



## Health Care For Foster Children

This manual provides information about foster care and health care in California. Topics include:

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# The Health Care Rights of Children in Foster Care

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# What Health Care Do Foster Children Get?

## Introduction

Most children who have been abandoned by their parents or removed from their parents' custody are eligible for free Medi-Cal regardless of their immigration status, with very limited exceptions. The process by which a child becomes eligible, however, can be affected by how the child came to live outside the parents' home. If a child was removed from the parents' custody by a court order due to allegations of abuse or neglect, or abandonment, these children are often referred to as foster care children. For these children, Medi-Cal eligibility is automatic. In other words, the child does not have to apply separately for Medi-Cal. If the child is in the foster care system, the County must either apply for him/her or help him/her apply. Without a (Juvenile) court order removing the child from parental custody, a child is not under county jurisdiction, even if the child is living away from home. While children who are not under county jurisdiction are also likely to be eligible for free Medi-Cal, they may have to apply on their own in order to get the benefits. This brief explains how and why foster care children and other children living away from home become eligible for Medi-Cal. We also briefly explain their rights under Medi-Cal as well as their rights to other state funded health care programs or services, like services for children with disabling conditions.

## County Obligation to Provide Health Care

California law requires counties to take steps to ensure that children placed in foster care get necessary health care. A foster child's social worker must assess and document the health and mental health needs of each foster care child.<sup>1</sup> The social worker must develop a case plan which includes health and education information regarding the child's known medical problems, medications, immunization records and names and addresses of providers.<sup>2</sup> The social worker must monitor the child's physical and emotional health<sup>3</sup> and have contact with the child's doctors, nurses and therapists.<sup>4</sup> The social worker must ensure that a child in foster care receives medical and dental care through the Child Health and Disability Prevention (CHDP) program and that the child receives a medical and dental exam within 30 days of placement.<sup>5</sup> The social worker must develop a plan which will ensure that arrangements are made for necessary medical and mental health treatment.<sup>6</sup> Finally, the social worker must provide information regarding available CHDP services to the foster parents within 30 days of placement<sup>7</sup> and must



provide the foster parent with available information regarding the child's medical and behavioral history.<sup>8</sup>

If a child in foster care is not receiving appropriate or sufficient health or mental health services, the child's attorney can seek an order from the court to join an agency, department or health services provider in the dependency case. Once joined in the case, the Juvenile Court can order the department or agency to provide any care or medical treatment it determines necessary and reasonable.<sup>9</sup> For example, the court can require a particular government department (e.g. the Department of Mental Health) that has been joined to the case to appear in court to explain why the child is not being provided the required (mental health) services and order the department to provide those services by a particular date. However, the Juvenile Court cannot order an agency or private provider to do anything beyond that which they are legally required to do.<sup>10</sup>



# Medi-Cal Eligibility

**General Rules:** It is not enough to be poor to be eligible for Medi-Cal. Persons must also fit into a category to be eligible. This is often called "**linkage.**" The following categories of people are "linked" to Medi-Cal<sup>11</sup>, meaning they are automatically presumed eligible:

- children under age 21;
- certain parents and caretaker relatives living with children;
- persons 65 and older;
- persons who are determined to be disabled; and
- other special categories of people.

## Most Children in Foster Care are Automatically Eligible for Free Full-Scope Medi-Cal, Regardless of Their Immigration Status

Most children in foster care are eligible for free, full-scope Medi-Cal with no share of cost, with very limited exceptions. For some children, Medi-Cal eligibility is automatic. In other words, the child does not have to separately apply for Medi-Cal. Other children must apply, but they are likely eligible for free Medi-Cal. If the child is in the foster care system, as explained above, the County must either apply for them or help them apply.

### **Children Receiving Certain Government Benefits Are Automatically Entitled to Medi-Cal.**

Children who receive the following types of state or federal government benefits are automatically eligible for free full-scope Medi-Cal:

- **Aid To Families with Dependent Children – Foster Care (AFDC-FC)**
  1. **Federal foster care benefits:**<sup>12</sup> (these benefits are also called *Youakim* if the child is placed with a relative).
  2. **State foster care benefits:** for children who do not meet the eligibility requirements of federal foster care.<sup>13</sup> For example, children do not have to be removed from their home by a juvenile court order to be eligible for state foster care benefits.<sup>14</sup> A child who is not federally eligible and is living with a non-relative, who is also the child's legal guardian, is eligible for State foster care benefits. State foster care benefits are only available to non-relative guardians and mirror the federal foster care benefits amounts.



