CBPP/CCF Webinar Series: CMS Interim Final Rule – Part 1

June 5, 2026

Georgetown University McCourt School of Public Policy
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Today's Agenda

- Overview of newly released CMS Interim Final Rule
  - Important policy clarifications
  - Changes from previous understanding
  - Next steps

Populations

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The Big Picture

- The IFR is misaligned HR 1 and the past 7 months of information from CMS that states have been relying upon in system building
- The IFR makes compliance harder for enrollees and seriously undercuts the exceptions/exclusions Congress intended for people with disabilities, substance-use disorders, physical and mental health conditions, among others
- Imposes more red tape and paperwork than HR 1 requires for people to maintain their health coverage, forcing states to collect and share private medical documentation and other personal information from people, health care providers, and others
- CMS is adding huge and sometimes contradictory burdens on states. Yet states are the ones left on the hook for serious consequences if they don't get it right.

Applicable Individuals

- The statute and IFR limit which categories of Medicaid the WRR applies to through two mechanisms, the definition of Applicable Individuals (categories WRR applies to) and the exceptions (categories WRR does not apply to)
- Under HR1, Applicable Individuals are: (1) individuals in Medicaid expansion or (2) certain individuals eligible under a waiver getting a full benefit package
- Under the IFR, applicable individuals are: (1) individuals in Medicaid expansion or (2) certain individuals **eligible under** an **1115(a)(2)** waiver getting a full benefit package
- IFR confirms the WRR does not apply in the territories

Terminology

1. Compliance = Applicable Individuals who are meeting the WRRs
2. “Deemed compliance” = “excepted” = Mandatory Exceptions = subject to WRRs but getting an exception
3. “Optional excepted” = Optional Short-term Exception = subject to WRR but getting an exception, if the state opted to use that type of exception
4. “Excluded” = Specified Excluded Individuals (including Medically Frail) = not subject to WRRs at all

Mandatory Exceptions for Certain Individuals

- Implemented in § 435.553, this excepts certain populations from WRR compliance, most notably people described in mandatory Medicaid categories (except Medicaid expansion and FFCC) – "deemed compliance"
  - Mandatory exceptions includes: under age 19, entitled to Medicare, mandatory Medicaid categories, inmate of a public institution in any of the 3 prior months
- Under HR 1, states are not required to verify information for this group (including Specified Excluded Individuals), but § 435.553 does not mention that; the verification cites (§ 435.557) also fail to fully do that
- Remember: the § 435.553 exception for "mandatory" groups is *in addition* to the limitation on who is an Applicable Individual

Specified Excluded Individuals

- Specified Excluded individuals are not subject to WRR at all
- In some places, IFR has unique policies for verification and duration of exclusion

- Former foster care children up to age 26
- American Indian and Alaska Native
- Inmate in public institution
- Veteran with total disability rating
- In compliance with TANF requirements
- In a household that receives SNAP and is not exempt from work requirement

- Pregnant or *entitled to* postpartum medical assistance
- Participating in drug addiction or alcohol treatment program
- Parent, guardian, caretaker relative, or family caregiver of a dependent child under 14 or a disabled individual
- Medically frail or special medical needs

Specified Excluded Individuals

- In some places, IFR has unique policies for verification and duration of exclusion
- Additional or new in IFR:
  - Former foster youth: Former Foster Care Children status does not need to be reverified until enrollee turns 26.
  - Participants in addiction treatment: Narrows the exclusion by allowing states to establish a minimum time commitment to qualify
  - Pregnant/postpartum: States must accept info on application or renewal form. States may use available date – e.g. claims data – to identify pregnancy or postpartum status

Specified Excluded – Parents & Family Caregivers

- Specified excluded includes parents, guardians, caretaker relatives, or family caregivers of a dependent child 13 and under or disabled individual

- Parent: must provide "some level of care"
- Caretaker relative: living with individual, with primary responsibility for care
  - If state has defined caretaker relative for 1931 Parent/Caretaker Relative Medicaid beyond federal floor, the state must use that definition (e.g, half-blood relative, domestic partner)
- Dependent child for this purpose: 13 and under
- Disabled individual (for this purpose only): ADA definition

Specified Excluded – Parents & Family Caregivers

- Family caregiver (from RAISE Family Caregivers Act): Adult family member or other individual who has "significant relationship" with, and provides care within a broad range of assistance, to a disabled individual or a dependent child
- Meet 1 of 3 criteria:

