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**SHO# 22-003**

**RE: Coverage of Youth Formerly  
in Foster Care in Medicaid  
(Section 1002(a) of the SUPPORT  
Act)**

December 16, 2022

Dear State Health Official:

The purpose of this letter is to provide guidance to states<sup>1</sup> on important changes to the mandatory Medicaid eligibility group serving youth formerly in foster care (the former foster care children group, or FFCC group). These changes, which were made by the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act, Pub. L. No. 115-271, expand eligibility to individuals who were in foster care from other states and simplify eligibility determinations and enrollment processes for this population.

Currently, under section 1902(a)(10)(A)(i)(IX) of the Social Security Act (the Act), youth formerly in foster care in a state other than their current state of residence are not eligible for the FFCC group. Section 1002(a) of the SUPPORT Act modifies the Act to establish that individuals are eligible in the FFCC group if they were receiving Medicaid while in foster care under the responsibility of *any* state (and meet all other eligibility criteria). Section 1002(a) of the SUPPORT Act also provides that individuals who meet the eligibility requirements for the FFCC group may be enrolled in that group even if they meet the eligibility requirements for another mandatory eligibility group, so long as the individual is not actually *enrolled* in such

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<sup>1</sup> For the purposes of this letter, “states” refers to the 50 states, the District of Columbia, and the United States territories of American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands.

group. These required changes are effective for individuals who reach age 18 on or after January 1, 2023. States that wish to enroll all individuals who received foster care in another state, including those who turned 18 before January 1, 2023, may seek authority through a section 1115 demonstration. This option is discussed in greater detail later in this letter under “Considerations for Implementation” on pages 6 and 7.

Section 1002(b) of the SUPPORT Act instructs CMS to issue guidance to states on: (1) best practices for removing barriers and ensuring streamlined, timely access to Medicaid coverage for youth formerly in foster care up to age 26; (2) outreach and awareness efforts among such youth regarding Medicaid coverage options; and (3) examples of states that have successfully extended Medicaid coverage to youth formerly in foster care. In September 2019, CMS released this guidance through a Medicaid and Children’s Health Insurance Program (CHIP) Coverage Learning Collaborative webinar and slide deck posted on Medicaid.gov, entitled “Ensuring Continuity of Coverage for Foster Youth Aging Out of Foster Care and Young Adults Eligible in the Former Foster Care Group.” The guidance and strategies outlined in the 2019 deck can support states to facilitate enrollment and continuity of coverage for youth formerly in foster care as states implement changes made by the SUPPORT Act. The appendix to this letter includes a link to the 2019 deck.

The guidance in this letter provides new information for states and stakeholders regarding the effective date and implementation of these new requirements outlined in section 1002(a) of the SUPPORT Act.

## **Background**

Every year, more than 20,000 young people transition to independent adulthood from, or “age out” of, foster care in the United States.<sup>2</sup> Access to health coverage and physical and behavioral

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<sup>2</sup> See National Youth in Transition Database, November 2019. “Highlights from the NYTD Survey: Outcomes reported by young people at ages 17, 19, and 21 (Cohort 2).” Available at: [https://www.acf.hhs.gov/sites/default/files/documents/cb/nytd\\_data\\_brief\\_7.pdf](https://www.acf.hhs.gov/sites/default/files/documents/cb/nytd_data_brief_7.pdf); and U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau, October 4, 2021. “The AFCARS Report.” Available at: <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport28.pdf>, page 3.

healthcare services is essential for these young adults to live healthy and successful lives. Children in foster care and youth aging out of foster care are much more likely to have multiple adverse childhood experiences (including witnessing violence, having an unsafe home environment, or experiencing abuse or neglect) than the overall population, increasing their risk of negative health outcomes in adulthood.<sup>3</sup> Youth transitioning from foster care often have a history of complex trauma and are at high risk for behavioral and cognitive problems, as well as other comorbidities stemming from this trauma.<sup>4</sup>

Children with disabilities and Black, Hispanic, and American Indian/Alaska Native children are disproportionately represented in foster care and among those older youth aging out of foster care.<sup>5</sup> Foster care placements, risks and challenges are also equally prevalent in rural and urban areas, with placements in rural areas sometimes at higher rates.<sup>6</sup> Youth aging out of foster care can experience barriers to health and behavioral health coverage and services, which can exacerbate disparities in health and social outcomes. As a primary source of health coverage for youth formerly in foster care, Medicaid is uniquely positioned to support both the health, including behavioral health, and healthcare of this population. Ensuring continued coverage for these youth as they leave the foster care system and transition to adulthood is critical to addressing health and social inequities.

