TEFRA refers to a provision of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 that created a state plan option to allow children with disabilities who require an institutional level of care, but who live in families with incomes that are traditionally too high, to qualify for Medicaid so they can receive comprehensive services in their homes instead of in an institution.

For most people, low income is the primary pathway to Medicaid coverage. This means that the eligibility of children and youth (including that of children and youth with disabilities) for this important public benefit is based on their family’s income. However, the Centers for Medicare & Medicaid Services (CMS), the federal agency that oversees Medicaid, allows states to use other eligibility criteria, such as age and disability status, to create alternative pathways to Medicaid for defined populations. Two of these pathways to Medicaid eligibility for children and youth with disabilities are the so-called TEFRA state plan option (sometimes referred to as the Katie Beckett option) and Home and Community-Based Service (HCBS) waivers.

When a child or youth with a disability receives extended care in an institutional setting, such as a hospital, pediatric nursing home, or other long-term care facility, family income is disregarded as a qualification for Medicaid. However, if the child or youth is cared for at home and in the community, Medicaid eligibility is based on his or her family’s income. Prior to 1981, a family that could not afford to cover the medical expenses of a child or youth with disabilities, but did not financially qualify for Medicaid, had to place their child or youth in an institutional setting, become impoverished so as qualify for Medicaid, or relinquish custody of the child.

The Katie Beckett option created an exception to the Medicaid income-qualification rules that allowed families, regardless of income, to obtain Medicaid coverage to care for a child with disabilities at home. Congress then expanded this waiver by creating a new state plan option under Section 134 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982. This option allows children and youth with disabilities who require an institutional level of care, but whose families have incomes that are traditionally too high to qualify for Medicaid, to receive comprehensive services.
at home instead of in an institution. If the child with disabilities has other health insurance (e.g., commercial insurance), that payer is the primary insurer and Medicaid will cover remaining expenses such as deductibles, co-pays, and co-insurance.

One of the most important Medicaid benefits that the TEFRA state plan option provides to children and youth with disabilities is the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit, which requires that all medically necessary services be covered under a state’s Medicaid program for children and youth under age 21. (See Section 12.) The TEFRA option, therefore, ensures that not only do more children and youth with special health care needs (CYSHCN) qualify for Medicaid, but also that they are eligible to receive all of the services they need.

**TEFRA STATE PLAN OPTION ELIGIBILITY CRITERIA**

A child or youth must meet the following eligibility criteria to enroll in Medicaid under the TEFRA state plan option:

- Be under age 18;
- Live in a family whose income exceeds the state’s Medicaid eligibility level;
- Meet the state’s definition of institutional level of care;
- Have medical care needs that can safely be provided outside of an institutional setting; and
- Have medical, mental, and emotional health needs that are described by the [listing of childhood impairments on the Social Security website](http://aspe.hhs.gov/understanding-medicaid-home-and-community-services-primer-2010-edition).

In addition to covering children and youth with medically complex health care needs or who require medical technology to maintain their physical health, the TEFRA state plan option also covers care in intermediate-care facilities for children and youth with intellectual disabilities. It therefore provides a way for children and youth with a variety of physical, mental, behavioral, and developmental health


conditions to qualify for Medicaid coverage when their family’s income exceeds their state’s Medicaid income eligibility limits.

Because each state sets its own criteria for determining what qualifies as an institutional level of care, eligibility for Medicaid under the TEFRA state plan option may differ from state to state. As of 2018, 20 states have adopted state plan options under TEFRA and two states have adopted TEFRA “look alike” programs to expand Medicaid to children and youth who meet the above eligibility criteria.

HOME AND COMMUNITY-BASED SERVICE WAIVERS

Another pathway to Medicaid eligibility for children and youth with disabilities is the HCBS waiver, sometimes known as the Katie Beckett waiver. (See Section 4 for more information on waivers in general and HCBS waivers in particular). Though both the HCBS waiver and the TEFRA state plan option may carry Katie Beckett’s name, they are distinct programs that provide different advantages to families.

States with HCBS waivers have received permission from CMS to make changes to their state Medicaid programs such as offering additional benefits, targeting specific populations, and changing income eligibility levels. In addition, among other requirements, they must demonstrate that providing services under an HCBS waiver will not cost more than providing these services in an institution.

