October 1, 2025

The Honorable Robert F. Kennedy, Jr.
Secretary
U.S. Department of Health and Human Services (HHS)
200 Independence Ave S.W.
Washington, DC 20201

RE: Interim Final Rule Implementing Medicaid "Community Engagement" Provisions of H.R. 1

Dear Secretary Kennedy,

As organizations dedicated to ensuring the millions of people in this country with substance use disorders and mental health conditions have the care and coverage they need to access lifesaving medications, services, and supports, we submit these comments for consideration as HHS develops the required Interim Final Rule (IFR) implementing the Medicaid "Community Engagement" provisions of H.R. 1. The 23 undersigned organizations urge HHS to maintain as much flexibility as possible for states to implement this new law, consistent with the clear statutory direction.

Medicaid is the nation's single largest payer of mental health and substance use disorder services.[i] Nearly one in four nonelderly U.S. adults with any mental illness and more than 20% of nonelderly U.S. adults with any substance use disorder are covered by Medicaid.[ii] As such, Medicaid plays a crucial role in addressing the continuing overdose crisis, which HHS has acknowledged and addressed through repeated renewals of the Public Health Emergency declaration. Medicaid is also a critical resource for the millions of people leaving incarceration each year. These individuals, who experience disproportionately higher rates of chronic physical conditions as well as mental health and/or substance use disorders compared to the general public,[iii] face a significantly heightened risk of death post-release.[iv] Medicaid expansion has proven particularly crucial for these vulnerable populations. For instance, approximately 60% of Medicaid enrollees with a opioid use disorder qualify for Medicaid through the expansion,[v] while up to 90% of formerly incarcerated individuals are likely eligible for coverage due to this provision.[vi]

While many people with mental health conditions, substance use disorders, and/or arrest and conviction records do participate in community engagement activities required in H.R. 1, their condition, as well as pervasive stigma and discrimination, can make it harder for them to comply with these requirements.[vii] Work, education, training, and community service can be helpful for wellness and reentry, and many treatment and reentry programs help to facilitate access to these opportunities, but these populations still face many unique barriers, including, for example, mandatory background checks or treatment schedule conflicts.

Recognizing the critical role Medicaid plays in providing access to lifesaving care for people who may struggle to meet these requirements, including those with substance use disorders and/or mental health conditions and those returning from incarceration, Congress established, and the President signed into law, a number of mandatory exemptions to the 80-hour work requirement to protect vulnerable populations, including those for individuals with substance use disorders, disabling mental health conditions, disabilities, and serious or complex medical conditions, as well as individuals who were recently released from incarceration.

At the same time, Congress also included specific provisions to ensure that states have the flexibility they need to implement these new requirements in a manner that best suits their needs. For example, the statutory language requires states to regularly verify compliance only for "applicable individuals," whereas individuals who meet the exemptions are deemed compliant by law, and states have the discretion to determine whether additional verification is necessary.[viii]

Additionally, the law specifically requires states to use reliable information (such as payroll, claims and encounter, or other data) available to the state to verify compliance or identify exempted individuals, without requiring the individuals to submit additional information. This emphasis on data matching ensures that compliance can be verified with efficiency without burdening individuals. This is a clear indication Congress wanted to avoid coverage losses due to unnecessary regulatory burdens.

The President and Congress required program integrity ***with*** significant flexibility for states to prioritize the least burdensome options for determining eligibility and compliance for "applicable individuals" and adoption of the most efficient and effective exemption methods. We strongly urge HHS to reflect this balance in the IFR by maintaining this flexibility and minimally burdensome approach, consistent with the clear statutory text as well as this Administration's broader goals of reducing unnecessary regulatory burdens and promoting innovation and efficiency.

Given the significant work ahead for states to implement these new requirements, including connecting systems so Medicaid can access available data sources to verify eligibility and identify exemptions, we urge HHS to grant states good faith temporary exemptions to comply with the requirements as provided in the statute so they can establish such connections and build functioning systems to implement these requirements.[ix] We urge HHS to provide for a transparent decision-making process related to these state requests.

Thank you for considering these comments as HHS develops the IFR. If you have any questions about anything in these comments, please contact Teresa Miller at Legal Action Center (tmiller@lac.org).

Sincerely,

Alliance for Rights and Recovery
American Association on Health and Disability

American Foundation for Suicide Prevention
American Society of Addiction Medicine
Community Catalyst
Drug Policy Alliance
Faces & Voices of Recovery
HIV Medicine Association
IC&RC
Illinois Alliance for Reentry and Justice NFP
Lakeshore Foundation
Legal Action Center
NAADAC, the Association for Addiction Professionals
National Alliance on Mental Illness
National Association for Behavioral Healthcare
National Association of Addiction Treatment Providers
National Council for Mental Wellbeing
Pioneer Human Services
STRIVE
Transitions Clinic Network
Treatment Communities of America
Utah Health Policy Project
WestCare Foundation

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[i] "Behavioral Health Services," Medicaid.gov (accessed Sept. 8, 2025), https://www.medicaid.gov/medicaid/benefits/behavioral-health-services.

[ii] Heather Saunders & Robin Rudowitz, "Demographics and Health Insurance Coverage of Nonelderly Adults with Mental Illness and Substance Use Disorders in 2020," KFF (June 6, 2022), https://www.kff.org/medicaid/issuebrief/demographics-and-health-insurance-coverage-of-nonelderly-adults-with-mental-illness-and-substance-usedisorders-in-2020/.

[iii] "Chronic Health Conditions May Be Severely Undertreated in U.S. Prison Population," Johns Hopkins University Hub (Apr. 19, 2023), https://hub.jhu.edu/2023/04/19/chronic-health-conditions-in-prison/.

[iv] See, e.g., Sarah L. Spaulding, "Cause of Death After Prison Release Differs from General Population," Yale School of Medicine (Aug. 20, 2024), https://medicine.yale.edu/news-article/cause-of-death-after-prison-release-differsfrom-general-population/; Daniel M. Hartung et al., "Fatal and Non-Fatal Opioid Overdose Risk Following Release from Prison: A Retrospective Cohort Study Using Linked Administrative Data," J. Substance Use & Addiction Treatment (Jan. 18, 2024), https://pmc.ncbi.nlm.nih.gov/articles/PMC10795482/; Ingrid A. Binswinger et al., "Release from Prison – A High Risk of Death for Former Inmates," New England Journal of Medicine (Jan. 11, 2007), https://elmore.dgsom.ucla.edu/sites/default/files/media/documents/releas_from_prison.pdf.

[v] Heather Saunders & Robin Rudowitz, "Implications of Potential Federal Medicaid Reductions for Addressing the Opioid Epidemic," KFF (May 14, 2025), https://www.kff.org/medicaid/issue-brief/implications-of-potential-federalmedicaid-reductions-for-addressing-the-opioid-epidemic/.

[vi] "Medicaid: Information on Inmate Eligibility and Federal Costs for Allowable Services," U.S. Government Accountability Office (Sept. 5, 2014), https://www.gao.gov/assets/gao-14-752r.pdf.

[vii] *See, e.g.*, Karin Martinson et al., "Building Evidence-Based Strategies to Improve Employment Outcomes for Individuals with Substance Use Disorders," OPRE Report 2020-171, 5-6 (Dec. 2020), https://acf.gov/sites/default/files/documents/opre/BEES_SUD_Paper_508.pdf.
[viii] Pub. L. No. 119-21, § 71119(a), 139 Stat. 307-308 (2025).
[ix] Pub. L. No. 119-21, § 71119(a), 139 Stat. 313 (2025).