

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1071 Medicaid Coverage for Former Foster Youth

SPONSOR(S): Roth

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1526

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Facilities Subcommittee	16 Y, 1 N	Grabowski	Lloyd
2) Children, Families & Seniors Subcommittee			
3) Health Care Appropriations Subcommittee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect. Florida's child welfare system is administered by the Department for Children and Families (DCF), which works in partnership with local communities and the courts to ensure the safety, timely permanency and well-being of Florida's children. When children cannot safely remain at home with parents, Florida's child welfare system finds safe out-of-home placements for children. Foster care can be an appropriate setting for many children, but is also associated with greater needs for certain services.

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration and financed by federal and state funds.

While in foster care, nearly all children are eligible for Medicaid under mandatory eligibility pathways. This means that states must provide coverage because these children receive assistance under the federal Title IV-E foster care program, are disabled, or meet other eligibility criteria. Young adults who age out of the foster care system at age 18 continue to be eligible for Medicaid coverage until age 26, but they have traditionally been required to apply for continued Medicaid coverage when aging out.

The bill requires DCF to develop a program that facilitates the Medicaid enrollment of former foster youth. DCF may collaborate with community-based care organizations to implement the program, which must include:

- Notifying eligible or prospectively eligible young adults, caregivers, group homes, and residential programs about the eligibility and options for enrollment.
- Providing technical assistance to eligible young adults in enrolling.
- Publicizing options for Medicaid enrollment for young adults who have lived in foster care.

The bill modifies Medicaid eligibility standards for former foster youth, consistent with changes to federal law. Under the bill, former foster youth would maintain Medicaid eligibility until reaching age 26. The bill also directs DCF to allow for presumptive eligibility for former foster youth, as required under federal law. DCF is already compliant with the federal requirements codified by the bill.

The bill has a significant, negative recurring fiscal impact to the Medicaid program and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Department of Children and Families

The Department of Children and Families (DCF) mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹ DCF must develop a strategic plan to fulfill its mission and establish measureable goals, objectives, performance standards, and quality assurance requirements to ensure the department is accountable to taxpayers.²

Under s. 20.19(4), F.S., DCF must provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

DCF must also deliver services by contract through private providers to the extent allowed by law and funding.³ These private providers include managing entities delivering behavioral health services and community-based care lead agencies (CBCs) delivering child welfare services.

Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect. Florida's child welfare system is administered by DCF, which works in partnership with local communities and the courts to ensure the safety, timely permanency and well-being of Florida's children.⁴

DCF contracts for case management, out-of-home care, and related services with lead agencies, also known as CBCs. The model of using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design.⁵

CBCs are responsible for providing foster care and related services. These services include, but are not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.⁶ The CBC must give priority to services that are evidence-based and trauma informed.⁷ CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.⁸

¹ S. 20.19(1), F.S.

² Id.

³ Id.

⁴ S. 39.001, F.S.

⁵ Department of Children and Families, *Community-Based Care*, <https://www.myflfamilies.com/service-programs/community-based-care/overview.shtml> (last accessed March 18, 2021).

⁶ Id.

⁷ S. 409.988, F.S.

⁸ Department of Children and Families, *Community Based Care Lead Agency Map*, <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last accessed March 18, 2021).

Title IV-E Funding for Child Welfare

While states bear primary responsibility for child welfare, Congress appropriates funds to states through a variety of funding streams for services to children who have suffered maltreatment. One of these funding streams is established in Title IV-E of the Social Security Act (SSA).⁹ Title IV-E provides federal reimbursement to states for a portion of the cost of foster care, adoption assistance, and (in states electing to provide this kind of support) kinship guardian assistance on behalf of each child who meets federal eligibility criteria. Title IV-E also authorizes funding to support services to youth who “age-out” of foster care, or are expected to age out without placement in a permanent family.

While Title IV-E funding is an entitlement, eligibility is limited to those children who:

- Are from a home with very low income (less than 50 percent of federal poverty level in most states);
- Have been determined by a judge to need certain care;
- Are living in a licensed family foster home or a “child care institution”; and
- Are under 18 years old, unless the state has included older youth in its Title IV-E plan.

