



Leveraging “Medically Frail” Medicaid Rules to Help Consumers: Advocacy in States with Existing Policies

Why is this important?

Federal rules provide for the protection of consumers with chronic illnesses who are newly eligible for Medicaid. The rules are intended to ensure that these consumers receive benefits that best meet their needs. In some states, a consumer who receives a designation of “medically frail” has a wider choice of benefit packages. Medically frail consumers may also be exempt from alternative ways states provide Medicaid benefits, such as using marketplace premium assistance. **Health advocates, providers, and enrollment assisters all have an important role to play in improving the system by which consumers are placed into health plans based on their level of need.**

The term “medically frail” refers to an individual with chronic health conditions, including people with mental health and substance use disorders. A medically frail designation can expand the scope of services available to enrollees. Taking action to streamline and improve medically frail identification procedures and choice of benefit plans for medically frail consumers can help to make the system less confusing and ensure that consumers get the most out of this opportunity.

If you live in a state with the following criteria, your input can guide and improve the policies used to identify, enroll, and monitor consumers who are medically frail.

- ✓ Your state uses an [Alternative Benefit Plan](#) (ABP) for the newly eligible Medicaid population, and the ABP and Medicaid state plan offer [differing levels of coverage](#) or;
- ✓ Your state uses Medicaid funds to pay private health plan premiums to cover Medicaid beneficiaries in the private insurance market ([Marketplace premium assistance](#))

Advocates should provide input to state Medicaid officials, who are the decision-makers about each of these areas, about state definitions of who qualifies as medically frail, the procedures used to identify these individuals and about how to best monitor the implementation of medically frail policy.

The Medically Frail Designation

Centers for Medicare and Medicaid Services (CMS) regulations mandate that certain “exempt individuals” must have the option to receive the full state Medicaid plan package (also called the “traditional” Medicaid plan) rather than the state-defined Alternative Benefit Plan (ABP). The option to choose between the traditional Medicaid state plan coverage and the ABP is designed to ensure that newly eligible adults with chronic medical needs receive appropriate benefits.

In states using premium assistance to provide Medicaid coverage, exempt individuals can opt out of the premium assistance plan option. This can help consumers avoid additional barriers to care—including

premiums, lock-outs from coverage for non-payment of premiums, or benefit mandate exemptions. Those exempt are designated “medically frail.” The federal government’s minimum criteria for medical frailty include:

- **Disabling mental disorders**
- **Chronic substance abuse disorders**
- Serious and complex medical conditions
- Physical, intellectual, or developmental disability that impairs one or more activities of daily living
- Disability determination (Social Security or state plan)
- Supplemental Security Income (SSI) program participants, -people with disabilities, and foster children

While the federal definition provides a minimum standard of who qualifies as medically frail, states have the leeway to establish their own definitions. **Advocates should push for state definitions to explicitly include individuals with disabling mental disorders and chronic substance use disorders.** States should avoid designating a short list of specific diagnoses as the only disorders that qualify, instead allowing a consumer’s medical needs to be the determining factor in what is “disabling” or “chronic.”

The medically frail designation applies to newly eligible adults in the Medicaid expansion population. Individuals with previous disability determinations who are already receiving Medicaid or who were previously eligible for Medicaid will not be impacted.

Medically Frail Policy Advocacy

Community Catalyst and the National Council for Behavioral Health have published an issue brief, [“Promoting Effective Identification of Medically Frail Individuals Under Medicaid Expansion,”](#) with in-depth information about medical frailty, state case studies, and recommendations for medically frail policy. **The bottom line is: advocates can help to improve medically frail policy and ensure that consumers with complex health needs receive the care they need.**

There are five key areas where advocates in states that have existing medically frail designation policies can play a role in monitoring and improving these policies.

1. *Educate and Engage Stakeholders*

Advocates will need to become familiar with current medically frail policy in their state and develop ways to simplify and share the information with consumers and other stakeholders. This information is complex and involves concepts and terms that may be difficult for laypeople to understand.

Collaborating with stakeholders such as providers and enrollment assisters can help support advocacy to improve medically frail identification procedures as well as increase the number of consumers who are informed about how a medically frail designation could impact their coverage options. Consider engaging health, mental health and substance use disorders providers and provider associations,

enrollment assisters, mental health and substance use disorders advocacy groups, and other groups representing people with disabilities or other chronic health conditions.

Outreach and Enrollment Organizations

Enrollment assisters should receive information about the health coverage needs of consumers with mental health and substance use disorders as well as benefit counseling for these individuals. Enrollment assisters should also be trained on how to assist consumers in completing medically frail self-identification surveys in states where assisters are permitted to do so. It is crucial for enrollment assisters to be familiar with questions in the self-identification survey that do not explicitly mention mental health or substance use disorders, but that can help assess chronic health needs (e.g. hospitalizations, frequency of clinic visits and mental health visits).

