

## State Medicaid Obligations under Federal Law for Title IV-E Adoption Assistance

All states accepting any title IV-E funding must create and sustain a Title IV-E Adoption Assistance program, actively promote its availability, and assess eligibility for any youth known to the agency.<sup>1</sup>

- Income assessment for prospective, adoptive parents is prohibited.<sup>2</sup>
- Medicaid is mandatory for all youth found title IV-E eligible.<sup>3</sup>
- States must protect the rights of youth with special needs adopted interstate.<sup>4</sup>
- Medicaid must be provided to all title IV-E recipients living in the state. This includes youth placed interstate in a school or an inpatient, psychiatric care facility.<sup>5</sup>
- All states must provide Medicaid to age 21 to any resident who is title IV-E eligible. This includes foster care, adoption assistance and GAP recipients, whether or not the resident state includes an extension past age 18 for these populations in its Title IV-E Plan. Assistance states remain financially responsible interstate for the provision of all benefits and services listed in the assistance agreement, including Medicaid.<sup>6</sup>
- Separate, Medicaid applications for title IV-E eligibles is precluded by federal law.<sup>7</sup>
- Redetermination of title IV-E adoption assistance is precluded by federal law.<sup>8</sup>
- Medicaid eligibility redetermination is not required for title IV-E eligibles.<sup>9</sup>
- Passive redetermination of Medicaid eligibility is permitted. Title IV-E adoption assistance eligibility is presumed unless information to the contrary is confirmed.<sup>10</sup>
- Private health insurance is not a required for the receipt of Medicaid. States cannot mandate that families cover a youth on the family's private, health insurance as a condition of Medicaid receipt.<sup>11</sup>
- Medicaid eligible youth under age 21 must receive any Medicaid service benefit found medically necessary, regardless of whether the benefit is in the resident state's State Medicaid Plan (See EPSDT).<sup>12</sup>
- The services covered under EPSDT are limited to the category of services listed in federal law.<sup>13</sup>

<sup>1</sup> 42 U.S.C. §§ 671(a), 673; 45 C.F.R. §§1356.40(a), (f) and ACYF-CB-PA-01-01 (1/23/01).

<sup>2</sup> 45 C.F.R. §1356.40(c).

<sup>3</sup> 42 U.S.C. §§673(b)(1), 1396a (10)(A)(i)(I) and 42 C.F.R. §435.145.

<sup>4</sup> 42 U.S.C §§675(3) and 42 C.F.R. §1356.40(b)(4).

<sup>5</sup> 42 U.S.C. §§673(b)(1), 1396a(10)(A)(i)(I) and (16); 42 C.F.R. §§435.145 and 435.403(g).

<sup>6</sup> 42 U.S.C. §§673(b)(1), 1396a(a)(10)(A)(i)(I) and 45 C.F.R. §1356.40(d).

<sup>7</sup> 42 C.F.R. §§ 435.115(e) and 435.909.

<sup>8</sup> 42 U.S.C. §673(a)(4) and ACYF-CB-PA-01-01 (1/23/01).

<sup>9</sup> 42 U.S.C. §§673(a)(4) and 1396a (10)(A)(i)(I).

<sup>10</sup> 42 U.S.C. §673 (a)(4) and ACYF-CB-PA-01-01 (1/23/01). Note: Title IV-E adoption assistance can be terminated only if one of the following conditions is met: 1.)

Youth reaches the maximum age the assistance state sets for the receipt of benefits. This can be the age of 21, if the assistance state determines that the youth has a mental or physical handicap that warrants the continuation of assistance. 2.) The assistance state has determined that the adoptive parents are no longer legally responsible\* for the support of the child; or 3.) The assistance state determines that the child is no longer receiving any support from the adoptive parents. **Note:** Legal responsibility continues unless a termination of parental rights (TPR) is obtained against the adoptive parents. No state can suspend or terminate the receipt of adoption assistance benefits, including Medicaid, in response to a youth's status in or outside the adoptive home.

<sup>11</sup> 42 U.S.C. §1396e(b)(2).

<sup>12</sup> 42 U.S.C. §1396d(r) and CMS; State Medicaid Manual §§ 5010, 5121, 5310.

<sup>13</sup> 42 U.S.C. §1396d(a). Note: EPSDT services include any medical or remedial care that is medically necessary to correct or ameliorate a defect, physical or mental illness, or condition [health problem]." States must accept any request for a service not included in its SMP as a request for EPSDT. Cite: CMS issuance, EPSDT Policy Instructions Update, issued January 01, 2010.

Link: <http://www.healthlaw.org/issues/child-and-adolescent-health/epsdt/epsdt-policy-instructions-update#.Vo7YoYQsHww>.

**Footnotes and their corresponding links to legal citations:**

- 1.) <https://www.law.cornell.edu/uscode/text/42/671>  
<https://www.law.cornell.edu/uscode/text/42/673> <https://www.law.cornell.edu/cfr/text/45/1356.40>  
<http://pa.taplink.org/post-placement-supports/finance-and-subsidy/pa0101.aspx> (ACYF-CB-PA-01-01)

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- 2.) <https://www.law.cornell.edu/cfr/text/45/1356.40>

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- 3.) <https://www.law.cornell.edu/uscode/text/42/673> <https://www.law.cornell.edu/uscode/text/42/1396a>  
<https://www.law.cornell.edu/cfr/text/42/435.145>

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- 4.) <https://www.law.cornell.edu/uscode/text/42/675>  
<https://www.law.cornell.edu/cfr/text/45/1356.40>

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- 5.) <https://www.law.cornell.edu/uscode/text/42/673>  
<https://www.law.cornell.edu/uscode/text/42/1396a>  
<https://www.law.cornell.edu/cfr/text/42/435.145>  
<https://www.law.cornell.edu/cfr/text/42/435.403>

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- 6.) <https://www.law.cornell.edu/uscode/text/42/673>  
<https://www.law.cornell.edu/uscode/text/42/1396a>  
<https://www.law.cornell.edu/cfr/text/45/1356.40>

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- 7.) <https://www.law.cornell.edu/cfr/text/42/435.115>  
<https://www.law.cornell.edu/cfr/text/42/435.909>

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- 8.) <https://www.law.cornell.edu/uscode/text/42/673>  
<http://pa.taplink.org/post-placement-supports/finance-and-subsidy/pa0101.aspx> (ACYF-CB-PA-01-01)

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- 9.) <https://www.law.cornell.edu/uscode/text/42/673>  
<https://www.law.cornell.edu/uscode/text/42/1396a>

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- 10.) <https://www.law.cornell.edu/uscode/text/42/673>  
<http://pa.taplink.org/post-placement-supports/finance-and-subsidy/pa0101.aspx> (ACYF-CB-PA-01-01)

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- 11.) <https://www.law.cornell.edu/uscode/text/42/1396e>

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- 12.) <https://www.law.cornell.edu/uscode/text/42/1396d>  
<https://www.cms.gov/Regulations-and-Guidance/guidance/Manuals/Paper-Based-Manuals-Items/CMS021927.html>  
(See Chapter 5- Early and Periodic Screening)

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- 13.) <https://www.law.cornell.edu/uscode/text/42/1396d>  
<http://www.healthlaw.org/issues/child-and-adolescent-health/epsdt/epsdt-policy-instructions-update#.Vo7YoYQsHww>