



2021 AGENCY LEGISLATIVE BILL ANALYSIS

Department of Children and Families

| <u>BILL INFORMATION</u> | |
|--------------------------------|--|
| BILL NUMBER: | HB 1071 |
| BILL TITLE: | Medicaid Coverage for Former Foster Youth |
| BILL SPONSOR: | Representative Roth |
| EFFECTIVE DATE: | July 1, 2021 |

| <u>COMMITTEES OF REFERENCE</u> |
|---------------------------------------|
| 1) Finance and Facilities |
| 2) Children, Families and Seniors |
| 3) Health Care Appropriations |
| 4) Health and Human Services |
| 5) |

| <u>CURRENT COMMITTEE</u> |
|---------------------------------|
| Finance and Facilities |

| <u>SIMILAR BILLS</u> | |
|-----------------------------|-----|
| BILL NUMBER: | N/A |
| SPONSOR: | N/A |

| <u>PREVIOUS LEGISLATION</u> | |
|------------------------------------|-----|
| BILL NUMBER: | N/A |
| SPONSOR: | N/A |
| YEAR: | N/A |
| LAST ACTION: | N/A |

| <u>IDENTICAL BILLS</u> | |
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| BILL NUMBER: | SB 1526 |
| SPONSOR: | Senator Garcia |

| <u>Is this bill part of an agency package?</u> |
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| No. |

| <u>BILL ANALYSIS INFORMATION</u> | |
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| DATE OF ANALYSIS: | March 08, 2021 For further information, please contact John Paul Fiore at (850) 488-9410. |
| LEAD AGENCY ANALYST: | Tonyaleah Veltkamp, Chief of Program Policy Nathan Lewis, Medicaid Policy, Office of Economic Self-Sufficiency Suzann Fauci, Medicaid Policy, Office of Economic Self-Sufficiency |
| ADDITIONAL ANALYST(S): | Courtney Smith, Office of Child Welfare |
| LEGAL ANALYST: | Rhonda Morris, Assistant General Counsel |
| FISCAL ANALYST: | Randy Pupo, ESS HQ Budget Manager, 850-509-6013 |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill requires the Department of Children and Families (Department) to develop a program to facilitate enrollment of certain young adults in Medicaid. The Department will be authorized to coordinate with a community-based care (CBC) lead agency to implement the program. The bill specifies requirements for outreach services for the program, revises eligibility for Medicaid coverage for certain young adults formerly eligible for foster care, and provides for presumptive eligibility for Medicaid for certain young adults.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Title IV of the Social Security Act, in part, established funding and authority for states to administer Foster Care, Independent Living, Adoption Assistance, and the Guardianship Assistance Program. Title XIX of the Social Security Act established Medicaid coverage for children who receive services through these programs. The Child in Care (CIC) coverage includes children under the temporary or permanent custody of the Department, as well as children who qualify for adoption or the Guardianship Assistance Program. Regardless of whether the child falls under emergency shelter care, Title IV-E or non-IV-E, Independent Living, Guardianship Assistance Program, or Adoption Assistance program, these children are in the care of the Department and most are categorically eligible for Medicaid.

In Florida, the Department through CBCs assesses which children in the child welfare system are potentially categorically eligible for CIC Medicaid. Applications for CIC Medicaid coverage happen via an electronic interface between the systems utilized by the lead agencies and the Department's Office of Economic Self-Sufficiency (ESS), the office responsible for determining Medicaid eligibility.

Most children in the care of the Department are eligible for Medicaid. There are occasions where children do not meet eligibility criteria, due to income or failing to meet the criteria as a qualified non-citizen. Children over income for CIC Medicaid may be covered in a Medically Needy group.

The Affordable Care Act (ACA), signed into law in March 2010, amended the Public Health Service Act of 1944 and provides that individuals may receive Medicaid up to age 26 if they were in foster care and receiving Medicaid when they aged out of foster care in Florida. There is no income limit for eligibility.

42 CFR §§ 435.150 provides that, in order to be eligible as a former foster child, an individual must:

- 1) Be under the age 26;
- 2) Not be eligible and enrolled for mandatory coverage under §§ 435.110 through 435.118 or §§ 435.120 through 435.145; and
- 3) Have been in foster care under the responsibility of the State or a Tribe within the State and enrolled in Medicaid under the State's Medicaid State plan or under a section 1115 demonstration project upon attaining:
 - i. Age 18; or
 - ii. A higher age at which the State's or such Tribe's foster care assistance ends under title IV-E of the Act.

When ESS is notified that a foster child is leaving the care of the Department, for any reason, an evaluation is made to determine if the former foster child is eligible for Medicaid under a non-CIC Medicaid coverage group. Former foster children meeting the above criteria are placed in a special Medicaid coverage group specifically intended to support this population if they cannot be covered in another "full coverage" Medicaid group.

For individual's applying for Medicaid, the Department's ACCESS Florida Application collects information related to an applicant's status as a former foster child. Applicants indicating they were in foster care at the age of 18 or older and are under 26 years-of-age are evaluated as a former foster child if they cannot be covered in another "full coverage" Medicaid group.

