

The Use of Medicaid to Address Health Care Needs of Individuals Involved with the Criminal Justice System

A Report Prepared by
Edward T. Jennings, Jr., Ph.D.
Yunjin Jung

Prepared for the
Commonwealth Council on Developmental Disabilities
November 12, 2014



University of Kentucky

This brief report provides information on the use of Medicaid to address health care needs of individuals involved with the criminal justice system. As can be seen in the report, expansion of Medicaid under the Affordable Care Act has expanded opportunities for states to partially fund inmate health care through Medicaid. This, in turn, facilitates continued care when individuals exit the system. For states that face a choice of whether to terminate or suspend Medicaid enrollment for an individual entering the criminal justice system, there are benefits that come from suspending the individual's enrollment. Upon release, their Medicaid is still in place and they have access to health care, which should improve employment and reduce recidivism. This is supported by experiences of several states using Medicaid for inmates. In addition, these experiences give further implications for states willing to implement the Medicaid Expansion: 1) establishing the unified enrollment system is necessary to facilitate the eligibility determination process, and 2) increasing capacities to manage enrollment system (e.g. staffs, the use of information technology).

1. Medicaid Expansion Decision by States

- The Supreme Court ruling on the Affordable Care Act (ACA) allowed states to opt out of the law's Medicaid expansion, leaving each state's decision to participate in the hands of the nation's governors and legislators.
- Implementing the Medicaid Expansion (28 States including DC); Open Debate (3 States); Not Moving Forward at this Time (20 States) as of Sep 4, 2014¹

2. Medicaid Access for the Justice-involved Individuals

- Under the ACA, a significant number of individuals, those who are single, involved with the criminal justice system are newly eligible for Medicaid
- Before the ACA, many inmates could not qualify for Medicaid since they did not fit into one of the categorical eligibility categories. Also, even for inmates who did qualify for Medicaid, federal law prohibits Medicaid payment for most health care services under a policy known as the "inmate exclusion." By federal Medicaid law, Medicaid did not cover the cost of inmates' care, except for care received as an inpatient in a hospital or other medical institution.
- **States suspending Medicaid:** 12 states (California, Colorado, Florida, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Oregon, Texas, Washington)
 - These states allow an incarcerated individual to remain on the Medicaid rolls in a suspended status, but their health care services cannot be financed using federal Medicaid dollars. When released from the facility, an individual can receive care under Medicaid
- **States terminating Medicaid eligibility:**
 - The federal government has encouraged states to suspend inmates' Medicaid eligibility because it is easier to return to the Medicaid rolls upon release. If terminated, an individual needs to submit a new application for the Medicaid

¹ <http://www.advisory.com/daily-briefing/resources/primers/medicaidmap#lightbox/0/>

- However, many states automatically terminate Medicaid eligibility when an individual enters correctional facilities. Under ACA, these states need policy changes to cover inmates
- **States billing for Inpatient care:** 14 states use Medicaid to bill for inpatient care. (Arkansas, California, Colorado, Delaware, Louisiana, Michigan, Mississippi, Nebraska, New York, North Carolina, Oklahoma, Pennsylvania, Vermont, Washington)

3. Conditions for Successful Implementation

1. Experiences from State Level

1) Suspending Medicaid eligibility is more beneficial for former inmates than terminating²

The common characteristics of successful programs:

- Information sharing between corrections and the health and human services department
 - When a person enters the correctional system, some states screen new inmates eligibility for Medicaid to coordinate timely coverage after releasing (Illinois, Minnesota, Oklahoma, and Oregon)
 - Some states (i.e. Connecticut and Massachusetts) assist inmates to ensure Medicaid coverage before leaving facilities
 - Several states (i.e. Maryland, Minnesota, New York, Pennsylvania, and Texas) take care of inmates with behavioral health needs that can be covered by Medicaid or health care services
- ##### 2) A case study in a GAO report on inmate eligibility and federal costs for allowable services (Published: Sep 5 2014)³,
- shows the efforts of six selected states to increase federal Medicaid matching funds for allowable inpatient services provided to state prisons inmates (p.7)
 - These efforts are 1) hiring or training staff to assist with inmate enrollment, 2) upgrading Medicaid eligibility systems, 3) requiring contracted hospitals to accept Medicaid rates or obtain Medicaid reimbursement for allowable services, 4) suspending Medicaid enrollment for inmates upon incarceration rather than terminating their enrollment
 - States are implementing at least two options

² Tobler, Laura. (2014). Providing Health Care Coverage for Former Inmates. Legisbrief. National Conference of State Legislature.

