

Public Institution Exemption

Medicaid Act prohibits federal financial participation (FFP) “with respect to care or services for any individual who is an inmate of a public institution” (42 U.S.C. section 1396d(a)(27)(A); 42 C.F.R. sections 441.33(a)(1), 435.1008(a)(1). This does not mean that “inmates of public institutions” are ineligible for Medicaid, however—just that FFP cannot be applied to their care.

“Inmate of public institution” does not include someone living in “public educational or vocational training institution for purposes of securing education or vocational training” or someone who is in a public institution for “temporary period pending other arrangements appropriate to his needs.” 42 C.F.R. section 435.1009.

“Public institution” does not include medical institutions, intermediate care facilities, publicly-operated community residences serving no more than 16 residents, or child care institutions for children in foster care. Id.

When does public institution exemption apply to children/youth in juvenile justice system?

- When held involuntarily in detention awaiting trial
- When involuntarily residing at camp under governmental control
- When involuntarily residing in halfway house under governmental control
- When receiving care on premises of prison, jail, detention center, or other penal setting.

Letter from Robert A. Streimer, Director, DHHS Disabled and Elderly Health Programs Group, to All Associate Regional Administrators (Dec. 12, 1997); HCFA Program Issuance Transmittal Notice Region IV (Mar. 6, 1998) (Clarification of Medicaid Coverage Policy for Inmates of Public Institutions)

When does public institution exemption not apply to children/youth in juvenile justice system?

- When child/youth is the infant of an inmate of a public institution

- When child/youth is on probation
- When child/youth is on home release
- When child/youth is voluntarily placed in a public educational or vocational training institution
- When child/youth voluntarily in juvenile detention center, jail, or other penal facility post-adjudication or pending transfer to another placement (but not if ultimate placement will be involuntary)

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Children/Youth in Juvenile Detention Are Eligible for Medicaid

Medicaid Act only prohibits FFP for the costs of care of inmates of public institutions, and does not disqualify inmates of public institutions from Medicaid eligibility. Therefore, states should not terminate Medicaid coverage for individuals entering into public institutions.

Not terminating will facilitate discharge planning when the individual leaves the institution, so that needed services will be immediately available upon release.