- **Adoption Assistance Payments (AAP):**<sup>15</sup> state or federal benefits for children with “special needs.” AAP mirrors the *Youakim* and Federal foster care benefits amounts, and includes the specialized care rates (for example, in Los Angeles, D-rate and F-rate homes).
- **Supplemental Security Income (SSI):**<sup>16</sup> cash assistance for children who are determined disabled.
- **CalWORKs:**<sup>17</sup> the state public assistance program, otherwise known as AFDC or welfare, is what a child receives who is not federally eligible and who is living with a relative. If a child does not qualify for *Youakim*, a relative is referred to the local CalWORKs (county welfare) office to fill out an application. CalWORKs benefits are lower than *Youakim*. The CalWORKs grant does not increase the same amount per child, but rather, each child receives a lesser grant increment. CalWORKs also does not have any specialized care rates.
- **Kinship Guardianship Assistance Payment (Kin-GAP):** state cash assistance to certain children under 18 who were dependents in the foster care system and who are now living with relatives who have obtained a guardianship.<sup>18</sup> (Kin-GAP children receive cash benefits at an amount identical to the basic federal foster care rate),<sup>19</sup> regardless of the child’s physical or emotional and behavioral needs. Therefore, children receiving the D-rate or F-rate should not have their Dependency Court cases closed with KinGap.

### **Immigrant Children in Foster Care Should Also Get Full-Scope Medi-Cal.**<sup>20</sup>

The rules and requirements for full-scope Medi-Cal for non-citizen children are no different for foster children than for other beneficiaries. Children who are either qualified immigrants or permanently residing under color of law (PRUCOL) are eligible for full-scope Medi-Cal if they meet all eligibility requirements. Undocumented children are eligible for restricted Medi-Cal benefits if they meet all eligibility requirements. However, counties and attorneys can help undocumented children in foster care apply for "Special Immigrant Juvenile Status" (SIJS).<sup>21</sup> Children who have applied for SIJS are considered PRUCOL, because they have permission to remain in the United States. Once granted SIJS, they will receive a green card. Even if they do not obtain SIJS, they should still be able to receive necessary medical services from the county through other means (see discussion below).

In order for non-citizen foster care children to be eligible for free full-scope Medi-Cal they must fall within one of the following immigration status categories:

- a lawful permanent resident (a "green card" holder);
- refugee, a person with asylum or withholding of deportation;



- a conditional entrant admitted to the U.S. before April 1, 1980;
- a Cuban or Haitian;
- a certain battered child (and children of a battered spouse);
- a person paroled into the U.S.;
- a person who properly applied for lawful permanent residence;
- an immigrant whom the INS knows about and does not plan to deport; and
- a person with an order of supervision, a stay of deportation, a suspension of deportation, an indefinite voluntary departure, a voluntary departure (awaiting for a visa), deferred action status and/or an approval for an Immediate Relative Petition.<sup>22</sup>

If a child is undocumented (i.e. does not fall into the above categories) Medi-Cal will only provide restricted Medi-Cal benefits, which only covers emergency treatment (including kidney dialysis),<sup>23</sup> care for pregnant women,<sup>24</sup> and nursing home care<sup>25</sup>.

In addition, because the County has an obligation to provide medically necessary health care services to all children in foster care it should provide those services without regard to their immigration status.<sup>26</sup>

### **The County Should Expedite Medi-Cal Eligibility for Children in Foster Care.**

Since the county foster care agency is responsible for ensuring that the health care needs of children under its jurisdiction and supervision are met, children in foster care should be granted expedited Medi-Cal eligibility upon removal from their homes so they can quickly access any needed health care.<sup>27</sup> In other words, the county should process the Medi-Cal application for foster children much faster than the 45 days required under state and federal law.<sup>28</sup> In addition, if a child was already on Medi-Cal when s/he was removed from home, but does not have access to his/her Medi-Cal card, the county must issue immediate proof of Medi-Cal eligibility at the request of the child's authorized representative (foster care worker or foster parent).<sup>29</sup>



## Medi-Cal Benefits

### Medi-Cal Provides a Broad Array of Health Services to Foster Children

Full scope Medi-Cal includes the full array of inpatient and outpatient Medi-Cal services, including doctor's visits, surgeries, diagnostic tests, drugs, hospitalization and therapy.<sup>30</sup> In addition, all children on Medi-Cal under age 21 are automatically eligible for additional services under the Early Periodic Screening Diagnostic and Treatment (EPSDT) program.<sup>31</sup> Children can get dental, vision, mental health and medical screenings under EPSDT, along with any medically necessary follow up treatment services, even if Medi-Cal would not provide that service to an adult.<sup>32</sup> Counties are required to conduct outreach regarding these important EPSDT services so that children, their families and caretakers learn about the services and use them.<sup>33</sup>

