

**TO:** All Local District Commissioners, Medicaid Directors, Service Directors

**FROM:** Betty Rice, Director  
Division of Consumer and Local District Relations

**SUBJECT:** Categorical Eligibility for Children in Foster Care

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** Medicaid - Local District Liaison  
Upstate (518)474-8887 NYC (212)417-4500

The purpose of this GIS is to inform local departments of social services (LDSS) of Medicaid categorical eligibility for both Title IV-E and Non Title IV-E children in foster care. In the past, children in foster care who met the eligibility criteria under Title IV-E of the Social Security Act were deemed eligible for Medicaid, while those who did not meet the Title IV-E eligibility criteria, and those awaiting Title IV-E determination, had their Medicaid eligibility determined separately using a specific budgeting methodology for non Title IV-E children in foster care.

The Department submitted a State Plan Amendment to the Centers for Medicare and Medicaid Services (CMS) to provide Medicaid categorical eligibility for children who are in foster care. CMS has approved the State Plan Amendment. This change in policy is effective immediately, retroactive to January 1, 2005. Children in foster care identified as eligible for Medicaid with a spenddown, or who were either denied Medicaid or on Child Health Plus B due to excess income during the retroactive period, are now categorically eligible for Medicaid, if they are citizens or meet satisfactory immigration status. Changes to these cases should be made as they are identified by either Services staff or Medicaid staff or at next recertification, whichever comes first.

Therefore, all children who are in the care and custody of the local district commissioner, and who are citizens or have satisfactory immigration status, are 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 eligible for Medicaid. Districts are no longer required to do an eligibility determination for non Title IV-E children in foster care.

Upstate Title IV-E cases will remain Case Type 13 and Upstate non Title IV-E cases will remain Case Type 20. The Upstate categorical code for children in foster care will remain 07 "Removed by Court Order".

New York City procedures for authorizing Medicaid on SERMA for children in foster care remain the same. There are no changes to categorical codes for children in foster care in New York City.

As is current policy, an infant born to a woman eligible for and receiving Medicaid on the date of a child's birth, including a pregnant woman in foster care, is eligible for Medicaid until the end of the month of the infant's first birthday.

An Administrative Directive will be forthcoming. If you have any questions, please contact your Local District Liaison.