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The Honorable Robert F. Kennedy, Jr.
Secretary of the U.S. Department of Health and Human Services
Department of Health and Human Services
200 Independence Ave., S.W.
Washington, DC 20201
Submitted electronically via regulations.gov

RE: Comments on Department of Health and Human Services "Medicaid Program; Community Engagement Requirement for Certain Individuals" (CMS-2454-IFC; RIN 0938-AV98)

Dear Secretary Kennedy:

We are the leadership team of Prescription for Justice, an academic medical-legal partnership between Saint Louis University and SSM Health Cardinal Glennon Children's Hospital. We provide legal representation to families whose children are patients at the Danis Pediatric Center, an innovative pediatric practice that provides interprofessional, team-based care for children, most of whom have insurance coverage through Medicaid. Every day, we see the importance of Medicaid coverage for children and their families.

We comment to highlight the harm children will suffer from provisions in the Department of Health and Human Services (HHS) June 1, 2026, interim final rule (Rule) implementing H.R. 1's Medicaid community requirement, popularly known as the work reporting requirement, of section 1902(xx) of the Social Security Act.

Beginning January 1, 2027, H.R. 1 makes Medicaid work reporting requirements a condition of eligibility for adults in the Medicaid expansion group who are age 19 or older.

The Rule is inconsistent with the statutory language of H.R. 1 in several ways. Our comments highlight a few of particular concern to children. We encourage HHS to rescind the Rule and issue a new Rule that is consistent with the law and appropriately accounts for the significant health harms the Rule will cause to children and others.

Loss of coverage for children

Soon after the passage of H.R. 1 and prior to the Rule, the Congressional Budget Office projected that H.R. 1 would lead to 5.3 million people subject to work reporting losing coverage over the next decade.[1] However, provisions in the Rule are projected to significantly increase the loss of Medicaid coverage beyond what would have occurred under the plain-language reading

[1] Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursunt to Title II of H. Con. Res. 14, Relative to CBOS Janulary 2025 Baseline, https://www.cbo.gov/publication/61570

of the statute used by the CBO. Manatt Health estimates that the Rule will increase average annual Medicaid losses by 1.8 million people, with **9.2 million people losing coverage by 2034.**[2] Based on previous experience, most of the people who will lose coverage are either complying with the work requirement or are exempt from it but lose coverage because of red tape and informational barriers, such as difficulty accessing online portals and confusion over state notices.[3] When parents lose Medicaid coverage, it creates barriers to access needed care, increases financial insecurity, and leads to poorer health outcomes, all of which harm their children.

Medicaid coverage losses will not be limited to those subject to the new work reporting rules. When parents and caretakers lose Medicaid, children are at risk of losing coverage too.[4] In May 2026, before the HHS Rule was published, the CBO, using a plain-language interpretation of the statute, estimated that **H.R. 1 will result in 3 million children losing Medicaid, a 9% loss of coverage by 2036**. The Rule will inevitably exacerbate these losses, harming the health and welfare of millions of low-income children who lose coverage.

Exemption for those who are medically frail

The Rule contradicts Congress's plain statutory language, which exempts anyone who is "medically frail" from the new work reporting requirement, including those with complex medical conditions transitioning from pediatric to adult health systems who are ages 19-26. The Rule unlawfully narrows the exemption by requiring people who are medically frail to also obtain and submit evidence that their medical condition "significantly impairs" their ability to work. HHS's unfounded definition of medical frailty imposes an unreasonable, and in some cases impossible, burden on Medicaid providers to document their patients' ability to work. Doctors lack training in occupational medicine. They do not have the skills and knowledge necessary to formally evaluate whether a patient's condition is sufficiently serious or complex to prevent work or other community engagement.

Exemption for parents of children under 14

The Rule is also inconsistent with and unnecessarily narrows and complicates verification for parents of children under 14 who H.R. 1 exempts from the new work requirement reporting.[5] H.R. 1 exempts a "parent, guardian, caretaker relative, or family caregiver of a dependent child 13 or under." The statute's plain language makes clear that Congress intended to exempt both parents and caretakers, and the words have different meanings. To define "caretaker" of a child, the Rule adopts the existing Medicaid definition, which requires that the relative is living with the child and "assumes *primary responsibility* for the dependent child." Preamble II.D.3.a. and Proposed 42 C.F.R. 435.554(a) (emphasis added). The Rule defines a "parent" as "an individual with the legal status of a mother or father, including adoption, in accordance with applicable State law, who provides *some level of care* to a dependent child." Preamble II.D.3.b and Proposed 42 C.F.R. 435.544(a) (emphasis added). We applaud HHS for recognizing the definition of parent extends to those who may not be living with their child.

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[2] Patti M. Boozang, et al., CMS' Medicaid Work Requirements Rule: A 50-State Analysis of Additional Coverage Losses, FFY 2027-2034, Manatt, July 2026.

[3] Michael Karpman, Assessing Potential Coverage Losses among Medicaid Expansion Adults under a Federal Medicaid Work Requirement, Urban Institute and Robert Wood Johnson Foundation, March 2025.

[4] Jennifer DeVoe, et al., Uninsurance among children whose parents are losing Medicaid coverage: results from a statewide survey of Oregon families, 43 Health Serv. Res. 401, 2008.

[5] H.R. 1 also exempts a parent, guardian, caretaker relative, or family caregiver of a disabled individual. However, our comments focus on the Rule's impact on children.

However, the Rule does not provide States with guidance on what level of parental support is sufficient or how a parent can verify "some level" of care. The Rule's different definitions of the level of care for a "caretaker" and a "parent" are likely to cause confusion and create administrative barriers for parents who should be eligible for the exemption. While States can, and should, interpret the Rule to allow States to treat a parent living with a dependent child as per se proof of "some level" of support authorizing an exemption from the work reporting requirement, HHS should clarify that States must exempt parents living with a dependent child from the work reporting requirement, consistent with the plain meaning of the statute.

We propose that HHS modify the Rule's definition of parent to read, "an individual with the legal status of a mother or father, including adoption, in accordance with applicable State law, *who lives at least part-time with the dependent child or provides some level of care or support to a dependent child.*" This definition will allow States to use information that should be available in their computer systems to automatically verify eligibility for many parents, reducing the burden on parents and the costs for the State.

Thank you for this opportunity to comment. We encourage HHS to rescind the Rule and issue a new Rule that is consistent with the law and appropriately accounts for the significant health harms to children and others. If you have questions, please contact Professor Sidney D. Watson, sidney.watson@slu.edu.

These comments reflect our professional and personal opinions and do not necessarily reflect the opinions of Saint Louis University.

Sincerely,

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