³ GAO (2014). Medicaid: Information on Inmate Eligibility and Federal Costs for Allowable Services. <<http://www.gao.gov/products/GAO-14-752R>>

In this report, Pennsylvania fell into one of states not expanding Medicaid. However, Pennsylvania decided Medicaid expansion on Aug. 28, 2014.

Table 1. Steps of six selected states to increase federal Medicaid matching funds for allowable inpatient services provided to state prisons inmates.

State	Hired or trained staff to assist in enrolling inmates	Upgraded Medicaid eligibility system	Required contracted hospitals to accept Medicaid rates and/or obtain Medicaid reimbursement for allowable services	Suspended rather than terminated Medicaid enrollment upon incarceration
California		X		X
Colorado	X	X	X	X
New York	X	X	X	X
North Carolina	X		X	X
Pennsylvania	X		X	
Washington	X	X	X	

Source: GAO (2014), Medicaid: Information on Inmate Eligibility and Federal Costs for Allowable Services. P.7 (Table 3)

2. Experiences of Counties Level (Appendix 1)

1) National Association of Counties (NACO) provides key issues related with enrolling inmates for Medicaid

- Ensuring county jails are considered as a point of contact with newly eligible individuals
- Lack of staff capacity at jails to assist with/conduct screening and enrollment
- Barriers related to jail environment and jail population characteristics
- Information technology challenges
- Challenges associated with eligibility changes

3. Implications

1) Eligibility Determination

- Need to decide whether inmates' eligibility of Medicaid will be terminated or not
- Suspending eligibility has more benefits to cover inmates in correctional facilities and to continue Medicaid services after release

2) A Coordinated Enrollment System Process

- To facilitate the eligibility determination process, the U.S. Department of Health and Human Services (HHS) will operate a data services hub to provide functions for the exchanges such as verifying citizenship and tax information.
- At state and local levels, there needs a system intended to be a one-time streamlined screening conducted through a single application that is consumer-friendly and that minimizes administrative burdens

3) Capacity to Manage Changes

- Needs staffs who will manage the process from enrollment to assistance for continuing the Medicaid eligibility after release
- Increasing ability to utilize information technology for the enrollment process

Appendix 1. Enrollment programs at different stages are implemented by several counties in the U.S.⁴

- Alameda County, California is currently operating a pilot program under a Medicaid Demonstration waiver that focuses on enrolling individuals in MediCal and the county Low-Income Health Program (LIHP) just after their release from jail to probation.
- Marin County, California has initiated an innovative reentry program whereby the sheriff takes custody of individuals who will be on Post- Release Community Supervision (PRCS) 60 days before their release. They will spend the end of their term in the county jail, where the jail's reentry coordinator and probation officers will work closely with them to prepare for their reentry into the community, including enrolling them in health insurance benefits. To determine the best time and location for enrollment, county justice officials can collaborate with county health officials to understand these entities' considerations and needs.
- New York City, New York: The Department of Health and Mental Hygiene with assistance from the local department of social services invests substantial resources into Medicaid eligibility screening and pre-enrollment services for inmates with a mental illness, who account for about one-third of the New York City jail population, totaling approximately 30,000 admissions per year.
- Oklahoma: A program implemented in 2006 to improve discharge planning for inmates with mental illnesses involves the use of "integrated services discharge managers." Findings from an evaluation of the program suggest that the intervention significantly increases Medicaid enrollment and service use.
- King County, Washington: King County also has a strong release planning program that engages key partnerships and processes to facilitate pre-release public benefit enrollment for reentering offenders.
- Allegheny County, Pennsylvania established the Allegheny County Jail Collaborative (ACJC) to better coordinate reentry services for county jail inmates. The Collaborative is comprised of representatives from the Allegheny County Jail, the county Department Human Services (DHS) the 19 Court of Common. Pleas (criminal division) and the county Health Department the Jail Collaborative have initiated comprehensive planning that includes reentry programming which begins when individuals enter the county jail.