In addition to Medi-Cal EPSDT benefits, some other important services that the child may be eligible for are:

- **Minor Consent Services:** Minor consent or "sensitive care" services under Medi-Cal allow children under age 21 to receive confidential care and treatment for sexually transmitted diseases, drug and alcohol abuse, family planning, sexual assault issues, pregnancy and outpatient mental health care and counseling without their parents' permission or knowledge and regardless of family income or immigration status.<sup>34</sup> Children applying for these services should not be asked for a pregnancy verification, I.D., or a social security number; immigration status does not matter.<sup>35</sup>
- **California Children Services (CCS):** CCS covers children under age 21, regardless of their immigration status, with certain serious, lasting health problems or disabling conditions.<sup>36</sup> To get CCS, a child must be a California resident. Children in foster care (who are Medi-Cal eligible) will automatically meet the financial requirements for CCS.
- **Regional Center Services** provide persons with developmental disabilities with support and services that help them live independently.<sup>37</sup> To qualify, a child must be determined eligible for those services by a regional center.<sup>38</sup>

#### **Foster Care Children Can Use Medi-Cal Even Though They Also Have Private Health Insurance Through a Birth Parent.**

Medi-Cal is the payer of last resort.<sup>39</sup> This means that although persons can have Medi-Cal and private insurance at the same time, Medi-Cal will only pay



benefits to the extent that Medi-Cal covers more benefits than the private health insurance would cover. In other words, Medi-Cal beneficiaries must use their available private health coverage first before seeking those services through Medi-Cal. Medi-Cal's computer system (called "MEDS") indicates when a beneficiary has such private insurance (called "other health coverage" or "OHC").

While OHC has created barriers and delays for children in foster care getting access to Medi-Cal covered services, state law requires California's Department of Health Services (DHS) to develop procedures which eliminate the requirement that children in foster care must use their private health coverage before using Medi-Cal.<sup>40</sup> DHS must remove any indication of "other health coverage" from its computer for a child in foster care upon the request of a provider, county eligibility worker or foster care worker. The request must document that the other health coverage poses a "barrier to timely access to any Medi-Cal benefit."<sup>41</sup> The request shall be granted if there is "written documentation or documented oral communication from the private health insurance plan that the other health coverage does not cover the specific provider, service, frequency or location requested."<sup>42</sup> The request shall also be granted if the private health insurance plan does not respond to a written or oral request from the provider, eligibility worker or foster care worker within 15 days.<sup>43</sup>

### **Children in Foster Care Are Not Required to Enroll in Medi-Cal Managed Care Health Plans in Most Counties.**

Children in foster care are not required to enroll in a Medi-Cal managed care health plan unless they reside in a county with a County Organized Health System (COHS), where enrollment in a Medi-Cal managed care health plan is mandatory.<sup>44</sup> A decision to enroll in a managed care plan is voluntary and must be made by the county foster care agency, in consultation with the child's caregiver, if it is in the best interest of the child.<sup>45</sup>

The State contracts with a "Health Care Options" (HCO) entity to furnish information about managed care health plan choices and enrollment in each designated region.<sup>46</sup> If a child in foster care is incorrectly "defaulted" into a managed care health plan, the caseworker, parents, legal guardian or foster parents may disenroll the child.<sup>47</sup> The HCO contractor must disenroll children in foster care (HCO can be reached toll-free at (800) 430-4263). HCO is required to disenroll a foster care child within two working days of the date it receives the request.<sup>48</sup>

The caseworker or person responsible for the child may also contact the HCO contractor to enroll the child in a managed care plan.<sup>49</sup> If the child remains in a Medi-Cal managed care health plan, the child has specific rights, such as the right to file a grievance with the plan or the right to have an independent review of any plan decision that a requested service is not medically necessary.<sup>50</sup>



Enrollment in a Medi-Cal managed care *health* plan must be distinguished from enrollment in Medi-Cal *mental health* managed care. For all Medi-Cal beneficiaries in the state, most mental health services (called “Specialty Mental Health” services) must be obtained through the mental health plan (MHP) in each county.<sup>51</sup>



## Medi-Cal Retention

### Children in Foster Care Should Remain on Medi-Cal

Once eligible, there is no reason that a child in foster care should lose his or her Medi-Cal eligibility, other than death or incarceration. As a general rule, children do not have to be living with a caretaker, foster parent or a parent to be Medi-Cal eligible.

