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## Medicaid Coverage for Former Foster Youth Up to Age 26

Children are removed from families and placed into foster care due to incidents of abuse, neglect, or other family crisis. During FY2022, nearly 570,000 children spent at least a day in foster care. Out of more than 201,000 young people who exited foster care that year, over 18,000 *emancipated* (or *aged out*). In this context, emancipation means reaching the state legal age of adulthood or end of foster care—typically age 18 or an older age, up to 21, if the state extends care—without having been reunited with family or placed in a new permanent family.

Young people who age out of foster care can have significant health needs. For example, in survey research, 13% and 18% of former foster youth at ages 23 or 24, respectively, reported having a health condition or disability that limited their daily activities, compared to 5% or 6% of their same-age peers in the general population, respectively. Former foster youth also have some elevated mental health needs (e.g., post-traumatic stress disorder) and are more likely to experience pregnancies compared to their peers.

The Patient Protection and Affordable Care Act (ACA, as amended; P.L. 111-148) required states, as of January 1, 2014, to provide Medicaid coverage to most emancipated youth up to their 26<sup>th</sup> birthday, provided they continued living in the state in which they had been in foster care. The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act; P.L. 115-271) extended eligibility to emancipating youth who turn age 18 on or after January 1, 2023, regardless of their current state of residence, among other changes.

Medicaid eligibility for former foster care children (FFCC, or former foster youth) is intended to provide necessary health coverage in the years immediately after the youth age out of foster care. It parallels another ACA requirement that private health insurers provide dependent coverage up to age 26. A recent, federally overseen longitudinal survey of youth who were in foster care at age 17—thus, at risk of aging out of care—found that by age 21, 72% reported having Medicaid and 17% reported having some other health insurance coverage.

### The Medicaid and Foster Care Programs

Medicaid, authorized in Title XIX of the Social Security Act (SSA), is a federal-state program that jointly finances medical and related services to a diverse low-income population. To be eligible for Medicaid, individuals generally must meet both categorical (e.g., elderly, children, or pregnant women) and financial (e.g., income, assets) criteria in addition to requirements regarding residency, and immigration status or U.S. citizenship (hereinafter, “otherwise-eligible”). For some eligibility groups or

*pathways*, state coverage is mandatory, while for others it is optional. States and territories (hereinafter, “states”) must submit a state plan to the federal government to describe how they will carry out their Medicaid programs within the federal statute’s framework. States that wish to make changes beyond what the law permits may seek U.S. Department of Health and Human Services (HHS), Centers for Medicare & Medicaid (CMS) approval to waive certain statutory requirements to conduct research and demonstration waivers under SSA Section 1115.

The Foster Care, Prevention, and Permanency program, authorized in Title IV-E of the SSA, is a federal-state program that, among other things, jointly finances foster care for children who a state determines cannot safely remain in their homes and who meet federal eligibility rules (e.g., entered foster care from a low-income household). The program also provides some support for services to assist older children in foster care, and those who age out, in making a successful transition to adulthood. The HHS, Administration for Children and Families (ACF) administers the Title IV-E program. As of May 2023, HHS had approved Title IV-E plan amendments allowing 37 states and 7 tribal nations to extend the maximum age of federally funded foster care beyond age 18, up to 21.

While in foster care, nearly all children are eligible for Medicaid under mandatory eligibility pathways. This means that states must provide coverage because these Medicaid applicants receive assistance under the Title IV-E foster care program, are disabled, low income, or meet other Medicaid eligibility criteria. Under the Title IV-E program, states must inform foster youth within 90 days prior to emancipation about their future options for health care. Title IV-E also directs states to provide these youth with health information and official documentation that they were previously in foster care. Such documentation may be necessary to determine eligibility for some former foster youth who later apply for Medicaid.

### Medicaid for Emancipated Youth

Under federal law as amended by the SUPPORT Act, states are required to cover otherwise-eligible youth who fulfill certain criteria under the Medicaid FFCC category. The criteria vary based on whether a youth reaches age 18 *before* January 1, 2023, or *on or after* that date (**Table 1**). In all cases, the FFCC eligibility group continues to be limited to youth who are under age 26 who were enrolled in Medicaid (under a state plan or Section 1115 waiver) when they aged out of foster care. Unlike most pathways, there is no income or resource test for the FFCC group. In addition, those who meet the eligibility requirements for both the FFCC group and the ACA Medicaid expansion (i.e.,

nonelderly adults with income up to 133% of the federal poverty level) must be enrolled in the FFCC group.