Section 1002 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act (10/24/18) clarifies language from the ACA which requires states to remove barriers and ensures streamlined, timely access to Medicaid coverage for former foster youth up to age 26 by January 2023. The Department implemented this policy in January 2021, transitioning foster care children to former-foster-child Medicaid coverage automatically in the absence of information qualifying them for Medicaid as a parent, pregnant woman, or disabled individual. The Department is in compliance with Section 1002 of the SUPPORT Act.

42 CFR § 435.1103 requires that the agency “provide Medicaid during a presumptive eligibility period to individuals who are determined by a qualified hospital, on the basis of preliminary information.” This presumptive eligibility determination provides temporary Medicaid coverage for certain individuals based on information provided to the hospital while a formal Medicaid eligibility determination is made by the Department. Former foster children (under 26) may be determined presumptively eligible at a qualified hospital if they don’t currently have Medicaid coverage.

Section 1., s. 409.1451, F.S., - The Road-to-Independence Program. –

Section 409.1451(10), F.S., provides that the Department or CBC shall document that eligible young adults are enrolled in Medicaid under s. 409.903(4), F.S.

Section 409.1451, F.S., automatically qualifies young adults for CIC Medicaid coverage between the ages of 18-21 if the child reaches permanency through adoption or Permanent Guardianship at age 16 and 17; these young adults may also meet additional Postsecondary Education Services and Support (PESS) requirements.

Section 2., s. 409.903, F.S., - Mandatory payments for eligible persons. –

Section 409.903(4), F.S., provides that mandatory Medicaid coverage is provided to certain populations of children and young adults who are or have been clients of the child welfare system who fall into the CIC Medicaid coverage type. This section requires Medicaid coverage which is federally mandated for title IV-E eligible children and young adults along with populations that are not federally mandated up to age 21. The Medicaid cases for children and young adults who fall under the mandatory CIC Medicaid coverage in this section are managed through the Florida Safe Families Network (FSFN) FLORIDA Interface which relies on information maintained in FSFN by the Department/CBC. Once a child turns 21, a ‘Closure’ notification is sent through the FSFN Florida Interface to trigger an ex parte determination by ESS. Prior to closing CIC coverage, ESS staff must complete an ex parte review and determine if the young adult is eligible for Medicaid under a non-CIC coverage group, including the federally-mandated Former Foster Youth Medicaid coverage as outlined by the Affordable Care Act and modified by the 2018 Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act.

Section 409.1451, F.S., includes the population of children who reached permanency through adoption or Permanent Guardianship at age 16 and 17 who may also meet additional Postsecondary Education Services and Support (PESS) requirements whom would automatically qualify for CIC Medicaid coverage between ages 18-21.

2. EFFECT OF THE BILL:

Section 1., s. 409.1451, F.S., - The Road-to-Independence Program. –

Due to the recent policy change to manually implement section 1002 of the SUPPORT Act beginning in January 2021, current foster children that are aging out will be evaluated for continued Medicaid eligibility either in another “full coverage” Medicaid group or in the former foster care Medicaid group.

This section requires that the Department, not a CBC, develop a program to facilitate the enrollment of young adults into Medicaid. The section adds language providing that the Department has the option to coordinate with the CBC in implementing this program. Additionally, the section outlines services that must be included in the program such as: notification to eligible young adults, caregivers, group homes, and residential programs about enrollment and eligibility for Medicaid; technical assistance to those eligible young adults; and publicizing options for Medicaid enrollment for those young adults who were in foster care. In practice, these services are already included in the package of Independent Living services that the CBC lead agencies currently provide to young adults who have aged out of Foster Care. The bill codifies current practice.

Section 2., s. 409.903, F.S., - Mandatory payments for eligible persons. –

Former foster children under the age of 26 meeting the criteria in 42 CFR §§ 435.150 are automatically eligible for Medicaid. Thus, lines 63-66 will have no effect on Medicaid eligibility determinations for former foster children.

The section modifies the mandatory Medicaid coverage populations by limiting the CIC eligible population to children who reached 18 years of age when in a licensed placement. This removes the eligible population of young adults who meet the requirements of s. 409.1451, F.S.

Currently, PESS captures three distinct populations:

- children living in licensed care on their 18th birthday, or currently in licensed care (e.g., extended foster care);
- children achieving adoption after the age of 16 after spending at least 6 months in licensed care immediately preceding adoption along with other program requirements; and

- children achieving guardianship after the age of 16 after spending at least 6 months in licensed care immediately preceding guardianship along with other program requirements.

The bill language strikes the reference to s. 409.1451, F.S., which removes the PESS program. The population of children living in licensed care on their 18th birthday or currently in licensed care would still be eligible under the bill language. The second two populations would not be eligible if the child did not enter PESS on their 18th birthday or was found not to fall into another eligibility category through the ex parte process. If the young adult is found not to fall into an eligible category through the ex parte process he or she would have to apply for and be eligible for another Medicaid coverage type which includes income and resource testing.

