.

(iii) Must document in its verification plan under § 435.945(j) its policies and procedures for verifying compliance with the community engagement requirement under this subpart, including an identification of the electronic data sources that the agency uses consistent with paragraph (b)(1)(i) of this section.

(iv) Must request and use information from the data sources identified and documented in its verification plan consistent with paragraphs (b)(1)(i) and (iii) of this section.

(2) Except with respect to verifying an individual is a specified excluded individual on the basis of being medically frail or otherwise having special medical needs as defined at § 435.554(c)(5), subject to paragraph (g)(1) of this section, when there is no reliable information available to the State or the reliable information available to the State is not reasonably compatible with the information provided by or on behalf of the individual, the agency must seek additional information from the individual to verify the individual has demonstrated or is deemed to have demonstrated community engagement or that the individual is a specified excluded individual, in accordance with the following rules:

(i) Before January 1, 2028, the agency may require documentation or accept other information as provided in § 435.952(c) when there is no reliable information available to the State or the reliable information is not reasonably compatible with the information provided by or on behalf of the individual.

(ii) Beginning on January 1, 2028, when there is no reliable information available to the State or the reliable information is not reasonably compatible with the information provided by or on behalf of the individual, the agency must require documentation whenever documentation is reasonably available.

(iii) The agency must:

(A) Accept information other than documentation to verify an individual's eligibility when there is no reasonably available documentation; and

(B) May not deny or terminate eligibility solely because the individual is unable to produce documentation where none exists or is reasonably available but may establish criteria for requiring the individual to provide specific information considered sufficient to verify the individual's eligibility in the absence of reasonably available documentation.

(3) The agency must comply with the requirements at §§ 435.558 and 435.952(d) and provide individuals with the opportunity to furnish information and documentation required to verify that the individual has demonstrated community engagement or is deemed to have demonstrated community engagement in accordance with §§ 435.552 and 435.556, or § 435.553 or, if applicable, § 435.555, or is a specified excluded individual as defined at § 435.554, before terminating or denying eligibility based on reliable information available to the State.

(4) The agency must accept information and documentation related to the community engagement requirement under this subpart from the individuals and via the modalities specified at § 435.907(a).

(c) *Verification at application and renewal.* The State must verify that an applicable individual has demonstrated or is deemed to have demonstrated community engagement for the period specified at § 435.556.

(1) *Requirement to check all reliable information available to the State*. The State may not limit the reliable information available to the State that is checked to specific activities or other means of demonstrating community engagement under § 435.552, or to specific means of being deemed to have demonstrated community engagement under § 435.553 or, if applicable, § 435.555, or to specific specified excluded individual statuses under § 435.554, but must continue to check reliable information available to the State until the agency verifies whether an individual who appears to be an applicable individual

has demonstrated community engagement, is deemed to have demonstrated community engagement, or is not an applicable individual because they are a specified excluded individual.

(i) The agency must attempt to verify the individual's specified excluded individual status or that the individual demonstrated community engagement or was deemed to have demonstrated community engagement using all reliable information available to the State for all relevant months before requesting additional information from the individual.

(A) Only after checking all reliable information available to the State without successfully verifying compliance, deemed compliance, or specified excluded individual status may the agency request additional information from the individual and initiate the noncompliance procedures under § 435.558, as appropriate.

(B) An individual must not be required to provide documentation or other additional information unless information needed by the agency could not be verified using reliable information available to the State, including when there is no reliable information available to the State or the reliable information is not reasonably compatible with the information provided by or on behalf of the individual.

(ii) The agency is not required to continue checking reliable information available to the State after the agency verifies compliance, deemed compliance, or status as a specified excluded individual, unless the agency has information indicating an individual whom the agency verified demonstrated or is deemed to have demonstrated community engagement may qualify as a specified excluded individual, as described in paragraph (c)(2) of this section.

(2) *Requirement to apply exclusions.* The agency must determine that an individual is a specified excluded individual whenever the agency has sufficient information to determine the individual qualifies as such, regardless of whether the

individual also demonstrates community engagement in accordance with §§ 435.552 and 435.556 or meets the criteria for an exception under § 435.553 or, if applicable, § 435.555.

(3) *Requirement to enroll eligible individuals and verify potential exclusion post-enrollment.* If the agency has sufficient information to verify an individual meets or is deemed to meet the community engagement requirement and has information that suggests, but needs more information to verify that the individual is a specified excluded individual, the agency must enroll the individual promptly using the verified information and attempt to verify eligibility for the exclusion post-enrollment or, if the individual is already enrolled, following the redetermination of eligibility.

