

**§ 108D-62. Children and families specialty plan.**

- (a) The following definitions apply in this section:
- (1) Caretaker relative. – As defined in 42 C.F.R. § 435.4.
  - (2) Child. – A person who is under the age of 18, is not married, and has not been legally emancipated.
  - (3) Custodian. – As defined in G.S. 7B-101, or a comparable tribal code.
  - (4) Foster care. – The placement of a child who is described in G.S. 108D-40(a)(14), or a comparable tribal code, whose custody has been awarded by court order or pursuant to a voluntary placement agreement from the parent, custodian, or guardian (i) to the county department of social services or (ii) to the Eastern Band of Cherokee Indians' Department of Public Health and Human Services.
  - (5) Guardian. – A guardian of the person as defined in G.S. 35A-1202.
  - (6) Minor. – A person who is under the age of 18.
  - (7) Parent. – As defined in 42 C.F.R. § 435.603(b).
  - (8) Reunification. – As defined in G.S. 7B-101, or a comparable tribal code.
  - (9) Sibling. – As defined in 42 C.F.R. § 435.603(b).
- (b) All of the following shall apply with regard to the CAF specialty plan:
- (1) The capitated contract for the CAF specialty plan shall be the result of a request for proposals issued by the Department. Only (i) entities that meet the definition of PHP under G.S. 58-93-5 or under this Chapter and (ii) consortiums established under G.S. 122C-116 are eligible to respond to the request for proposals issued by the Department to operate the CAF specialty plan. Each eligible responding entity may submit only one response to an RFP issued by the Department.
  - (2) An entity operating the CAF specialty plan shall authorize, pay for, and manage all Medicaid services covered under the plan.
  - (3) An entity operating the CAF specialty plan shall operate care management functions and provide whole-person, integrated care across healthcare and treatment settings and foster care placements for recipients enrolled in the plan to support family preservation, advance the reunification of families, support the permanency goals of children, and support the health of former foster youth.
  - (4) An entity operating the CAF specialty plan shall be the single point of care management accountability.
  - (5) The Department shall establish requirements for the effective operation of the CAF specialty plan that, at a minimum, shall address all of the following:
    - a. Continuity of care and support across healthcare settings, changes in placement, and when the child transitions into the former foster youth Medicaid eligibility category.
    - b. Managing care according to competencies specific to the recipients described in G.S. 108D-40(a)(14) and to recipients receiving child protective services in-home services, including medication management, utilization of trauma-informed care, and any other areas determined appropriate by the Department.
    - c. Coordination of activities with local governments, county departments of social services, the Division of Juvenile Justice of the Department of Public Safety, and other related agencies that support the child welfare system.
    - d. Approaches to address unmet health-related resource needs.

(c) In addition to the services required to be covered by all PHPs under G.S. 108D-35, the CAF specialty plan shall cover the behavioral health, intellectual and developmental disability, and traumatic brain injury services excluded from standard benefit plan coverage under G.S. 108D-35(b)(1), except that the CAF specialty plan shall not cover any of the following services:

- (1) Innovations waiver services.
- (2) Traumatic Brain Injury waiver services.
- (3) Services provided to recipients residing in or receiving respite services at an intermediate care facility for individuals with intellectual disabilities.
- (4) Services provided to recipients determined eligible to participate in and be served under Transitions to Community Living.
- (5) Non-Medicaid behavioral health services funded with federal, State, and local funding in accordance with Chapter 122C of the General Statutes or other applicable State and federal law, rules, and regulations.

(d) Unless ineligible under subsection (e) of this section, the following Medicaid recipients shall be eligible to enroll in the CAF specialty plan:

- (1) Recipients described in G.S. 108D-40(a)(14) and their children. The children shall be enrolled in the CAF specialty plan for as long as the parent remains enrolled, unless the parent elects to enroll the child in another plan in accordance with subsection (g) of this section.
- (2) Adults identified on an open child protective services in-home family services agreement case and any minor children living in the same home.
- (3) Adults identified in an open Eastern Band of Cherokee Indians Department of Public Health and Human Services Family Safety program case and any children living in the same home.
- (4) The minor siblings of a child in foster care who lived in the same home as that child at the time of the child's removal and with whom household reunification or permanency efforts are ongoing.
- (5) Recipients who have a child temporarily in foster care if all of the following are met:
  - a. A court of competent jurisdiction has not found that aggravated circumstances exist in accordance with G.S. 7B-901(c) or a comparable tribal code.
  - b. A court of competent jurisdiction has not found that a plan of reunification would be unsuccessful or would be inconsistent with the child's health or safety in accordance with G.S. 7B-906.1(d) or a comparable tribal code.
  - c. A court of competent jurisdiction has not found that custody or guardianship with the caretaker relative is an inappropriate permanent plan for the juvenile under G.S. 7B-906.2(a)(3), G.S. 7B-906.2(a)(4), or a comparable tribal code.
  - d. The recipient is any of the following:
    1. A parent.
    2. A caretaker relative.
    3. A custodian.
    4. A guardian.
- (6) Any other recipients who have had involvement with the child welfare system and whom the Department has determined would benefit from enrollment in the CAF specialty plan.

(e) The following Medicaid recipients shall be not eligible to enroll in the CAF specialty plan:

- (1) Recipients who require services that are excluded from coverage by the CAF specialty plan under subsection (c) of this section.
- (2) Temporary safety provider caregivers identified on an open child protective services in-home family services agreement case or an open Eastern Band of Cherokee Indians Department of Public Health and Human Services Family Safety program case.
- (3) Recipients who are excluded from PHP coverage under G.S. 108D-40(a).

(f) Recipients described in subdivision (d)(1) of this section shall be automatically enrolled in the CAF specialty plan, unless they are also described in G.S. 108D-40(a)(5), in which case they may enroll voluntarily. All other recipients described under subsection (d) of this section may enroll voluntarily in the CAF specialty plan.

(g) Except as limited by any provision of a waiver or State Plan amendment approved by CMS, recipients eligible to enroll in the CAF specialty plan under subsection (d) of this section shall have the option to enroll with a PHP operating a standard benefit plan or, if eligible under G.S. 108D-40(a)(12), a BH IDD tailored plan. A recipient enrolled in the CAF specialty plan who elects to enroll with a PHP operating a standard benefit plan would only have access to the behavioral health services covered by the standard benefit plans and would no longer have access to the behavioral health services excluded from standard benefit plan coverage under G.S. 108D-35(b)(1). The recipient's informed consent, or, as applicable, the informed consent of the recipient's custodian or guardian, shall be required prior to the recipient's enrollment with a PHP operating a standard benefit plan.

(h) Recipients who are children enrolled in foster care in this State who exit the custody of the county department of social services may elect to remain enrolled in the CAF specialty plan for 12 months after the date the recipient exits custody. In the case of recipients who achieve reunification, any of the following individuals with whom the recipient reunifies may also elect to remain enrolled in the CAF specialty plan as long as the recipient remains enrolled:

- (1) A parent.
- (2) A caretaker relative.
- (3) A custodian.
- (4) A guardian.
- (5) A minor sibling. (2023-134, s. 9E.22(k).)