In addition to narrow eligibility, Title IV-E places strict limits on the use of federal matching funds. Eligible Title IV-E expenditures include:

- Foster care maintenance payments (for the child’s room and board);
- Caseworker time to perform required activities on behalf of eligible children in foster care or children at imminent risk of entering foster care (e.g., finding a foster care placement for a child and planning services needed to ensure a child does not need to enter care, is reunited with his or her parents, has a new permanent home, or is otherwise prepared to leave foster care);
- Program-related data system development and operation, training, and recruitment of foster care providers; and
- Other program administration costs.¹⁰

The federal government pays 50-80 percent of these costs, depending on the nature of the expenditure, and additionally, for foster care maintenance payments, the state’s per capita income.¹¹

Title IV-E funds generally cannot be used for an array of services, such as family support services, intensive in-home services, and mental health and substance abuse services. While Title IV-E is an entitlement program that may be used to pay a portion of the foster care maintenance costs of all eligible children, it cannot be used to provide services to either prevent out-of-home placement or to hasten a child’s return home.¹²

Family First Prevention Services Act

The Family First Prevention Services Act (FFPSA) was passed into law as part of the Bipartisan Budget Act on February 9, 2018.¹³ The FFPSA reformed the federal child welfare funding streams. Unlike the previous Title IV-E provisions, which primarily funded out-of-home care for families with very low incomes, the FFPSA gives states the ability to earn federal Title IV-E matching funds in support of certain prevention services provided on a time-limited basis that avoid an out-of-home placement for children without regard to family income. The services that states can be reimbursed for providing to children and their families meeting eligibility requirements address mental health, substance abuse,

⁹ 42 U.S.C. § Ch. 7, Subch. IV, Pt. E.

¹⁰ 42 U.S.C. § 674.

¹¹ *Id.*

¹² U.S. Department of Health and Human Services, Administration for Children and Families, *Synthesis of Findings: Title IV-E Flexible Funding Child Welfare Waiver Demonstrations*, (Sept. 2005), <https://www.acf.hhs.gov/cb/report/synthesis-findings-title-iv-e-flexible-funding-waiver-demonstrations> (last accessed March 18, 2021).

¹³ H.R. 1862 of 2018, P.L. 115-123.

family counseling, and parent skills training. The FFPSA also introduces new limits on federal funding for placements in group homes.

FFPSA gave states the opportunity to delay implementation of select provisions in the law. Florida has opted to delay the effective date until October 2021.

Foster Care

When children cannot safely remain at home with parents, Florida's child welfare system finds safe out-of-home placements for children. After a placement assessment to determine the most appropriate out-of-home placement, a child may be placed with a relative, fictive kin, licensed foster parent, in a group home or residential setting.¹⁴ When a child is placed in foster care, DCF has placement care and responsibility and may move a child at any time and without court approval.

Young adults who age out of the foster care system have trouble achieving self-sufficiency. When compared to young adults without foster care involvement, young adults who age out of the foster care system are less likely to earn a high school diploma or GED and have lower rates of college attendance.¹⁵ They suffer more from mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.¹⁶ These young adults also have a higher need for public assistance and are more likely to experience housing instability, including homelessness.¹⁷

In Federal Fiscal Year 2017, about 189,000 teens and young adults spent at least one day in foster care.¹⁸ Of those who left care during that year, more than 19,000 aged out of care.¹⁹ This generally means youth reached a state's legal age of adulthood without having reached permanency.

In State Fiscal Year (SFY) 2019-20, 1,043 young adults 17 years of age were in Florida's foster care system.²⁰ Of those, 866 (83%) aged out of care at the age of 18.²¹ A foster youth who ages out of care at 18 can elect to enter Florida's extended foster care program by meeting certain requirements. Of the 866 young adults who aged out at 18, 487 entered extended foster care and were eligible to receive foster care services until the age of 21, or 22 with a disability.²²

Florida Medicaid Program

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including DCF, which makes eligibility determinations.

The structure of each state's Medicaid program varies, but what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.²³ Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be

¹⁴ R. 65C-28.004, F.A.C.

