

## Medicaid Authority and Opportunity to Build New Programs for Justice-Involved Individuals

### Answers to Webinar Questions

**1. Q: Best online sources to help these individuals?**

A: Here is a list of resources and source materials on best practices in serving the justice-involved population. We will also be conducting additional webinars on this topic - see schedule below:

#### Future HMA Webinars

May 18 (2-3pm):

- **1115 Justice Waivers: Operationalizing Risk Identification and Patient Engagement for Persons Leaving Carceral Settings**
  - Who Should Attend: Health Plans, ACOs, Other Payors, Health Systems, States and Counties, Community Providers, FQHC, CCBHC
  - Speakers to include: Linda Follenweider, Michael DuBose

Coming Soon (Dates TBD – Time 2-3pm):

- **1115 Justice Waivers and Transitions of Care: Identifying and Connecting the Key Partners**
  - Who Should Attend: Correctional Facilities or Agencies, State and Counties, Community Providers, FQHC, Community Corrections, Payors, CCBHC
  - Speakers to include: John Volpe, Michael DuBose
- **1115 Justice Waivers and Special Populations: Meeting the Needs of Justice-Impacted Youth**
  - Who Should Attend: Correctional Facilities or Agencies, States and Counties, Health Plans, Community Corrections, Community Providers, Health Plans
  - Speakers to include: Julie White and Caitlin Thomas- Henkel

Online resources and other source materials:

- <https://www.samhsa.gov/criminal-juvenile-justice/sim-overview>
- [https://www.urban.org/sites/default/files/publication/97041/strategies\\_for\\_connecting\\_justice-involved\\_populations\\_to\\_health\\_coverage\\_and\\_care.pdf](https://www.urban.org/sites/default/files/publication/97041/strategies_for_connecting_justice-involved_populations_to_health_coverage_and_care.pdf)
- <https://store.samhsa.gov/sites/default/files/d7/priv/sma19-5097.pdf>
- <https://aspe.hhs.gov/sites/default/files/private/pdf/198726/justicebrief.pdf>
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- Davis LM, Williams M, Derosé KP, et al. Understanding the public health implications of prisoner reentry in California: State of the state report. 2011. <http://www.rand.org/pubs/monographs/MG1165.html>
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- Gideon L. Bridging the gap between health and justice. *Health Justice*. 2013 Nov 18;1:4. doi: 10.1186/2194-7899-1-4. PMCID: PMC5120658.
- Heiss C, Somers SA, Larson M. Coordinating access to services for justice-involved populations. 2016. [www.milbank.org/wp-content/uploads/2016/09/MMF\\_CoordinatingAccess-FINAL-1.pdf](http://www.milbank.org/wp-content/uploads/2016/09/MMF_CoordinatingAccess-FINAL-1.pdf)
- Larney S, Kopinski H, Beckwith CG, et al. Incidence and prevalence of hepatitis C in prisons and other closed settings: results of a systematic review and meta-analysis. *Hepatology*. 2013;58(4):1215-1224.
- MacDonald R, Kaba F, Rosner Z, et al. The Rikers Island Hot Spotters: Defining the Needs of the Most Frequently Incarcerated. *Am J Public Health*. 2015;105(11):2262-2268.
- MacNeil JR, Lobato MN, Moore M. An unanswered health disparity: tuberculosis among correctional inmates, 1993 through 2003. *Am J Public Health*. 2005;95(10):1800-1805.
- Metzger L, Ahalt C, Kushel M, Riker A, Williams B. Mobilizing cross-sector community partnerships to address the needs of criminal justice-involved older adults: a framework for action. *Int J Prison Health*. 2017 Sep 11;13(3-4):173-184. doi: 10.1108/IJPH-05-2017-0024. PMID: 28914125; PMCID: PMC5824987.
- Morse DS, Wilson JL, McMahon JM, Dozier AM, Quiroz A, Cerulli C. Does a Primary Health Clinic for Formerly Incarcerated Women Increase Linkage to Care? *Womens Health Issues*. 2017 Jul-Aug;27(4):499-508. doi: 10.1016/j.whi.2017.02.003. Epub 2017 Mar 13. PMID: 28302351; PMCID: PMC5511582.

- National Research Council and Institute of Medicine. Health and incarceration: a workshop summary. Washington, D.C.: The National Academies Press; 2013.
- Steadman HJ, Osher FC, Robbins PC, et al. Prevalence of serious mental illness among jail inmates. *Psychiatry Serv.* 2009;60(6):761-765.

**2. Q: Is this 1115 applicable to human trafficking victims who have been removed from prosecution?**

A: This section 1115 demonstration initiative is open for individuals who would otherwise be Medicaid or CHIP eligible but for incarceration status.

**3. Q: Can you speak to how states should think about using this flexibility for jails vs. prisons?**

A: A 1115 reentry demonstration, which allows for in-reach to individuals before release, should be applied to both prisons and jails, ideally 90 days (about 3 months) pre-release. The operationalization of such authority will be very different based on the factors such as whether a facility is a prison, jail, or juvenile setting, as well as location, community resources, correctional health care providers, and application of a fee for service or MCO model. States considering submission of a 1115 reentry demonstration are encouraged to engage key stakeholders such as the state office of Medicaid, state department of corrections, county sheriffs, city jails, community corrections, correctional healthcare providers, and community-based healthcare providers to strategize operationalization considerations.

