

# Leveraging Medicaid to Establish Meaningful Health Care Connections for Justice-Involved Populations

June 18, 2019

**STATE**  
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**Questions?** Email Heather Howard at [heatherh@Princeton.edu](mailto:heatherh@Princeton.edu).

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# About Manatt Health

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# Agenda

- **Background**
- **Federal Requirements Related to Medicaid and the Justice Involved**
- **Emerging State Practices That Enable Continuity of Coverage and Care**
- **Spotlight: New York's Approach to Continuity of Care for Justice-Involved Populations**
- **Discussion**

# Background

# The SUPPORT Act

On October 24, 2018, the “SUPPORT Act” was signed into law to address the opioid epidemic from multiple perspectives

<b>Medicaid and CHIP</b> <i>Today's focus</i>	<ul style="list-style-type: none"><li>▪ Limiting opioid prescribing</li><li>▪ Increasing treatment</li><li>▪ Expanding provider capacity</li><li>▪ <b>Bridging Medicaid connections for justice-involved populations</b></li></ul>
<b>Medicare</b>	<ul style="list-style-type: none"><li>▪ Expanding telehealth services</li><li>▪ Supporting prevention and treatment programs</li><li>▪ Promoting drug monitoring programs</li></ul>
<b>Other Health Provisions</b>	<ul style="list-style-type: none"><li>▪ Establishing grant programs (e.g., emergency departments and comprehensive opioid recovery centers)</li><li>▪ Promoting data sharing (e.g., annual notification to health care providers regarding permitted disclosures of health information to family members and others during emergencies such as overdose)</li><li>▪ Providing additional training for first responders</li></ul>
<b>Law Enforcement</b>	<ul style="list-style-type: none"><li>▪ Limiting the flow of illicit drugs</li><li>▪ Curbing the overprescribing of prescription opioids</li></ul>

Source: [SUPPORT for Patients and Communities Act](#), October 2018; [Estimated Direct Spending and Revenue Effects of H.R. 6, SUPPORT for Patients and Communities Act](#), Congressional Budget Office, September 2018

# Continuity of Coverage for Justice Involved



Section 5032 of the SUPPORT Act directs the Department of Health and Human Services (HHS) to convene a stakeholder group and develop policies that help states develop innovative strategies for justice involved populations

- HHS shall **convene a stakeholder group** to develop best practices for ensuring continuity of coverage and relevant social services for individuals who are incarcerated and transitioning to the community
- HHS shall work with states to develop innovative strategies to **help justice involved individuals enroll in Medicaid** and to, within a year of enactment, issue a State Medicaid Director (SMD) letter on opportunities to **design 1115 demonstration projects** to improve care transitions to the community for incarcerated individuals who are eligible for Medicaid
- The letter must include guidance on topics such as:
  - Systems for providing assistance to justice
  - Education regarding Medicaid enrollment
  - Strategies for provision of select Medicaid services during the transition period prior to release (*no greater than 30 days prior to release*)

# Enrolling or Maintaining Coverage for Juveniles and Former Foster Care Youth



**Section 1001 of the SUPPORT Act prohibits states from terminating Medicaid eligibility when an individual under age 21—or under age 26 if they have aged out of foster care—is an inmate of a public institution**

- States may suspend eligibility or reclassify coverage for the duration of incarceration for persons under age 21 (“juveniles”) and for former foster youth under age 26 (“FFY”)
- States must conduct a redetermination of eligibility for juveniles and FFY prior to their release, without requiring a new application
- Coverage for juveniles and FFY who are found eligible for Medicaid during the pre-release redetermination must have their coverage reinstated upon release
- For juveniles and FFY who were not enrolled in Medicaid prior to becoming an inmate, states must process new applications submitted by them—or by someone on their behalf—in a timely enough manner to ensure coverage is available to them upon release if they are determined eligible



## All States Must Meet SUPPORT Act Requirements; Expansion States Have New Imperative to Support Justice-Involved

In states that have expanded Medicaid, adults leaving jail or prison are often eligible to enroll in Medicaid upon release, well positioning them to better connect to needed care.

- As of June 2019, 34 states and the District of Columbia expanded Medicaid to all adults with incomes below 138 percent of the federal poverty level (FPL)
- Many states have focused on enrolling eligible adults into Medicaid before they re-enter the community, ensuring that coverage begins immediately upon release
- As states gain more expertise enrolling these individuals into Medicaid, it is becoming clear that simply signing people up for coverage is not enough

**All states must determine how to effectively deliver care to people leaving prison and address the numerous barriers to securing housing, food, and other social supports that affect health outcomes**

# Justice-Involved Populations Have Significant Medical and Behavioral Health Needs

People leaving prison or jail have high rates of mental illness, substance use disorders, and physical health problems, and experience significant challenges addressing basic social needs such as housing and other social determinants of health

