



Medicaid and Title IV-E

Making Medicaid Happen:

Title XIX for

Title IV-E Adoption Assistance

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Interstate Compact on Adoption and Medical Assistance (AAICAMA)

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Medicaid Presentation Points

- Medical assistance and placement success-data and statistics
- Medicaid - facts, eligibility, supremacy of Federal law, residency (RTFs)
- Medicaid services - types, limitations, EPSDT
- Receiving Medicaid services - differences between title IV-E populations, ICAMA, ICPC
- Questions and Answers
- Open discussion - State practice



Question

- *How important is the receipt of Medicaid to the title IV-E population?*



Data and Statistics

Quote: "Most of the children who enter foster care have been exposed to conditions that undermine their chances for healthy development. Research indicates that children and youth in foster care are in worse health than those who are homeless or those living in the poorest sections of our inner cities. They have a higher likelihood of chronic medical problems, lifelong psychiatric and behavioral issues, as well as permanent physical, cognitive and developmental disabilities than children in the general population."

A Case for Action for Children and Youth with Disabilities in Foster Care, A Project of United Cerebral Palsy and Children's Rights, 2006 (Multiple citations)



Data and Statistics

Quote: "Whether they experience maltreatment that results in disabilities, or are victims of maltreatment because of their disabilities, children who enter foster care with special needs, on average, already have experienced more than 14 different environmental, social, biological and psychological risk factors before coming into care."

A Case for Action for Children and Youth with Disabilities in Foster Care, A Project of United Cerebral Palsy and Children's Rights, 2006 (Multiple citations)



Data and Statistics

Quote: *“While there have not been systematic national studies of the prevalence of disability among children in foster care, individual studies in various states and localities have highlighted a range of potential challenges. These studies have found the following:*

- *40% born low birth weight or premature*
- *80% prenatally exposed to substances*
- *30-80% with at least one chronic medical condition [e.g. asthma, HIV, TB]*
- *30-50% with dental decay*
- *25% with three or more chronic health problems*
- *30-60% with developmental delays*
- *50-80% with mental and behavioral health problems*
- *20% fully handicapped*
- *30-40% receiving special education services.”*

A Case for Action for Children and Youth with Disabilities in Foster Care, A Project of United Cerebral Palsy and Children’s Rights, 2006 (Multiple citations)

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Questions

- *What is Medicaid?*
- *How are title IV-E eligible children eligible to receive Medicaid?*
- *Can state law affect a title IV-E eligible child's receipt of Medicaid?*



Medicaid Facts

- Medicaid was established in 1965
- Medicaid is a partnership between the Federal government and the states - jointly funded (FMAP), operated by the states, and overseen by the Centers for Medicare & Medicaid Services (CMS)
- Medicaid is a major source of funding for medical and health-related services for limited income families and individuals



Medicaid Eligibility

- Title IV-E eligible children are referred to as “categorically eligible” to receive Medicaid.
- The Federal law, found in the United States Code (USC), the Social Security Act (SSA), and the Code of Federal Regulations (CFR):
 - *42 USC 673 (b)(1) [found also at Section 473 (b)(1) of the Social Security Act]*
 - *42 USC 1396a (10)(A)(i)(I) [found also at Section 1902a (10)(A)(i)(I) of the Social Security Act]*
 - *42 CFR 435.145 [Code of Federal Regulations]*



Medicaid Eligibility

Federal law:

- “For purposes of subchapter title XIX of this chapter, any child who is described...*(as a Federal adoption assistance recipient)* is deemed to be a dependent child as defined in section 606 of this title (as in effect as of July 16, 1996) and deemed to be a recipient of Aid to Families with Dependent Children... in the state where such child resides.”
- *Cite: The United States Code at 42 USC 673 (b)(1) for adoption assistance and 42 USC 672 (h)(1) for foster care*



Medicaid and IV-E Payments

More on the Federal law:

- (b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of Aid to Families with Dependent Children under part A of this title (as so in effect) in the State where such child resides.
- (2) For purposes of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.
 - (3) A child described in this paragraph is any child—
 - (A)(i) who is a child described in subsection (a)(2), and
 - (ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued),
 - (B) with respect to whom foster care maintenance payments are being made under section 472, or
 - (C) with respect to whom kinship guardianship assistance payments are being made pursuant to subsection (d).
 - *42 U.S.C. 673 (3)(A)(B)and (C)*



Categorical Eligibility

The affect of the Federal law:

- The AFDC look-back provision to title IV-E means title IV-E eligible children are treated like AFDC eligible children were for the purposes of Medicaid eligibility—automatic (categorical) eligibility.
- States must provide Medicaid to title IV-E eligible children for whom foster care maintenance payments are made, a valid adoption assistance agreement exists, or a subsidized guardianship under an active title IV-E waiver or subsidized relative guardianship exists.



Frequently Asked Questions

- What if there is a “zero” maintenance AA payment in an AA agreement?
- Do FC payments have to be made in order to receive Medicaid?
- Does a child become ineligible for title IV-E foster care if placed in an unlicensed foster care home?



Medicaid Eligibility & the Constitution

- The Constitution of the United States (the Federal constitution) is supreme over all other law *
- This principle is known as “Federal Supremacy” and its origin is found in the Supremacy Clause of the U.S. Constitution
- *The Federal law: U.S. Const. art. VI, cl. 2.*

* *Congress can legislate otherwise*



Eligibility & Federal Supremacy


The effect of the Federal law:

- Federal law trumps state law, policy, and practice. The receipt of Medicaid by otherwise eligible children can not be delayed or denied due to state law, policy, or practice.



Questions

- *Which state is responsible for the provision of Medicaid for title IV-E eligible children in interstate cases?*
- *Which state is responsible for Medicaid when the child is in a Residential Treatment Facility (RTF/RTC)?*



Medicaid & Residency

- *State of residence.* Medicaid is received through a child's state of residence.

The Federal law: *42 CFR 435.403 (g)*



Residency

The affect of the Federal law:

- For children receiving title IV-E, the state of residence is defined as the state where the child “lives”. The physical presence of a title IV-E eligible child in a state usually * triggers state responsibility for the provision of Medicaid to the child.

* Temporary absences from the state

The Federal law: *SSA at 1902 (A)(16)*



Residency

- Further clarifications: The state of residence is required to provide Medicaid to children receiving IV-E adoption assistance, *even if it is not the state making the title IV-E payment.*

Federal law: *42 USC 673 (b)(1) or Section 473 (b)(1) of the Social Security Act*



Residency

The effect of the Federal law:

- Residence is the controlling factor in determining responsibility for the provision of Medicaid.
- Title IV-E foster care: State of residence provides Medicaid, however, maintenance payments **must be made** in order for the child to be eligible to receive Medicaid.
- Title IV-E adoption assistance: State of residence provides Medicaid, however, maintenance payments **do not have to be made** for a child to be eligible to receive Medicaid.



Residency & RTFs

- The CMS defines “living” to include a stay in a Residential Treatment Facility (RTF/RTC).
- The state in which the RTF is located is responsible for the provision of Medicaid to title IV-E eligible children.



Questions

- *Is there any limit to what states must provide under Medicaid?*
- *What Medicaid services must states provide?*
- *What Medicaid services can states elect to provide?*
- *How can a placement professional secure a Medicaid service for a title IV-E eligible child if the service is not covered in the resident state's Medicaid State Plan?*



Medicaid Services

- There are two broad categories of Medicaid services:
 - **Mandatory services**
 - Optional services



Mandatory Services

- Physician services
- In-patient and out patient hospital
- Medical and surgical dental
- EPSDT
- Laboratory and x-ray
- Family planning services and supplies
- Rural health clinic services



Optional Services

- Optometrists' Services
- Psychologists' Services
- Private Duty Nursing
- Clinic Services
- Dental Services
- Occupational Therapy
- Speech, Hearing and Language Disorders
- Prescribed Drugs
- Eyeglasses
- Diagnostic Services
- Screening Services
- Preventive Services
- Rehabilitative Services
- Emergency Hospital Services
- Nursing Facilities Services for Under Age 21



Medicaid Coverage

- There are limits on state responsibility for the provision of Medicaid.