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<sup>3</sup> Among children involved in the child welfare system, 51 percent had four or more adverse childhood experiences, as compared to 13 percent of the general child population. Research suggests children with four or more adverse childhood events are 12 times more likely to have poor health outcomes later in life. See Stambaugh, L.F., Ringeisen, H., Casanueva, C.C., Tueller, S., Smith, K.E., & Dolan, M. (2013). *Adverse childhood experiences in NSCAW*. OPRE Report #2013-26, Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services. Available at:

[https://www.acf.hhs.gov/sites/default/files/documents/opre/aces\\_brief\\_final\\_7\\_23\\_13\\_2.pdf](https://www.acf.hhs.gov/sites/default/files/documents/opre/aces_brief_final_7_23_13_2.pdf).

<sup>4</sup> Salazar, A. M., Keller, T. E., Gowen, L. K., & Courtney, M. E. (2013). Trauma exposure and PTSD among older adolescents in foster care. *Social Psychiatry and Psychiatric Epidemiology*, 48(4), pp. 545-551. Available at: <https://doi.org/10.1007/s00127-012-0563-0>; and Casanueva, C. W. E., Smith, K., Dolan, M., Ringeisen, H., Horne, B. (2012). *NSCAW II wave 2 report: Child well-being*. OPRE Report #2012-38, Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services. See Exhibit 25. Available at:

[https://www.acf.hhs.gov/sites/default/files/documents/opre/nscaw\\_report\\_w2\\_ch\\_wb\\_final\\_june\\_2014\\_final\\_report.pdf](https://www.acf.hhs.gov/sites/default/files/documents/opre/nscaw_report_w2_ch_wb_final_june_2014_final_report.pdf).

<sup>5</sup> Slater, E. M. (2016). Youth with disabilities in the United States Child Welfare System. *Children and Youth Services Review* (64), pp.155-165. Available at: <https://doi.org/10.1016/j.childyouth.2016.03.012>;

[https://www.acf.hhs.gov/sites/default/files/documents/cb/nytd\\_data\\_brief\\_7.pdf](https://www.acf.hhs.gov/sites/default/files/documents/cb/nytd_data_brief_7.pdf); and

<https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport28.pdf>.

<sup>6</sup> “Foster Care Dynamics in Urban and Non-Urban Counties,” Office of the Assistant Secretary for Planning and Evaluation. (January 2002). Available at: <https://aspe.hhs.gov/reports/foster-care-dynamics-urban-non-urban-counties>.

The FFCC group, codified at section 1902(a)(10)(A)(i)(IX) of the Act and 42 C.F.R. § 435.150, was created by sections 2004(a)(3) and 10201(a)(1) of the Affordable Care Act (ACA), Pub. L. 111-148. Currently, eligibility in the FFCC group is available to individuals who:

- Are under age 26;
- Are not eligible for or enrolled in another mandatory eligibility group;<sup>7,8</sup>
- Were in foster care under the responsibility of the state in which the individual is seeking Medicaid eligibility upon attaining age 18 (or such higher age as the state has elected in its title IV-E plan);<sup>9</sup> and
- Were enrolled in Medicaid in such state while in such foster care.<sup>10</sup>

The addition of this mandatory group furthered the overall goal of the ACA to expand access to health coverage, including for people under age 26. Other provisions of the ACA allowed young adults under age 26 to maintain coverage under their parents' or guardians' health insurance plan (to the extent that such plan extends coverage to dependents). For youth formerly in foster care, this new Medicaid eligibility group provided parity with the option afforded to other young adults to retain coverage under their parents' private insurance.

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<sup>7</sup> The mandatory eligibility groups are: Supplemental security income (SSI) beneficiaries, certain individuals treated as SSI beneficiaries, and low-income individuals 65 years old or older or who have blindness or disabilities in states that apply more restrictive methodologies than the SSI program; children receiving assistance under title IV-E of the Act; parents and caretaker relatives; individuals receiving transitional medical assistance; extended Medicaid due to spousal support collection; infants and children under age 19; and pregnant individuals. *See* Sections 1902(a)(10)(A)(i)(I)-(VII) of the Act.

<sup>8</sup> If an individual meets the requirements for both the FFCC group and the adult group (described in section 1902(a)(10)(A)(i)(VIII) of the Act), the individual is enrolled in the FFCC group. *See* Clause (XVII) in the matter following section 1902(a)(10)(G) of the Act.

<sup>9</sup> States may elect to end federally-funded foster care assistance at age 18 or an older age up to age 21. In states that end such assistance at an age above 18, an individual who is in foster care upon turning age 18 and who ages out of foster care in the state prior to reaching the state's maximum age for foster care assistance is eligible for the FFCC group (if the individual meets the other eligibility requirements). *See* section 475(8) of the Act.

<sup>10</sup> States have the option to extend eligibility in the FFCC group to individuals enrolled in Medicaid at any point during the foster care period during which they turned age 18 or aged out at a higher age. States also have the option to extend eligibility in the FFCC group to individuals placed by their state's foster care agency in another state and who were enrolled in Medicaid in that other state while in such foster care placement. 42 C.F.R. § 435.150(c).

