

Implementation Guide: Medicaid State Plan Eligibility Eligibility Groups – Mandatory Coverage Former Foster Care Children

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Former Foster Care Children

POLICY CITATION

Statute: 1902(a)(10)(A)(i)(IX)

Regulation: 42 CFR 435.150

BACKGROUND

Overview

This reviewable unit (RU) describes the eligibility group for former foster care children, as described in 42 CFR 435.150. It provides the criteria under which individuals may be covered under this group and the options available to states with respect to eligibility for this group.

The former foster care children eligibility group is a mandatory group established by section 1902(a)(10)(A)(i)(IX) of the Social Security Act (the Act), which requires states to cover individuals who:

- Are under the age of 26;
- Do not qualify under any of the other mandatory eligibility groups, except for the adult group;
- Were in foster care under the responsibility of the state or a tribe within the state upon turning age 18 or such higher age as the state or tribe has elected for termination of federal foster care assistance under title IV-E of the Act; and
- Were enrolled in the state's Medicaid program while in such foster care.

Note that this eligibility group has significant overlap with the existing optional eligibility group for independent foster care adolescents. However, there are some differences in the policies and the individuals covered, and states may continue to elect to cover independent foster care adolescents in addition to the mandatory former foster care children group. For more information, refer to the **Independent Foster Care Adolescents** RU.

Income Eligibility

There is no income or resource test for eligibility in the former foster care group.

Other Requirements

As described at 42 CFR 435.150, the former foster care group is specific to individuals who were in foster care and enrolled in the state's Medicaid program when they turned 18 or a higher age at which the state's or tribe's IV-E foster care assistance ends (i.e., when they exited or "aged out" of foster care).

Foster Care: "Foster care" for the purposes of this group has the meaning in the regulations implementing titles IV-B and IV-E of the Act as administered by the Administration for Children and Families (ACF). This definition applies to all foster care provided in a state or tribe, regardless of whether it is federally funded or not. A foster care maintenance payment is not required for a child to be considered in foster care. However, a child receiving title IV-E

guardianship maintenance payments who is not “under the responsibility of the state or tribe” upon turning 18 or higher age, as applicable, is not considered to be in foster care.

The ACF Office of Refugee Resettlement places children in the Unaccompanied Refugee Minor program. Such children are considered to be in foster care under the state’s responsibility, even though they may be privately placed in foster care.

The statute and regulation for the former foster care children group provides for two moments in time when a child can leave foster care and become eligible for this group: upon reaching age 18 or a higher age at which the state’s or tribe’s IV-E foster care assistance ends. While each state’s title IV-E plan is used to establish the higher age threshold for aging out of foster care in the state, this higher age threshold applies to all foster care children in the state for the purpose of this eligibility group, regardless of IV-E status.

Options: Placement in another State. The regulations at 42 CFR 435.150 specify that eligible individuals must have been in foster care under the responsibility of the state or tribe in which they are currently seeking coverage. States have the option to extend coverage to children who were placed by their state in another state and enrolled in that other state’s Medicaid program. However, children who were in foster care under the responsibility of a different state are not eligible for this group. A section 1115 demonstration or state-only funding may be used to extend coverage to such children from other states.

Medicaid Enrollment: As described at 42 CFR 435.150, the Medicaid enrollment requirement can be met either through enrollment under the state plan or through a section 1115 demonstration project. Individuals may be enrolled in any eligibility group in order to meet this requirement. Most, but not all, children are enrolled in Medicaid throughout their entire period of foster care, so they would meet the Medicaid coverage requirement when they turn 18 or age out.

Options: Enrollment during the Period of Foster Care. States may also cover individuals who were enrolled in Medicaid at some point during the period of foster care in which they turned 18 or aged out. This flexibility may also be applied to individuals who were placed by the state or tribe in another state and enrolled that state’s Medicaid program at some point during the period of foster care.

INSTRUCTIONS

A. Characteristics

There are statements describing the characteristics of the eligibility group.

B. Individuals Covered

At **B.1.**, there is a statement describing individuals covered.

At **B.2.**, you may select one or more circumstances under which former foster care children also qualify. If none of these apply, do not select any.

Screen Validation:

- The following selections are permissible:
 - None
 - **B.2.a** alone
 - **B.2.b** alone
 - **B.2.c** alone
 - **B.2.a** and **B.2.b**
 - **B.2.a** and **B.2.c**
- The following selections are not permissible:
 - **B.2.a., B.2.b. and B.2.c.**
 - **B.2.b. and B.2.c.**

C. Additional Information (optional)

Except in limited circumstances, this field remains blank. Please consult with CMS before adding any additional information concerning this RU.

REVIEW CRITERIA

No specific review criteria are needed.