**4. Q: Given the 90-day approval California received do we have any insight on how they plan to handle the pretrial population with no end of stay date? Are only individuals who have been sentenced and are serving time in California jails are eligible for services covered by the 1115 waiver?**

A: Although a couple of states included pre-trial populations throughout their entire stay in a jail in their 1115 waivers, these have not been approved to date and we have not heard CMS' position on this. California is authorized to cover a set of pre-release Medicaid benefits for individuals who would be eligible for Medicaid or CHIP except for their incarceration status. Eligible program beneficiaries include inmates and pre-trial detainees in state prisons or county jails who meet specific health-related criteria and youth in correctional facilities. These individuals are eligible for pre-release services during the period up to 90 days immediately prior to the individual's expected date of release (fewer days for people who are expected to be released from incarceration in fewer than 90 days).

**5. Q: Curious about the LOS predication tools referenced, and which jail systems are using them for discharge planning**

A: This is publicly available: <https://prisonprofessors.com/projected-release-date-calculator/>

**6. Q: In the California waiver, are Medicaid benefits limited to individuals in state prisons and county/local jails? Or is California able to provide Medicaid coverage to individuals in federal prisons?**

A: California will cover a set of services for individuals who would be eligible for Medicaid or CHIP except for their incarceration status and who are inmates in state prisons, county jails, or state youth correctional facilities. The CMS terms and conditions of approval does not include federal prisons.

**7. Q: Is it true that federal law requires Medicaid to cease upon incarceration to be resumed only upon release?**

A: Yes, federal law excludes from coverage (not eligibility) an individual detained in a local jail, state or federal prison, detention facility, or other setting that is organized for the primary purpose of involuntary confinement. CMS released guidance in 2016 on the “inmate coverage exclusion” and how states may *suspend* coverage of program eligibles while an inmate of a public institution. That guidance is available here: [https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/sho16007\\_41.pdf](https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/sho16007_41.pdf).

**8. Q: Re: billing Medicaid, do you see the correctional facilities billing directly or will these 1115 waivers provide a community provider to bill Medicaid should a correctional facility want to sub-contract this service?**

A: This will vary by State and will be part of the State's implementation planning process. So, this is to be determined by each specific State as they implement.

**9. Q: Will benefits be available to undocumented individuals pre and post release?**

A: No, Medicaid and CHIP eligibility requirements must be met at this time. This section 1115 demonstration opportunity is open for individuals who would otherwise be Medicaid or CHIP eligible but for incarceration status.

**10. Q: "Eligible populations: Medicaid-eligible youth and adults in state prisons, county jails, or youth correctional facilities are potentially eligible for the targeted reentry services. Enrollees in state prisons and county jails will be required to meet health need criteria to be eligible for these services; all youth in youth correctional facilities will be considered eligible without needing to meet the health criteria need. Eligible enrollees can be either pre- or post-adjudication..." Meaning the majority of the jail population (pre-trial detainees) are not receiving/will not receive services under 1115?**

A: California is authorized to provide a maximum 90-day pre-release benefit for Medicaid or CHIP eligibles who would be enrolled except for their incarceration status as inmates or pretrial detainees in state prisons, county jails, or youth correctional facilities. Adult justice involved individuals also must meet certain medical criteria to be eligible for the 1115 pre-release benefit. Pre-trial detainees who meet all eligibility criteria will be eligible to receive the pre-release services authorized under the 1115.

**11. Q: It seems like CA coverage is limited to state or local facilities. Is this because of state jurisdiction over the facilities or the location of individual (e.g., a CA resident in a federal prison that may or may not be located in the state of CA)?**

A: At this time CMS has not expressed its position pertaining to the inclusion of federal prisons under the section 1115 demonstration opportunity. California's approval authorizes coverage of certain Medicaid and CHIP eligibles in state and local carceral settings.

**12. Q: How will the end of the PHE and unwinding process affect this population?**

A: HMA cannot speculate as to how the CMS unwinding process may affect this specific population. This section 1115 demonstration opportunity is open for individuals who would otherwise be Medicaid or CHIP eligible but for incarceration status.

**13. Q: What's the standard of care for patients with terminal illnesses? Is hospice care available?**

A: Hospice level care is available in many jail and prison systems. Depending on state laws on compassionate release and assuming court allowance, an individual may be released early on medical parole or be transferred to LTC facility with hospice care.

**14. Q: Are PATH funds in the CA waiver similar to HRSN infrastructure funding? Specifically, are they considered "hypothetical" expenditures and available at the administrative match rate?**

A: PATH funds are not health care service expenditures per the California terms and conditions for the 1115 approval. These funds are intended to support transitional non-service expenditures, interventions and non-Medicaid covered transitional services to support an individuals' transition back into the community. "Reentry Demonstration Initiative Transitional Non-Service Expenditures" are considered hypothetical per the CMS terms and conditions.

**15. Q: Can CMS waiver MA citizenship requirements?**

A: No, federal waiver authority cannot be used to affect citizenship requirements.