

## **MEDICAID/MEDI-CAL FOR YOUTH IN THE JUVENILE JUSTICE SYSTEM**

### **A Fact Sheet Prepared by the Youth Law Center**

#### **I. MEDICAID**

##### **What is Medicaid?**

Medicaid is a medical assistance program for low income people. The federal government pays a share of the health care costs for eligible individuals. This federal share, called federal financial participation (FFP), ranges from 50% in most states to 83% in the poorest states.<sup>1</sup> FFP is also available for states' administrative costs for the amount equal to 50% of the remainder of the amounts expended.<sup>2</sup>

An important component of Medicaid is Early and Periodic Screening Diagnosis and Treatment (EPSDT), a comprehensive child health program that covers health screening, diagnosis, preventive care, and medically necessary treatment, including mental health services. States that participate in the Medicaid program must provide EPSDT services to eligible individuals.<sup>3</sup>

##### **Who is eligible for Medicaid?**

Medicaid eligibility can be complicated, but generally children and youth are eligible for Medicaid if:

- (1) They receive certain benefits such as Supplemental Security Income (SSI) or Title IV-E foster care funds or adoption assistance;<sup>4</sup>
- (2) They are low-income;<sup>5</sup> or
- (3) They are in a group the state has chosen to cover. (For example, states like California have opted to cover children receiving state adoption assistance benefits and youth who have aged out of foster care.)<sup>6</sup>

Generally, “child,” “juvenile,” or “youth” means an individual who is under 21 years of age, but can also include young people under 26 years of age for states who have opted to cover former foster youth or young adults.<sup>7</sup>

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<sup>1</sup> 42 U.S.C § 1396d(b)(1). Medicaid FFP rates are published in the *Federal Register*. Links to current and past rates are available at: <http://aspe.hhs.gov/health/fmap.htm>.

<sup>2</sup> 42 U.S.C. § 1396b(a)(7). A higher percentage is available for certain specified administrative costs. 42 U.S.C. § 1396b(a)(2)-(6).

<sup>3</sup> 42 U.S.C. § 1396a(a) (43).

<sup>4</sup> 42 U.S.C. § 1396a(a)(10)(A)(i).

<sup>5</sup> 42 U.S.C. § 1396a(a)(10) (includes many low-income eligibility categories).

<sup>6</sup> 42 U.S.C. § 1396a(a)(10)(A)(i)(ii).

<sup>7</sup> 42 U.S.C. §1396a(nn)(1)

Some states, like California, provide medical assistance using 100% state funds to individuals who do not meet the federal eligibility criteria for Medicaid. For example, California provides

medical assistance to all young adults regardless of immigration status.<sup>8</sup> The funds that are directed toward providing medical assistance to undocumented individuals are 100% state funds. These individuals may have a Medicaid card from their state, but the state does not receive FFP for the services provided to those individuals.

### **Are youth in the juvenile justice system eligible for Medicaid?**

Youth involved in the juvenile justice system are eligible for Medicaid if they meet all of the eligibility criteria. However, FFP is not available for services provided to an individual when he or she is an “inmate of a public institution.”<sup>9</sup> This federal restriction is often referred to as the “inmate payment exception.”

### **Who is an inmate of a public institution?**

Federal regulations define “inmate of a public institution” as a person who is living in a public institution. An individual is *not* considered an inmate if they are in a:

- (a) Public educational or vocational training institution for purposes of securing education or vocational training; or
- (b) Public institution for a temporary period pending other arrangements appropriate to their needs.<sup>10</sup>

Federal regulations define “public institution” as an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term “public institution” does *not* include:

- (a) A medical institution as defined in the regulations;
- (b) An intermediate care facility (ICF);
- (c) A publicly operated community residence that serves no more than 16 residents, as defined in this section; or
- (d) A child-care institution housing children receiving Title IV-E foster care benefits.<sup>11</sup>

### **What does this mean for youth in detention?**

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<sup>8</sup> Welfare & Institutions Code §14007.8

<sup>9</sup> 42 U.S.C. §1396d (a)(29)-(30)(A); 42 C.F.R. § 435.1009(a)(1).

