



Your Questions About the Medicaid Expansion Provision of the Affordable Care Act Answered

The Catalyst Center responds to questions from stakeholders about policies related to coverage and financing of care for children and youth with special health care needs (CYSHCN). On June 28, 2012, the U.S. Supreme Court announced its decision that the Affordable Care Act (ACA) as a whole is constitutional. However, the Court also said that the provision in the ACA that required state Medicaid programs to increase eligibility contained a “coercive” penalty. Therefore, the Medicaid expansion provision is optional. States may choose to implement it, but it is not mandatory for them to do so. Since that time, stakeholders have had questions about the implications of the optional Medicaid expansion for CYSHCN. The following provides some answers.

What is the Medicaid expansion provision and to whom does it apply?

Title II, Section 2001 of the ACA describes *Medicaid Coverage for the Lowest Income Populations*.¹ This provision directs states in 2014 to expand their Medicaid eligibility to include legally residing, non-pregnant, non-disabled individuals, ages 19 to 65, with family income of less than 133% of the federal poverty level (FPL).² Currently, non-disabled, childless adults between ages 19 and 64 are not eligible for Medicaid in most states regardless of their income. (See the Kaiser Family Foundation State Health Facts chart [Adult Income Eligibility Limits at Application as a Percent of the Federal Poverty Level \(FPL\), January 2013](#) to learn about the status of non-disabled, childless adult coverage in your state.)

Note: With income disregards, individuals can qualify for Medicaid up to 138% FPL. We will use 138% throughout the rest of this document.

¹<https://www.federalregister.gov/articles/2011/08/17/2011-20756/medicaid-program-eligibility-changes-under-the-affordable-care-act-of-2010#h-16>

²<http://aspe.hhs.gov/poverty/13poverty.cfm>

What impact did the U.S. Supreme Court decision have on this ACA provision?

In June, the U.S. Supreme Court issued its ruling on several key questions regarding the constitutionality of the ACA. (See the Catalyst Center’s analysis of the ruling at <http://www.hdwg.org/catalyst/SCOTUS-Ruling>) The Court decided that the ACA as a whole is constitutional – with one exception. The Medicaid expansion, created as part of the ACA’s goal to ensure that all Americans have access to affordable health insurance, is in effect a “new program.” As such, the proposed penalty – loss of all federal Medicaid funds for states that do not expand Medicaid eligibility up to 138% FPL – is, in accordance with the spending clause of the U.S. Constitution and the Tenth Amendment, “coercive and unconstitutional.”³ The Medicaid expansion provision remains part of the ACA, but it is optional for states as a result of the Court’s ruling. States that adopt the expansion will receive the enhanced federal match as planned, but if they do not, they will not be penalized.

States that adopt the expansion will receive a 100% federal match for this group of newly eligible adults for years 2014 through 2016. Beginning in 2017, the federal match will decrease to 95%. For years 2018 and 2019, the match rate will be 94% and 93% respectively; in 2020, the match rate will be 90%, where it will remain.⁴ Some states have already begun to expand Medicaid eligibility for this population of adults by submitting a Section 1115 Research and Demonstration Waiver to the Centers for Medicare and Medicaid Services (CMS). If approved, these waivers allow a state to expand Medicaid to adults prior to 2014. [Learn about Section 1115 and the status of these waivers in each state.](#)

How will a state’s decision about whether or not to adopt the expansion affect children and youth with special health care needs (CYSHCN)?

A state’s Medicaid expansion decision won’t affect CYSHCN directly, because they are not part of the newly eligible population. As discussed above, the Medicaid expansion provision of the ACA creates a pathway to eligibility for non-disabled, non-pregnant, childless adults, 19 to 65 years old, who are not currently eligible for this public benefit program. Children, including CYSHCN, birth to age 19 with limited family income are already eligible for Medicaid. However, a separate provision of the ACA amends Medicaid income eligibility for children (an existing eligibility group) and is mandatory for states.⁵

³Selected Issues Related to the Effect of *NFIB v. Sebelius* on the Medicaid Expansion Requirements in Section 2001 of the Affordable Care Act. Congressional Research Service. July 16, 2012. Retrieved from <http://www.healthreformgps.org/wp-content/uploads/crs-medicaid-update.pdf>

⁴<http://housedocs.house.gov/energycommerce/ppacacon.pdf>

⁵http://assets.opencrs.com/rpts/R41210_20100819.pdf

So income eligibility will go up for children to 138% FPL regardless of whether a state adopts the Medicaid expansion or not?

Yes. Currently, Federal regulations set minimum Medicaid income eligibility for children, birth through 5 years of age, at 133% FPL. For children 6 to 19, minimum eligibility is 100% FPL although many states extend eligibility to children with higher family incomes. Visit the [Kaiser Family Foundation State Health Facts website](#) to see a state-by-state list of [Income Eligibility Limits for Children's Regular Medicaid and Children's CHIP-funded Medicaid Expansions as a Percent of Federal Poverty Level](#).

In 2014, the ACA will raise mandatory Medicaid eligibility to 138% FPL for children ages 6 to 19 years old.⁶ Differences in current income eligibility based on a child's age will be eliminated. The new income eligibility limits discussed above will affect 6 to 19 year olds in the 19 states (AL, AZ, CA, CO, DE, FL, GA, KS, MS, NV, NC, ND, OR, PA, TN, TX, UT, WV, WY) that currently limit income to 100% FPL for this age group.