**Table 1. Medicaid Eligibility Requirements for the Former Foster Care Children Group, by Birthdate**

Turn Age 18 before January 1, 2023	Turn Age 18 on or after January 1, 2023
Under age 26	Under age 26
Not eligible for or enrolled in another mandatory eligibility group	Not enrolled in another mandatory eligibility group
Were in foster care in the state in which the individual is seeking Medicaid eligibility when they turned age 18 (or such older age as the state has elected)	Were in foster care in any state when they turned age 18 (or such older age as that state has elected)
Were enrolled in Medicaid in such state while in such foster care	Were enrolled in Medicaid in any state while in such foster care

**Source:** Congressional Research Service (CRS) analysis of Section 1902(a)(10)(A)(i)(IX) of the Social Security Act (SSA).

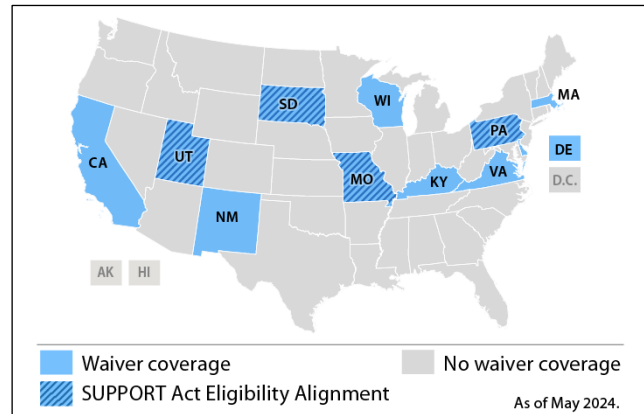
For youth who reached age 18 *before* January 1, 2023, as opposed to *on or after* that date, states are required to cover individuals who aged out of foster care, and were enrolled in Medicaid while in such care, only if the youth is in the same state where they are applying for Medicaid. Additionally, states are required to determine if an applicant is eligible for any other mandatory eligibility pathways (except the ACA Medicaid expansion, as previously discussed) before they are enrolled in the FFCC group.

By contrast, for youth who reach age 18 *on or after* January 1, 2023, the SUPPORT Act requires a state to cover otherwise-eligible youth who reside in the state, regardless of whether that youth aged out of foster care in a different state. Additionally, the act provides that otherwise-eligible youth may be enrolled in the FFCC group even if the individual meets the eligibility requirements of another mandatory eligibility group (except the ACA Medicaid expansion pathway) as long as the individual is not actually enrolled in such a group.

As of January 1, 2023, the SUPPORT Act effectively requires states to apply different eligibility rules for the FFCC group, depending on when an individual turned age 18. These separate rules apply through the SUPPORT Act phase-in period (i.e., through December 31, 2030). States that wish to align the Medicaid eligibility rules for youth formerly in foster care who turn age 18 before January 1, 2023, with those for otherwise-eligible youth who turn age 18 on or after January 1, 2023, may seek CMS approval for a “SUPPORT Act eligibility alignment” Section 1115 demonstration waiver. Alternatively, states may modify a previously approved Section 1115 demonstration to align FFCC eligibility rules with the SUPPORT Act changes. As of May 2024, 11 states had “out-of-state former foster care youth” Section 1115 demonstration waivers to cover otherwise-eligible youth formerly in foster care in another state who turned age 18 before January 1, 2023. Four of

those states’ demonstrations also included “SUPPORT Act eligibility alignment” authority (**Figure 1**).

**Figure 1. Medicaid Section 1115 Waiver Approvals for Otherwise-Eligible “Out-of-State Former Foster Youth” and “SUPPORT Act Eligibility Alignment,” as of May 2024**



**Source:** Congressional Research Service (CRS) analysis of Section 1115 waivers, HHS, CMS, accessed May 28, 2024, <https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html>.

## Continuity of Medicaid Coverage

HHS issued state implementation guidance via CMS and ACF on topics including eligibility and enrollment system changes, outreach to youth, and Section 1115 waiver opportunities. For example, because applicants are only required to provide the information necessary to determine eligibility for the FFCC group, states should use simplified applications (and employ them only when additional information is needed). States are also encouraged to accept self-attestation of former foster care and/or Medicaid enrollment status, and update their transitional plan materials and official documentation for youth aging out.

## Medicaid Benefits and Cost-Sharing

FFCC enrollees generally receive services through traditional Medicaid, which include an array of required or optional medical assistance items and services listed in statute. Some states may also furnish Medicaid through alternative benefit plan coverage (ABPs), where benefits are based on an overall coverage benchmark. However, the FFCC group is exempt from mandatory enrollment in ABPs. Regardless of the type of Medicaid benefit coverage, youth under age 21 are entitled to Medicaid’s early and periodic screening, diagnostic and treatment (EPSDT) benefit.

While states are prohibited from imposing enrollee cost-sharing on children who are in foster care and those who leave foster care for adoption or legal guardianship (provided they are Title IV-E eligible), FFCC enrollees may be subject to allowable premiums and enrollee cost-sharing.

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