**Exception:** As is the rule with all children, foster children are not eligible for Medi-Cal if they are inmates of a public institution, such as a correctional facility.<sup>52</sup> This Medi-Cal eligibility bar is complicated; however, it is also narrowly applied.

There are many groups of children that the prohibition does not apply to, including:

- Children in a local agency facility pending foster care placement;<sup>53</sup>
- Children residing at a facility for vocational training or for educational purposes;<sup>54</sup>
- Minors in juvenile detention centers on probation with a suitable placement order;<sup>55</sup>
- Children at a medical or mental health institution;<sup>56</sup>
- Children in a public institution for a temporary period pending more suitable placement;<sup>57</sup> and
- Children at nonprofit private child-care institutions.<sup>58</sup>

#### **The County is Responsible for Ensuring that Children in Foster Care Get Medi-Cal When They Move to Another County.**

When a child in foster care is placed out of county, the county foster care agency from where the child was sent remains responsible for ensuring that the child receives the necessary medical and mental health treatment.<sup>59</sup>

When the child is placed out of county, the child's county social worker, in consultation with the child's caregiver, should determine if the child should be enrolled in (or remain in) a Medi-Cal managed care plan where the child is to be placed.<sup>60</sup> If requested, HCO must disenroll an out-of-county placed child within 2 working days of the date it receives the request from the child's caseworker, foster parent or other person authorized to make medical decisions for the child.<sup>61</sup> Medi-Cal managed care plans must process and pay appropriately documented claims submitted by out-of-plan providers for services provided to foster children in out-of-county placements while they are Medi-Cal members of the plan.<sup>62</sup> The Medi-Cal benefits of a foster child should not be terminated simply because they move to another county.<sup>63</sup>



Mental Health Plans (MHP) have specific procedures to authorize mental health care and treatment in the county where the child is placed. Since mental health services are a part of a separate managed care system – called “Specialty Mental Health Medi-Cal Managed Care” - each county MHP must authorize and provide payment for the mental health services provided to a child.<sup>64</sup>

### **Children Who Leave Foster Care Should Remain on Free Medi-Cal**

#### **A. Children Reunited with their Parents**

Once any child under age 19 becomes eligible for free (no share of cost) full-scope Medi-Cal, California law requires that the child receive 12 months of uninterrupted free Medi-Cal until the child's next annual Medi-Cal eligibility review or the child's 19<sup>th</sup> birthday, whichever is sooner.<sup>65</sup> This is called "Continuous Eligibility for Children" (CEC) and should occur regardless of any change in circumstances, such as movement to and from foster care or an increase in the parents' income. CEC means:

- A child who was receiving free Medi-Cal at the time of removal should remain on no-cost Medi-Cal when placed into foster care if the child is still within the CEC period.
- A child in foster care who is later returned home should continue to get free Medi-Cal without interruption, regardless of the birth parent's financial circumstances, until at least the annual redetermination (the end of the CEC period) when eligibility will be reviewed by the county. Thereafter, another 12-month CEC period will begin if the child is still eligible for free Medi-Cal with no Share of Cost.<sup>66</sup>

#### **B. Children not Living at Home with Their Parents**

All other children who leave foster care but are *not* reunited with their parents are still likely to be eligible for Medi-Cal because only the child's income counts towards determining his/her eligibility.<sup>67</sup> Public assistance cash grants that the child receives, such as CalWORKs and SSI,<sup>68</sup> as well as foster care payments<sup>69</sup> do not count as income for Medi-Cal eligibility purposes. In addition, under the Federal Poverty Level (FPL) Percentage program for children, resources are not counted.<sup>70</sup>

#### **C. Former Foster Care Children between Ages 18 and 21 Should Keep Getting Free Medi-Cal.**

Foster care youth who are still in foster care on their 18<sup>th</sup> birthday are entitled to Medi-Cal when they later leave foster care until their 21<sup>st</sup> birthday, under the “Former Foster Care Children” (FFCC) program. California law requires that counties continue to provide free Medi-Cal to children who are in foster care on their 18<sup>th</sup> birthday until they turn 21 without any interruption and regardless



of any change in their circumstances.<sup>71</sup> The only children not eligible for this extended eligibility are those children who are undocumented, incarcerated or residing in residential treatment facilities.<sup>72</sup> Children are eligible for FFCC regardless of their income, resources and living arrangements (unless they are institutionalized or incarcerated). A child must, however, be a California resident to be eligible.<sup>73</sup> At annual eligibility review, the child should only have to demonstrate that s/he is still a state resident (and under 21) to remain eligible.<sup>74</sup> The FFCC program takes precedent over CEC and therefore kids who were in foster care on their 18<sup>th</sup> birthday should be placed in this program without reapplying for Medi-Cal and would not need to get CEC to remain eligible for Medi-Cal.<sup>75</sup>