Additionally, the language extends CIC coverage from the maximum age of 21 to 26 years of age for young adults that meet the proposed eligible population criteria. The modifications eliminate the need for ESS to conduct an ex parte determination at the age of 21 for young adults who were in licensed placements at age 18. This also eliminates the young adult from completing any application or ongoing renewal processes required by ESS to continue receiving federally-mandated former foster youth Medicaid coverage, as CIC coverage is applied for and managed by the Department/CBC through the FSFN FLORIDA system interface. Since the modifications do not encompass the full scope of eligible young adults who qualify for Former Foster Youth coverage as federally-mandated by the ACA and SUPPORT Act, ex parte determinations will continue to be necessary for children who turned 18 in foster care as federally defined, which translates to any out-of-home placement type to continue coverage to age 26.

Section 3

Providing an effective date of July 1, 2021.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

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| If yes, explain: | No |
| What is the expected impact to the agency's core mission? | N/A |
| Rule(s) impacted (provide references to F.A.C., etc.): | None |

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

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| List any known proponents and opponents: | Unknown |
| Provide a summary of the proponents' and opponents' positions: | Unknown |

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

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| If yes, provide a description: | No |
| Date Due: | N/A |
| Bill Section Number(s): | N/A |

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

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| Board: | No |
| Board Purpose: | N/A |

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| Who Appoints: | N/A |
| Appointee Term: | N/A |
| Changes: | N/A |
| Bill Section Number(s): | N/A |

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

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| Revenues: | The Department's Office of Administrative Services finds that there are no revenues generated by this bill. |
| Expenditures: | The Department's Office of Administrative Services finds that there are no expenditures generated by this bill. |
| Does the legislation increase local taxes or fees? | The Department's Office of Administrative Services finds that this bill does not increase local taxes or fees. |
| If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase? | The Department's Office of Administrative Services finds that this section is not applicable. |

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

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| Revenues: | The Department's Office of Administrative Services finds that there are no revenues generated by this bill. |
| Expenditures: | The only anticipated costs at this time are those identified in the Technology Impact section for \$115,000. |
| Does the legislation contain a State Government appropriation? | The Department's Office of Administrative Services finds that this bill does not contain a State Government Appropriation. |
| If yes, was this appropriated last year? | The Department's Office of Administrative Services finds that this section is not applicable. |

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

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| Revenues: | The Department's Office of Administrative Services finds that there are no revenues generated by this bill. |
| Expenditures: | The Department's Office of Administrative Services finds that there are no expenditures generated by this bill. |
| Other: | The Department's Office of Administrative Services finds that this section is not applicable. |

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

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| Does the bill increase taxes, fees or fines? | The Department's Office of Administrative Services finds that this bill does not increase taxes, fees, or fines. |
| Does the bill decrease taxes, fees or fines? | The Department's Office of Administrative Services finds that this bill does not decrease taxes, fees, or fines. |
| What is the impact of the increase or decrease? | The Department's Office of Administrative Services finds that this section is not applicable. |

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| Bill Section Number: | The Department's Office of Administrative Services finds that this section is not applicable. |
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TECHNOLOGY IMPACT

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| Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)? | To address the possible impact of such an interpretation, high-level cost estimates (noted above and described below) were made for both FSFN and ACCESS Florida |
| If yes, describe the anticipated impact to the agency including any fiscal impact. | <p>Former foster children are covered through age 25 in accordance with federal requirements, and recent changes have been made to make this transition more efficient. Policy changes to implement section 1002 of the SUPPORT Act manually, beginning in January 2021, mean that current foster children who are aging out of care will be evaluated for continued Medicaid eligibility either in another "full coverage" Medicaid group or in the former foster care Medicaid group.</p> <p>The potential systems impact of the unintended consequence to Child-in-Care noted above is that, as currently drafted, there will be changes in what is seen in the interface between the Florida Safe Families Network (FSFN) and ACCESS Florida, and, potentially, some changes to the rules engine. It is not clear at this time what the changes to the interface file might look like but might be necessary to change the potential age out age for some children from 18/21 to 26 for CIC Medicaid.</p> <p>Based on this potential impact, the estimated cost for changes to FSFN and ACCESS Florida are shown below:</p> <p>In FSFN, the possible changes would expand the young adult age from 18 until 26 to create initial Medicaid record. This change is estimated to take 600 hours at \$100/hour for a cost of \$60,000.</p> <p>In ACCESS Florida, possible changes would be needed to file exchange functionality. The work is estimated to take 500 hours at \$110/hour for a cost of \$550/hour or \$55,000.</p> <p>Combined costs for both changes to both systems: \$115,000</p> |

FEDERAL IMPACT

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| Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)? | Yes. |
| If yes, describe the anticipated impact including any fiscal impact. | The funding impact of shifting individuals from the federal former foster youth medicaid coverage type to CIC medicaid coverage type is unknown at this time. The Department is working with state and federal agencies to make to make a determination. |

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

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| Issues/concerns/comments and recommended action: | The reference to paragraph 2(a) in Section 1 of the bill appears unnecessary. Subsection (2)(a) does contain eligibility criteria, but that is as it applies to PESS and should not impact Medical Assistance for Young Adults. As drafted, this bill has the ability to impact current contracts with CBC providers. |
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