

**CATEGORICAL FACTORS****CHILDREN IN FOSTER CARE**

**Policy:** All children in foster care who are in the care and custody of the Office for Children and Family Services commissioner or local district commissioner, and who are citizens or have satisfactory immigration status, are categorically eligible for Medicaid. In addition, children adjudicated as juvenile delinquents pursuant to Article 3 of the Family Court Act and placed into the custody of the Office of Children and Family Services, pursuant to Section 353.3 of the Family Court Act, and who are citizens or have satisfactory immigration status, are categorically eligible for Medicaid.

**References:** SSL Sect. 366.3(a)  
Title 10

Dept. Reg. 360-3.3(a) (4)

GIS 11 MA/006  
05MA/041

Chapter 58 of the Laws of 2010, Part F

**Interpretation:** All children in foster care are categorically eligible for full Medicaid coverage, regardless of their Title IV-E status, as long as they are citizens or have satisfactory immigration status and are otherwise eligible. A separate Medicaid financial determination is not necessary.

All children adjudicated as delinquents under Article 3 of the Family Court Act and placed in the care and custody of the Office of Children and Family Services pursuant to Section 353.3 of the Family Court Act are categorically eligible for full Medicaid coverage, regardless of their Title IV-E status, as long as they are citizens or have satisfactory immigration status and are otherwise eligible. A separate Medicaid financial determination is not necessary.

The district making the foster care payment is responsible for the child's Medicaid, as long as the child remains a resident of New York State. If a child enters certain facilities certified by the Office of Mental Health (OMH) or the Office for People with Developmental Disabilities (OPWDD), the State may be responsible for the child's Medicaid

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coverage while s/he remains in the facility. (See **OTHER ELIGIBILITY REQUIREMENTS STATE AND FEDERAL CHARGES OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES**)

When this situation occurs, it is likely that OMH or OPWDD will contact the local district to request that the child's county Medicaid coverage be terminated so that the State can establish coverage. Districts must cooperate with OMH and/or OPWDD so that appropriate coverage can be established expeditiously.

When a Title IV-E child in foster care moves out of state, the state where the child resides is responsible for providing Medicaid. If a child who is receiving Title IV-E payments from another state resides in New York State, and application for Medicaid is filed with the local district in which the child resides. The child's name, date of birth, social security number, third party health insurance information and verification of Title IV-E is documented in the case record and a New York State Medicaid case is opened.

The provisions of categorical eligibility cease to apply when a child in foster care is placed in permanent absence status in a medical facility as defined in 18NYCRR 360-1.4. For persons in permanent absence status, chronic care budgeting is used to determine eligibility.

IV-D referrals or determinations of good cause must be made as appropriate. Support from parents of a certified blind or disabled child is not sought when the child is expected to be living separate and apart from his/her parents for 30 days or more.

When a child in foster care is discharged, a separate Medicaid eligibility determination must be performed based on the child's living arrangements at discharge (residence in the community). Continuous coverage provisions apply. However, a child who is discharged from foster care who is a citizen or who is in satisfactory immigration status and is in receipt of Title IV-E kinship guardian assistance payments (KinGAP) must be provided with Medicaid without regard to their income and resources. The local social services district making the KinGAP payment is the district of fiscal responsibility.