Under the current statute and regulations, the FFCC group is limited to individuals who were in foster care in the same state in which they seek to establish eligibility in the FFCC group.<sup>11</sup>

Using authority provided under section 1115 of the Act, CMS has provided states with an option to extend Medicaid coverage to individuals under age 26 who were in foster care in another state when they turned 18 or aged out of foster care, and who had been enrolled in Medicaid in the other state while in such foster care. A number of states have received such authority.<sup>12</sup>

### **SUPPORT Act Changes**

The SUPPORT Act makes two important changes to the eligibility requirements for the FFCC group. These changes will become effective, with certain limitations, on January 1, 2023 (see the discussion of the effective date below).

First, section 1002(a)(1)(A) of the SUPPORT Act eliminates the requirement that an individual not be eligible for another mandatory eligibility group (other than the adult group) to be eligible for the FFCC group. Specifically, section 1002(a)(1)(A) of the SUPPORT Act amends section 1902(a)(10)(A)(i)(IX)(bb) of the Act to replace “are not described in or enrolled under any of subclauses (I) through (VII) of [section 1902(a)(10)(A)(i)]” with “are not described in *and are not* enrolled under any of subclauses (I) through (VII) of [section 1902(a)(10)(A)(i)]. . .”

(Emphasis added). This change means that a person may be enrolled in the FFCC group even if the individual meets the eligibility requirements for a separate mandatory group described in section 1902(a)(10)(A)(i) of the Act, so long as the individual is not actually *enrolled* in such group. This change will help streamline states’ enrollment processes and reduce burdens for states and beneficiaries by eliminating states’ need to screen individuals who were formerly in

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<sup>11</sup> See “Medicaid and Children’s Health Insurance Programs: Eligibility Notes, Fair Hearing and Appeal Processes for Medicaid and Other Provisions Related to Eligibility and Enrollment for Medicaid and CHIP Final Rule,” 81 FR 86382, November 30, 2016. Available at: <https://www.govinfo.gov/content/pkg/FR-2016-11-30/pdf/2016-27844.pdf>.

<sup>12</sup> See “Section 1115 Demonstration Opportunity to Allow Medicaid Coverage to Former Foster Care Youth Who Have Moved to a Different State” November 21, 2016, page 1. Available at: <https://www.medicaid.gov/federal-policy-guidance/downloads/cib112116.pdf>.

foster care for eligibility for any other category prior to enrolling individuals into the FFCC group.<sup>13</sup>

Second, sections 1002(a)(1)(B) and (C) of the SUPPORT Act require that states cover under the FFCC group individuals who aged out of foster care in a state other than the state where they currently live and are seeking Medicaid coverage. Specifically, sections 1002(a)(1)(B) and (C) of the SUPPORT Act amend sections 1902(a)(10)(A)(i)(IX)(cc) and (dd), respectively, of the Act to replace each reference to “*the State*” with a reference to “*a State*” (Emphasis added). This means that all states must now cover, in the FFCC group, individuals who aged out of foster care in a state other than the one in which they are seeking Medicaid, as long as they otherwise meet the eligibility requirements for this group (e.g., age, citizenship or immigration status).

These changes will apply exclusively to individuals who turn 18 on or after January 1, 2023. This means that, under these two SUPPORT Act changes to the FFCC group requirements, individuals who turn 18 on or after January 1, 2023, will be eligible in the FFCC group if they meet all of the below requirements:

- Are under age 26;
- Are not *enrolled* in an eligibility group described in section 1902(a)(10)(A)(i)(I)-(VII) of the Act<sup>14</sup> (even if they meet the eligibility requirements for such group);
- Were in foster care under the responsibility of *any* state upon attaining age 18 (or such higher age as the state has elected in its title IV-E plan); and
- Were enrolled in Medicaid in *any* state while in such foster care.

#### Territories and the District of Columbia (D.C.)

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<sup>13</sup> For example, if the state agency has information available to it that shows an individual qualifies for the FFCC group, the agency does not need to collect additional information from that individual on factors of eligibility for other mandatory eligibility groups, such as pregnancy or parenting status, and verify income. The state may enroll the individual directly in the FFCC group. For more information, see “Application Changes” below.

<sup>14</sup> The explanatory notes to the description of the FFCC group, footnotes 7 through 10 of this letter, apply equally to the updated eligibility requirements. Note that the prohibition on enrolling an individual eligible for the FFCC group into the adult group (described in section 1902(a)(10)(A)(i)(VIII)) and referenced in footnote 8 of this letter continues to apply under the SUPPORT Act changes described here.

