

AAICAMA CONFERENCE

2022



Making Medicaid Happen: From Eligibility to Services

Medicaid Training for Title IV-E



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AAICAMA Training: Medicaid for Title IV-E

Making Medicaid Happen: Title XIX for Title IV-E Adoption Assistance

Medicaid Presentation Points

- Healthcare and youth in foster care
- Medicaid - facts, eligibility, supremacy of federal law, residency
- Medicaid services - types, limitations, EPSDT
- Receiving Medicaid services - differences between Title IV-E populations; ICAMA
- Questions and Answers
- Open Discussion – State Practice



The Role of Medicaid

Health care is vital for all children.

**Health care for children in and adopted
from foster care **is imperative.****



Youth in Foster Care: Trauma and Health

- Early childhood trauma/toxic stress: adverse effect on the neurobiology of the developing brain.
- Early childhood trauma: poor emotional regulation, aggression, hyperactivity, impulsivity, attention and attachment problems, and the inability to associate thought and mood.
- Chaotic, unresponsive caregiving: insecure attachment disorders that may present as indiscriminate friendliness, hypervigilance, or social withdrawal.

Health Care Issues for Children and Adolescents in Foster Care and Kinship Care (2015)

Link: <http://pediatrics.aappublications.org/content/136/4/e1131>

Youth in Foster Care: Health Stats

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

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)

Questions

- **What is Medicaid?**
- **How are children eligible for Title IV-E eligible for Medicaid?**
- **Federal law and state policy—can state practice affect the 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.
- Children and youth in and adopted from foster care are universally Medicaid eligible.
- Children and youth in and adopted from foster care who are ineligible for Medicaid *are the exception*.



Medicaid Eligibility

Medicaid eligibility is by category. Children eligible for Title IV-E are referred to as categorically eligible to receive Medicaid as “mandatory categorically needy.”

Note: Federal law on Medicaid is 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

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.



Medicaid and Title 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).

Cite: 42 U.S.C. 673 (3)(A)(B) and (C)



Mandatory Eligibility

The effect of the federal law:

- The AFDC “look-back” provision that still exists in Title IV-E law means that the status of children eligible for Title IV-E is the same as it was for children eligible for AFDC for the purposes of Medicaid eligibility—automatic eligibility.

Note: This remains true after the Fostering Connections to Success and Increasing Adoptions Act of 2008.

- States must provide Medicaid to children and youth eligible under a Title IV-E program - Foster Care, Adoption Assistance, or Guardianship.

Note: For whom FC maintenance payments are made or an AA or GAP Agreement exists.



Medicaid Eligibility & the Constitution

- The United States 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.
- What does this mean for state practice?

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

** Congress can legislate otherwise.*



Eligibility, Federal Supremacy, and State Practice

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.
- This is important: State administrative practices cannot interfere with the timely receipt of Medicaid.

Cite: 42 CFR 435.930.



Furnishing Medicaid: 24/7

§ 435.930 Furnishing Medicaid

- The agency must:
 - (a) Furnish Medicaid promptly to beneficiaries without any delay caused by the agency's administrative procedures;
 - (b) Continue to furnish Medicaid regularly to all eligible individuals until they are found to be ineligible; and
 - (c) Make arrangements to assist applicants and beneficiaries* to get emergency medical care whenever needed, 24 hours a day and 7 days a week.

Note: All recipients of Adoption Assistance are beneficiaries – not applicants.



Frequently Asked Questions: Interstate

- Which state is responsible for the provision of Medicaid to children receiving Title IV-E Adoption Assistance interstate?
- Which state is responsible for Medicaid when a child is placed interstate in an inpatient psychiatric facility or boarding school?

Medicaid and Residency

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

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



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 child eligible for Title IV-E in a state triggers* state responsibility for the provision of Medicaid to the child.

* *Temporary absences from the state excepted.*

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



Residency

Further clarifications:

The state of residence is required to provide Medicaid to children receiving Title IV-E Adoption Assistance, *even if it is not the state making the Title IV-E payment.*

Cite: 42 U.S.C. 673 (b)(1)



Residency

The effect of the federal law:

- Residency is the controlling factor in determining responsibility for the provision of Medicaid.
- Title IV-E Foster Care and Guardianship Assistance: State of residence provides Medicaid, however, maintenance payments must be being made for the child to receive services.
- 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 services.
- Zero maintenance agreements and an “at risk” eligibility category.