The wide range of service coordination provided to incarcerated individuals includes helping them apply for Medicaid and connecting them to substance abuse treatment and/or mental health services. Social workers at the jail assist in completing Medicaid enrollment applications

⁴ Miller, Joel E. and Robert W. Glover. (2014). Strategies to Enroll Uninsured People with Mental Health Conditions under the Affordable Care Act. National Association of State Mental Health Program Directors (NASMHPD).

and supporting documentation prior to a planned release and sending the information to the local County Assistance Office.

Allegheny County DHS Justice Related Services and community-based service coordinators may then also assist or accompany individuals to an appointment with the local County Assistance Office to complete the application process for Medicaid and to coordinate appropriate treatment and support services post-release. In addition, the Allegheny County Jail has developed a “Discharge Center” where staff helps individuals with their release by assisting with items such as medications, transportation, and appropriate clothing.

- Salt Lake County, Utah: The Division of Behavioral Health Services within the Department of Human Services has helped lead efforts to plan for how the justice-involved population within the county will be affected by the Medicaid Expansion and creation of health insurance exchanges.

By actively communicating with their state Medicaid office, they were able to gather information demonstrating that most inmates in the county’s jail system will fall into the new Medicaid expansion population category. To develop strategies for enrolling these newly eligible individuals, they have created a health care services integration coordinator position. Additionally, the county is currently actively enrolling eligible inmates in Medicaid so they will be able to receive benefits on their release. This process has been facilitated by the county directly employing state Medicaid eligibility determination workers by paying the Medicaid administrative match rate as well as by working with other community partners.

- Massachusetts: Massachusetts’ (MA) electronic “virtual gateway” application made a significant improvement in the rates of MA inmates leaving with Medicaid coverage. Since the MA system began with a manual application, it has seen its rates climb from 40 percent to 90 percent of offenders leaving incarceration with Medicaid coverage in place. MA’s electronic system has assisted in identifying the underlying rationale for the 10 percent who remain without access. The 10 percent fell into groups that either 1) refused participation, 2) had plans to live immigration status, or 5) were included in a group of parolees that the state is now actively targeting. The state has identified the components critical to success including use of a Medicaid new member booklet, a strong relationship with the Medicaid program, and outreach to inmates prior to release. Released probationers became more favorable clients for community providers to serve given that they had already established insurance coverage.

Within MA, data has shown that 22 percent of people with substance use disorders are not enrolled in health programs, in comparison with a 2 percent statewide non-enrollment rate. This data indicates that targeted Medicaid enrollment efforts in the criminal justice system to focus on people with substance abuse disorders may be useful towards narrowing such enrollment gaps.

An article in the New York Times reports on local jail efforts to sign up individuals for Medicaid under ACA expansion that allows single individuals to qualify. While Medicaid law does limit available coverage for inmates, it allows coverage for hospital stays longer than 24 hours. In addition, inmates enrolled in this way continue in Medicaid coverage when released from jail.

Erica Goode, March 9, 2014. New York Times, Little-Known Health Act Fact: Prison Inmates Are Signing Up. Accessed November 10, 20-14 at http://www.nytimes.com/2014/03/10/us/little-known-health-act-fact-prison-inmates-are-signing-up.html?_r=0

As a report from the Council of State Government's puts it:

"Although federal law restricts the use of Medicaid to finance health care provided to beneficiaries while they are incarcerated, the ability to finance qualifying inpatient medical care is an important exception. In addition, Medicaid can serve as a valuable source of coverage for health care services for individuals who are mandated to treatment, on probation or parole, or who are returning to the community following incarceration. States that effectively utilize Medicaid to finance care provided to eligible justice-involved individuals can realize significant cost savings."

Council of State Governments Justice Center, Policy Brief: Medicaid and Financing Health Care for Individuals Involved with the Criminal Justice System, December, 2013. Accessed November 10, 2014 at <http://csgjusticecenter.org/wp-content/uploads/2013/12/ACA-Medicaid-Expansion-Policy-Brief.pdf>