¹⁵ Gypen, L., Vanderfaeillie, J., et al., "Outcomes of Children Who Grew Up in Foster Care: Systematic-Review", *Children and Youth Services Review*, vol. 76, pp. 74-83, <http://dx.doi.org/10.1016/j.childyouth.2017.02.035> (Last accessed March 22, 2021).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Congressional Research Services, *John H. Chafee Foster Care Program for Successful Transition to Adulthood* (January 15, 2019) <https://fas.org/sqp/crs/misc/IF11070.pdf> (last accessed March 19, 2021).

¹⁹ *Id.*

²⁰ Email from John Paul Fiore, Legislative Specialist, Florida Department of Children and Families, RE: Data Request from H. CFS, (Feb. 25, 2021)(on file with Children, Families, and Seniors Subcommittee staff).

²¹ *Id.*

²² *Id.*

²³ Title 42 U.S.C. §§ 1396-1396w-5; Title 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).

included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include physician services, hospital services, home health services, and family planning.²⁴ States can add benefits, with federal approval. Florida has added many optional benefits, including prescription drugs, ambulatory surgical center services, and dialysis.²⁵

The Florida Medicaid program covers approximately 4.5 million low-income individuals.²⁶ Medicaid is the second largest single program in the state, behind public education, representing approximately one-third of the total FY 2020-2021 state budget.²⁷

Medicaid for Current Foster Youth

The Foster Care, Prevention, and Permanency program, authorized in Title IV-E of the SSA, is a federal-state program that, among other things, jointly finances foster care for children who a state determines cannot safely remain in their homes and who meet federal eligibility rules related to being removed from a low-income household and other factors. The program also provides some support for services to assist older children in foster care, and those who age out, in making a successful transition to adulthood. The Administration for Children and Families at the U.S. Department of Health and Human Services administers the Title IV-E program.²⁸

While in foster care, nearly all children are eligible for Medicaid under mandatory eligibility pathways. This means that states must provide coverage because these children receive assistance under the Title IV-E foster care program, are disabled, or meet other eligibility criteria. Under the Title IV-E program, states must inform foster youth within 90 days prior to emancipation about their future options for health care. Title IV-E also directs states to provide these youth with health information and official documentation that they were previously in care. Such documentation may be necessary to determine eligibility for some former foster youth who later apply for Medicaid.²⁹

Medicaid for Former Foster Youth

Current and *former* foster youth are eligible for Medicaid under current law. This includes a child who is eligible under Title IV-E of the SSA for subsidized board payments, foster care, or adoption subsidies, or a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or emergency shelter care, or subsidized adoption. Current law requires DCF or a CBC to document that current and former foster youth are enrolled in Medicaid.³⁰

The federal Patient Protection and Affordable Care Act³¹ (PPACA, as amended; P.L. 111-148) required states, as of January 1, 2014, to provide Medicaid coverage to former foster youth until their 26th birthday. It parallels another PPACA requirement that health insurance companies provide coverage of children up to age 26 under their parents' private health care plans. There is no income limit for eligibility and the young adult must not be eligible for another Medicaid coverage type. However, the individual must make application for this coverage with ACCESS Florida, the state's platform for managing social services eligibility.³² This requirement is key, as many former foster youth who are eligible for Medicaid never complete the application process.

²⁴ S. 409.905, F.S.

²⁵ S. 409.906, F.S.

²⁶ Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report*, December 2020, available at https://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml (last accessed March 18, 2021).

²⁷ Ch. 2020-111, L.O.F. See also *Fiscal Analysis in Brief: 2020 Legislative Session*, https://flsenate.gov/UserContent/Committees/Publications/FiscalAnalysisInBrief/2020_Fiscal_Analysis_In_Brief.pdf (last accessed March 18, 2021).

²⁸ Congressional Research Service, *Medicaid Coverage for Former Foster Youth Up to Age 26*, October 26, 2018, <https://fas.org/sqp/crs/misc/IF11010.pdf> (last accessed March 18, 2021).

²⁹ *Id.*

³⁰ S. 409.1451(10), F.S.

³¹ P.L. 111-148, 42 USC 1396a(a)(10)(IX).

