



A New Year and New Medicaid Coverage for Former Foster Youth

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First Focus

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Signed into law on March 23, 2010, the Affordable Care Act (ACA) makes a number of improvements to Medicaid and the Children's Health Insurance Program (CHIP), helping millions of Americans access affordable health coverage. Thanks to the ACA, beginning on January 1, all youth who turned 18 in foster care between 2007 and 2013 are now eligible for Medicaid.

While in foster care (and adoptive placements), nearly all children are eligible for Medicaid and should have access to comprehensive health and mental health services. Those eligible for federal reimbursement of foster care expenses (Title IV-E of the Social Security Act) are categorically eligible for Medicaid and all states opt to extend Medicaid benefits to non IV-E eligible children in foster care. Children receiving federally reimbursed adoption subsidies are also eligible for Medicaid. Sadly, for many, coverage ends once they age out of care.

Under current law, The Foster Care Independence Act of 1999 (also known as the Chafee Option) gives states the option to extend Medicaid coverage to youth who age out of the foster care system up to age 21. The Chafee Option allows states to extend Medicaid to former foster youth ages 18 to 21, but not enough states have done so. Others have used several alternative programs, including Section 1115 waivers under Medicaid to provide health coverage for youth aging out of the foster care system.

Even so, access to programs extending health coverage for youth aging out of foster care varies and many place restrictions on eligibility and limit coverage to only a few years. As a result, the majority of foster care youth receiving health care through Medicaid lose this coverage once they age out of care, or soon after. In fact, the Midwest Evaluation of the Adult Functioning of Former Foster Youth Study, conducted by the Chapin Hall Center for Children at the University of Chicago found that only half of young adults surveyed

had medical insurance, and even fewer – 39 percent – had dental insurance. A number of youth reported not having received medical care in the past year, citing a lack of insurance as the reason for not seeking care.

This all changes, starting January 1. Beginning in 2014, states must provide Medicaid coverage for former foster youth under age 26 who were in foster care at age 18 and receiving Medicaid.

On January 22, 2013, Centers for Medicaid and Medicare Services (CMS) issued a proposed rule in the Federal Register that clarified a number of important provisions of Medicaid eligibility and administration for the extension of coverage to youth who have aged out of foster care. On July 5, CMS published the final rule, clarifying a number of important points, including the following: the new eligibility category of former foster youth are eligible for full Medicaid benefits including Early, Periodic, Screening, Diagnosis, and Treatment (EPSDT) (with EPSDT provided up to age 21). Among the top issues that were not finalized in the final rule remained the “state option” or option rather than requirement for states to cover former foster care children who aged out of foster care in another state. The proposed rule interpreted the coverage requirement as meaning that a youth is only eligible for Medicaid coverage in the same state in which he or she was in foster care at age 18 and enrolled in Medicaid. Under the proposed rule, CMS gave states the option to cover youth under this group but did not require that they do so.

Although the final rule clarified a number of implementation concerns, as January drew closer, it was clear that many issues remained unresolved. For instance, were states required to screen or determine if young adults are eligible for other categories of Medicaid before providing coverage under the new mandatory category of youth formerly in foster care and what verification process is required in the initial application? Are there any requirements for ongoing verification of eligibility? Are young people who were enrolled in Medicaid at some point while they were in foster care eligible even if they were not enrolled in Medicaid at the point in time of their 18th birthday? Would CMS issue a final rule on coverage of out of state youth? Are young adults who were in guardianship at age 18 eligible for Medicaid to age 26 under this provision? Are young adults who are in foster care at age 18 eligible for this provision even if their cases close prior to reaching a higher age of maturity or a higher age that the state has elected under the Fostering Connections Act?

In late December, CMS issued an FAQ that clarified several of these outstanding issues. Specifically, it outlined the following:

1. states must cover youth under age 26 who were both enrolled in Medicaid and in foster care under the responsibility of the state on turning 18 or higher age as the state or tribe had elected for ending federal foster care assistance under Title IV-E;
2. states cannot cover youth who left foster care before aging out under the former foster youth group. Those who left foster care before age 18, were not in foster care and Medicaid either on turning 18 or aging out of foster care at the higher age set by the state are not eligible under this category;
3. although the state option was not included in the final rule, CMS will approve state plan amendments to cover youth who were in foster care and receiving Medicaid when they turned 18 or aged out of foster care in another state;

4. as of January 2014, coverage is available to youth under age 26 who meet eligibility criteria and a youth may apply for this coverage at any point before age 26;
5. children placed with a relative or in another non-licensed out-of-home placement (and foster care maintenance payments are not being provided) can be considered in foster care so long as they are also under the placement and care of the state or tribal agency;
6. youth for whom federal guardianship payments are made are not considered to be in foster care and not eligible for coverage under this group;
7. there is no income test for eligibility under this new mandatory group and states cannot impose an asset test for eligibility;
8. the new mandatory coverage does not replace coverage under the optional category of independent foster care adolescents (Chafee Option) which covers youth ages 18-20 who were in IV-E or at state option, non-IV-E foster care when they turned age 18. Unlike the new mandatory coverage, eligibility under this optional group (Chafee) goes up to age 19 (rather than 26), does not require a youth to have been in foster care in the same state where they are seeking coverage, and is subject to the MAGI-based income test (unless the state has opted to eliminate the income test);
9. individuals under age 21 who are eligible under the new mandatory group are covered for EPSDT services, those older than 21 are not;
10. states have broad flexibility in developing verification of requirements (other than citizenship and immigration status). States can accept self-attestation of the former foster care status and enrollment in Medicaid. States cannot require paper documentation unless electronic data to verify the individual's status as a former foster youth is not available. Title IV-E/B agencies are required to help foster youth develop a transition plan before the youth turns 18 or the later age set by the state or tribe, and this transition plan should include health insurance coverage;
11. eligibility under the new mandatory group of former foster youth takes precedence over eligibility in the new adult group, and any youth meeting requirements for both groups must be enrolled in the former foster youth group;
12. the state's regular federal matching rate applies for youth eligible under the new former foster youth group.

The recently released FAQ answered a number of questions raised by states in recent months. Still outstanding are several issues, including:

1. can states screen for eligibility for other categories of Medicaid, including non-MAGI categories? The FAQ clearly states that eligibility for the former foster youth category takes precedent over the new adult group, but does not state that it overrides other eligibility groups.
2. are there any requirements for renewal/ongoing verification of eligibility?
3. are youth who are in foster care at age 18 eligible for this provision even if their cases close prior to reaching a higher age of majority (e.g., age 19) or a higher age that the state has elected under

Fostering Connections? The FAQ and final rule both state that youth must be in foster care and also enrolled in Medicaid at age 18 or older if the state's federal foster care assistance under title IV-E continued beyond that age, but states continue to seek clarification on this language. What if a youth opted to leave foster care at 18 but the state's age of majority is 19? Or, the youth opted to leave foster care at age 18 but the state's foster care program extends to age 21?

4. eligibility for the former foster youth category includes verification of citizenship and immigration status. In a state that has adopted Immigrant Children's Health Improvement Act (ICHIA) – which gives states the option, along with financial incentives, to lift a 5-year waiting period on Medicaid and CHIP eligibility for legal permanent resident children and pregnant women (this state option continues under the ACA) – do foster youth have to meet immigration status requirements even if eligible under ICHIA? If so, does this mean that a foster youth would be eligible under ICHIA but not eligible under Medicaid for the former foster youth category?

The extension of Medicaid to age 26 for former foster youth is a majority victory for this population. We look forward to resolving any outstanding concerns and to moving full steam on the implementation of this provision.



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