## **The County Is Required to Determine Any Possible Basis for Ongoing Eligibility Before Terminating Their Medi-Cal**

California law requires that counties follow a very specific process *before* they can terminate anyone's Medi-Cal benefits.<sup>76</sup> This process is commonly called the redetermination or "SB 87" process.<sup>77</sup> At the annual eligibility review and before the counties can attempt to terminate anyone's Medi-Cal benefits, counties must look for any possible basis for a Medi-Cal beneficiary's eligibility to continue.<sup>78</sup> The counties must make every reasonable effort to determine ongoing eligibility *without contacting the Medi-Cal beneficiary* by reviewing all the case files and county accessible information.<sup>79</sup> If the county cannot find necessary information on its own, it must try to reach the Medi-Cal recipient by phone.<sup>80</sup> Counties can only request that beneficiaries provide further information and complete forms if these efforts have failed.<sup>81</sup> Even if the county sends forms, it must give beneficiaries 20 days to complete them.<sup>82</sup> Also, even if the beneficiary fails to submit the requested forms, the county still cannot terminate Medi-Cal until it provides the beneficiary with a written notice of action which explains hearing rights.<sup>83</sup> Counties cannot terminate eligibility until they demonstrate that eligibility does not exist under any basis and until all due process rights have been met.<sup>84</sup> These requirements apply even if the child has run away from the foster care home or his/her whereabouts are unknown.<sup>85</sup>

These rights are important for children in foster care as they return home. As explained above, when they are returned home, children in foster care remain continuously eligible free Medi-Cal during their 12 month CEC period or until their annual review (or 19<sup>th</sup> birthday). Even at their annual review (or 19<sup>th</sup> birthday) their county Medi-Cal worker should not terminate their Medi-Cal benefits until the county has complied with the requirements described above. This means that the county eligibility worker should follow the process above, including carefully reviewing its files regarding the child's parents and siblings to determine whether the family's income and circumstances are such that the child remains eligible for Medi-Cal, prior to sending out a notice of action terminating Medi-Cal benefits.



# Medi-Cal Rights

## Medi-Cal Provides Children With Important Notice, Hearing and Grievance Rights

The County must provide every Medi-Cal applicant and beneficiary, including children in foster care, with a written notice of action at least 10 days before it takes any action affecting Medi-Cal benefits.<sup>86</sup> The notice must explain what action the County intends to take, why it intends to take those actions, the regulations supporting its actions and an explanation of hearing rights.<sup>87</sup> These notices are often sent to the child’s county social worker or the child’s caregiver.

Medi-Cal applicants and beneficiaries have the right to seek a fair hearing within 90 days if they believe the action is wrong.<sup>88</sup> If they request a hearing within 10 days, or anytime before the services are reduced or terminated, Medi-Cal must continue the services until the hearing.<sup>89</sup> This is called "aid paid pending."<sup>90</sup> Hearings must be conducted at a reasonable time and place in front of an impartial hearing officer (called Administrative Law Judge or “ALJ”).<sup>91</sup> An interpreter must be provided if necessary.<sup>92</sup> Medi-Cal beneficiaries have the right to cross-examine witnesses, bring witnesses, request subpoenas, examine documents, and make oral and written arguments.<sup>93</sup> All hearings must be decided (or dismissed) within 90 days from the date of the request for the hearing, unless a continuance is requested or the parties agree to more time.<sup>94</sup> The hearing officer must issue a written decision and create a record which includes the transcript, papers and requests filed at the hearing.<sup>95</sup>



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## Endnotes

<sup>1</sup> MPP §31-205.1.

<sup>2</sup> MPP §§ 31-205.1(h); 31-206.35.

<sup>3</sup> MPP §§ 31-310.12; 31-405.1(j).

<sup>4</sup> MPP § 31-335.1.

<sup>5</sup> MPP §§ 31-405.1(l); 31-206.36 (case plan requirements).

<sup>6</sup> MPP §31-206.362.

<sup>7</sup> MPP §31-405.1(k).