These SUPPORT Act changes apply equally to states, D.C., and the United States territories. Therefore, an individual who ages out of foster care in D.C. or a territory and moves to a state and applies for Medicaid is treated in the same manner as though the individual moved from another state. Likewise, the treatment of an individual who ages out of foster care in a state and moves to D.C. or a territory, or an individual who ages out of foster care and moves between territories or between D.C. and a territory, is the same.

### **Effective Date**

Section 1002(a)(2) of the SUPPORT Act directs that the changes to the FFCC eligibility group – both related to eligibility for another mandatory eligibility group and also aging out of foster care from another state – described above “shall take effect with respect to foster youth *who attain 18 years of age on or after January 1, 2023*” (Emphasis added). This means that: (1) the original eligibility requirements for the FFCC group will continue to apply for youth formerly in foster care who turn 18 prior to January 1, 2023; and (2) all of the new requirements will apply exclusively to those who turn 18 on or after January 1, 2023.

Note that states may use section 1115 demonstration authority to address the eligibility differences resulting from implementation of the effective date. See below for further discussion of section 1115 demonstration opportunity.

### Examples

Kaylie is both in foster care under the responsibility of State A and enrolled in State A’s Medicaid program. If Kaylie ages out of foster care upon turning age 18 on December 31, 2022, and then moves to State B, she will be ineligible for the state plan FFCC group in State B. Because Kaylie turned 18 prior to January 1, 2023, and aged out of foster care in another state, she does not meet the eligibility requirements for the state plan FFCC group in State B under the original terms of section 1902(a)(10)(A)(i)(IX) of the Act, which only provide eligibility in the group to individuals who were in foster care under the responsibility of the same state in which

such individuals seek Medicaid eligibility.<sup>15</sup> In addition, if Kaylie remains a resident of State A, she will also not qualify for the FFCC group in State A if, during her status as a youth formerly in foster care, the state determines that she meets the eligibility requirements for a separate eligibility group described in section 1902(a)(10)(A)(i)(I)-(VII) of the Act. In this situation, Kaylie would be enrolled in the eligibility group for which the state has determined she is eligible.<sup>16</sup> If Kaylie is enrolled in but ultimately loses eligibility for a group described in section 1902(a)(10)(A)(i)(I)-(VII) of the Act, she will be eligible in State A's FFCC group, so long as she is under the age of 26.

Jayden is also in foster care under the responsibility of State A and enrolled in State A's Medicaid program. If Jayden turns 18 on January 1, 2023, and ages out of foster care in State A and then moves to State B and applies for Medicaid, he will be eligible for the FFCC group in State B. Because Jayden attained age 18 on or after January 1, 2023, his Medicaid eligibility will be subject to the requirements under the SUPPORT Act's amendments to the FFCC group, including mandatory eligibility for coverage if he was enrolled in Medicaid while in foster care in any other state prior to aging out of such foster care. In addition, because the SUPPORT Act amendments will apply in Jayden's case, whether or not Jayden moves to State B from State A, the fact that he may meet the eligibility requirements for a separate mandatory group described in section 1902(a)(10)(A)(i)(I)-(VII) of the Act will not be a barrier to his eligibility for or enrollment in the FFCC group.

### **Considerations for Implementation**

CMS understands that the SUPPORT Act amendments will require that states employ separate eligibility rules for the FFCC group beginning on January 1, 2023, and that this will present administrative challenges. To address these challenges, states may utilize authority under section

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<sup>15</sup> We note that if State B has a section 1115 demonstration to cover youth formerly in foster care from another state, Kaylie could potentially qualify for coverage under such state's demonstration.

<sup>16</sup> States should use information provided by the child welfare agency or otherwise available to the Medicaid agency (e.g., electronic data sources or other case records) to determine eligibility for all groups, consistent with the eligibility hierarchy. If the information available to the state is incomplete or unverified, states may enroll the individual in the former foster care group but should provide notice and opportunity for the individual to provide additional information if coverage in another group might be beneficial to the individual. If the state does not have information indicating the youth is pregnant or a parent, the state does not need to verify income information and may enroll the individual in the former foster care group.



1115 of the Act to align the eligibility rules for youth formerly in foster care who turn age 18 before January 1, 2023, to those who turn age 18 on or after January 1, 2023, so that states can effectively apply the SUPPORT Act's FFCC group eligibility changes to all individuals. Using the examples above, this option will allow State B to provide coverage to youth formerly in foster care, such as Kaylie, who turned 18 before January 1, 2023.

### Section 1115 Demonstration Opportunity

States that currently have a section 1115 demonstration to cover youth formerly in foster care from another state will begin to enroll those individuals who turn 18 on or after January 1, 2023, into the state plan FFCC group. States may continue to utilize their section 1115 demonstrations to cover this population of youth formerly in foster care from another state until the state has fully effectuated coverage of demonstration enrollees into the FFCC state plan group. However, section 1115 demonstration authority is still needed to provide coverage to youth formerly in foster care who reached age 18 *prior* to January 1, 2023, and who remain ineligible for state plan FFCC group coverage. States with such section 1115 demonstrations that cover this population of youth formerly in foster care from another state may continue operating these demonstrations until all enrollees reach age 26.

