Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2331. Act 421 Children's Medicaid Option (TEFRA/Katie Beckett)

A. General Provisions

1. Pursuant to section 1902(e)(3) of the Social Security Act the state may extend Medicaid eligibility to certain children living in the community, who require the level of care provided in an institution, and who would be eligible for Medicaid if living in an institution.

2. Effective January 1, 2022, the department implements the Act 421 Children's Medicaid Option (421-CMO) program to provide Medicaid State Plan services to children with disabilities who meet the eligibility criteria set forth in this Section, despite parental or household income and resources that would otherwise exclude them from Medicaid eligibility.

B. Eligibility Requirements. In order to qualify for the 421-CMO program, an individual must meet both programmatic and clinical eligibility requirements set forth herein.

1. Programmatic Eligibility Requirements. In order to be eligible for the 421-CMO program, an individual must meet all of the following criteria:

a. is 18 years of age or younger (under 19 years of age);

b. is a U.S. citizen or qualified non-citizen;

c. is a Louisiana resident;

d. has or has applied for a Social Security Number;

e. has countable resources that are equal to or less than the resource limits for the Supplemental Security Income (SSI) program;

i. only the applicant/421-CMO enrollee's resources shall be considered in determining eligibility for the 421-CMO program;

f. has countable income equal to or less than the special income level for long-term care services (nursing facility, ICF/IID, and home and community-based services);

i. only the applicant/421-CMO enrollee's income shall be considered in determining eligibility for the 421-CMO program;

g. has care needs that can be safely met at home at a lower cost than the cost of services provided in an institutional setting; and

h. is not otherwise eligible for Medicaid or CHIP.

2. Clinical Eligibility Requirements. In order to be eligible for the 421-CMO program, an individual must meet all of the following criteria:

a. qualifies as a disabled individual under section 1614(a) of the Social Security Act;

b. requires a level of care, assessed on an annual basis, provided in an intermediate care facility for individuals with intellectual disabilities (ICF/IID), a nursing facility, or a hospital;

i. an individual meets ICF/IID level of care when he/she:

(a). has obtained a statement of approval from the Office for Citizens with Developmental Disabilities or its designee, confirming that he/she has a developmental disability as defined in R.S. 28:451.2; and

(b). meets the requirements for active treatment of a developmental disability under the supervision of a qualified developmental disability professional, as prescribed on Form 90-L;

ii. an individual meets nursing facility level of care when he/she demonstrates one of the following two standards, assessed in accordance with the Act 421 children's Medicaid option assessment tool:

(a). Standard I

(i). the need for skilled nursing and/or therapeutic interventions on a regular and sustained basis; and

(ii). substantial functional limitations as compared to same age peer group in two of the following areas: learning, communication, self-care, mobility, social competency, money management (for children 18 and older), work, and meal preparation;

(b). Standard II

(i). substantial functional limitations as compared to same age peer group in four of the following areas: learning, communication, self-care, mobility, social competency, money management (for children 18 and older), work, and meal preparation;

iii. an individual meets hospital level of care when he/she demonstrates the following, assessed in accordance with the Act 421 children's Medicaid 0ption assessment tool:

(a). the need for frequent and complex medical care that requires the use of equipment to prevent life-threatening situations, with skilled medical care required multiple times during each 24-hour period;

(b). the need for complex skilled medical interventions that are expected to persist for at least six months; and

(c). an overall health condition that is highly unstable and presents constant potential for complications or rapid deterioration, with the result that he/she requires continuous assessment by professional nurses, parents, or other properly instructed individuals, in order to detect unstable and life-threatening conditions and respond promptly with appropriate care.

C. Ineligibility for Services

1. 421-CMO enrollees shall be terminated from the 421-CMO program if admitted to an ICF/IID, nursing facility, or hospital without the intent to return to 421-CMO services.

a. A 421-CMO enrollee is deemed to intend to return to 421-CMO services when documentation is received from the treating physician that the admission is temporary and shall not exceed 90 days

b. The 421-CMO enrollee will be discharged from the 421-CMO program on the ninety-first day after admission if the 421-CMO enrollee is still in the ICF/IID, nursing facility, or hospital.

D. Cost Effectiveness

1. On an annual basis, each 421-CMO enrollee's expenditures will be measured against the average cost of care in an institution that corresponds to his/her level of care (i.e. hospital, ICF/IID, nursing facility) to ensure that home and community-based care is more cost effective than institutional care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1872 (December 2021).