



New Medicaid Coverage For Youth Who Age Out of Foster Care in Nebraska to Age 26

Starting on January 1, 2014, the ACA extends Medicaid coverage to youth who aged out of foster care until age 26.

Youth will be eligible for Medicaid under this new category if they:

1. Are under 26 years of age;
2. Are not otherwise eligible for Medicaid;
3. Were in foster care under the responsibility of the state on the date of attaining 18 years of age or such higher age as the State has elected under [the Fostering Connections Act]; and
4. Were enrolled in Medicaid or a waiver program while in such foster care.¹



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The Affordable Care Act (ACA) requires that Nebraska cover certain youth who have aged out of the foster care system under Medicaid until age 26.

What judges, attorneys, and advocates can do.

This new eligibility category provides youth who age out of foster care with an opportunity to be covered under an insurance plan, just as their non-foster care peers can now be covered under their parents' plan. Advocates here in Nebraska should work to ensure that the law is fully implemented locally and that eligible youth enroll in the program. Judges and attorneys can also play an important role in the law's implementation by being aware of these key provisions, informing youth about the program, and recognizing how a youth's current juvenile case can impact their future eligibility.

What judges, attorneys, and advocates should know.

Coverage under this new category in Medicaid will include youth who aged out of care prior to January 1, 2014.

Under the plain language of the statute, there is no differentiation between youth who aged out prior to January 1, 2014, and those who aged out after that date. Therefore, the statute will apply retroactively to youth who aged out of the system prior to January 1, 2014, and meet the requirements described above.

Discharging youth to independent living prior to the age of 18 will likely preclude future Medicaid coverage.

Under the plain language of the statute, young people who are discharged to independent living prior to their *18th birthday* will not be eligible under this new Medicaid category.

Discharging youth to independent living between the ages of 18 and 19 may preclude future Medicaid coverage.

Due to the statutory language "on the date of attaining 18 years of age or such higher age as the State has elected under [the Fostering Connections Act]," there was a question as to whether youth discharged to independent living prior to their *19th birthday* in Nebraska could be ineligible under this new Medicaid category. In January of 2013, the Centers for Medicare and Medicaid Services (CMS) issued draft federal regulations that indicate that youth discharged after their 18th birthday, but before their 19th birthday, would be eligible for Medicaid.² However, the Nebraska Department of Health and Human Services recently released proposed regulations that require youth to have "aged out," as opposed to covering youth after age 18 as allowed by the federal statute. Therefore, the potential impact on Medicaid eligibility to age 26 should be carefully examined when considering discharging a young person to independent living before the age of 18 or 19. Please contact Nebraska Appleseed at 402-438-8853 with questions.



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How to apply

At this time, it appears that there are a number of ways potentially eligible young people can apply for this Medicaid coverage. They can:

- **Apply online** through ACCESSNebraska at <http://www.accessnebraska.ne.gov> or the Health Insurance Marketplace at <https://www.healthcare.gov>. On both of these applications, make sure young people click “yes” when asked if they want to find out if they can get help paying for health coverage, and make sure they answer the questions about whether they were ever in foster care.
- **Download an electronic application** at <http://public-dhhs.ne.gov/Forms/DisplayPDF.aspx?item=3067> and either mail it in or turn it in to their local Department of Health and Human Services office. Make sure they answer Question 16, which asks whether they were in foster care at age 18 or older.
- **Apply over the phone** through the Nebraska Department of Health and Human Services Medicaid Division at 402-473-7000 (in Lincoln), 402-595-1178 (in Omaha), or 1-855-632-7633 (other areas of the state).

Further Reading

For more information on Medicaid eligibility for youth formerly in foster care, please see the following national resources.

- Center for Children and Families, *Child Welfare and the Affordable Care Act: Key Provisions for Children and Youth in the Foster Care System*. Available at: <http://ccf.georgetown.edu/ccf-resources/child-welfare-the-affordable-care-act-key-provisions-children-youth-the-foster-care-system/>.
- Urban Institute, *How Health Care Reform Can Help Children and Families in the Child Welfare System: Options for Action*. Available at: <http://www.urban.org/UploadedPDF/412842-how-health-care-reform-can-help.pdf>.
- NHELP, *Response to Centers for Medicare and Medicaid Services’ (CMS) request for feedback on a proposed rule published in the Federal Register on Tuesday, January 22, 2013*. Available at: http://www.healthlaw.org/images/stories/NHeLP_Exchange_and_Medicaid_reg_comments.pdf.
- First Focus, *Response to Centers for Medicare and Medicaid Services’ (CMS) request for feedback on a proposed rule published in the Federal Register on Tuesday, January 22, 2013*. Available at: http://childwelfaresparc.files.wordpress.com/2013/02/first-focus_medicaid-foster-youth-reg-comments.pdf.
- Children’s Defense Fund, *Response to Centers for Medicare and Medicaid Services’ (CMS) request for feedback on a proposed rule published in the Federal Register on Tuesday, January 22, 2013*. Available at: <http://www.childrensdefense.org/child-research-data-publications/data/aca-medicaid-proposed-regs.pdf>.

Notes

¹ 42 U.S.C. § 1396a(a)(10)(A)(i)(IX).

² Centers for Medicare & Medicaid Services 78 Fed. Reg. 4594, 4604 (Jan. 22, 2013) (amending 42 C.F.R. 435.150)

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