<sup>8</sup> MPP §31-405.1(p).

<sup>9</sup> Welf. & Inst. Code § 362(a).

<sup>10</sup> Id.

<sup>11</sup> For an exhaustive explanation of the laws regarding Medi-Cal eligibility, see WCLP's [Medi-Cal Eligibility Guide](#) (available to order online at [www.wclp.org](http://www.wclp.org)), [An Overview of the Medi-Cal System](#) (available from the Health Consumer Alliance, [www.healthconsumer.org](http://www.healthconsumer.org)), and [An Advocate's Guide to the Medicaid Program](#) (available to order from the National Health Law Program, [www.healthlaw.org](http://www.healthlaw.org).)

<sup>12</sup> 42 U.S.C. §§672; 1396a(a)(10)(A)(i)(I); 42 CFR §435.115(e)(2). Generally, a child's eligibility for federal funding under Title IV-E (Social Security Act) is based on whether the child was eligible for Aid to Families with Dependent Children (AFDC) while living with a parent in the month prior to the Dependency Court petition being filed or the signing of a Voluntary Placement Agreement. Under the holding of *Rosales v. Thompson* (9<sup>th</sup> cir. 2003) 321 F.3d 835, a child can still meet this requirement if that child lived with a relative at any time during the six months prior to the petition being filed in Dependency Court or the Voluntary Placement Agreement being signed. Youakim is the term used if the child is federally eligible and living with a relative based on the case *Youakim v. Miller*, (1976) 425 U.S. 231. It is the relative's version of federal foster care funding. These children receive Medi-Cal in Aid Codes 42 and 4C.

<sup>13</sup> Welfare and Institutions Code §11401. These children receive Medi-Cal in Aid Code 40.

<sup>14</sup> Id. at (c) or (d).

<sup>15</sup> The Adoption Assistance Program is a cash grant program to facilitate the adoption of children who are hard to place who would require permanent foster care placement without this assistance. These children receive Medi-Cal in Aid Codes 03 and 64. 42 U.S.C. §§673(a)(1)(B), 1396a(a)(10)(A)(i)(I), 42 CFR §435.115(e)(1) and DHS All County Letter (ACL) 00-22.

<sup>16</sup> 42 U.S.C. §1396a(a)(10)(A)(i)(II); 42 CFR §435.120 (re: automatic Medi-Cal eligibility). See also 42 U.S.C. §1381 and following (re: SSI program generally).

<sup>17</sup> Welfare and Institutions Code §14005.30(a)(2).

<sup>18</sup> See Welfare and Institutions Code §11363-11366; DHS ACL 00-22, DSS ACL Nos. 99-97, 99-92, and DSS All County Information Notices (ACIN) I-27-99. These children receive Medi-Cal in Aid Codes 4F and 4G.

<sup>19</sup> Welfare and Institutions Code §11364; DSS ACL 99-97, p.2



<sup>20</sup> This immigrant section is based upon a brochure, *Immigrants and Health Care*, available at [www.healthconsumer.org](http://www.healthconsumer.org).

<sup>21</sup> 8 USC 1101(a)(27)(J); 8 CFR 204.11

<sup>22</sup> See 42 U.S.C. §§1641, 1612; Welf. & Inst. Code §14005.7; 22 CCR §§50301 – 50301.3; DHS ACL Nos. 96-57, 98-55, 98-58, p. 6, 99-09.

<sup>23</sup> 42 U.S.C. §1396b(v)(3); 42 C.F.R. §440.255; Welf. & Inst. Code §14007.5(d); 22 CCR §53622(a)(3).

<sup>24</sup> Welf. & Inst. Code §14007.7. See also 42 U.S.C. §1396r-1; Welf. & Inst. Code §14148.7 (re: presumptive Medi-Cal eligibility for pregnant women).

<sup>25</sup> *Crespin v. Belshe*, Alameda County Superior Court, No. 636714-5 (state's motion to dissolve permanent injunction prohibiting state from cutting long-term care services to undocumented on basis of Welf. & Inst. Code §14007.65 denied). See also *Crespin v. Kizer*, 226 Cal.App. 3d 498 (1998); SB 175, Stats. 1988, c. 1441, §1(f)(uncodified).

<sup>26</sup> See explanation of counties' obligation to arrange and provide health care, regardless of immigration status. Some counties provide the equivalent of full-scope Medi-Cal with county only funds.