1. *Co-residing caregivers*: If living with the care recipient, caregiver must provide "regular" care (not incidental), with no minimum hourly tracking required	2. *Related, non-residing caregivers*: If a recognized relative does not live with the recipient, they must provide "regular" care, with no minimum hourly tracking required	3. *Unrelated, non-residing caregivers*: If caregiver does not live with and is not related to care recipient, they must provide at least 80 hours of care per month

Specified Excluded Individuals – Medically Frail

- IFR sets different MF definition for WRR than definition used for ABPs
- **IFR adds requirement that condition must "significantly impair" WRR compliance – this is a definitional and operational nightmare**
- IFR doesn't add categories to MF definition and bars new state additions
  - Example: Homelessness (by itself) prohibited as MF basis
- IFR not prescriptive but **requires states to use lists/codes;** however, **decisions must still be individualized** based on "significant impairment"
- IFR makes clear that CMS may audit states, including through PERM
- IFR says states must have a reasonable process for MF people to identify themselves

Specified Excluded Individuals – Medically Frail

- “Disability” definition for MF is SSA-based and distinct from other IFR disability standards
- HR 1 exclusion for SUD has no limitations, but IFR says exclusion not available after 5 years of recovery (“stable recovery”)
- “Serious or complex” condition prong is implemented (narrowed?) based on lengthy 1999 IOM definition

Short-term Optional Hardship Exceptions

States choose all or nothing (except high unemployment exception)

Apply at county level; by state request	By individual request
1. Living in high unemployment counties • Unemployment rate above lesser of 8% or 1.5 times national average 2. Federally-declared emergency or disaster • If emergency affects ability for people to show WRR compliance • State submits plan to effectuate exception; CMS approves	3. Receiving inpatient care or certain outpatient services • Hospital, nursing, inpatient psych • Community- or home-based services if state decides that, *but for* this care, the person would need inst. placement 4. Person or dependents travel outside of community for medical care for extended period

Compliance

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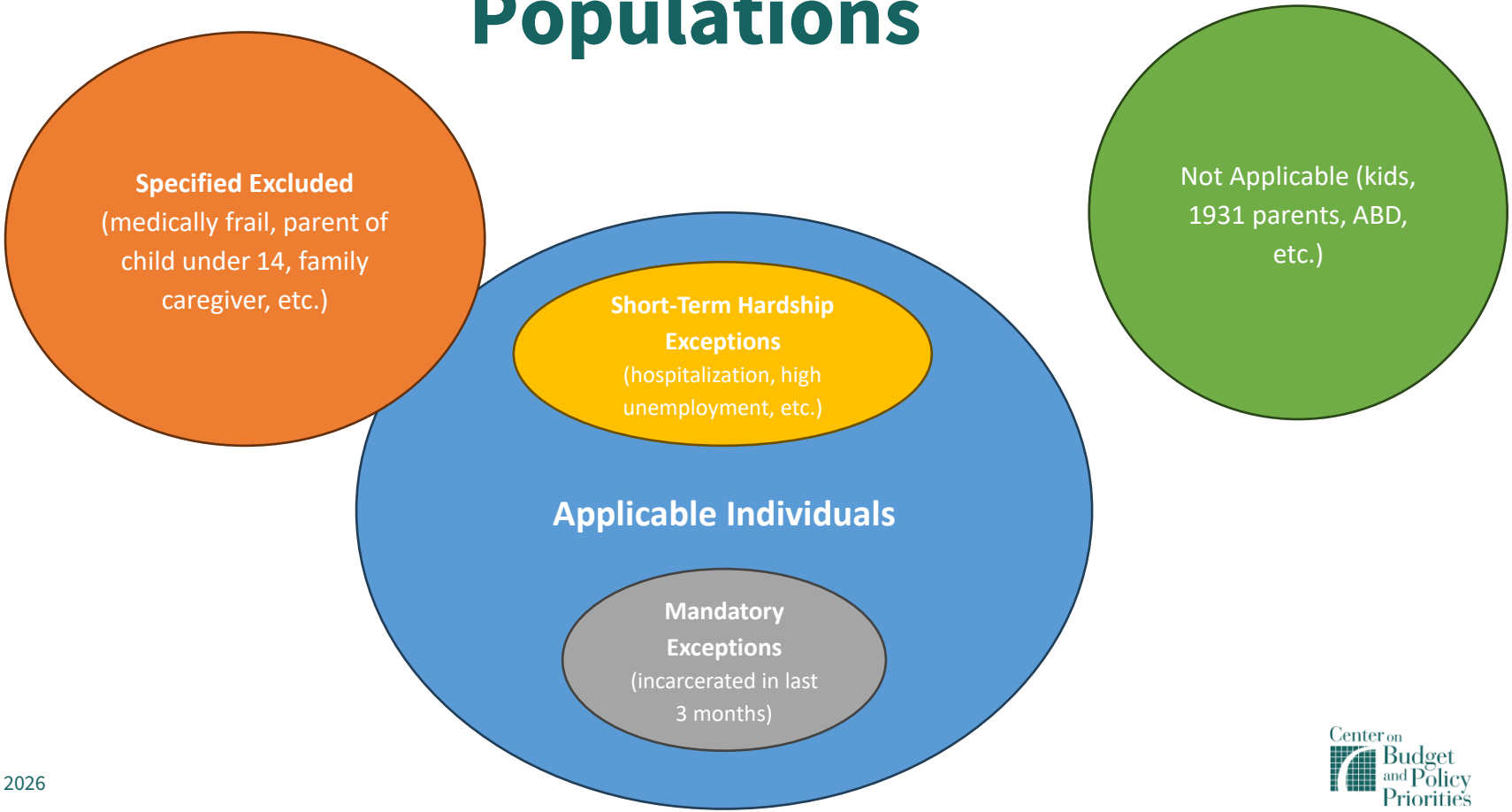
Populations



