February 9, 2026

Dr. Mehmet Oz
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services (HHS)
200 Independence Ave S.W.
Washington, DC 20201

RE: CMS Guidance Implementing Medicaid Community Engagement Provision of Public Law 119-21

Dear Administrator Oz:

There are nearly 14 million nonelderly adult Medicaid enrollees with substance use disorders (SUDs) and/or mental health (MH) conditions who rely on Medicaid to access lifesaving medications, services, and support. As organizations committed to ensuring access to care for these individuals, we urge CMS to share additional information on how Public Law 119-21 will be implemented and not finalize policies that will increase administrative burden and result in inappropriate coverage loss for people with MH conditions and SUD. The 40 undersigned organizations urge CMS to provide states with the flexibility clearly articulated in Public Law 119-21 as they continue the challenging task of implementing this new law. Further, we request that policies shared with states, including at the National Association of Medicaid Directors (NAMD) national conference, be made public.

On the heels of the President's Executive Order recognizing substance use disorder (SUD) as a treatable disease like other chronic conditions and prioritizing SUD treatment and recovery,[i] we want to highlight the implementation of the Medicaid community engagement provisions of Public Law 119-21 as an opportunity to put those words into meaningful action. We appreciate the administration's acknowledgement of the devastating toll the addiction crisis has had and its dedication to fostering a culture that celebrates recovery and helping Americans receive the treatment they need.[ii] As the single largest payer of MH and SUD services in the nation,[iii] Medicaid is critical for addressing the ongoing suicide and overdose epidemics in the United States that together claim over 350 lives daily.[iv]

We strongly urge CMS not to require that states verify exemption status, which would be in direct conflict with the language of Public Law 119-21.[v] While the statutory language requires states to regularly verify compliance for "applicable individuals," individuals who meet the exemptions are deemed compliant by law, and states have the discretion to determine whether additional verification is necessary. Specifically, the law states, "The State shall deem an applicable individual to have demonstrated community engagement under paragraph (2) for a month, and may elect to not require an individual to verify information resulting in such deeming" if they meet one of the exemption categories.[vi]

Stated simply, CMS does not have the authority to require states to verify exemption status.

Based on our understanding of the policies CMS shared with states, CMS may have gone further, indicating an expectation that states distinguish between "temporary" and "permanent" medically frail conditions and verify compliance every 6 months for "temporary" conditions and every 12 months for "permanent" conditions. Setting aside the fact that CMS lacks the authority to require states to verify exemption status, distinguishing between "temporary" and "permanent" medically frail conditions ignores the nature of the vast majority of the conditions included in the medically frail exemption.

For example, MH/SU conditions are often chronic, treatable (not curable) conditions that vary in severity and functionality over time. One month, individuals may require significant care and services; the next month, none. The fluctuation makes it critical to have care and services available when they are needed. Congress created exemptions to protect vulnerable populations — such as those with MH/SU conditions— to ensure they have continued access to care. Creating this distinction (permanent and temporary) and requiring states to verify exemption status WILL burden individuals and agency staff resulting in vulnerable people losing access to lifesaving care— people Congress explicitly intended to protect through clear statutory language.

Furthermore, requiring someone who, upon enrollment, received an exemption after completing a validated medical screener, to have claims data or other documentation supporting the exemption at the 6-month renewal will result in a significant portion of the population with MH/SU conditions losing their exemption and access to health care. Not only are there medical claims lag issues that would make a 6-month timeframe challenging, but many people with SU/MH conditions don't seek treatment.

For people with SUD, the National Survey of Drug Use and Health has consistently shown that concerns about confidentiality and privacy are significant factors for people who need help but do not engage in treatment. In 2024, only 1 in 5 individuals classified as needing substance use disorder treatment and only about half of all adults with MH conditions actually received treatment in the past year.[vii] And, as the President's Executive Order points out, 95.6% of people with a SUD who did not receive treatment did not think they needed it.[viii] Even if individuals are not receiving MH or SUD treatment, they still need access to other healthcare that often prevents their MH/SUD conditions from getting worse.

The President and Congress included critically important exemptions in the law to ensure vulnerable populations, like those with conditions included in the medically frail exemption, were not unintentionally impacted by these new requirements. We strongly urge CMS to adhere to the statutory language and provide states the flexibility intended and critically needed to implement this law in a way that ensures individuals with MH and SU conditions and other vulnerable populations continue to have access to lifesaving care.

Thank you for considering these comments as CMS continues development of guidance including the impending IFR. If you have any questions about anything in these comments, please contact Teresa Miller at Legal Action Center (tmiller@lac.org).

Sincerely,

American Association for Psychoanalysis in Clinical Social Work
American Association of Child and Adolescent Psychiatry
American Association of Psychiatric Pharmacists (AAPP)
Americans Association on Health and Disability
American Foundation for Suicide Prevention
American Psychiatric Association
American Psychological Association Services
AMERSA
Bazelon Center for Mental Health Law
Center for Law and Social Policy (CLASP)
Children and Adults with Attention-Deficit/Hyperactivity Disorder
Clinical Social Work Association
Coalition on Human Needs
Community Kinship Life
Drug Policy Alliance
Faces & Voices of Recovery
Fountain House
Huntington's Disease Society of America
Illinois Alliance for Reentry and Justice NFP
International Society of Psychiatric-Mental Health Nurses
Lakeshore Foundation
Legal Action Center
Massachusetts Law Reform Institute
Medicare Rights Center
NAADAC, the Association for Addiction Professionals
National Alliance on Mental Illness
National Association of Addiction Treatment Providers
National Association of Pediatric Nurse Practitioners
National Association of Social Workers
Network of Jewish Human Service Agencies
Partnership to End Addiction
Policy Center for Maternal Mental Health
Psychotherapy Action Network (PsiAN)
SHI Sands House Inc.
TASC (Treatment Alternatives for Safe Communities)
The Carter Center Rosalynn Carter Mental Health and Caregiver Program
Transgender Law Center
Transitions Clinic Network
Treatment Advocacy Center (TAC)

[i] United States, Executive Office of the President, Executive Order: Addressing Addiction Through the Great American Recovery Initiative, Jan. 29, 2026.
[ii] *Id*.
[iii] "Behavioral Health Services," Medicaid.gov (accessed December 3, 2025), https://www.medicaid.gov/medicaid/benefits/behavioral-health-services.
[iv] See Matthew F. Garnett & Arialdi M. Miniño, Drug Overdose Deaths in the United States, 2023–2024, National Center for Health Statistics, Jan. 29, 2026, at 1, 2, https://www.cdc.gov/nchs/products/databriefs/db549.htm#Key_finding; see Suicide Data and Statistics, CDC (Mar. 26, 2025), https://www.cdc.gov/suicide/facts/data.html.
[v] 42 U.S.C. 1396a(xx)(3).
[vi] *Id*.
[vii] SAMHSA Releases Annual National Survey on Drug Use and Health, SAMHSA Press Announcement (July 28, 2025), https://www.samhsa.gov/newsroom/press-announcements/20250728/samhsa-releases-annual-national-survey-on-drug-use-and-health.
[viii] United States, Executive Office of the President, Executive Order: Addressing Addiction Through the Great American Recovery Initiative, Jan. 29, 2026.