<sup>10</sup> 42 C.F.R. §435.1010.

<sup>11</sup> *Id.*

Youth in detention, and other correctional facilities, are considered to be inmates of a public institution and are not eligible to receive Medicaid services *while in confinement*, except as described above.

In 2018, the federal SUPPORT for Patients and Communities Act was passed, which prohibits termination of Medicaid eligibility for juveniles<sup>12</sup> who are inmates of public institutions.<sup>13</sup> The law authorizes the suspension, instead of termination, of Medicaid eligibility *or* benefits to the youth during the period the youth is considered an inmate.<sup>14</sup> Suspension of benefits means, for example, that youth transported to a hospital from detention are immediately eligible for inpatient services, whereas suspension of eligibility may require the state to redetermine eligibility.<sup>15</sup> Also, suspension of benefits provides an opportunity for a seamless transition to eligibility for Medicaid after release. Although this law requires the state to conduct a redetermination of Medicaid eligibility prior to a youth's release, a state is not required to conduct a redetermination unless release is more than one year after the last redetermination.<sup>16</sup> In any event, the state may not require a new application process. California law has long required the suspension of benefits rather than the termination of eligibility.<sup>17</sup> See Section II below.

## II. MEDI-CAL

### What is Medi-Cal?

Medi-Cal is California's Medicaid health care program. The program pays for a variety of medical services for children and adults with limited income and resources.<sup>18</sup>

### What does this mean for California youth already enrolled in Medi-Cal prior to confinement in juvenile justice facilities in California?

#### Suspension

California has long required a suspension of up to one year, instead of termination, of Medi-Cal benefits for youth confined in juvenile justice facilities.<sup>19</sup> AB 80 (2020) incorporated, effective

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<sup>12</sup> 42 U.S.C. §1396a(nn)(2). "Juvenile" includes youth up to age 21, and may include young people up to age 26 in states that have opted to cover certain categories of young people. *See* footnote 7.

<sup>13</sup> 42 U.S.C. §1396(a)(84)

<sup>14</sup> *Id.*; SMD #21-002

<sup>15</sup> SMD #21-002

<sup>16</sup> 42 U.S.C. §1396(a)(84); SMD #21-002

<sup>17</sup> Welfare & Institutions Code §14011.10.

<sup>18</sup> California has opted to cover current and former foster youth in care at the age of 18 and under the age of 26 and young adults as noted in footnote 7. DHCS issues an annual FPL letter, DHCS ACWDL No. 21-01, which lists the Federal Poverty Level (FPL) for each of the Medi-Cal eligible population programs. *See* <https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/21-01.pdf>

<sup>19</sup> Welfare & Institutions Code §14011.10(c)

October 1, 2020, the language in the 2018 SUPPORT for Patients and Communities Act (“The Support Act”), prohibiting termination while youth are incarcerated and requiring suspension of benefits until release (meaning, suspension of benefits can last more than 1 year).<sup>20</sup>

The suspension applies to youth confined in a juvenile justice facility, including a juvenile hall, camp, or ranch, and youth confined in a Department of Juvenile Justice facility.<sup>21</sup> It does not include youth in a group home placement or Short Term Residential Therapeutic Program (STRTP).<sup>22</sup>

The suspension of benefits will start on the date the youth is confined.<sup>23</sup> The county juvenile detention facility will provide the county welfare department with the youth’s name, the scheduled or actual release date, any information regarding the youth’s Medi-Cal status prior to disposition, and sufficient information for the county welfare department to begin the process of determining the youth’s eligibility for Medi-Cal benefits.<sup>24</sup> If the youth is a minor, the contact information for the youth’s parent or guardian will also be provided.<sup>25</sup> The county welfare department will notify the department within 10 days of receiving information that an individual on Medi-Cal is or will be confined.<sup>26</sup>

## **Restoration**

Until October 1, 2020, if a youth’s benefits were suspended for less than or up to one year, the suspended benefits were to be restored on the day the youth is no longer confined without requiring a new application.<sup>27</sup>

Effective October 1, 2020, California law has changed to incorporate the suspension and redetermination language in the 2018 Support Act, prohibiting termination and authorizing suspension for the duration of the youth’s confinement.