States that do not have an existing section 1115 demonstration to cover youth formerly in foster care from other states who turn 18 prior to January 1, 2023, may consider a new section 1115 demonstration or an amendment to an existing section 1115 demonstration to cover these individuals not eligible for the FFCC group in the state plan until they reach age 26.<sup>17</sup> Any youth formerly in foster care from other states who turn (or turned) 18 prior to January 1, 2023, may be eligible for coverage under this section 1115 option, once the state receives approval of the section 1115 demonstration or amendment.

States with an existing section 1115 demonstration to cover youth formerly in foster care from other states should consult their CMS Project Officer for technical assistance on any changes that

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<sup>17</sup> Beginning January 1, 2031, the requirements of the FFCC group, as changed by the SUPPORT Act amendments, will apply to all youth formerly in foster care under age 26 without the need to vary rules based on when they turned 18.

may be needed to their approved section 1115 demonstration to align with the SUPPORT Act changes. CMS encourages states that are interested in utilizing section 1115 demonstration authority to align the eligibility rules for youth formerly in foster care through December 31, 2030, to contact CMS for technical assistance with developing section 1115 applications that align with the SUPPORT Act changes as well as with the applicable federal transparency requirements for new section 1115 demonstration requests (per 42 C.F.R. 431.412) or for section 1115 demonstration amendments (pursuant to the demonstration's Special Terms and Conditions).

### Application Changes

CMS encourages states to streamline existing enrollment processes to promote continuity of coverage, remove enrollment barriers, and ensure timely access to Medicaid coverage for youth formerly in foster care. Individuals who remain in the state in which they age out of foster care should remain continuously enrolled in Medicaid through their transition out of foster care and at least up to age 26. We remind states that aging out of foster care is an anticipated change in circumstances affecting eligibility. Consequently, states must attempt to redetermine eligibility without contacting the individual, if able to do so, and request only the information needed to redetermine eligibility without requiring the individual to complete a full application.<sup>18</sup> Youth formerly in foster care would need to complete a new Medicaid application if they become a resident of another state or in the event they need to re-enroll in Medicaid due to a break in coverage.

Since the SUPPORT Act amends eligibility rules for the FFCC group based on the age of the individual, states will need to evaluate both their paper and online single, streamlined applications<sup>19</sup> and may need to modify such applications to ensure that they are collecting sufficient information to determine eligibility for the FFCC group once the SUPPORT Act changes are effective. Unless a state has an approved section 1115 demonstration to align the eligibility rules for youth formerly in foster care, states will need to make sure that their

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<sup>18</sup> 42 C.F.R. § 435.916(d).

<sup>19</sup> 42 C.F.R. § 435.907(b)(2).

applications continue to collect information necessary to determine eligibility for individuals who turn age 18 before January 1, 2023, and who aged out of the same state in which they are applying for health coverage, as they remain subject to the eligibility requirements for the FFCC group consistent with the current statutory and regulatory requirements (described on page 3 of this letter). Specifically, states without an approved section 1115 demonstration to align eligibility rules for youth formerly in foster care will need to retain questions (1) to deny eligibility in the FFCC group for individuals who aged out of foster care in another state if they turned 18 on or before December 31, 2022, and (2) to screen youth formerly in foster care for eligibility under the mandatory groups described in section 1902(a)(10)(A)(i)(I)-(VII) of the Act, if the individual turned 18 on or before December 31, 2022.

As states evaluate what revisions are needed to their applications, we remind states that single, streamlined applications may only require information that is necessary to determine eligibility, and may be no more burdensome than the single, streamlined application developed by the Secretary.<sup>20</sup> Online applications must utilize dynamic functionality, targeting questions only as required and as necessary based on the circumstances of the applicant.

To effectuate the SUPPORT Act requirements, the application must collect a date of birth and information regarding whether or not these individuals were enrolled in foster care at age 18 or older, depending on the maximum age established in the state. States will also need to identify if these individuals were enrolled in Medicaid when they aged out of foster care or, for those states that have elected the option to extend eligibility in the FFCC group to individuals who were enrolled in Medicaid at any point during their foster care, such Medicaid enrollment. To ensure applications collect needed information, states may also need to factor in verification policies for youth formerly in foster care (as discussed below on pages 9 and 10). Because these individuals may be enrolled in the FFCC group without being assessed for eligibility on another basis, we strongly recommend states implement strategies to ensure the applications request only information needed to determine eligibility and minimize requests for information pertaining to the determination of eligibility for other mandatory groups, such as whether the applicant is a

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<sup>20</sup> See 42 C.F.R. §§ 435.907(e)(1); 435.907(b)(2).

parent or caretaker relative of a dependent child or if they are pregnant (and if so, how many babies are expected).

