July 31, 2026

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: 2454-IFC
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Community Engagement Requirement Interim Final Rule (CMS-2454-IFC)

Home Grown is appreciative of the opportunity to provide comments in response to the Centers for Medicare & Medicaid Services (CMS) proposed rule: Community Engagement Requirement Interim Final Rule (IFR) (CMS-2454-IFC).

The mission of Home Grown is to build a more inclusive child care system that values and supports home-based child care (HBCC), including health care coverage for home-based child care providers. Home-based child care includes a range of providers offering child care in a home. Home-based child care is the most prevalent form of child care in the country (NSECE, 2019). More than 12 million children under the age of 13 receive care in a home-based child care setting.

Home-based child care includes licensed or registered family child care (FCC) and family, friend and neighbor Care (FFN) care. The vast majority of home-based child care providers are FFN caregivers. FCC providers offer child care in a residential setting as a business. FCC homes are often licensed, regulated, or registered by the state or can be license-exempt. FFN care is a broad term encompassing many types of caregivers, who have a previous relationship with the children for whom they care. Most states allow FFN caregivers to be legally license-exempt, or legally non-licensed, meaning they are not required to pursue licensure to serve the usually smaller number of children they care for.

Home-based child care is a first choice for many families. Home-based child care meets the needs of families in rural settings and those working nontraditional hours or shift work. Many families appreciate the trusted relationships, feelings of safety, and individual attention children receive in the small group context of a home-based child care setting.

Home-based child care providers are an important part of many communities' child care systems, but are also some of the lowest-paid workers in the country and rely on public

health insurance programs like Medicaid to address health care costs.[1] Many home-based child care providers will likely be exempt from the IFR, but Home Grown is concerned that administrative and compliance requirements will mean some home-based child care providers may lose health care coverage. **We urge CMS to make sure administrative requirements can be easily met by home-based child care providers to prevent them from losing health care coverage**.

Recommendations

1. CMS should explicitly list FCC and FFN care as eligible under the family caregiving exemption and issue additional guidance with examples of care arrangements involving children without disabilities, as well as screening questions inclusive of these children, to support states in launching robust public outreach and education on the caregiver exemption.

The IFR requires states to first determine if someone falls under an exempt category, and if so, the state does not need to assess compliance with work requirements. Many home-based child care providers may fall under the IFR's definition of "family caregiver." The IFR defines "family caregiver" as an "adult family member or other individual who has a significant relationship with, and who provides care within a broad range of assistance to, a dependent child or a disabled individual."[2] A family caregiver under the rule may also be a relative of the child, and states have the option to add categories of relatives who are related by blood, adoption, or marriage, including former spouses of relatives.[3] If the family caregiver does not live with the child, the caregiver must provide 80 hours of care per month to be exempt from work requirements. Many home-based child care providers fall under caregiving exemptions to the IFR. The IFR, however, does not mention FCC or FFN care directly – **CMS should include FCC and FFN as eligible specifically under the family caregiving exemption to prevent confusion among state administrators and home-based child care providers**.

In addition, the guidance in the IFR focuses largely on family caregivers of adults with disabilities. However, the definition of family caregiver clearly includes those who care for children under age 13 regardless of disability status. This may be confusing, particularly since this term, family caregiver, is commonly used to refer primarily to caregivers of adults;

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[1]OPRE, *A National Portrait of Unlisted Home-Based Child Care Providers* https://acf.gov/sites/default/files/documents/opre/hbccsq_secondary_analyses_fs1_jan2023.pdf

[2] The IFR defines a dependent child as a "child 13 years of age or under who relies on another individual for care."

[3] The IFR defines relative as the "child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, aunt, uncle, first cousin, nephew, niece, or the spouse of such parent or relative, even after the marriage is terminated by death or divorce."

it will be important for states, organizations, and potential enrollees to see CMS provide additional examples of family caregivers who provide child care to ensure this population is not inadvertently left out of the exclusion. As CMS itself has noted, many potential enrollees have difficulty determining if they qualify for an exemption, and uncertainty is highest among people with caregiving responsibilities.[4]

Similarly, while the IFR urges states to use screening questions to identify potential family caregivers, the cited examples generally focus on caregivers of older adults and people with disabilities, not children. If children are not explicitly included as care recipients under screening questions utilized in Medicaid applications, family caregivers of dependent children could easily erroneously lose or be denied coverage.

To ensure family caregivers of young children can access Medicaid coverage under the exclusion as intended, **we urge CMS to issue additional guidance with examples on care arrangements involving children without disabilities, as well as screening questions inclusive of these children, and to support states in launching robust public outreach and education on the caregiver exclusion that includes children under age 13 as care recipients.**

2. CMS should allow home-based child care providers to self-attest for the caregiving exemption to minimize loss of health care coverage.

Until January 1, 2028, CMS will allow caregivers to self-attest that they fall under the caregiving exemption. Self-attestation is the least burdensome way to make sure that home-based child care providers are captured under the caregiving exemption. It is also in line with other existing processes for other federal programs, like the Supplemental Nutrition Assistance Program (SNAP). **CMS should allow home-based child care providers to self-attest for the purposes of the caregiving exemption to minimize loss of health care coverage.** We also urge CMS to remain mindful of the importance of self-attestation to improve program integrity by preventing erroneous coverage losses and denials, including in 2028 and beyond.