AB 80 required DHCS, in consultation with system stakeholders, to develop and implement redetermination of eligibility guidelines. DCHS has yet to issue guidance, but the new guidelines should clarify the process, improve practice, and support the intent to provide a seamless transition for young people to access Medi-Cal services upon release.

## **What does this mean for California youth *not* already enrolled prior to confinement in juvenile justice facilities in California?**

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<sup>20</sup> Welfare & Institutions Code 14011.10

<sup>21</sup> Welfare & Institutions Code §14011.10.

<sup>22</sup> Medi-Cal Eligibility Procedures Manual, Article 6B; *see also* Welfare and Institution Code §§ 14000. - 14042.2 & 14131. - 14138.

<sup>23</sup> Welfare & Institutions Code §14011.10(c)

<sup>24</sup> Welfare & Institutions Code §14029.5(a)(1)(3)

<sup>25</sup> Welfare & Institutions Code §14029.5(a)(2)

<sup>26</sup> Welfare & Institutions Code §14011.10(b)

<sup>27</sup> Welfare & Institutions Code §14011.10, 42 U.S.C. §1396a(84)

## Application

Each county welfare department is responsible for determining the Medi-Cal eligibility status and initiating applications for non-enrolled youth committed to county juvenile halls, camps, or ranches

for 30 days or longer.<sup>28</sup> If a youth is committed to a juvenile hall, camp, or ranch for 30 days or longer, the county juvenile facility provides the appropriate county welfare department with the following information:

- Name
- Scheduled or actual release date
- Medi-Cal status prior to disposition
- Sufficient information for the county welfare department to begin the process of determining eligibility (including contact information for the youth's parent or guardian).<sup>29</sup>

If the youth is a minor, prior to providing this information to the county welfare department, the county juvenile detention facility will notify the parent or guardian, in writing, of its intention to submit this information. If the parent or guardian opts out of the eligibility determination, and only if the youth is a minor, the county juvenile facility will not send the youth's information and application.<sup>30</sup>

Upon receipt of this information, the county welfare department initiates an application for the youth. If the youth is scheduled to be released in fewer than 45 days, the county expedites the application.<sup>31</sup>

If a youth does not meet the eligibility requirements, the county welfare department forwards the youth's information, with the consent of the youth's parent or guardian, to the appropriate entity to determine eligibility for the Healthy Families Program, or other appropriate health coverage program, as determined by the department.<sup>32</sup>

If a youth does meet the eligibility requirements, the county welfare department provides sufficient documentation to enable the youth to obtain necessary medical care upon their release from custody.<sup>33</sup>

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<sup>28</sup> Welfare & Institutions Code §14029.5(a)(1)

<sup>29</sup> *Id.*

<sup>30</sup> Welfare & Institutions Code §14029.5(a)(2); Per 42 U.S.C. 1396a(a)(84), federal law requires that applications for Medi-Cal are processed prior to release, including for youth in or recalled from DJJ. California has not conformed its requirements for new applications to the Support Act language (i.e. to process any application while a youth is incarcerated so that eligibility is determined prior to release). Moreover, AB 80 did not amend WIC 14029.5 to include youth in DJJ or youth recalled from DJJ to county facilities.

<sup>31</sup> Welfare & Institutions Code §14029.5(b)(1)

<sup>32</sup> Welfare & Institutions Code §14029.5(b)(2)

<sup>33</sup> Welfare & Institutions Code §14029.5(b)(3)