<sup>27</sup> Welf & Inst. Code §14007.45 (which exercises a federal Medicaid option under 42 U.S.C. §1396r-1a); DHS ACL 01-41 ("Each county should appoint a Foster Care Coordinator in the Medi-Cal eligibility agency to ensure that foster care workers and child protective service workers who are involved in the removal of a child from the home, have a contact within the eligibility agency to expedite the issuance of proof of eligibility for the child." *Id.* at p. 2.) Some counties have adopted their own policies to issue Medi-Cal cards within 24 hours.

<sup>28</sup> 42 CFR §435.911; 22 CCR §50177(a)(1).

<sup>29</sup> *Id.* at p. 2. Also, foster care children are eligible for up 12 months of ongoing no-cost full-scope Medi-Cal coverage under CEC.

<sup>30</sup> Welf. & Inst. Code § 14132.

<sup>31</sup> See 42 U.S.C. §§ 1396a(a)(10), 1396a(a)(43), 1396d(a)(4)(B), 1396d(r). For more information about EPSDT, see Jane Perkins, *Fact Sheet: Early Periodic, Screening, Diagnosis and Treatment*, National Health Law Program (NHeLP), March 1999. Available on the internet at [www.healthlaw.org](http://www.healthlaw.org).

<sup>32</sup> *Id.*

<sup>33</sup> See Protection & Advocacy, Inc.'s website ([www.pai-ca.org](http://www.pai-ca.org)) for some excellent materials explaining how children can access broad mental health services through EPSDT.

<sup>34</sup> See generally 22 CCR §50147.1; DHS Medi-Cal Eligibility Procedures Manual, Article 4V.

<sup>35</sup> Welf. & Inst. Code § 14007.7.

<sup>36</sup> See generally Health & Safety Code §§123830 and following, 22 CCR §§41800 and following.



<sup>37</sup> See generally Welf. & Inst. Code §§4500-4846. See also Protection and Advocacy Inc.'s website, at [www.pai-ca.org](http://www.pai-ca.org), for additional materials explaining this law (The Lanterman Act) and other laws benefiting persons with disabilities.

<sup>38</sup> There are 21 regional centers in California each serving a specific geographic community; for more information on regional center eligibility under the California Lanterman Act, visit the Protection & Advocacy Inc. website at: [www.pai-ca.org](http://www.pai-ca.org).

<sup>39</sup> 42 U.S.C. §§1396a(a)(25), b(o); Welf. & Inst. Code §§14016.3, 14024 and 14124.90.

<sup>40</sup> Stats. 2001, c. 171 (AB430), §48; DHS ACL 01-61.

<sup>41</sup> Id.

<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Welf. & Inst. Code § 14093.09. See also DHS ACL 97-02 and 00-13, p.2. COH counties are Orange, Solano, San Mateo, Santa Cruz and Santa Barbara counties. Los Angeles County, for example, is not a COHS county.

<sup>45</sup> Welf. & Inst. Code §14093.09(a).

<sup>46</sup> 22 CCR §§ 53886(a).

<sup>47</sup> 22 CCR §§ 53889(h)(1) (parents and legal guardian), (h)(3) (county worker) and (h)(4) (foster parent).

<sup>48</sup> 22 CCR §§53889(e), (j)(2)(B) and 53891(a)(9).

<sup>49</sup> 22 CCR §53889(h).

<sup>50</sup> For more information about these rights, see *The California Patient's Guide: Your Health Care Rights and Remedies*, available on the internet at [www.calpatientguide.org](http://www.calpatientguide.org).

<sup>51</sup> For more information on the mental health managed care for Medi-Cal, visit the Protection & Advocacy Inc. website at: [www.pai-ca.org](http://www.pai-ca.org) or contact mental health department in the county.

<sup>52</sup> 42 U.S.C. §1396d(a)(27); 42 CFR §§435.1008-1009; 22 CCR §§50271, 50273, 50046-50052.5. See also DHS Medi-Cal Eligibility Procedures Manual Letter No. 241 (April 18, 2001).

<sup>53</sup> 2 CCR §§50046; 50273.

<sup>54</sup> Id.

<sup>55</sup> Id. See 22 CCR §§50273(c)(5) – (8).

<sup>56</sup> 42 CFR §§435.1008-1009; 22 CCR §§50048-49, 50273(c)(11).

<sup>57</sup> 22 CCR §50046.

<sup>58</sup> 42 CFR §§435.1008-1009.

<sup>59</sup> Welf. & Inst. Code §14093.09(b). See also ACLs 97-02 and 00-13, p. 2; COHS counties are: Napa, Orange, Solano, San Mateo, Santa Cruz and Santa Barbara.