### *Facilitating Enrollment at Application*

For online applications, states must evaluate the flow of questions presented and underlying system logic to ensure that the individual is only required to provide the information necessary to determine eligibility for the FFCC group based on age and the eligibility criteria described in this letter. To illustrate this functionality, an individual who turns 18 on or after January 1, 2023, is *not required* to be determined ineligible for other mandatory eligibility groups in order to enroll in the FFCC group. Therefore, the online application and underlying logic must be programmed in a way that these applicants will not be required to provide information used to determine eligibility for the other mandatory groups, such as whether they are a parent or caretaker relative of a dependent child or if they are pregnant.

In paper applications, states are encouraged to add instructions to direct individuals who attest to having aged out of foster care to skip questions used to determine eligibility for other mandatory eligibility groups, including but not limited to questions pertaining to pregnancy status, whether the individual is the primary caretaker of a dependent child, and income.

In addition to being required to facilitate eligibility for the FFCC group through the single, streamlined application, states are encouraged to consider creating a separate, simplified application for youth formerly in foster care. The simplified application should solicit only information necessary to determine eligibility to get more youth enrolled in coverage. A simplified application is a tool that can remove barriers for some individuals who may be deterred by a longer application. It may be used by trusted partners such as state child welfare agencies, advocates, and others who assist youth formerly in foster care to promote enrollment. States may also create consumer assistance tools that are particularly valuable to these applicants

and provide needed assistance (e.g., online application “help text” or call center scripts that include accurate information on the FFCC eligibility group).<sup>21</sup>

CMS is committed to strengthening and simplifying the enrollment process for youth formerly in foster care and to supporting states in making necessary changes to their applications, as well as eligibility and enrollment processes, to implement the SUPPORT Act changes. CMS is available to provide technical assistance to states on the development of simplified applications and on modifications to existing single, streamlined applications. States are not required to submit a state plan amendment (SPA) to implement revisions to single, streamlined applications as a result of section 1002(a) of the SUPPORT Act, nor are the simplified applications described in this letter subject to CMS review or approval.

#### Verification Plan Procedure

States will likely need to update their verification processes to address how they will verify that an individual was receiving Medicaid while in foster care prior to aging out of foster care in another state. Additionally, states may want to take the opportunity to streamline their verification processes for all youth formerly in foster care. States are encouraged to accept self-attestation of former foster care and/or Medicaid enrollment status, particularly for youth who were enrolled in Medicaid in another state while in foster care at the time of age-out. This will minimize burden on new applicants and states alike, as this verification approach limits documentation requests of youth formerly in foster care, and there is not a consistent, streamlined way across states to connect with child welfare and Medicaid agencies. Further, states that enroll all foster care children (including state-funded foster care children) in Medicaid may assume that an applicant indicating they were formerly in foster care in the state was also enrolled in Medicaid.<sup>22</sup> In addition, because there is no income test, and because previous foster

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<sup>21</sup> See slides 32-33, Centers for Medicare & Medicaid Services, Ensuring Continuity of Coverage for Foster Youth Aging Out of Foster Care and Young Adults Eligible for the Former Foster Care Group (September 2019). Available at: <https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/foster-care-ensuring-coverage-continuity.pdf>.

<sup>22</sup> Centers for Medicare & Medicaid Services, Ensuring Access to Medicaid Coverage for Former Foster Care Youth (July 2017). Available at: <https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/foster-care-ensuring-access.pdf>.

care and Medicaid enrollment status are not factors of eligibility subject to change, states do not need to re-verify these factors of eligibility when redetermining eligibility for enrolled youth.<sup>23</sup>

States that do not accept self-attestation to verify former foster care and/or Medicaid enrollment status may adopt strategies to facilitate the verification process. States are encouraged to develop contacts with their counterparts in other states to support timely verification of prior foster care and Medicaid enrollment status. While federal law requires state child welfare agencies to provide any official documentation necessary to prove former foster care status for young adults aging out of foster care (who were in foster care for more than 6 months),<sup>24</sup> many individuals may not have easy access to such documentation. States must assist applicants in obtaining such documentation, if needed, to determine eligibility. States should also establish guidelines and clear information that offer flexibility for applicants to provide alternative verification documentation to facilitate enrollment. For example, if young adults no longer have court papers or other information issued by the child welfare agency documenting their status as formerly in foster care, a statement from the applicant, a former foster parent, or a caseworker could suffice.