Note: Of these 19 states, CO, TX, and ND have created Family Opportunity Act Medicaid Buy-in programs for children whose disabilities are described by the [clinical listings on the Social Security Administration \(SSA\) website](#), and whose family income is too high to be eligible for Supplemental Security Income (SSI) and Medicaid. Family income in CO and TX can be up to 300% FPL; in ND, family income can be up to 200% FPL. In PA, PH-95 is an alternate pathway to Medicaid eligibility for children who meet the SSI functional disability criteria but whose family income is too high for SSI or Medicaid.

Also, beginning in 2014, a child with family income under 138% FPL who is enrolled in a separate Children's Health Insurance Program (CHIP) will be moved to Medicaid.

What could the impact of the new mandatory Medicaid income eligibility increase be for CYSHCN?

Children, including CYSHCN, in families whose income is up to 138% FPL will gain access to a comprehensive set of benefits under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program. Overseen by the individual state Medicaid programs, EPSDT is a federally mandated Medicaid benefit that ensures that children and youth, birth to age 21, receive early and periodic screenings to identify and treat

⁶<https://www.federalregister.gov/articles/2011/08/17/2011-20756/medicaid-program-eligibility-changes-under-the-affordable-care-act-of-2010#h-19>

any physical, mental, developmental, and other health needs. While EPSDT is an important benefit for all children, it is especially important for CYSHCN who often require specialized health services. EPSDT guarantees that if a child needs a health service, and that service is medically necessary, the state's Medicaid program must provide it – even if the service is not included in the state's list of covered benefits. ([Learn more about EPSDT at the Maternal and Child Health Library website.](#)) In addition to gaining access to a comprehensive set of benefits, the cost sharing in Medicaid is limited by law, so families of CYSHCN may find some financial relief while still accessing the health care their children need.

CYSHCN who have functional disabilities described by the [Social Security Administration clinical listings](#) and whose families have very limited income and assets can qualify for Supplemental Security Income (SSI). In the majority of states, children eligible for this federal cash benefit program also gain access to Medicaid. However, 11 states (CT, HI, IL, IN, MN, MO, NH, ND, OH, OK, and VA), also known as the 209(b) states, have more restrictive disability criteria. After 2014, a child with disabilities living in a 209(b) state may become eligible for Medicaid based on family income alone, rather than on whether they meet the state's disability criteria, once income eligibility is raised to 138% FPL.

The 100% federal match states will receive for all newly eligible adults for the Medicaid expansion provision does not apply to children moving from CHIP to Medicaid. However, states will continue to be reimbursed at the CHIP enhanced Federal Medical Assistance Percentage (eFMAP) rate for children now eligible for Medicaid.⁷

What are the implications of the Medicaid expansion for young adults with special health care needs?

Young adults, including those with special health care needs, “age out” of Medicaid based on family income when they turn 19. If they live in a state that adopts the Medicaid expansion, they may keep their Medicaid coverage, as long as their *individual* income is less than 138% FPL. Young adults who were not enrolled in Medicaid as children because their family income was too high may now qualify for Medicaid if their own income is less than 138% FPL.

Regardless of whether a state adopts the Medicaid expansion, young adults with disabilities who were not eligible for SSI benefits as a child because their family income was too high may now gain access to Medicaid coverage based on their own income (income eligibility for SSI is set by the Social Security Administration, not the states). The ACA raised the age limit for keeping Medicaid coverage for youth in foster care

⁷<http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/html/2011-20756.htm>



to age 26. Since they, like all children under age 19, are an existing mandatory coverage group, they will continue to be eligible regardless of whether a state adopts the expansion.

The ACA requires that most of the “new eligibles” be provided with benchmark or benchmark-equivalent benefits instead of the traditional set of mandatory and optional benefits that an individual state’s Medicaid program may offer. However, Section 1937 of the Social Security Act excludes certain groups from mandatory enrollment in benchmark or benchmark-equivalent coverage, including individuals who are blind or disabled, have special medical needs or are medically frail. This exception to benchmark coverage will apply to young adults in the newly eligible group who meet these criteria.⁸

In those states that do not adopt the Medicaid expansion in 2014, low-income childless adults who do not qualify for Medicaid based on disability or other existing criteria may remain ineligible. They face an additional challenge. Individuals with income less than 100% FPL are not eligible for subsidized coverage in the Exchanges; when the ACA was written, it was assumed that they would be covered under the then-mandatory Medicaid expansion. This leaves very low-income adults in non-adopter states without access to either Medicaid or affordable coverage through the Exchanges. While [uninsured adults in this group will not be penalized under the individual mandate to have health insurance](#), they may not have any other viable option for obtaining it.

Finally, current income eligibility may change when the Maintenance of Effort (MOE) provision expires for adults in 2014, further adding to the ranks of the low-income uninsured. (MOE remains in effect for children until 2019.)

The ACA was designed in large part to reduce the number of people in the U.S. who do not have health insurance. The Medicaid expansion was a major component of that effort. Whether the ACA fulfills this promise beginning in 2014 will now depend on the decisions states are making today. States that choose to adopt the expansion will reduce the number of uninsured, including youth and young adults with special health care needs, and in return receive an enhanced federal match over several years to financially support their enrollment. All states will expand income eligibility for children under age 19. To learn where your state stands, visit the regularly updated, interactive webpage [Where each state stands on ACA’s Medicaid expansion](#).

⁸http://assets.opencrs.com/rpts/R41210_20100819.pdf

About the Catalyst Center

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Contact Information

Meg Comeau, Project Director
The Catalyst Center
Boston University School of Public Health
Health & Disability Working Group
715 Albany St.
Boston, MA 02118
Tel: 617-638-1936
Fax: 617-638-1931
Web: <http://www.catalystctr.org>
E-mail: mcomeau@bu.edu

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