Health Care Providers

In states where medical providers can attest to the medically frail status of clients, advocates should share information about these procedures with providers and provider associations. In states that have not adopted provider attestation, consumer health advocates can encourage health care providers to advocate for provider attestation procedures that ensure the protection of enrollee information and enrollee consent to such attestations.

2. Improve the Medically Frail Identification Process

Advocates should first find out how their state determines if an enrollee is designated as medically frail. States determine medical frailty status in a variety of ways, including automatic qualification using eligibility categories, self-identification through a questionnaire or other screening tool, or review of historical medical encounter data for current Medicaid enrollees. **Assessment tools sometimes do not include specific questions about substance use disorders but will have other questions aimed at assessing medical need**, for example, hospitalizations, frequency of clinic visits and mental health visits.

Identification Procedures

Advocacy may be needed to ensure the medically frail identification process correctly identifies eligible consumers. The following are suggestions for advocates to bring to state decision-makers.

- State definitions of medically frail individuals should explicitly include and broadly define individuals with disabling mental disorders and chronic substance use disorders.
- **States should allow enrollees to self-identify or attest to being medically frail via a questionnaire or screening tool that explicitly asks about substance use disorders, mental health, and other chronic conditions.**
- Self-assessments or surveys used to determine eligibility should be written in plain language and at no more than a sixth grade level.

- States should make assistance available to individuals completing self-assessments. Enrollment assisters should receive training in order to adequately support consumers in the completion of the self-assessment.

Attestations to Medically Frail Eligibility

In some cases, the enrollee may not be the person best-suited to complete the medically frail assessment. Health care providers may have the most direct information and knowledge of the consumer's health needs. In order to facilitate the identification process, states should adopt the following:

- Rules that allow completion of the medically frail assessment by an enrollee's family member, caregiver, or legal guardian.
- Procedures for referral or attestation by health care providers that identify individuals as medically frail.
- **No such assessment completion or attestation should be done without the explicit consent of the enrollee.** Standardized procedures should be put in place to secure voluntary consent and to protect the confidentiality and other rights of the enrollee.

3. *Help Consumers Choose the Right Plan*

Advocates should examine the traditional Medicaid state plan and the Alternative Benefit Plan to determine which has the most comprehensive coverage for consumers with substance use disorders. This will help to inform advocates about which plan should be the "target" plan –the plan that is likely to best fit the needs of consumers with substance use disorders. **A clear, simple comparison of benefits between the Medicaid state plan and the Alternative Benefit Plan is necessary for this analysis. If your state does not already provide such a breakdown, ask the state Medicaid office to provide one or consider making it yourself.**

Choice Counseling

Advocates can partner with organizations that facilitate outreach and enrollment to educate enrollment assisters about substance use disorders and the health needs of people with substance use disorders. Advocates can also provide enrollment assisters with tools to explain to consumers the key details of behavioral health coverage in the Medicaid state plan and in the ABP, including which option provides broader coverage.

Advocates should learn whether their state automatically enrolls medically frail individuals into the Medicaid state plan or if they must take action to opt in to either the Medicaid state plan or the alternative benefit plan. Using this information, advocates can advise assisters on how best to help consumers.

Default Plan Enrollment

It is important for advocates to note that states cannot automatically enroll medically frail individuals into the ABP. States may opt to automatically enroll qualifying individuals into Medicaid. In all cases where enrollment into one plan type is automatic, advocates should push the state for an opt-out period of no less than 90 days to preserve consumer choice.

4. *Monitor Medical Frailty Re-determinations*

The state may provide multiple opportunities for individuals to identify or be identified as medically frail. For example, periodic review of claims data could indicate that an individual would be better served under a different benefit plan. Medically frail status is not static, and the health needs of enrollees may change over time, making it crucial to allow for periodic re-determination. **However, all re-determination decisions that would result in plan changes should be offered to the consumer in clear language on a strictly opt-in basis. In no circumstances should individuals be switched from their current plan into a different plan without their understanding and consent.**

Advocates should research provider networks for the ABP and the state Medicaid plan to determine whether switching between plans may cause issues with continuity of care. This information is crucial for consumers to know before making decisions about plan changes.

5. *Track Effectiveness of Medically Frail Policy*

Advocates should encourage the state to monitor the effectiveness of the policies governing the medically frail designation and enrollment of the medically frail population. If a Medicaid waiver is used to provide health coverage to newly eligible consumers, compliance with the waiver terms should be a part of this monitoring. In conjunction with the Medicaid waiver, the state is required to conduct public forums to get feedback about the waiver within six months of waiver approval and annually thereafter. These forums could be an opportunity for consumer health advocates to weigh in about which aspects of the system are working and which are in need of improvement.

In addition, states should audit and publically report the demographics of enrolled populations and those in the medically frail cohort. This oversight can be conducted via a legislative audit review or through Medicaid oversight councils, advisory councils, and patient-focused councils created by stakeholder organizations. For example, in Arkansas, the Legislative Audit Oversight Committee reviews enrollment data to ensure compliance with state statute.

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