



123 William Street, Suite 1901
New York, NY 10038
Phone 212.742.1600
Fax 212.742.2080
mailbox@coalitionny.org
www.coalitionny.org

November 19, 2016

Mr. Eliot Fishman
Director
Center for Medicaid and CHIP Services (CMCS)
Centers for Medicare & Medicaid Services
7500 Security Blvd, Mail Stop S2-01-16
Baltimore, Maryland 21244-1850

Re: Proposed 1115 Medicaid waiver authorizing Federal Medicaid matching funds for certain transitional services provided in a 30-day period immediately prior to release to incarcerated individuals with serious behavioral and physical health conditions

Dear Mr. Fishman:

The Coalition for Behavioral Health strongly supports the New York State Department of Health's proposal to seek an 1115 waiver from the Centers for Medicare & Medicaid Services (CMS) authorizing federal Medicaid matching funds for certain transitional services provided in a 30-day period immediately prior to release of incarcerated individuals with serious behavioral and physical health conditions, who are eligible for Health Homes under the Affordable Care Act § 2703. We urge CMS to approve this waiver, which would allow incarcerated individuals in state prisons and local jails to obtain the health services they need to successfully transition back into the community. Moreover, implementation of this approved New York State waiver could serve as a model for other states that are seeking ways to provide transitional health services to justice-involved individuals living with serious substance use disorder, mental health, and physical health needs.

The proposed waiver from CMS would allow Medicaid coverage of essential services, which reduce the use of more expensive unnecessary health care services for high-needs individuals, as well as the likelihood of recidivism. The waiver would build on existing efforts by New York State to provide health services for individuals involved with the criminal justice system. In 2012, the New York State Department of Health created the "Criminal Justice Health Home Working Group" and selected six health homes to serve as pilots for connecting the criminal justice population to health services. These pilots have made great strides in identifying eligible incarcerated individuals and determining appropriate service models for supporting them after their release. However, the pilots quickly identified the inmate exception as a major impediment to their efforts to successfully assist this population in transitioning from incarceration back to the community.

Statistics regarding the health needs of the criminal justice involved population underline the scope of the need for the proposed services.

- Justice-involved individuals are seven times more likely than the general population to experience mental illness, substance use disorders and other chronic conditions.¹ Lack of

¹ National Institute of Corrections, "Solicitation for a Cooperative Agreement—Evaluating Early Access to Medicaid as a Reentry Strategy," Federal Register 76, no. 129 (2011): 39438 -39443

treatment increases health care and criminal justice costs while harming, often irreparably, individuals, families and communities.

- Disruptions in medical care upon reentry, for example, contribute to poor and costly health outcomes, including increased drug use and re-incarceration, with a 12-fold rise in the risk of death in the first two weeks post-release.²
- There is also evidence to support the beneficial impact access to insurance can have in reducing criminal recidivism among people diagnosed with a serious mental illness. Without a lapse in coverage access to health care and social support services can increase an individual's community tenure.³

Ample evidence already exists, showing that having access to care prior to release from prison or jail, decreases costs, reduces reincarceration and markedly improves lives.

- Diversion to treatment following New York's Rockefeller Drug Law reforms in 2009, for example, was associated with an 18% drop in recidivism within two years of treatment and a 50% drop in re-arrests for violent crime.⁴
- In addition, a study in California found that the state saved an estimated \$97 million by diverting 42,000 non-violent drug offenders to treatment in just one year.⁵

The proposed waiver would fit with The Triple Aim and with the goals of New York existing waivers which seek to reform New York's health care system through the use of health homes to target the needs of those with serious mental illness, HIV or multiple other chronic conditions and through the Delivery System Reform Incentive Program, which seeks to improve community population health and reduce the use of avoidable hospitalizations. Incarcerated individuals with serious mental health or substance use disorders – conditions that, as identified above, are significantly more prevalent among those involved with the criminal justice system than among the general population – would be connected with treatment, medication support and intensive care coordination, including targeted case management prior to release, instituting a continuum of care and thereby improving their health. It has been well documented that individuals in care for their chronic health conditions incur fewer emergency room visits and hospitalizations.

For those being released from State prison, the proposed menu of services would significantly assist individuals who have been out of the community for years or even decades to transition back into an unfamiliar environment, including a greatly changed healthcare landscape. Not having to deal with the challenges caused by untreated health conditions would allow these individual to more successfully confront the numerous other obstacles to successful reintegration into the community.

Meanwhile, for counties, the vast majority of the individuals who would benefit from the proposed services are those who cycle in and out of local jails at significant expense to the localities. In New York City, for instance, the portion of individuals incarcerated in the city's jails with a mental illness has increased to nearly 40 percent in recent years, even as the overall number of people incarcerated has shrunk. Many of these individuals constantly cycle in and out of Rikers Island, the city's main jail complex. The 2014 report of the Mayor's Task Force on Behavioral Health and the Criminal Justice

² Ingrid A. Binswanger, et al., "Release from Prison—A High Risk of Death for Former Inmates," *New England Journal of Medicine* 356, no. 2 (2007): 157–165.

³ Morrissey, Joseph P. Medicaid Benefits and Recidivism of Mentally Ill Persons Release from Jail May 2004. Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/214169.pdf>. National Institute of Justice.

⁴ Jim Parsons et al., *End of an Era? Impact of Drug Law Reform in New York City*. New York: Vera Institute of Justice, 2015.

⁵ Anglin, M.D., et al. Offender diversion into substance use disorder treatment: the economic impact of California's Proposition 36. *American Journal of Public Health* 103(6):1096-1102, 2013.

System identified more than 400 people who had been jailed at least 18 times in the last five years, accounting for over 10,000 jail admissions during that period.⁶ The report said that 67 percent of these individuals had “a mental health need;” 21 percent live with a severe mental illness, (e.g. schizophrenia or bipolar disorder); and 99 percent live with a substance use disorder.

This back and forth process of cycling in and out of jail is detrimental to improving one’s health and their ability to live in the community. Providing the needed array of transitional services would significantly increase the chances of a successful reentry into the community. Therefore, in order to maximize the ability of the waiver to assist this population, the application should be designed in such a way as to take into account the complexities of serving a transient jail-bound population, many of whom are detainees who spend only a short period of time in jail and whose release dates are often unknown.

New models are being used to link justice-involved individuals to insurance and evidence-based care, potentially catalyzing a transformation in the criminal justice system from punishment to treatment for tens of thousands of individuals. Bringing this work to scale, however, requires the ability to start providing services to individuals prior to release. Approving New York’s waiver request is an important first step towards establishing a funding stream to pay for these critically needed services.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink that reads "C. Parque". The signature is fluid and cursive, with a long horizontal stroke at the end.

Christy Parque, MSW
President & CEO

⁶ Mayor’s Task Force on Behavioral Health and the Criminal Justice System. Action Plan (2014).
<http://www1.nyc.gov/assets/criminaljustice/downloads/pdfs/annual-report-complete.pdf>