

**CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY
SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME
PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS**

317:35-5-28. Community engagement

(a) General requirements. Beginning January 1, 2027, an applicable individual, as defined in 42 C.F.R. § 435.551, must demonstrate community engagement or be deemed to have demonstrated community engagement as a condition of eligibility.

(1) At application, an applicable individual must demonstrate or be deemed to have demonstrated community engagement for one (1) month immediately preceding the month in which the individual applies.

(2) At renewal, an applicable individual must demonstrate or be deemed to have demonstrated community engagement for one (1) month during the period between the effective date of the individual's most recent eligibility determination or redetermination at renewal and the date the individual's next renewal is due.

(b) Demonstration of community engagement. An applicable individual demonstrates community engagement for a month by meeting one (1) or more of the requirements described in 42 C.F.R. § 435.552, including:

(1) working at least eighty (80) hours, including paid, unpaid, or in-kind work;

(2) completing at least eighty (80) hours of qualifying community service;

(3) participating in a qualifying work program for at least eighty (80) hours;

(4) enrolling at least half-time, as determined by the educational institution or program, in a qualifying educational program, including an institution of higher education, career or technical education program, high school, or State-approved high school equivalency program;

(5) engaging in any combination of work, community service, participation in a work program, and less than half-time enrollment in an educational program for a combined total of at least eighty (80) hours;

(6) having monthly income that is not less than the applicable Federal minimum wage under section 6 of the Fair Labor Standards Act of 1938 multiplied by eighty (80) hours; or

(7) for a seasonal worker described in 26 U.S.C. § 45R(d)(5)(B), having average monthly income over the preceding six (6) months that is not less than the applicable Federal minimum wage multiplied by eighty (80) hours.

(c) Specified excluded individuals. A specified excluded individual described in 42 C.F.R. § 435.554 is not subject to the community engagement requirement. Specified excluded individuals include:

(1) an individual who meets the applicable former foster care criteria;

(2) an American Indian or Alaska Native individual who meets the criteria in 42 C.F.R. § 435.554;

(3) a parent, guardian, caretaker relative, or family caregiver of a dependent child age thirteen (13) or younger or of a disabled individual who meets the applicable criteria in 42 C.F.R. § 435.554;

(4) a veteran with a disability rated as total by the Department of Veterans Affairs;

(5) an individual who is medically frail or otherwise has special medical needs as defined in 42 C.F.R. § 435.554, whose physical, mental, or other behavioral health condition significantly impairs the individual's ability to comply with the community engagement requirement, including an individual:

(A) who is blind or disabled as described in section 1614 of the Social Security Act;

(B) with a substance use disorder who meets the applicable federal criteria;

(C) with a disabling mental disorder;

(D) with a physical, intellectual, or developmental disability that significantly impairs the individual's ability to perform one (1) or more activities of daily living; or

(E) with a serious or complex medical condition;

(6) an individual who complies with work requirements imposed by the State as a condition of eligibility for Temporary Assistance for Needy Families;

- (7) an individual who is a member of a household receiving Supplemental Nutrition Assistance Program benefits and is subject to a Supplemental Nutrition Assistance Program work requirement;
- (8) an individual participating in a qualifying drug addiction or alcoholic treatment and rehabilitation program;
- (9) an inmate of a public institution, as defined in 42 C.F.R. § 435.1010; or
- (10) an individual who is pregnant or entitled to medical assistance during an applicable postpartum coverage period.

(d) Mandatory exceptions. An applicable individual is deemed to have demonstrated community engagement for a month when, for part or all of the month, the individual meets a mandatory exception described in 42 C.F.R. § 435.553, including when the individual:

- (1) was a specified excluded individual described in subsection (c) of this Section;
- (2) was under nineteen (19) years of age;
- (3) was entitled to or enrolled for benefits under Medicare Part A or enrolled for benefits under Medicare Part B;
- (4) was described in a mandatory categorically needy eligibility group specified in section 1902(a)(10)(A)(i)(I) through (VII) of the Social Security Act; or
- (5) was an inmate of a public institution at any point during the three (3) months preceding the first day of the month for which the individual is otherwise required to demonstrate community engagement.

