



# Medicaid and Non Title IV-E

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## Making Medicaid Happen: Title XIX for State-funded Adoption Assistance

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Interstate Compact on Adoption and Medical Assistance (AAICAMA)

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# State-Funded Adoption Assistance

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- States have the option of extending Medicaid to children receiving state-funded adoption assistance *without regard to the income of their adoptive parents.*
- *Federal law: Section 1902(a)(10)(ii) of the Social Security Act*



# The COBRA Option

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- Medicaid eligibility for state-funded adoption assistance eligible children can be through the COBRA option.
- 50 states and the District of Columbia have elected the **COBRA option**



## What is the COBRA option?

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- States are not required to provide Medicaid to their state's state-funded adoption assistance eligible children.
- States have the option to provide Medicaid to their state-funded adoption assistance eligible children.
- This option is the **COBRA option**.



# COBRA Eligibility Criteria

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- The COBRA option has three criteria:
  1. An existing, legally executed adoption assistance agreement between the state and adoptive parent(s);
  2. A pre-existing need for special medical rehabilitative care that the state finds would have precluded adoption absent medical assistance; and



## COBRA Eligibility Criteria

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3. Before or at the time the adoption assistance agreement was executed,
  - (a) (at the state's option) the child would have been eligible for medical assistance given his/her own income and resources (i.e. title IV-E criteria used to determine payment for children in foster care rather than standards and methodologies of the state's AFDC program under Part A of title IV)
  - or*
  - (b) the child was receiving or was eligible to receive Medicaid as either mandatory or optional categorically needy.



# COBRA Reciprocity

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- Some states who have chosen the COBRA option believe that the option does not require the provision of Medicaid to children who live in-state who receive state-funded adoption assistance from *another* state.
- States that choose to provide to these children have chosen what is referred to as **COBRA reciprocity**.
- States who have chosen **reciprocity** provide Medicaid services to children who: live in the state, receive state-funded aa from a different state, and meet COBRA eligibility criteria.



# Extending Reciprocity

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- States do not extend **reciprocity** in the same way.
- The two most common examples of how states extend **reciprocity** include offering **reciprocity** to children from:
  - All statesor
  - ICAMA member states only



# Reciprocity and Interstate Cases

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- When a child receiving state-funded adoption assistance is placed for adoption across state lines *or* permanently moves, you must know:
  - If the new state has elected the COBRA option  
and if state B *has* elected the option, then
  - If the new state offers reciprocity  
and if state B *does* offer reciprocity, then
  - How the new state extends reciprocity  
Is it extended to *your* state?



## States without Reciprocity

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- District of Columbia
- Hawaii
- Illinois
- Nebraska
- Nevada
- New Hampshire
- New Mexico



## State-Funded Populations

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- State-funded adoption assistance and foster care recipients can become eligible for Medicaid if they meet the eligibility requirements under *one of the mandatory or optional needy groups*.
- *Examples: 42 CFR 435.222 (optional group) and Section 1931 of the SSA (mandatory group)*
- The issue in interstate cases is one of residency. The general Medicaid residency requirements apply (AFDC defined).



# State-Funded Populations

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## Eligibility and residency:

- State-funded foster care eligible children retain the residency of the sending state (which retains custody).
- Therefore, they cannot receive Medicaid from the state in which they are physically located.
- The family will need to find a Medicaid provider in the state in which they reside that will take the child's out-of-state Medicaid card *or* seek a determination of eligibility in a different Medicaid category.
- State-funded adoption assistance residence follows that of AFDC- where a child has a defined legal residence.

Medicaid eligibility: <http://www.cms.hhs.gov/MedicaidEligibility/> (CMS)



## Supplemental Security Income (SSI)

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- 32 states and DC automatically provide Medicaid to children receiving SSI (so-called “§1634 states”)
- 7 states use eligibility criteria identical to that used for SSI, but require the filing of a separate application (so-called “criteria states”)
- 11 have opted to use eligibility criteria which is more restrictive than used for SSI in determining Medicaid eligibility (so-called §209(b) states)



## §1634 states

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Alabama  
Arizona  
Arkansas  
California  
Colorado  
Delaware  
DC  
Florida

Georgia  
Iowa  
Kentucky  
Louisiana  
Maine  
Maryland  
Massachusetts  
Michigan

Mississippi  
Montana  
New Jersey  
New Mexico  
New York  
North Carolina  
Pennsylvania  
Rhode Island

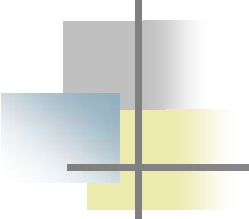
South Carolina  
South Dakota  
Tennessee  
Texas  
Vermont  
Washington  
Wisconsin  
West Virginia  
Wyoming



# Criteria States

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- Alaska
- Idaho
- Kansas
- Nebraska
- Nevada
- Oregon
- Utah



## §209(b) states

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- Connecticut
- Hawaii
- Illinois
- Indiana
- Minnesota
- Missouri
- New Hampshire
- North Dakota
- Ohio
- Oklahoma
- Virginia



# SSI Interstate

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## *The Federal law:*

- For any individual not residing in an institution...whose Medicaid eligibility is based on blindness or disability, the state of residence is the state in which the individual is living.
- *42 CFR 403(h)(20(b))*
- *Note similarity in residency language to that of title IV-E recipients.*



# SSI Interstate

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## *CMS State Medicaid Manual:*

- 3230.1 State of Residence Criteria Specific to Individuals Under Age 21 –

### A. Social Security Income (SSI) Related Individuals–

For an individual not residing in an institution, whose Medicaid eligibility is SSI related, and is based on blindness or disability, the state of residence is the state where the individual is living.

## *State Medicaid Manual, Eligibility*



## SSI Interstate

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- Whether the child retains Medicaid eligibility depends upon whether the new state is a §1634, criteria, or §209(b) state:
- §1634: retain Medicaid eligibility
- Criteria: retain eligibility, complete new application
- §209(b): may not be eligible



## TANF

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Foster care placement supported by child-only TANF payment:

- No automatic eligibility for Medicaid
- Must qualify for Medicaid through meeting the requirements for an optional or mandatory needy group
- May be eligible for low-cost health insurance under the State's Children's Health Insurance Program (S/CHIP)



# Residential Treatment Facilities

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- The special exception to residency rules given to title IV-E recipients does not apply to state-funded populations (non title IV-E).
- Therefore, the child ineligible for title IV-E placed in an out-of-state institution is considered a resident of the state which arranged for or actually made the placement, *not the state where the RTF is located.*

*Federal law: 42 CFR 435.403(e)*