



Section 11

## TEFRA/KATIE BECKETT OPTION: A PATHWAY TO MEDICAID FOR CHILDREN WITH DISABILITIES

For most people, low income is the primary pathway to Medicaid coverage. This means children's eligibility (including children with disabilities) for this important public benefit is based on their family's income. However, the Centers for Medicare and 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. One of these alternative pathways to Medicaid eligibility is the TEFRA/Katie Beckett option.

When a child 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.<sup>80</sup> However, if the child is cared for at home and in the community, Medicaid eligibility is based on his or her family's income.

The TEFRA/Katie Beckett option is one of several types of alternative pathways to Medicaid that states may adopt. It refers to a provision of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 that created a state plan option<sup>81</sup> 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.

One of the most important Medicaid benefits that the TEFRA option provides to children with disabilities is the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit, which requires that all medically necessary services be covered under a state's Medicaid program.<sup>82</sup> [See Section 5 Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) for more information on the EPSDT benefit.] Thus, the TEFRA option ensures that not only do more CSHCN qualify for Medicaid, but they also receive all the services they need.

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<sup>80</sup> MACPAC: Users of long-term Services & Supports. Retrieved August 16, 2017 from <https://www.macpac.gov/subtopic/long-term-services-and-supports-population/>

<sup>81</sup> The state option is commonly referred to as the Katie Beckett Provision because the original waiver program was created to serve a medically fragile child named Katie Beckett. For more information on the background of TEFRA and Katie Beckett, please see: Catalyst Center. (2012). The TEFRA Medicaid state plan option and Katie Beckett waiver for children. Retrieved from <http://cahpp.org/resources/tefra-medicare-state-plan-option-katie-beckett-waiver-children/>

<sup>82</sup> See Section 12: EPSDT for discussion of medical necessity and the limits of EPSDT.

# TEFRA/KATIE BECKETT OPTION

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If a child with disabilities has other health insurance, Medicaid will pay the costs that the family incurs from the child's deductible, copayments, and co-insurance. And, the EPSDT benefit covers additional services that the primary insurance plan may not include.

## TEFRA/Katie Beckett Option Eligibility Criteria

For a child to enroll in Medicaid under the TEFRA/Katie Beckett option, he or she must meet the following eligibility criteria<sup>83,84</sup>:

- Be younger than 18
- Have family income that exceeds the state's Medicaid eligibility for children
- Require an institutional level of care, but have health care needs that can safely be provided at home, rather than in an institution
- Have medical, mental, and emotional health needs that are described by the childhood [listing of impairments on the Social Security website](#)
- The cost of care in the community does not exceed the cost of institutional care

Each state has its own criteria for determining what qualifies as an institutional level of care,<sup>85</sup> so eligibility for Medicaid under the TEFRA/Katie Beckett option may differ from state to state. However, the TEFRA/Katie Beckett option is not just for children with medical complexity or those who require medical technology to maintain their physical health. Institutional level of care under TEFRA/Katie Beckett includes intermediate care facilities for children with intellectual disabilities. Thus, the TEFRA/Katie Beckett option provides a way for children with a variety of physical, mental, behavioral, and developmental health conditions to qualify for Medicaid coverage, when family income exceeds the state's Medicaid income eligibility limits for children.

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<sup>83</sup>O'Keefe, J., Saucier, P., Jackson, B., Cooper, R., McKenny, E., Crisp, S., & Moseley, C. (2010). Understanding Medicaid home and community services: A Primer. U.S. Department of Health and Human Services. Retrieved from <http://aspe.hhs.gov/understanding-medicaid-home-and-community-services-primer-2010-edition>

<sup>84</sup>Semansky, R.M. & Koyanagi, C. (2004). The TEFRA Medicaid eligibility option for children with severe disabilities: A national study. *The Journal of Behavioral Health Services and Research*, 31(3), 334-342.

<sup>85</sup>Musumeci, M. (2011). Modernizing Medicaid eligibility criteria for children with significant disabilities: Moving from a disabling to an enabling paradigm. *American Journal of Law & Medicine*, 37, (1), 81-127.

# TEFRA/KATIE BECKETT OPTION

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## TEFRA/Katie Beckett and HCBS Waivers

As of 2015, 19 states have adopted TEFRA and two states have adopted TEFRA “look alike” programs<sup>86</sup> to serve children who meet the above eligibility criteria. Additionally, some states have home- and community-based services (HCBS) waivers known as Katie Beckett waivers (see “Waivers” in Section 4: Pathways to Coverage for more information on waivers in general and HCBS waivers, specifically). Though both HCBS waivers and the TEFRA/Katie Beckett option may carry Katie Beckett’s name<sup>87</sup>, they are distinct programs that are different state options and that provide different benefits to families. The TEFRA/Katie Beckett option is a state plan amendment (SPA), which means that states that have chosen this option have received approval from CMS to make changes to their Medicaid program’s income eligibility criteria for children with disabilities.<sup>88</sup> States with HCBS waivers have gotten permission to make more significant changes, including benefits, target population, and income eligibility. Because the TEFRA/Katie Beckett option is a SPA and not a HCBS waiver, states do not have to prove that their program is cost-neutral and they cannot maintain a waiting list; all children who qualify for Medicaid through the TEFRA/Katie Beckett option based on the eligibility criteria described above receive the benefit.<sup>89</sup>