The Federal law: *42 U.S.C. 1396a (Social Security Act, Section 1902)* and *42 U.S.C. 1396d (Social Security Act, Section 1905)*



Medicaid Coverage

The effect of the Federal law:

- States must provide Medicaid to eligible children through age 18 and states must provide federally defined “mandatory” Medicaid services. However, states can choose to provide Medicaid up to the age of 21 and decide which optional services they wish to provide.



EPSDT

- **EPSDT**: **E**arly and **P**eriodic **S**creening, **D**iagnostic and **T**reatment Services
- Provides: Preventive, comprehensive health services for Medicaid-eligible under age 21
- Created: In recognition of the fact that children have unique medical needs and cannot be treated as “little adults”

The Federal law: *42 U.S.C. 1396d (Section 1905(r) of the SSA)*



EPSDT

The effect of the Federal law:

- States must provide medically necessary treatment detected through a health screen “whether or not such services are covered under the state plan”.
- *42 U.S.C. 1396d*

Note: This obligation is limited to mandatory and optional services potentially covered by Medicaid. States must also make necessary exceptions to across-the-board limits in amount, duration, and scope of covered services.



EPSDT

- **Early** - Assessing a child's health early in life so potential diseases and disabilities can be prevented or detected in the early stages when they can be most effectively treated.
- **Periodic** - Assessing a child's health at key points in her/his life to assure continued healthy development.
- **Screening** - Using tests and procedures to determine if children being examined have conditions requiring closer medical (including mental health) or dental attention.
- **Diagnostic** - Determining the nature and cause of conditions identified by screenings and those that require further attention.
- **Treatment** - Providing services needed to control, correct, or reduce physical and mental health problems.



Securing Medicaid Services

- EPSDT may provide an avenue for securing services when a new state of residence has different coverage than the adoption assistance state.
- EPSDT provides a mechanism for children to receive **MEDICALLY NECESSARY** (as defined by the individual states) services allowed under Medicaid, even if not included in a state's Medicaid plan.



Questions

- *Are title IV-E eligible children guaranteed Medicaid receipt in interstate cases?*
- *What is the process for title IV-E eligible children to receive Medicaid in an interstate case?*



Receiving Medicaid Services

- Title IV-E Adoption Assistance
- The ICAMA: The Interstate Compact on Adoption and Medical Assistance
- ICAMA Form 601

The Federal law: *42 U.S.C. 675 (3)(B)*



Receiving Medicaid Services

The effect of the Federal law:

- Federal law directs states to protect the interests of special needs adopted children in interstate cases. This protection has come to be the ICAMA. The mechanisms of ICAMA ensure the interstate receipt of Medicaid in the new state of residence for title IV-E adoption assistance eligible children.



Receiving Medicaid Services

The adoption assistance agreement:

- Is a contract between the adoption assistance state and the adoptive family
- Obligates the adoption assistance state to the payments, services, and assistance terms of the agreement

The Federal law: 42 U.S.C. 675 (3) (Section 475 of the SSA)



Receiving Medicaid Services

The effect of the Federal law:

- The language used in the adoption assistance agreement is important in determining state Medicaid responsibility if a new state of residence does not provide the same Medicaid services as the adoption assistance state or provides Medicaid to an age below that of the adoption assistance state.

Please see handout on CMS State Medicaid Manual



Receiving Medicaid Services

Making it happen.

- Open discussion: States will share their practice and procedures for interstate Medicaid receipt for title IV-E adoption assistance.