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Demonstrating Community Engagement

Work:

- $580/month federal income proxy is based on MAGI household income (which may include unearned income, but excludes child support)
- If less than $580, state can impute hours by dividing by federal minimum wage
- Includes unpaid and in-kind work

Community service:

- Definition is a little narrow (structured, requires oversight and tracking)
- Includes court-ordered community service
- Activities that don't qualify here can likely count as unpaid work

Education:

- Includes high school/GED
- Status (full-time, half-time, etc. determined by institution)
- Enrollment status can continue through breaks (including summer)
- Formula provided for determining hours if enrolled less than half-time

Work Program:

- Consistent with statute
- (Opportunities to leverage SNAP programs)

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Assessing Compliance

Hierarchy – specified excluded individuals are not applicable individuals and not subject to work requirement

- Application
  - No **review period** (lookback) requirement for specified excluded individuals
  - Review period requirement for short-term hardship exceptions (and incarcerated in last 3 months)

- Renewal
  - No review period (lookback) required for specified excluded individuals
  - If newly subject to work requirement at renewal, will have usually met for review period
  - Period between effective date of last determination and when current determination is due

- More frequent compliance checks
  - Cannot apply to specified excluded individuals
  - Warning about administrative cost and burden

Verifications

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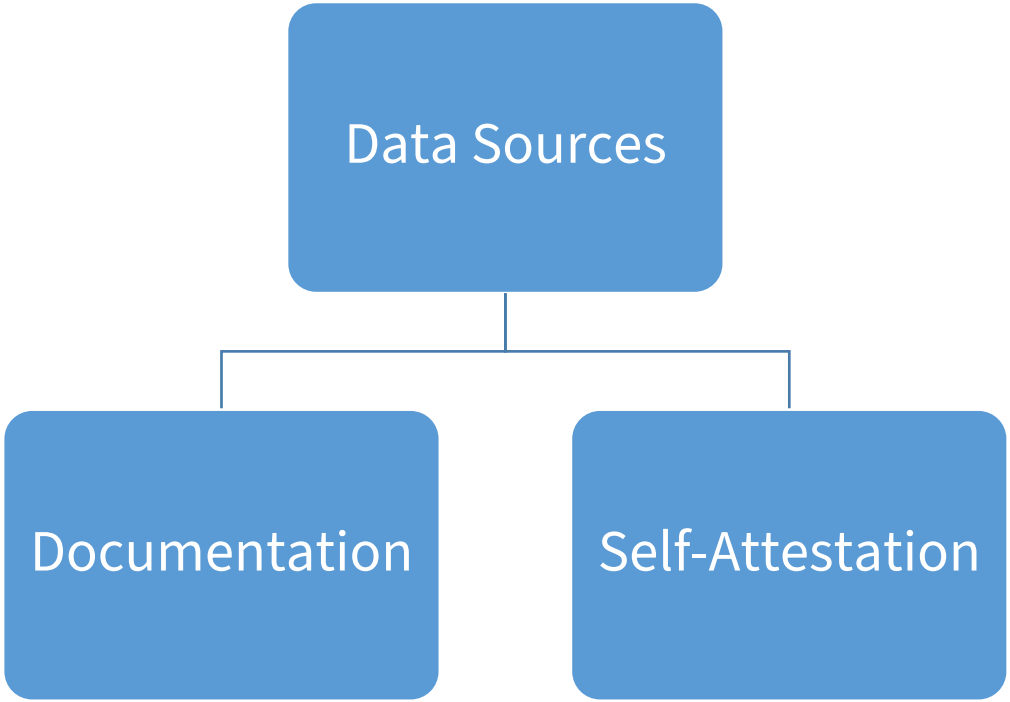
Verifications



