

Congress of the United States
Washington, DC 20515

February 20, 2013

The Honorable Kathleen Sebelius
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Proposed Rule: Medicaid, Children's Health Insurance Programs, and Exchanges; Proposed Rules for Extending Medicaid to Age 26 for Eligible Former Foster Children (Fed. Reg. Vol. 78, No. 14, 1/22/13)

Dear Secretary Sebelius,

As Members of Congress deeply committed to improving outcomes for foster youth, we thank the Department of Health and Human Services for drafting proposed regulations that make significant progress toward extending Medicaid to age 26 for all eligible former foster youth.

This provision of the Affordable Care Act (ACA) allows for consistent access to healthcare for youth as they transition from the foster care system. In part due to trauma experienced early in life, foster youth face higher rates of physical and mental health challenges. This law and the accompanying regulations will not only extend Medicaid to age 26, but will also provide a foundation for healthy living that is critical to the success of foster care alumni well into adulthood.

Although the draft regulation is a major step in the right direction, it has come to our attention that we may need to clarify the Congressional intent of this specific ACA provision. Specifically, Congressional sponsors and supporters of this provision intended to ensure that any young person who had been in foster care on their 18th birthday and was enrolled in Medicaid, would be able to enroll in Medicaid up until age 26, starting in January 2014, even if the young person moved to a different state between the ages of 18 to 26.

The Department of Health and Human Services proposed regulation only requires states to enroll former foster youth in Medicaid to age 26 if they remain in the state where they were placed in foster care and enrolled in Medicaid. Although the draft regulation provides states with the option of extending Medicaid to youth that move into their state, it does not require it.

We appreciate that the regulations strive to achieve health parity between foster youth and their young adult peers who are eligible to receive health coverage to age 26 under their parents' health insurance plans. However, no residency requirement exists for young people receiving health coverage through their parents' plans. In order to achieve true parity, no specific state residential requirement should be imposed on foster youth.

As written, this regulation could limit youth from seeking a variety of opportunities, including a college education, a new job, and living closer to family members. In states within close proximity, such as the Washington-Maryland-Virginia area, it is very likely that former foster youth could move to nearby states. These youth, many of whom have unique physical and mental health needs, should not be forced to choose between access to healthcare and moving to a new state with promising educational, economic or social opportunities.

Furthermore, contrary to the interpretation in the current regulation, the term "the state" within this provision of the ACA statute is intended to refer generally to the status of a youth under the custody of the "state," as opposed to a private family or child-caring agency. The phrase "the state" was not designed to limit Medicaid to certain foster youth, but instead, was used to signify that this provision applied to all "wards of the state," a phrase used often within the child welfare community.

Roughly 26,000 young people aged-out of the foster care system in 2011, having never been adopted or reunified with their birth parents. To make matters worse, these youth and others who age-out of the system are statistically more likely to experience homelessness, incarceration, and lack healthcare. These facts make it all the more important that we guarantee all eligible foster care alumni with the access to quality health coverage to help them successfully transition into adulthood.

We encourage the Department of Health and Human Services to take the broadest interpretation of the law to require all states to cover former foster youth. Therefore, we strongly urge the Department of Health and Human Services to issue a final rule that not only provides states with the option of extending Medicaid, but ensures that states provide Medicaid benefits to age 26 for all eligible former foster youth residing within the state.

We welcome additional dialogue on this topic as the revised regulations are completed. Please contact Diane Shust in the office of Representative Jim McDermott at 202-225-3106 if any additional information is needed.

Sincerely,

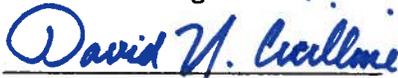


Jim McDermott
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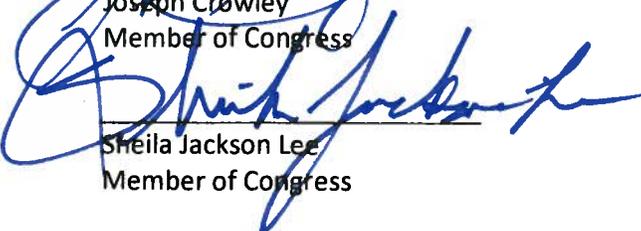
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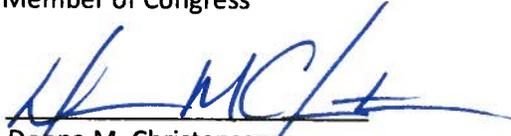


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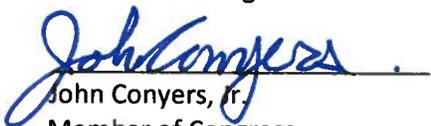
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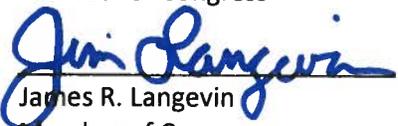
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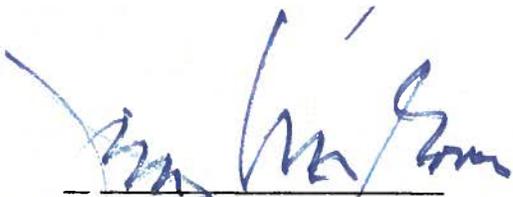
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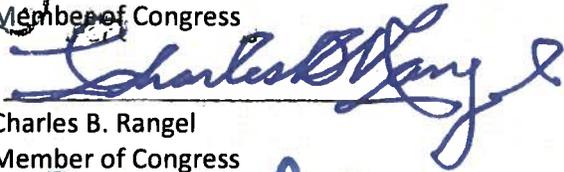


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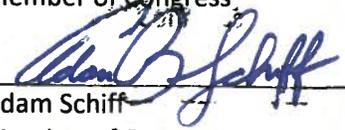
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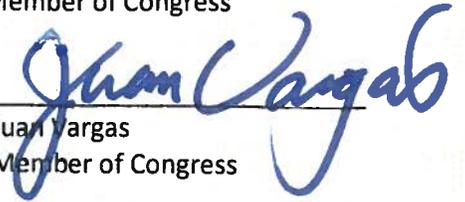
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