 **Medicaid and Title IV-E**


**Making Medicaid Happen:
Title XIX for Title IV-E**

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Interstate Compact on Adoption and Medical Assistance (AAICAMA)


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 **Questions**

- *What is Medicaid?*
- *How are title IV-E eligible children eligible to receive Medicaid?*
- *Federal law and the right to receive Medicaid- can state policy affect the receipt of Medicaid?*

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 **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

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Medicaid Eligibility

- Medicaid eligibility is by "category". Different programs fall into different Medicaid categories of eligibility.
- Title IV-E eligible children are referred to as "categorically eligible" to receive Medicaid as "mandatory categorically needy".

Citations: The federal law on this subject can be found in the United States Code (U.S.C.), the Social Security Act (SSA), and the Code of Federal Regulations (C.F.R.) at the following citations:

- 42 U.S.C. 673 (b)(1) [found also at Section 473 (b)(1) of the Social Security Act]
- 42 U.S.C. 1396a (10)(A)(i)(I) [found also at Section 1902a (10)(A)(i)(I) of the Social Security Act]
- 42 C.F.R. 435.145

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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: 42 U.S.C. 673 (b)(1) for adoption assistance and 42 U.S.C. 672 (h)(1) for foster care

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Categorical Eligibility

The effect 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- automatically eligible.

Note: This remains true after P.L. 110-351, *Fostering Connections to Success and Increasing Adoptions Act of 2008*.

- States must provide Medicaid to title IV-E eligible children for whom a valid adoption assistance agreement exists or maintenance payments are made under foster care, a subsidized guardianship waiver or kinship guardianship agreement.

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Medicaid Eligibility & the Constitution

- The Constitution of the United States 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.

Cite: The U.S. Const. art. VI, cl. 2.

** Congress can legislate otherwise*

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7

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 cannot be delayed or denied due to state law, policy, or practice.

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8

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)?*

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9

Medicaid & Residency

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

Cite: 42 C.F.R. 435.403 (g)

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Residency

The effect 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*

Cite: 42 U.S.C. 1392a (16)

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Residency

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

Cite: 42 U.S.C. 673 (b)(1) or Section 473 (b)(1) of the Social Security Act

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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 and guardian assistance: 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.

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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 for the length of their treatment.

Note: The same applies for schools and in-patient care.

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14

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 State Medicaid Plan?*

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Medicaid Services

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

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Mandatory Services

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

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Optional Services

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

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Medicaid Coverage

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

Cite: 42 U.S.C. 1396a (Social Security Act, Section 1902) and 42 U.S.C. 1396d (Social Security Act, Section 1905)

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Medicaid Coverage

The effect of the federal law:

- States must provide Medicaid to eligible children through age 18 and states must include federally defined mandatory Medicaid services in the State Medicaid Plan.
- States can choose to provide certain programs up to the age of 21 for children in eligible categories* and decide which optional services they wish to include in the State Medicaid Plan.

* Note: States must provide Medicaid to title IV-E recipients under the age of 21.

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EPSDT

- EPSDT**: Early and Periodic Screening, Diagnostic and Treatment Services
- Provides: Preventive, comprehensive health services for Medicaid-eligible under age 21 as a mandatory Medicaid service
- Created: In recognition of the fact that children have unique medical needs and cannot be treated as "little adults"

Cite: 42 U.S.C. 1396d (Section 1905(r) of the SSA)

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EPSDT

The effect of the federal law:

- States must provide medically necessary treatment detected through a health screen or otherwise "whether or not such services are covered under the state plan".

Cite: 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.

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22

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.

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Securing Medicaid Services

- EPSDT provides a mechanism for children to receive medically necessary services under Medicaid, even if not included in a state's Medicaid Plan.
- EPSDT may provide an avenue for securing services when the State Plan of the resident state does not provide a necessary service and/or provides different coverage than was available through a previous state of residence.

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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?*

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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.

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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

Cite: 42 U.S.C. 675 (3) (Section 475 of the SSA)

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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 the State Medicaid Plan in a new state of residence does not include a needed service and/or the same Medicaid services as were available through a previous state of residence.

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Receiving Medicaid Services

Making it happen.

- Questions and Answer Discussion. Participants are free to ask questions, share practices and procedures for interstate Medicaid receipt for title IV-E adoption assistance.

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