(d) *State option to conduct more frequent verifications.* States may verify that an applicable individual has met the requirement to demonstrate community engagement more frequently than each regularly scheduled redetermination, consistent with § 435.556(a)(2)(ii).

(1) States electing to verify that an applicable individual has met the requirement to demonstrate community engagement between regularly scheduled redeterminations must comply with the requirements of this subpart to verify, consistent with this section, that an applicable individual met the requirement to demonstrate community engagement in accordance with §§ 435.552 and 435.556 or was deemed to have demonstrated community engagement under § 435.553 or, if applicable, § 435.555.

(2) For beneficiaries who were determined to be applicable individuals at their last determination or redetermination of eligibility, the agency must check all reliable information available to the State to determine if the individual newly qualifies as a specified excluded individual prior to assessing compliance or deemed compliance with the community engagement requirement each time the state conducts a more frequent verification.

(3) If the individual continues to be an applicable individual, the agency must attempt to verify that the individual demonstrated community engagement in accordance with §§ 435.552 and 435.556, or was deemed to have demonstrated community engagement, under § 435.553 or, if applicable, § 435.555, using all reliable information available to the State for all relevant months, before requesting additional information and documentation from the individual consistent with this section and initiating the noncompliance procedures under § 435.558.

(4) The agency may not reverify the specified excluded status of an individual between regularly scheduled redeterminations if the individual was determined to be a specified excluded individual at their last determination or redetermination of eligibility or during a more frequent verification of community engagement under this section unless the agency has information indicating the individual's specified excluded individual status has changed.

(e) *Requirement to use the electronic service established by the Secretary.* The agency must obtain information regarding compliance with or exception or exclusion from the community engagement requirement through the electronic data service established by the Secretary to the extent the information is available through such service, consistent with §§ 435.945 and 435.949, except as provided for in § 435.945(k) and paragraph (e)(2) of this section.

(1) If information from a new data source becomes available through the electronic data service established by the Secretary that contains reliable information relevant to verifying the community engagement requirement in this subpart, the State must establish a connection though such service, or establish a direct connection to or implement an alternative data source or mechanism if approved for flexibility under § 435.945(k), to obtain such information from that data source as soon as practicable, but

no later than 12 months after information from the data source first becomes available through the service established by the Secretary.

(2) For the purposes of verifying compliance or deemed compliance with, or exclusion from, the community engagement requirement, the Secretary may determine a waiver as described in § 435.945(k) is not required for the State to establish a direct connection or use an alternative mechanism to access information available from a Federal data source that is accessible through the service established by the Secretary, if the Secretary determines that such direct connection or alternative mechanism is likely to satisfy the criteria in § 435.945(k). In the event the State does not access the Federal data source through the service established by the Secretary and the Secretary determines that a waiver as described in § 435.945(k) is not necessary , the State must establish a direct connection or alternative mechanism within the timeframe specified in paragraph (e)(1) of this section.

(f) *Verification of medical frailty and privacy requirements for certain populations*. (1) The agency must attempt to verify that an individual is a specified excluded individual on the basis that the individual is medically frail or otherwise has special medical needs as defined at § 435.554(c)(5) using reliable information available to the State, including claim(s) relevant to the individual that have been adjudicated in the preceding 12 months, including those that have been paid, pended or denied, and encounter data, as relevant to the individual.

(i) Before January 1, 2028, when there is no reliable information available to the State or the reliable information is not reasonably compatible with the information provided by or on behalf of the individual, the agency may require documentation or accept a statement or other information under penalty of perjury that provides sufficient information, as determined by the State, to verify an applicant or beneficiary is medically

frail or otherwise has special medical needs, each time the State verifies an individual's medical frailty.

(ii) Beginning on January 1, 2028, the agency may accept a statement or other information provided under penalty of perjury that provides sufficient information, as determined by the State, to verify qualification for the exclusion only once during the beneficiary's period of enrollment defined at paragraph (a) of this section when there is no reliable information available to the State or the reliable information available to the State is not reasonably compatible with the information provided by or on behalf of the individual.

(A) At the individual's first regularly scheduled redetermination after such status was determined using the individual's statement provided under penalty of perjury or other information as described in this paragraph (f)(1)(ii), the agency must verify that the individual is medically frail or otherwise has special medical needs using reliable information available to the State, or, if reliable information available to the State is not sufficient for verification, using documentation submitted by or on behalf of the individual.