Verifications

- Community engagement supplement to MAGI verification plan

- Required data sources
  - Payroll
  - SNAP and TANF
  - Federal data sources
    - Federal data services hub
    - Emmy
    - Individual connection
    - Must connect with 12 months of being available

- If no data to verify, or not reasonably compatible, state must seek information from individual

Verifications (all except medical frailty)

- 2027
  - States can require documentation or accept self-attestation
- 2028
  - Must require documentation whenever **reasonably available**

Must accept documentation through all modalities (mail, in-person, online, phone)

AI/AN – don't need to reverify
Former foster youth – don't need to reverify until age 26
Veteran with permanent total disability rating – don't need to reverify

Verifications (medical frailty)

- Unclear if data-driven strategy is still possible
  - Need diagnosis + something to indicate acuity/impairment
  - May be able to use claims and encounter data, pharmacy claims, etc.
  - PERM threat in reg
  - Can use claims data adjudicated in last 12 months

- 2027
  - May require documentation or accept self-attestation, each time
- 2028
  - May accept self-attestation once during continuous period of enrollment
  - If self-attested to, must verify (data or documents) at next renewal
  - Subsequently, must reverify at least every 12 months

Process, Notices, Outreach and Monitoring

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Implementation Timing

- No later than January 1, 2027
  - Earlier via SPA or waiver
  - Applications
    - Effective on day one for new applications
    - Pending applications must be processed by old rules
  - Renewals
    - Renewals initiated in January (for March or April renewals)
    - 60-90 days prior to end of enrollment period

Process

Outreach Notice
- 3 + Lookback # of Months
- September for January Renewals

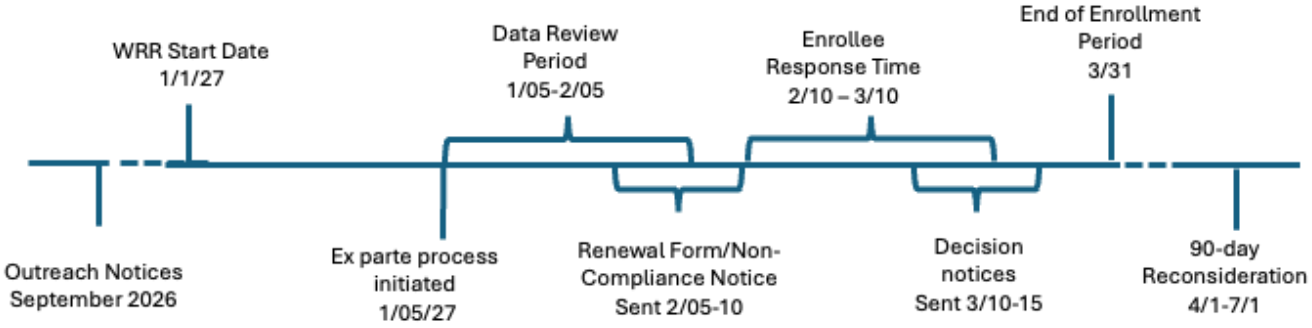
Initiate Ex Parte Process
- 60-90 days prior to end of renewal period
- Can be January 2027

Who's Exempt and Who's Not
1. Specified Excluded Individuals (WRR doesn't apply)
2. Mandatory Exceptions (deemed compliant)
3. WRR verified for others