The table on the next page compares the TEFRA/Katie Beckett option and HCBS waivers:

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<sup>86</sup>O’Malley Watts, M., Cornachione, E., and Musumeci, M. Medicaid Financial Eligibility for Seniors and People with Disabilities in 2015. (March 2016). The Kaiser Commission on Medicaid and the Uninsured. Available at <http://files.kff.org/attachment/report-medicare-financial-eligibility-for-seniors-and-people-with-disabilities-in-2015>

<sup>87</sup>See section 2: The Basics: What are Medicaid and CHIP for more information on state plans and SPAs.

<sup>88</sup>For more information on the difference between the TEFRA state plan option and HCBS waivers, please see Catalyst Center. (2015). [Expanding access to Medicaid coverage: The TEFRA option and children with disabilities.](#)

<sup>89</sup>Smith, G., O’Keefe, J., Carpenter, L., Doty, P., Gavin, K., Burwell, B., Williams, L. (2000). Understanding Medicaid home and community services: A Primer. Retrieved from <https://aspe.hhs.gov/basic-report/understanding-medicare-home-and-community-services-primer>

<sup>90</sup>Families USA. (2012). State plan amendments and waivers: How states can change their Medicaid programs. Washington, DC: Mahan, D. <http://familiesusa.org/product/state-plan-amendments-and-waivers-how-states-can-change-their-medicare-programs>

<sup>91</sup>Ghandour, R. M., Comeau, M., Tobias, C., Dworetzky, B., Hamershock, R., Honberg, L., Mann, M. Y., & Bachman, S. S. (2015). Assuring adequate health insurance for children with special health care needs: Progress from 2001 to 2009-2010. *Academic Pediatrics*, Jul-Aug; 15(4):451-60

# TEFRA/KATIE BECKETT OPTION

	TEFRA/Katie Beckett State Plan Option	HCBS Waivers
Who qualifies?	<p><i>Children, birth to age 18 who:</i></p> <ul style="list-style-type: none"> <li>• Meet their state’s definition of institutional level of care;</li> <li>• Have medical needs that can safely be provided outside of an institution</li> <li>• Receive care in the community that does not exceed the cost of institutional care<sup>84,89</sup></li> </ul>	<p><i>Children (and others as defined by age, diagnosis, or other criteria established by the state) who:</i></p> <ul style="list-style-type: none"> <li>• Meet their state’s definition of institutional level of care;</li> <li>• Have medical needs that can safely be provided outside of an institution</li> <li>• Receive care in the community that does not exceed the cost of institutional care<sup>84,89</sup></li> </ul>
What authority do states use to offer these programs?	<p><i>State plan option (a.k.a. state plan amendment or SPA):</i></p> <ul style="list-style-type: none"> <li>• Allows states to change their individualized state plan, which outlines the way their Medicaid program operates. States may use this to add optional services or change eligibility requirements</li> <li>• States must still follow federal Medicaid rules (i.e., a state cannot use a state plan option to cut mandated services)</li> <li>• All services in the state plan option must be available to all children who qualify for Medicaid in the state</li> <li>• <b>No waiting lists allowed</b><sup>90,91</sup></li> </ul>	<p><i>Home- and community-based service waivers:</i></p> <ul style="list-style-type: none"> <li>• Allow states to request that certain Medicaid guidelines be waived. States can use this to provide additional services not usually covered by Medicaid to help individuals remain in the community</li> <li>• With federal approval, states do not have to comply with federal Medicaid rules (i.e., Medicaid regulations are “waived” to make an exception)</li> <li>• Services can be provided to specific groups (e.g., based on diagnosis, or age)</li> <li>• <b>Waiting lists allowed</b><sup>90,91</sup></li> </ul>

This document is part of *Public Insurance Programs and Children with Special Health Care Needs: A Tutorial on the Basics of Medicaid and the Children’s Health Insurance Program (CHIP)*, available in its entirety at <http://cahpp.org/resources/Medicaid-CHIP-tutorial>

Is this tutorial helpful to you? Please take our survey at <http://bit.ly/2gXLyuy-catalyst-survey>

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# TEFRA/KATIE BECKETT OPTION

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## Test your knowledge

1. True or False: TEFRA/Katie Beckett is a waiver program, so states can maintain waiting lists for enrollment.
2. Which of the following is **incorrect** about state TEFRA/Katie Beckett programs?
  - a. TEFRA/Katie Beckett allows children who qualify to receive care in the community.
  - b. TEFRA/Katie Beckett institutional level of care criteria are the same in every state.
  - c. Family income is not a factor in determining eligibility for TEFRA/Katie Beckett programs.
  - d. All of the above.
3. True or False: The TEFRA/Katie Beckett option covers services not usually provided by Medicaid.



## Find Out in Your State

1. Does your state have a TEFRA/Katie Beckett 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?

1. False 2. b 3. False