(B) If an enrollee declares specified excluded individual status on the basis of being medically frail or otherwise having special medical needs after having sought such status on or after January 1, 2028, on the basis of a statement provided under penalty of perjury or other information described in this paragraph (f)(1)(ii) during the same period of enrollment defined at paragraph (a) of this section, the agency must verify that status using reliable information available to the State, or, if reliable information available to the State is not sufficient for verification, using documentation submitted by or on behalf of the individual.

(iii) After verifying an individual's specified excluded individual status on the basis of being medically frail or otherwise having special medical needs using reliable

information available to the State or documentation submitted by or on behalf of the individual, the agency must reverify this status at least every 12 months.

(2) The agency must comply with all applicable Federal privacy requirements including section 1902(a)(7) of the Act; part 431, subpart F of this subchapter; the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d et seq.); part 2 of this title; and any other applicable Federal privacy laws when accessing, storing, and handling data obtained to verify that an individual is medically frail or otherwise has special medical needs or is participating in a drug addiction or alcoholic treatment and rehabilitation program.

(g) *Verification of mandatory and optional exceptions.* (1) States must comply with the requirements in paragraph (b)(2) of this section when verifying qualification for a mandatory exception under § 435.553 except that if the individual provided information on an application, renewal or other State form, or when reporting a change in circumstances in accordance with paragraph (b)(4) of this section indicating they qualify for an exception and there is no reliable information available to the State, the State may elect the option under section 1902(xx)(3)(A) of the Act not to seek further information from the applicable individual.

(2) States that elect to provide an optional exception for short-term hardships under § 435.555 must —

(i) Attempt to use reliable information available to the State before seeking additional information from the individual to verify whether, for part or all of a month for which an applicable individual is required to demonstrate community engagement, the applicable individual received care specified at § 435.555(d)(1) or the applicable individual or their dependent had to travel outside of their community of residence for an extended period of time to receive medical services specified at § 435.555(d)(4).

(ii) Apply an automatic short-term hardship exception to applicable individuals if, for part or all of a month for which such applicable individuals are required to demonstrate community engagement, the individuals reside in a county or equivalent unit of local government in which there exists an emergency or disaster as specified at § 435.555(d)(2) or for which the Secretary has approved an unemployment-based short-term hardship exception as specified at § 435.555(d)(3), without requesting any additional information from such applicable individuals.

§ 435.558 Noncompliance procedures.

(a) *Provision of notice of noncompliance*. If a State is unable to verify that an applicable individual has met the requirement to demonstrate community engagement under §§ 435.552 and 435.556, or is deemed compliant under § 435.553 or, if applicable, § 435.555, as specified in paragraph (b) of this section, the State must:

(1) Provide such individual with the notice of noncompliance described in paragraph (c) of this section;

(2) Provide such individual with a period of 30 calendar days beginning on the date on which such notice of noncompliance is received by the individual consistent with paragraph (c)(4) of this section, to make a satisfactory showing to the agency —

(i) Of compliance with such requirement (including, as applicable, by showing that such individual demonstrated or should be deemed to have demonstrated community engagement under § 435.553 or, if applicable, § 435.555, for each month required under the State plan); or

(ii) That such requirement does not apply to such individual on the basis that such individual does not meet the definition of applicable individual under § 435.551, including by meeting the criteria for one or more of the categories of a specified excluded individual as defined at § 435.554.

(3) Continue to furnish Medicaid for an enrolled beneficiary until the individual is determined ineligible consistent with § 435.930(b).

(b) *Defining "unable to verify" community engagement.* The agency is considered to be unable to verify that an applicable individual is compliant with the requirement to demonstrate community engagement as follows:

(1) At application, the agency is unable to verify compliance with community engagement when it does not have sufficient information after reviewing the information provided by the individual at application and the reliable information available to the State to determine that the individual has demonstrated or is deemed to have demonstrated community engagement for the number of months required under the State plan.

(2) As part of a renewal under section 1902(e)(14)(L) of the Act and § 435.916, the agency is unable to verify compliance with community engagement when it does not have sufficient information to determine that the individual has demonstrated or is deemed to have demonstrated community engagement for the number of months required under the State plan, after —

(i) Reliable information available to the State accessed at renewal consistent with § 435.916(a)(2) are not sufficient to verify compliance with the community engagement requirement; or

(ii) The renewal form provided to the beneficiary in accordance with § 435.916(a)(3) for those whose eligibility cannot be renewed based on reliable information under § 435.916(a)(2) is not returned or the information returned on the renewal form is not sufficient to verify compliance with community engagement.

