

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Medicaid Eligibility
Former Foster Care Children Group
(LAC 50:III.2308)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.2308 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) eliminates the requirement that an individual not be eligible for Medicaid coverage in another mandatory group in order to be eligible for the former foster care children group. The SUPPORT Act also requires Medicaid coverage for individuals who aged out of foster care in another state, as long as they otherwise meet the eligibility requirements for the former foster care children group. In compliance with the requirements of the SUPPORT Act, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing Medicaid eligibility for former foster care children who turned 18 on or after January 1, 2023, in order to remove the

requirement that the individuals not be eligible under another mandatory group and to extend coverage to those who aged out of foster care in another state, as long as they otherwise meet the eligibility requirements for the former foster care children group.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2308. Former Foster Care Children Group

A. Pursuant to the Patient Protection and Affordable Care Act of 2010 (collectively referred to as the Affordable Care Act), the Department of Health implemented a Medicaid eligibility group, effective December 31, 2013, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18 or at a higher age selected by the department. This eligibility group is called former foster care children group.

B. Eligibility Requirements

1. For youth who turned age 18 prior to January 1, 2023, the youth must meet all of the following requirements to receive Medicaid health care coverage under this eligibility group:

- a. be from age 18 to 26 years old;

b. is not eligible or enrolled in another mandatory eligibility group described in sections 1902(a)(10)(A)(i)(I)-(VII) of the Social Security Act;

c. was in foster care under Louisiana's custody and receiving Medicaid upon turning age 18 or upon aging out of foster care at a higher age elected by the State in its title IV-E plan (up to age 21); and

d. resides in Louisiana.

2. For youth who turned age 18 on or after January 1, 2023, the youth must meet all of the following requirements to receive Medicaid health care coverage under this eligibility group:

a. be from age 18 to 26 years old;

b. is not enrolled in another mandatory eligibility group described in sections 1902(a)(10)(A)(i)(I)-(VII) of the Social Security Act;

c. was in foster care under the responsibility of any state and receiving Medicaid upon turning age 18 or such higher age (up to 21) as the state has elected in its title IV-E plan; and

d. resides in Louisiana.

3. Repealed.

C. - D.1. ...

E. Eligibility for the program will continue until the youth reaches age 26 unless the youth:

1. ...
2. requests closure of the case; or
3. dies.
4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2260 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1389 (July 2017), LR 49:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses by providing Medicaid reimbursement for individuals that were not previously covered.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but may enhance the provider's ability to provide the same level of service as described in HCR 170 since it provides Medicaid reimbursement for individuals that were not previously covered.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on August 29, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on August 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on August 24, 2023 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after August 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid Eligibility

Former Foster Care Children Group

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$2,090 for FY 23-24, \$2,183 for FY 24-25, and \$2,431 for FY 25-26. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that this proposed rule will increase federal revenue collections by approximately \$5,188 for FY 23-24, \$4,762 for FY 24-25, and \$5,147 for FY 24-25. It is anticipated that \$324 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing Medicaid eligibility for former foster care children who turned 18 on or after January 1, 2023, in order to remove the requirement that they not be eligible under another mandatory group and to extend coverage in the Former Foster Care Children Group to those individuals who aged out of foster care in another state, as long as they otherwise meet the eligibility requirements for the group. The proposed rule complies with Section 1002(a) of the "Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act" (the "SUPPORT Act"). Providers and small businesses will benefit from implementation of this proposed rule as it is anticipated to increase Medicaid payments for services provided to certain former foster care children by approximately \$6,630 for FY 23-24, \$6,945 for FY 24-25, and \$7,578 for FY 25-26, since these individuals were not previously eligible for coverage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.