WRR/Renewal Aligned
- Request missing WRR information concurrently with the renewal form
- 30 days to return renewal form aligns with 30-day non-compliance notice

Renewal and WRR Process
- 30-day response period
- 10-day advance notice
- 90-day reconsideration, but subject to new application WRR rules

Example
- State date 1/1/27
- Based on renewals initiated
- Enrollees with eligibility end dates of 3/31/27
- Ex parte initiated 60-90 days in advance



Noncompliance Procedures

Elements of Notice

- Which month(s) will be assessed
- How to show demonstrated compliance
- How to show individual should be deemed to be compliant
- How to meet criteria for one or more categories of SEI
- Deadline for providing the information
- Description of the consequences, including ineligibility for APTCs
- How to reapply

State Process

- 30-day timeframe cannot be extended to align with longer timeframe for renewal response
- Two options, choice in SPA
- #1 – Ex parte did not confirm WRR
  - Send NoNC w/renewal
  - If WRR not confirmed
- # 2 – Unable to verify WRR compliance only after sending prepop renewal
  - Disenroll if ineligible on general criteria
  - Send NoNC
  - Adds second 30-day response
  - Still need to process by renewal end date

Good Faith Exception

- Bottom line = still hard to get!
- Existing HR 1 criteria: making efforts towards compliance, facing challenges/barriers, **and** have a plan/timeline for achieving compliance
- Added fourth criterion: exigent circumstances like an emergency, cybersecurity incident or natural disaster
- First approval limited to six-month increments with possible extensions to 12/31/28
- States must report milestones and progress

Outreach

To Enrollees and Potential Applicants:

- 4-6 months prior to implementation date depending on lookback period
- Messaging is specific to individuals affected, not the public
- Must be provided through 2 modalities
  - A general public notice on a website is not sufficient
  - Internet modality = online account
  - If enrollee has opted for electronic notices v. mail, state must use a different mode for 2nd mode

Content:

- How to comply with WRR
  - Clear explanations of exceptions and short-term hardships if applicable
  - Medically frail and family caregivers highlighted
  - # of months lookback at renewal
  - More frequent review (if applicable)
  - Consequences re: APTCs
  - How to report changes

Managed Care Organizations

Can Do:

- Assist in providing outreach notices periodically through one or more modes
  - (on behalf of the state?)
  - With state direction to the plans
- Assist in educating members
- Share data applicable to WRR and exemptions
- Refer member to other services to help members meet WRR (i.e., work/training programs)
  - Cannot be included in CAP, but can be added to MLR if considered value added
  - MCOs should ensure activities are related to community engagement and promote work.
- Certain admin costs (outreach notices) can be included in cap
  - Gets FMAP match v. state admin (50%)

Can't Do:

- Make a determination of eligibility or compliance of WRR
- Include any costs in cap rates that are unrelated to the provision of Medicaid services
  - i.e., referrals to work programs

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Data and Monitoring

- Current data reported for all enrollees but disaggregation for expansion adults was not specified
  - Enrollment, retention, and eligibility processes
  - Application and renewal processing time
  - Determinations and redeterminations of eligibility
  - Application and renewal processing timeliness and backlogs
- Population counts of individuals subject to, including their compliance, with the requirement
- Any other data specified by CMS
- State data will be compared to other states to determine outliers
- States failing to submit timely, complete, and sufficiently accurate reports will be subject to corrective action.
- No public reporting promised

Additional Considerations – Presumptive Eligibility

- States with presumptive eligibility (PE) or Hospital PE (HPE) must screen for community engagement as an eligibility factor
    - Assessment of specified excluded, mandatory/optional exempted individual, or applicable
- Applicable individual must be assessed for compliance
- States will need to update PE applications and training materials to account for additional assessments needed

Administrative Advocacy & Next Steps

- State agencies will also need time to digest the guidance and assess how it impacts their plans
- Comment period until July 31st – stay tuned for more information on how to engage in the process
- Watch out for part 2! Our next session will get more into the details and scenarios
- Start thinking through questions based on the guidance
- Some things to start thinking about
  - Impact of rule on existing work requirement state policies and materials
  - Operationalizing changes to medical frailty
  - Pushing for disaggregated data
  - Monitoring impact

Questions or comments ?

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Thank You

Part 2 Coming Soon!

Date/Time TBD

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