States should document their policies for verifying former foster care and Medicaid enrollment status in their state verification plan documents. Since the FFCC group is a non-modified adjusted gross income (non-MAGI) group, states may address verification practices for this group where they document non-MAGI verification policies. Some states have elected to document their policies for verifying former foster care status in their MAGI verification plans. CMS formally reviews MAGI verification plans and posts these documents to Medicaid.gov.<sup>25</sup> While CMS does not formally review separate non-MAGI verification plans at this time, documentation of such policies is necessary for audit purposes, including the Payment Error Rate Measurement (PERM) and Medicaid Eligibility Quality Control (MEQC) programs. CMS is available to work with states on updates to their verification plans.

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<sup>23</sup> Centers for Medicare & Medicaid Services, CMCS Informational Bulletin, “Medicaid and Children’s Health Insurance Program (CHIP) Renewal Requirements,” page 4 (December 2020). Available at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib120420.pdf>.

<sup>24</sup> See section 475(5)(I) of the Act. Documentation that a child was previously in foster care added by section 50753(e) of the Bipartisan Budget Act of 2018 (Pub. L. 115-123), effective February 9, 2018.

<sup>25</sup> See <https://www.medicaid.gov/medicaid/eligibility/medicaidchip-eligibility-verification-plans/index.html>.

### Updates to Presumptive Eligibility

States are required to ensure that qualified hospitals participating in hospital presumptive eligibility (HPE) are able to make presumptive eligibility (PE) determinations for all populations identified in 42 C.F.R. § 435.1103 covered under the state plan, including the FFCC group.<sup>26</sup> Similarly, states operating an optional PE program are required to ensure that all qualified entities are able to make PE determinations for the FFCC group if the state elects to provide PE for this population.<sup>27</sup> In order to implement the SUPPORT Act changes, states with hospitals participating in HPE and entities that have opted to provide PE for the FFCC group must update their PE application or enrollment forms, as well as any materials used to train hospitals or other qualified entities, to ensure eligibility is appropriately assessed for the FFCC group. Any updated application and provider training materials will need to reflect the existing limitations on eligibility for individuals who turn 18 prior to January 1, 2023, and the new requirements that will apply exclusively to those who turn 18 on or after January 1, 2023. One example is that states will need to revise a PE application that asks, “Was anyone who is applying for presumptive eligibility for Medicaid in foster care in the state at age 18?” to determine eligibility based on the age of the individual. States will also need to revise a PE application that asks whether the individual was in foster care under the responsibility of the state in which the individual is seeking PE upon attaining age 18, or in foster care under the responsibility of *any state* immediately prior to reaching such state’s maximum foster care age.

States will not be required to submit a SPA to implement modifications to the HPE or PE application or provider training materials as a result of section 1002(a) of the SUPPORT Act. CMS is available to provide technical assistance to states as they review their HPE and/or regular PE applications and provider training materials to incorporate changes made by the SUPPORT Act.

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<sup>26</sup> 42 C.F.R. § 435.1110(c)(1); Medicaid and CHIP FAQs: Implementing Hospital Presumptive Eligibility Programs. January 2014. Available at: <https://www.medicaid.gov/state-resource-center/faq-medicaid-and-chip-affordable-care-act-implementation/downloads/faqs-by-topic-hospital-pe-01-23-14.pdf>.

<sup>27</sup> 42 C.F.R. § 435.1103(b).

## Eligibility and Enrollment Systems

States that do not utilize section 1115 demonstration authority to align the eligibility requirements for youth formerly in foster care regardless of when they turn age 18 will need to make enhancements to their eligibility and enrollment systems to recognize when an individual turned age 18 (before January 1, 2023, or on/after January 1, 2023) in order to: (1) determine eligibility correctly for individuals who aged out of foster care in a different state and (2) apply the correct hierarchy of eligibility groups, depending on the individual's date of birth.<sup>28</sup>

Enhanced federal financial participation (FFP) is available at a 90 percent matching rate for the design, development, or installation of improvements to Medicaid eligibility determination systems, in accordance with applicable federal requirements, including changes related to determinations of eligibility to implement the FFCC eligibility policy changes.<sup>29</sup> Enhanced 75 percent FFP is also available for operations of such systems, in accordance with applicable federal requirements.<sup>30</sup> Receipt of these enhanced funds is conditioned upon states meeting a series of standards and conditions to ensure investments are efficient and effective.

Other activities important to implementing the requirements of the SUPPORT Act, such as eligibility policy development and outreach, may be claimed under Medicaid at the 50 percent administrative matching rate, in accordance with regular claiming policies for such administrative activities.<sup>31</sup>

## SPA Submission

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<sup>28</sup> States use information available to the Medicaid agency to conduct the eligibility determination. *See slides 20-23*, Centers for Medicare & Medicaid Services, Ensuring Access to Medicaid Coverage for Former Foster Care Youth (July 2017). Available at: <https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/foster-care-ensuring-access.pdf>.