3. Remove the minimum 80-hour monthly work or other activities threshold requirement associated with the family caregiver definition and expand the definition of "relative" for family caregivers and/or at minimum to allow states to designate additional relatives, in addition to those designated as relative caretakers, for the purposes of family caregivers.

[4] HHS CMS. (2026). *Medicaid Community Engagement Requirements: Qualitative Research Communication Summary*. https://www.medicaid.gov/resources-for-states/working-families-tax-cut-legislation/community-engagement/resources/Community-Engagement-messaging.pd..,f

Under statutory definitions within P.L. 115-119 and P.L. 119-21, a family caregiver is someone who has a "significant relationship with, and who provides a broad range of assistance to," a care recipient. Unlike with the community engagement requirement, Congress explicitly did not establish a minimum hours requirement for such caregiving. Rather, in recognition that caregiving requires significant flexibility, caregivers were excluded from the requirement to engage in work or other activities for a minimum of 80 hours per month, allowing them to provide uninterrupted care while retaining health coverage.

We appreciate that the family caregiver definition includes both relatives and those who reside with the care recipient. However, we also urge CMS to **expand the definition of "relative" for family caregivers and/or, at minimum, to allow states to designate additional relatives, in addition to those designated as relative caretakers, for the purposes of family caregivers**.

Further, the addition of an 80-hour minimum caregiving requirement for other family caregivers is overly restrictive and inconsistent with Congress's decision to exclude any minimum hours requirement for the caregiving exclusion. Caregiving, particularly for children, frequently varies week to week and month to month, changing based on work and early learning or school schedules, illnesses, and other changing circumstances. Given that child care often necessitates substantial flexibility, we urge CMS to fulfill the clear statutory intent and **eliminate the 80-hour minimum monthly work or other activities threshold for the family caregiver definition, ensuring home-based child care providers can prioritize the shifting needs of children and families**.

4. <u>CMS should provide clarity on how states should operationalize the term "regular basis" to determine exemption from work requirements.</u>

CMS should provide clarity on how states should operationalize the term "regular basis" to determine exemption from work requirements. The definition of "regular basis" is unclear in the IFR, which may make it difficult for states to implement the rule and inadvertently exclude home-based child care providers because of this ambiguity. The IFC provides that a family caregiver must provide care to a dependent child on a "regular basis … not solely incidental in nature" to be exempt from work requirements. The term "regular basis" is not defined in the IFR, and it is unclear how states should apply this term. Home-based child care providers can have varied hours over the course of a week or year, as their hours and schedule are often based on the needs of families and children in care.

5. CMS should specify examples of acceptable documentation for the state to collect from home-based child care providers in assessing paid and unpaid work if they are subject to work requirements.

Beginning in 2028, states are required to establish family relationships and hours of care to determine if a home-based child care provider is subject to work requirements. As acknowledged in the IFR, program integrity is undermined when eligible individuals are denied coverage.[5] Due to the difficulty of obtaining or providing documentation that would verify caregiving, particularly unpaid caregiving, burdensome evidentiary requirements in the IFR may lead to erroneous coverage losses among millions of Americans who qualify for the caregiver exclusion.

The documentation required for non-relative caregivers is complex and burdensome on the state and home-based child care providers. To effectively evaluate compliance with community engagement standards, **CMS should specify examples of acceptable documentation for the state to collect from home-based child care providers in assessing paid and unpaid work if they are subject to work requirements**.[6] This is especially true as the IFC provides minimal guidance on the kinds of information home-based child care providers will need to gather for the state in providing hours worked. Many home-based child care providers are not traditional W-2 employees and may be self-employed. In addition, vast numbers of home-based child care providers, specifically FFN, are unpaid (more than 4 million of the 5 million home-based child care providers are unpaid).[7] In cases where the home-based child care provider is not exempt from work requirements, the state will need to assess both paid and unpaid work to determine compliance. **CMS should specify what kinds of documentation individuals should provide to show unpaid hours worked for the purposes of work requirements compliance.** Reasonable documentation, relevant for home-based child care providers, could include the following:

- Tax filing documents demonstrating income and/or expenses from care work
- Monthly enrollment tracking with schedule of children in care
- Agreements with the state child care subsidy office documenting hours of operation or invoices documenting monthly enrollment
- Certificate of registration or license to provide child care from state office of child care

[5] See, e.g., § 435.557(b): "… the impact on program integrity in terms of the potential for ineligible individuals to be enrolled and for eligible individuals to be denied coverage."
[6] Examples of documentation states may use are: contracts with states or municipalities for child care or prekindergarten services, contracts, receipts, invoices, or schedule C tax filings.
[7] OPRE, *A National Portrait of Unlisted Home-Based Child Care Providers* https://acf.gov/sites/default/files/documents/opre/hbccsqsecondary_analyses_fs1_jan2023.pdf

- Documentation of Child and Adult Care Food Program (CACFP) participation and documentation of monthly enrollment and meals served
- Parent agreement documenting the number of hours each month associated with the child care arrangement or parent attestation documenting monthly hours of care, for unpaid care arrangements

Home-based child care providers play a critical role in care systems across the country. Their value and labor should be recognized in all forms, paid and unpaid. Home-based child care providers deserve the resources they need to thrive, including access to health care, and should not be denied health care coverage because of administrative barriers.

Home Grown looks forward to collaborating with CMS to ensure that home-based child care providers can keep Medicaid coverage as CMS and states implement the IFR.

Sincerely,

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