(3) If applicable, as part of the more frequent verification of compliance under § 435.557(d), the agency is unable to verify compliance with the community engagement requirement when it does not have sufficient information to determine that the individual

has demonstrated or is deemed to have demonstrated community engagement for the number of months required under the State plan after —

(i) Accessing reliable information in accordance with § 435.557(d) and information is not sufficient; or

(ii) Accessing reliable information in accordance with § 435.557(d) and following the State's procedures under § 435.952(d) to request information from the individual, when the requested information is not returned or the information returned is not sufficient.

(c) *Content and form of noncompliance notice.* A notice of noncompliance—

(1) Must include clear statements containing the following information—

(i) How to make a satisfactory showing of compliance with the community engagement requirement, including:

(A) Which month(s) will be assessed by the State in accordance with § 435.556(a);

(B) How to show the individual demonstrated community engagement under § 435.552; and

(C) How to show the individual should be deemed to have demonstrated community engagement as specified at § 435.553 or, if applicable, § 435.555;

(ii) How to make a satisfactory showing that the community engagement requirement does not apply to the individual on the basis that the individual does not meet the definition of an applicable individual at § 435.551, including because the individual meets the criteria for one or more of the categories of a specified excluded individual under § 435.554;

(iii) The deadline for providing the information under paragraph (c)(1)(i) or (ii) of this section to the State;

(iv) A description of how the information under paragraph (c)(1)(i) or (ii) of this section may be submitted to the State through any of the modalities described in § 435.907(a);

(v) A description of the consequences of noncompliance with the community engagement requirement and failure to respond to the notice of noncompliance for Medicaid eligibility and eligibility for advance payments of the premium tax credit (APTC) and the premium tax credit (PTC) used to pay for coverage through a Health Insurance Exchange;

(vi) How such individual may reapply for medical assistance under the State plan (or a waiver of such plan) if the individual's application is denied or the individual is disenrolled from coverage under the State plan or waiver, as applicable; and

(vii) For States that have elected to provide the short-term hardship exception under § 435.555, the information about short-term hardship events described in § 435.555(c).

(2) Must be provided in a manner consistent with § 435.905(b).

(3) Must, if provided in electronic format, comply with § 435.918(b).

(4) Is considered to be received 5 days after the date on the notice, unless the applicant or beneficiary shows that he or she did not receive the notice within the 5-day period.

(d) *State responsibilities in the event of no satisfactory showing.* If no satisfactory showing is made after the 30-calendar day period consistent with paragraph (a)(2) of this section, the State must —

(1) Consider all other bases of eligibility for medical assistance under the State plan (or waiver of such plan) in accordance with §§ 435.911 and 435.916(f) prior to denying coverage at application or determining that an individual is ineligible;

(2) For individuals determined ineligible under the State plan (or waiver of such plan) after considering all bases of eligibility, as applicable:

(i) Deny such individual's application and provide written notice and fair hearing rights consistent with §§ 435.917 and 435.918 and part 431, subpart E of this subchapter;

(ii) Disenroll such beneficiary not later than the end of the month following the month in which the 30-calendar day period under paragraph (a)(2) of this section ends and after the provision of advance written notice and fair hearing rights consistent with §§ 435.917 through 435.918 and part 431, subpart E of this subchapter prior to the disenrollment;

(iii) Include in the clear statement of the specific reasons supporting the intended action under § 431.210(b) of this subchapter that the individual failed to:

(A) Make a satisfactory showing of compliance with the community engagement requirement under § 435.552, including by meeting the criteria for an exception to be deemed as having demonstrated community engagement under § 435.553 or, if applicable, § 435.555, for the month(s) specified in accordance with § 435.556(a); and

(B) Make a satisfactory showing that the community engagement requirement does not apply to the individual on the basis that the individual does not meet the definition of applicable individual at § 435.551, including failure to demonstrate the individual meets the criteria for one or more of the categories of a specified excluded individual under § 435.554; and

(iv) Determine the individual's or beneficiary's potential eligibility for other insurance affordability programs in accordance with § 435.1200(e).

(e) *Prohibition on restrictions to re-applying for coverage.* An agency must not impose any restriction on an applicable individual's ability to re-apply for coverage or their ability to receive coverage if determined eligible upon reapplication based on a prior denial of eligibility or disenrollment for noncompliance under this section.

(f) *Reconsideration period.* A State must reconsider eligibility consistent with § 435.916(a)(3)(iii), if an individual, who was enrolled with eligibility based on MAGI, was disenrolled for failure to submit information requested in a notice of noncompliance and submits the information during the reconsideration period described in § 435.916(a)(3)(iii).

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