<sup>60</sup> Id.

<sup>61</sup> Welf. & Inst. Code §14093.09(c).

<sup>62</sup> Welf. & Inst. Code §14093.09(d).



<sup>63</sup> 42 U.S.C. §1396a(a)(1); HCFA Dear State Medicaid Director Letter (December 4, 2001); *Enrolling and Retaining Low-Income Families and Children in Health Care Coverage*, U.S. Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS), p. 19 (August 2001).

<sup>64</sup> To locate the phone number for the MHP in your county, contact the county Department of Mental health; in addition, for more information on the mental health managed care carve out for Medi-Cal, visit the Protection & Advocacy Inc. website at: [www.pai-ca.org](http://www.pai-ca.org).

<sup>65</sup> 42 U.S.C. § 1396a(e)(12); Welf & Inst Code §14005.25; DHS ACL's Nos. 01-01, 01-40, 02-20 and 02-59.

<sup>66</sup> See ACL 01-40, p. 9 ("Children under age 19 who are discontinued from foster care are eligible for CEC [continuous eligibility]...").

<sup>67</sup> *Sneede v. Kizer*, 728 F. Supp. 607 (N.D. Cal. 1990).

<sup>68</sup> 22 CCR §§ 50525, 50528.

<sup>69</sup> 22 CCR §50531.

<sup>70</sup> Welf. & Inst. Code §14148.75; DHS ACL No. 98-06; See fact sheet entitled [\*Percentage of Poverty Medi-Cal for Pregnant Women and Children\*](#) available at [www.healthconsumer.org](http://www.healthconsumer.org).

<sup>71</sup> Welf & Inst. Code § 14005.28; DHS All County Letters (ACL's) No. 00-41 and 00-61; See also Foster Care Independence Act of 1999, P.L. No. 106-169; 42 U.S.C. §§ 1396a(a)(10)(A)(XV), 1396d(v)(1); HCFA, Letter to Medicaid Directors (Dec. 14, 1999). Children should be eligible if they are in the following Medi-Cal aid codes on their 18<sup>th</sup> birthday: 40 (state foster care), 42 (federal foster care), 45 (children supported by public funds other than foster care), 4C (voluntary placement with federal funding) and 5K (Emergency Assistance foster care). DHS ACL 00-61, p. 1.

<sup>72</sup> DHS ACL 00-61 and 02-59.

<sup>73</sup> California residency means that the child intends to live and remain in California.

<sup>74</sup> DHS ACL 00-61, p. 3.

<sup>75</sup> DHS ACL 02-20.

<sup>76</sup> Welf & Inst. Code §§ 14005.81, 14005.31, 14005.32, 14005.33, 14005.34, 14005.35, 14005.36, 14005.37; DHS ACL Nos. 01-17, 01-33, 01-33E and 01-36.

<sup>77</sup> DHS ACL 00-36.

<sup>78</sup> Welf. & Inst. Code §14005.37(d).

<sup>79</sup> Welf. & Inst. Code §14005.37(e).

<sup>80</sup> Welf. & Inst. Code §14005.37(f).

<sup>81</sup> Welf. & Inst. Code §14005.37(g).

<sup>82</sup> *Id.*

<sup>83</sup> Welf. & Inst. Code §§14005.37(i)(j) and (l).

<sup>84</sup> For a guide explaining this process in more detail, see the [\*SB87 Guide: Changes in the Medi-Cal Eligibility Determination Process\*](#), prepared by Western Center on Law & Poverty and available at [www.healthconsumer.org](http://www.healthconsumer.org).



<sup>85</sup> DHS ACL 02-59.

<sup>86</sup> 22 CCR §50179(d)(1).

<sup>87</sup> 42 CFR §431.210.

<sup>88</sup> 42 CFR §431.221; MPP §22-009. Persons can request a fair hearing by calling a toll free number (800) 743-8525 or fax to: 916/229-4110.

<sup>89</sup> MPP §22-072.5.

<sup>90</sup> Id.

<sup>91</sup> 42 CFR §§431.205(d), 431.240(a), MPP §§22-045.2, 22-049.2, 22-055.

<sup>92</sup> MPP §22-049.4. See also 45 CFR §205.10(a)(14).

<sup>93</sup> MPP §§22-049.7, 22-049.811. See also 42 CFR §431.242.

<sup>94</sup> MPP §22-060.

<sup>95</sup> 42 CFR §431.244; Welf. & Inst. Code §10958, MPP §22-062.3.