(e) Short-term hardship exceptions. OHCA elects the short-term hardship exceptions described in 42 C.F.R. § 435.555. An applicable individual is deemed to have demonstrated community engagement for a month when, for part or all of the month, the individual experiences a qualifying short-term hardship, including:

- (1) the individual receives inpatient hospital services, nursing facility services, services in an intermediate care facility for individuals with intellectual disabilities, inpatient psychiatric hospital services, or other inpatient or noninstitutional services of similar acuity described in 42 C.F.R. § 435.555(d)(1). The individual or an individual acting on the individual's behalf must request the exception;
- (2) the individual resides in a county or equivalent unit of local government affected by a qualifying emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- (3) the individual resides in a county or equivalent unit of local government with an unemployment rate at or above the lesser of eight percent (8%) or one and one-half (1.5) times the national unemployment rate, when the exception has been approved by the Centers for Medicare & Medicaid Services; or
- (4) the individual or the individual's dependent must travel outside the community of residence for an extended period to receive medical services necessary to treat a serious or complex medical condition that are not available within the community of residence. The individual or an individual acting on the individual's behalf must request the exception and meet the applicable criteria in 42 C.F.R. § 435.555(d)(4).

(f) Verification.

- (1) Before determining whether an individual demonstrated or is deemed to have demonstrated community engagement, OHCA determines whether the individual is a specified excluded individual.
- (2) OHCA first attempts to verify an individual's status as a specified excluded individual or an applicable individual's compliance with or exception from the community engagement requirement using reliable information available to OHCA in accordance with 42 C.F.R. § 435.557. Reliable information may include information contained in the individual's case record, information obtained through electronic data exchanges, adjudicated claims or encounter data, and other reliable information available to OHCA.

(3) OHCA does not require an individual to provide documentation or other additional information when reliable information available to OHCA is sufficient to determine that the individual is excluded from the requirement or demonstrated or is deemed to have demonstrated community engagement.

(4) When reliable information is not available or is not reasonably compatible with information provided by or on behalf of the individual, OHCA may request documentation or other information necessary to make the determination in accordance with 42 C.F.R. § 435.557.

(5) Through December 31, 2027, OHCA may accept documentation or other information sufficient to support an auditable eligibility determination as permitted by federal law. Beginning January 1, 2028, OHCA requires documentation when documentation is reasonably available and accepts other information when documentation does not exist or is not reasonably available, in accordance with 42 C.F.R. § 435.557.

(g) Noncompliance.

(1) When OHCA is unable to verify that an individual is a specified excluded individual or that an applicable individual demonstrated or is deemed to have demonstrated community engagement for the required month, OHCA provides the individual notice of noncompliance in accordance with 42 C.F.R. § 435.558.

(2) The individual has thirty (30) calendar days from receipt of the notice to make a satisfactory showing that:

(A) the individual demonstrated community engagement for the required month;

(B) the individual is deemed to have demonstrated community engagement under a mandatory or short-term hardship exception; or

(C) the community engagement requirement does not apply to the individual.

(3) OHCA continues medical assistance for an enrolled individual during the thirty (30) calendar day response period and until the individual is determined ineligible.

(4) Before denying an application or disenrolling an individual for failure to meet the community engagement requirement, OHCA determines whether the individual is eligible for medical assistance on another basis.

(5) If the individual does not make a satisfactory showing and is not eligible for medical assistance on another basis, OHCA denies the application or disenrolls the individual and provides written notice and fair hearing rights in accordance with applicable federal and State requirements.

(6) An individual whose application is denied or whose eligibility is terminated for failure to meet the community engagement requirement may reapply for medical assistance at any time.