Residency and Inpatient Psychiatric Facilities

- CMS defines “living” to include stays in an residential facilities.
- Inpatient psychiatric facilities include three (3) types of facilities: psychiatric hospitals, psychiatric wards of general hospitals, and Psychiatric Residential Treatment Facilities.
- Residency also applies to boarding schools and other, “sleep away from home” constructs.
- The state in which the facility or school is located is responsible for the provision of Medicaid for the length of stay in the facility or school.

Questions

- Are there limits to what children can receive 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 child if the service is not included in a state's Medicaid State Plan?



Medicaid Services

There are two, broad categories of Medicaid services:

- Mandatory services
- Optional services



Mandatory Services

- Certified Pediatric and Family Nurse Practitioner services
- Physician services
- In-patient and out-patient hospital
- Medical and surgical dental
- **EPSDT**
- Laboratory and x-ray services
- Rural health clinic services
- Home health services
- Transportation to medical care



Optional Services

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

Medicaid Coverage

There are limits to the provision of Medicaid.

Cite: 42 U.S.C. 673 (b)(1).



Medicaid Coverage

The effect of the federal law:

- States must provide Medicaid to eligible children through at least age 18 and states must provide federally defined “mandatory” Medicaid services.
- States can optionally provide Medicaid up to the age of 21 to correspond to the age to which the state’s eligibility program is provided* and decide which optional services to provide.

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



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.
- **Diagnosis** - 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 provides a mechanism for children to receive allowable services determined medically necessary, even if not included in a state's Medicaid Plan.
- EPSDT will provide an avenue for securing services when the Medicaid State Plan of the Resident State does not include a necessary service and/or provides different coverage than was received in a former state/Assistance State.
- Scope, duration, and frequency.

Questions

- Are children eligible for Title IV-E guaranteed the receipt of 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
- The ICAMA System and ICAMA Form 7.01

Cite: 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.
- ICAMA mechanisms ensure the interstate receipt of Medicaid for children eligible for Title IV-E Adoption Assistance and Non-Title IV-E adoption assistance in all, but four states. (HI, IL, NV, and NM)



The Adoption Assistance Agreement and Medicaid

The Adoption Assistance Agreement:

- Is a contract between the Agreement State and the adoptive family.
- Obligates the Agreement State to the payments, services, and terms of the agreement- including Medicaid- regardless of where the child lives. *Note: Non-Title IV-E Adoption Assistance.*

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



The Adoption Assistance Agreement and Medicaid

The Adoption Assistance Agreement:

- The language used in the Adoption Assistance Agreement is important in understanding state, Medicaid responsibility.
- If a child is denied Medicaid or a specific, Medicaid service in a new state of residence, the Agreement State is responsible for meeting the terms of the AA Agreement and, ultimately, the receipt of medical assistance.

Receiving Medicaid Services

Between the Agreement State and the guarantees under EPSDT, a plan can be found to meet the medical needs of children and youth eligible for adoption assistance.

Please contact the AAICAMA National Office to assist in cases where eligibility or services are denied or delayed for youth under the Compact.

This is the AAICAMA.

Medicaid and the Families First Coronavirus Response Act (P.L. 116-127)(FFCRA)

Effective Dates: Medicaid provisions of the *Families First Coronavirus Response Act of 2020*

States and Territories	Medicaid Recipients
Start date: January 1, 2020 <i>(Effective date of the MOE and FMAP.)</i>	Start date: March 18 th , 2020 <i>(Date from which states must keep Medicaid cases open).</i>
End Date: TBD. Last day of the quarter in which the public, emergency period ends.	End date: TBD. Last day of the month in which the public, emergency period ends.

If a recipient was receiving Medicaid benefits due to an appeal and was receiving on March 18, 2020, they are protected by the MOE and must continue to receive Medicaid to the TBD coverage date.



Other AAICAMA Trainings

Other training opportunities:

AAICAMA provides training on the ICAMA System and child welfare/Medicaid law and policy.

- ICAMA System training can be scheduled with AAICAMA's IT Program Manager: SBoyle@aaicama.org
- Legal and policy training can be scheduled with AAICAMA's Director: SMcCartney@aaicama.org

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AAICAMA THANKS YOU!