³² The DCF, CFOP 170-15, Chapter 2 Medicaid, 2-9.a., available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170->

In 2018, Congress supplemented PPACA requirements by adopting the SUPPORT Act.³³ The Act requires states to provide former foster care youth with Medicaid coverage up to age 26, regardless of what state they lived in when they aged out of the foster care system, by calendar year 2023. Currently, Medicaid must cover youth up to age 26 within the state the youth aged out of foster care, and states have the option to cover youth who age out of another state's foster care system.

In addition, the SUPPORT Act requires states to streamline the process by which former foster youth are covered under Medicaid.³⁴ In compliance with this requirement, DCF implemented automatic enrollment for former foster youth beginning in January 2021.³⁵ This means foster youth who age out of care after January 1, 2021 will no longer need to apply for coverage through ACCESS Florida.

Effect of Proposed Changes

The bill requires DCF to develop a program that facilitates the Medicaid enrollment of former foster youth. DCF may collaborate with the CBCs in the implementation of the program, which must include:

- Notifying eligible or prospectively eligible young adults, caregivers, group homes, and residential programs about the eligibility and options for enrollment.
- Providing technical assistance to eligible young adults in enrolling.
- Publicizing options for Medicaid enrollment for young adults who have lived in foster care.

Since January 1, 2021, DCF ensures that foster children are automatically enrolled in Medicaid as they age out of the program consistent with federal requirements. The bill will result in an active enrollment effort focused on those youths that aged out of foster care prior to January 1, 2021. That population will shrink each year, until the last such youths have attained the age of 26.

The bill modifies Medicaid eligibility standards for former foster youth, consistent with changes to federal law. Under the bill, former foster youth would maintain Medicaid eligibility until reaching age 26. The bill also directs DCF to allow for presumptive eligibility for former foster youth, as required under PPACA. DCF is already compliant with the federal requirements codified by the bill.

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Amends s. 409.1451, F.S.; relating to the Road-to-Independence program.

Section 2: Amends s. 409.903, F.S.; relating to mandatory payment for eligible persons.

Section 3: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[15%20%20Federal%20and%20State%20Funding%20Eligibility/CFOP%20170-15,%20%20Chapter%202002,%20Medicaid.pdf](#) (last accessed March 19, 2021).

³³ P.L. 115-271. The full title of the legislation is the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act. The former foster youth provisions are in section 1002 of the Act.

³⁴ *Id.* See also 42 U.S.C. 1396a(a)(10)(A)(i)(IX).

³⁵ Department of Children and Families, *Agency Bill Analysis for HB 1071 of 2021*, March 8, 2021 (on file with Finance & Facilities Subcommittee staff).

2. Expenditures:

AHCA reports that 1,730 young adults (ages 18-26) aged out of foster care prior to January 1, 2021 but did not enroll in Medicaid. The DCF outreach program under the bill would be targeted at this population, and AHCA provided the following information regarding the costs of enrolling these Medicaid-eligible young adults:

	Estimated Fiscal Impact			
	100%	75%	50%	25%
Estimated Number of Individuals	1730	1298	865	433
Rate (average expenditures per member 7/1/19-12/31/19)	\$379.36	\$379.36	\$379.36	\$379.36
Total Computable	\$7,875,522	\$5,906,641	\$3,937,761	\$1,968,880
General Revenue	\$3,050,977	\$2,288,233	\$1,525,489	\$762,744

The percentages in the table reflect the number of eligible young adults enrolled because of outreach efforts. For example, if 50% of the eligible population were enrolled in Medicaid, AHCA would pay an additional \$3.9 million per year in payments to MMA plans for that coverage (\$1.5 million general revenue; \$2.4 million federal match). These costs would decline over time and eventually reach \$0, since DCF has implemented automatic enrollment for former foster youths.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DCF and AHCA have sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As drafted, the bill would have the effect of removing certain populations described in s. 409.1451, F.S. from guaranteed Medicaid eligibility. This includes children achieving adoption or guardianship after

the age of 16 after spending at least 6 months in licensed care prior to adoption or guardianship, along with additional program requirements. If the intent of the bill is to extend Medicaid eligibility to *all* former foster youth to age 26, in compliance with federal requirements, the bill should be amended to address this erroneous drafting. The bill sponsor is expected to offer an amendment in a subsequent committee to address this issue.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES