

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

Person
Preparing
Statement: Veronica Dent Dept.: Health

Phone: 342-3238 Office: Bureau of Health Services Financing

Return
Address: P.O. Box 91030 Rule
Title: Medicaid Eligibility

Baton Rouge, LA Former Foster Care Children Group

Date Rule
Takes Effect: October 20, 2023

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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.

Tara A. LeBlanc
Signature of Agency Head or Designee

Tara A. LeBlanc, Medicaid Executive Director
Typed Name & Title of Agency Head or Designee

07/05/2023
Date of Signature

Debbie Thomas, Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

07/07/2023
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

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").

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

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.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes. It is anticipated that implementation of this proposed rule will result in increased programmatic costs to the Medicaid Program of approximately \$7,278 for FY 23-24, \$6,945 for FY 24-25, and \$7,578 for FY 25-26. In FY 23-24, \$648 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) X NO. If no, provide justification as to why this rule change should be published at this time

Act 199 of the 2022 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and the operation of the Medicaid Program, and thereby, authorizes the expenditure of these funds. Implementation of this proposed rule will ensure that individuals who turned 18 on or after January 1, 2023 and aged out of foster care in another state are covered under the Medicaid program and that providers receive reimbursement for services rendered to these individuals.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 24	FY 25	FY 26
Personal Services			
Operating Expenses	\$648		
Professional Services			
Other Charges	\$6,630	\$6,945	\$7,578
Equipment			
Major Repairs & Constr.			
TOTAL	\$7,278	\$6,945	\$7,578
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

In FY 23-24, \$648 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 24	FY 25	FY 26
State General Fund	\$2,090	\$2,183	\$2,431
Agency Self-Generated			
Dedicated			
Federal Funds	\$5,188	\$4,762	\$5,147
Other (Specify)			
TOTAL	\$7,278	\$6,945	\$7,578

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 24	FY 25	FY 26
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$5,188	\$4,762	\$5,147
Local Funds			
TOTAL	\$5,188	\$4,762	\$5,147

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

In FY 23-24, \$324 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and final rule.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

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").

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

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. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This rule has no known effect on competition and employment.