<sup>29</sup> *See* section 1903(a)(3)(A)(i) of the Act and 42 C.F.R. § 433.15(b)(3), 80 FR 75817-75843; <https://www.medicaid.gov/stateresource-center/faq-medicaid-and-chip-affordable-care-act-implementation/downloads/affordable-care-act-faq-enhancedfunding-for-medicaid.pdf>; <https://www.medicaid.gov/federal-policy-guidance/downloads/SMD16004.pdf>.

<sup>30</sup> *See* section 1903(a)(3)(B) of the Act and 42 C.F.R. § 433.15(b)(4).

<sup>31</sup> *See* section 1903(a)(7) of the Act and 42 C.F.R. § 433.15(b)(7).



Because the eligibility state plan page for the FFCC group will be inaccurate once the SUPPORT Act requirements take effect on January 1, 2023, CMS has updated the Medicaid state plan template for the eligibility group in the MACPro system. Each state must submit this Medicaid SPA to update its state plan to be consistent with the SUPPORT Act amendments. **In order for the FFCC SPA to have an effective date of January 1, 2023, states will need to submit their SPA no later than March 31, 2023, in accordance with CMS SPA regulations (42 C.F.R. §§ 430.12 and 430.20).**

As noted above, states are not required to submit SPAs to reflect changes to applications or presumptive eligibility state plan pages to implement the changes required by the SUPPORT Act discussed in this letter.

#### Workarounds Prior to Systems Changes

States may be faced with numerous competing priorities and challenges as they prepare to implement these SUPPORT Act changes. Still, we remind states that they must begin implementing the new requirements as soon as possible. Because states may need to make systems changes to determine eligibility of all youth formerly in foster care, we have developed several mitigation strategies and workarounds that states may use until they implement necessary changes. We explain these strategies in a technical assistance slide deck for states, titled “Medicaid Coverage of Youth Formerly in Foster Care – Changes under Section 1002(a) of the SUPPORT Act.” A link to the slide deck is found here:

<https://www.medicaid.gov/medicaid/eligibility/downloads/former-foster-care-coverage-changes.pdf>. States that have not yet implemented needed system changes should review these strategies and workarounds to ensure compliance with the requirements and prompt enrollment of eligible individuals into Medicaid.

## Closing

CMS is committed to working with state partners to reduce enrollment barriers and improve access to care for youth formerly in foster care. CMS is available to provide continued technical assistance to states when implementing section 1002(a) of the SUPPORT Act. If you have questions about the state plan requirements discussed in this letter, please contact Sarah Lichtman Spector, Director of the Division of Medicaid Eligibility Policy, Children and Adults Health Programs Group, at [Sarah.Spector@cms.hhs.gov](mailto:Sarah.Spector@cms.hhs.gov). If you have any questions about a potential section 1115 demonstration project to facilitate ongoing Medicaid enrollment for this population, please contact Jennifer Kostasich, State Demonstrations Group, at [Jennifer.Kostasich@cms.hhs.gov](mailto:Jennifer.Kostasich@cms.hhs.gov).

Sincerely,

Daniel Tsai

Deputy Administrator and Director

Cc:

National Association of Medicaid Directors

National Academy for State Health Policy

National Governors Association

American Public Human Services Association

Association of State and Territorial Health Officials

Council of State Governments

National Conference of State Legislatures

Academy Health

State Child Welfare Agency Directors

National Association of State Alcohol and Drug Abuse Directors

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law.



## Appendix

### **Resources for Ensuring Access and Continuity of Coverage for Youth Formerly in Foster Care**

#### **Ensuring Continuity of Coverage for Foster Youth Aging Out of Foster Care and Young Adults Eligible for the Former Foster Care Group (September 2019)**

This Medicaid and CHIP Coverage Learning Collaborative deck provides an overview of changes made to the FFCC group under the SUPPORT Act, reviews requirements and best practices related to eligibility and enrollment of youth formerly in foster care, and shares best practices for conducting outreach to youth formerly in foster care. The guidance in the deck includes requirements for redetermining eligibility at the time youth age out of foster care to ensure continuity of coverage, steps to enroll otherwise eligible individuals who move to a new state or need to re-enroll in coverage, and best practices for verifying former foster care status when a new application is needed.

States may access the September 2019 slide deck at:

<https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/foster-care-ensuring-coverage-continuity.pdf>.

#### **Ensuring Access to Medicaid Coverage for Former Foster Care Youth (June 2017)**

This Medicaid and CHIP Coverage Learning Collaborative deck provides an overview of coverage in the FFCC group and steps for states to process applications and renewals for youth formerly in foster care who turn 18 before January 1, 2023. The deck also includes guidance that is applicable to enrolling youth formerly in foster care regardless of when they aged out of foster care, including accepting self-attestation of former foster care status and Medicaid enrollment.

States may access the June 2017 slide deck at:

<https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/foster-care-ensuring-access.pdf>.