By contrast, the TEFRA state plan option is implemented through a state plan amendment (SPA; see Section 2 for more information about SPAs). States that have chosen this option have received CMS approval to make changes to their state’s Medicaid program’s income eligibility criteria for children and youth with disabilities. These states do not have to prove that their program is cost-neutral and they cannot maintain a waiting list; all children and youth who qualify for Medicaid through the TEFRA state plan option based on the eligibility criteria described above are entitled to enrollment in Medicaid.

The table on the next page compares the two pathways to Medicaid for children and youth with disabilities: the TEFRA state plan option and the HCBS waiver program.

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### PATHWAYS TO MEDICAID FOR CHILDREN AND YOUTH WITH DISABILITIES:
The TEFRA State Plan Option and Home and Community-Based Services Waivers

<table>
<thead>
<tr>
<th></th>
<th><strong>TEFRA State Plan Option</strong></th>
<th><strong>HCBS Waiver Program</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who qualifies?</strong></td>
<td>Children and youth from birth to age 18 who:</td>
<td>Children (and others as defined by age, diagnosis, or other criteria established by the state) who:</td>
</tr>
<tr>
<td></td>
<td>• Meet their state’s definition for an institutional level of care</td>
<td>• Meet their state’s definition for an institutional level of care</td>
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<td></td>
<td>• Have medical needs that can safely be provided outside of an institution</td>
<td>• Have medical needs that can safely be provided outside of an institution</td>
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<td></td>
<td></td>
<td>• Receive care in the community that does not exceed the cost of institutional care</td>
</tr>
<tr>
<td><strong>What authority do states use to offer these programs?</strong></td>
<td><strong>State plan option (a.k.a. state plan amendment or SPA)</strong></td>
<td><strong>Home and Community-Based Service waiver</strong></td>
</tr>
<tr>
<td></td>
<td>• With approval from CMS, states may change their individualized state Medicaid plan by adding optional services or changing eligibility requirements.</td>
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</tr>
<tr>
<td></td>
<td>• States must still follow federal Medicaid rules (e.g., a state cannot use a state plan option to cut mandated services).</td>
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<tr>
<td></td>
<td>• All services provided under the state plan option, including EPSDT, must be available to all children who qualify for Medicaid in the state</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• No waiting lists allowed(^{10,11})</td>
<td>• States may request that certain Medicaid guidelines be waived to allow them provide additional services not usually covered by Medicaid to help individuals remain in the community (e.g., home/vehicle modifications).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• With federal approval, states do not have to comply with certain federal Medicaid rules (i.e., certain Medicaid regulations are waived).</td>
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<td></td>
<td>• Services can be provided to specific groups of people (e.g., based on diagnosis or age)</td>
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<tr>
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<td></td>
<td>• Children and youth under age 21 who are enrolled in Medicaid under an HCBS waiver receive the EPSDT benefit in addition to any unique benefits offered under the waiver program.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Waiting lists allowed</td>
</tr>
</tbody>
</table>

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TEST YOUR KNOWLEDGE

1. True or False: TEFRA is a waiver program, so states can maintain waiting lists for enrollment.

2. Which of the following is incorrect about state TEFRA programs?
   a. TEFRA allows children who qualify to receive care in the community.
   b. TEFRA institutional level of care criteria are the same in every state.
   c. Family income is not a factor in determining eligibility for TEFRA programs.
   d. All of the above.

3. True or False: The TEFRA state plan option covers services not usually provided by Medicaid.

FIND OUT IN YOUR STATE

1. Does your state have a TEFRA state plan option? If so, how many children with disabilities are enrolled in Medicaid through this pathway to coverage?

2. What are your state’s criteria for determining an institutional level of care?
**ANSWER KEY**

1. False  
2. b  
3. False

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*This document is part of Medicaid and CHIP: A Tutorial on Coverage for Children and Youth with Special Health Care Needs (CYSHCN). The document is available in its entirety at [https://ciswh.org/resources/Medicaid-CHIP-tutorial](https://ciswh.org/resources/Medicaid-CHIP-tutorial)*

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