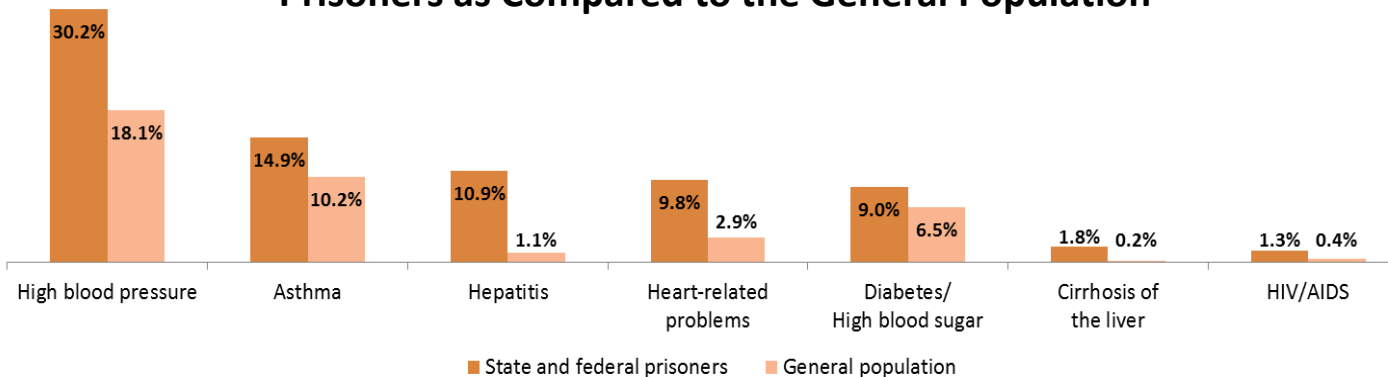


64% of jail inmates, 56% of state prisoners, and 45% of federal prisoners were found to have a mental health problem.



**2 of 3** inmates have a substance use disorder

Rates of Chronic Physical Health Conditions for State and Federal Prisoners as Compared to the General Population



The mortality rate in the two weeks after release from prison is **12.7 times** the normal rate, driven largely by overdoses

# Addressing the Needs of Justice Involved Populations: Health, Societal & Fiscal Impacts

## Improvements In:

- Medicaid coverage for at-risk populations
- Access to services: behavioral and physical health, care management, Rx drugs
- Connections to care management
- Better health outcomes
- Public safety



## Reductions In:

- Hospitalizations
- Emergency room use
- Overdoses and death
- Arrest rates
- Recidivism
- Homelessness

# **Federal Requirements Related to Medicaid and Justice Involved Populations**

# Federal Guidance: What Constitutes an Inmate?

Understanding the definition of “inmate” is critical for states implementing the SUPPORT Act requirements and looking more broadly at their options for connecting this high-needs population to coverage and care upon release. Medicaid Federal Financial Participation is not available for an inmate in a public institution, with limited exceptions (aka the “inmate exclusion”)

**Definition of inmate:** Individual of any age who is “**in custody and held involuntarily** through operation of law enforcement authorities **in a public institution**, other than a child care institution, publicly operated community residence that serves no more than 16 residents, or a public educational or vocational training institution for purposes of securing educational or vocational training.”



Per federal guidance, FFP is **not available** for individuals who are in settings where they do not have freedom of movement. For example,:

- Jails and state and federal prisons
- Federal Residential Re-entry Centers; and
- Residential mental health and substance use disorder treatment facilities for inmates

FFP is **available** when individuals are in non-restrictive settings, such as:

- On parole, probation or released to the community pending trial, living in a halfway house, or living in a public institution voluntarily

SHO 16-007, “[To Facilitate Successful Re-entry for Individuals Transitioning from Incarceration to their Communities,](#)” (April 28, 2016).

# Federal Requirements for Health Care Facilities Serving Justice-Involved Individuals

- **Medicaid FFP is available for services provided to justice involved populations during an inpatient stay of at least 24 hours in a medical institution.**
- **To qualify for Medicaid payments, hospitals must meet Medicare/Medicaid certificate of participation requirements, including:**
  - Not maintaining custody of an individual for law enforcement purposes;
  - Not establishing separate units for justice-involved individuals, although a hospital can have units that specialize in care for people with violent behaviors;
  - Requiring law enforcement personnel to be physically present with justice-involved individuals at all times; and
  - Performing medical interventions only for diagnosis or treatment, not for law enforcement purposes
- **Medical institutions must demonstrate continuous compliance with federal requirements to receive Medicaid payments**

***Prison-run nursing homes and hospitals are ineligible for Medicaid FFP, including when operated by a private contractor.***

[Guidance to Surveyors on Federal Requirements for Providing Services to Justice Involved Individuals](#), (May 3, 2016)

# **Emerging State Practices that Enable Continuity of Coverage and Care**

# Opportunities for Continuity of Coverage and Care

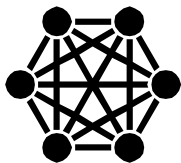
States have pursued multiple approaches to better position eligible individuals to get (or maintain) Medicaid coverage and to connect to needed health care and social services upon release into the community.



**Suspend Medicaid Upon Entry or Enroll in Coverage Prior to Release from Prison/Jail**



**Facilitate Discharge Planning to Promote Care Coordination Prior to Release**

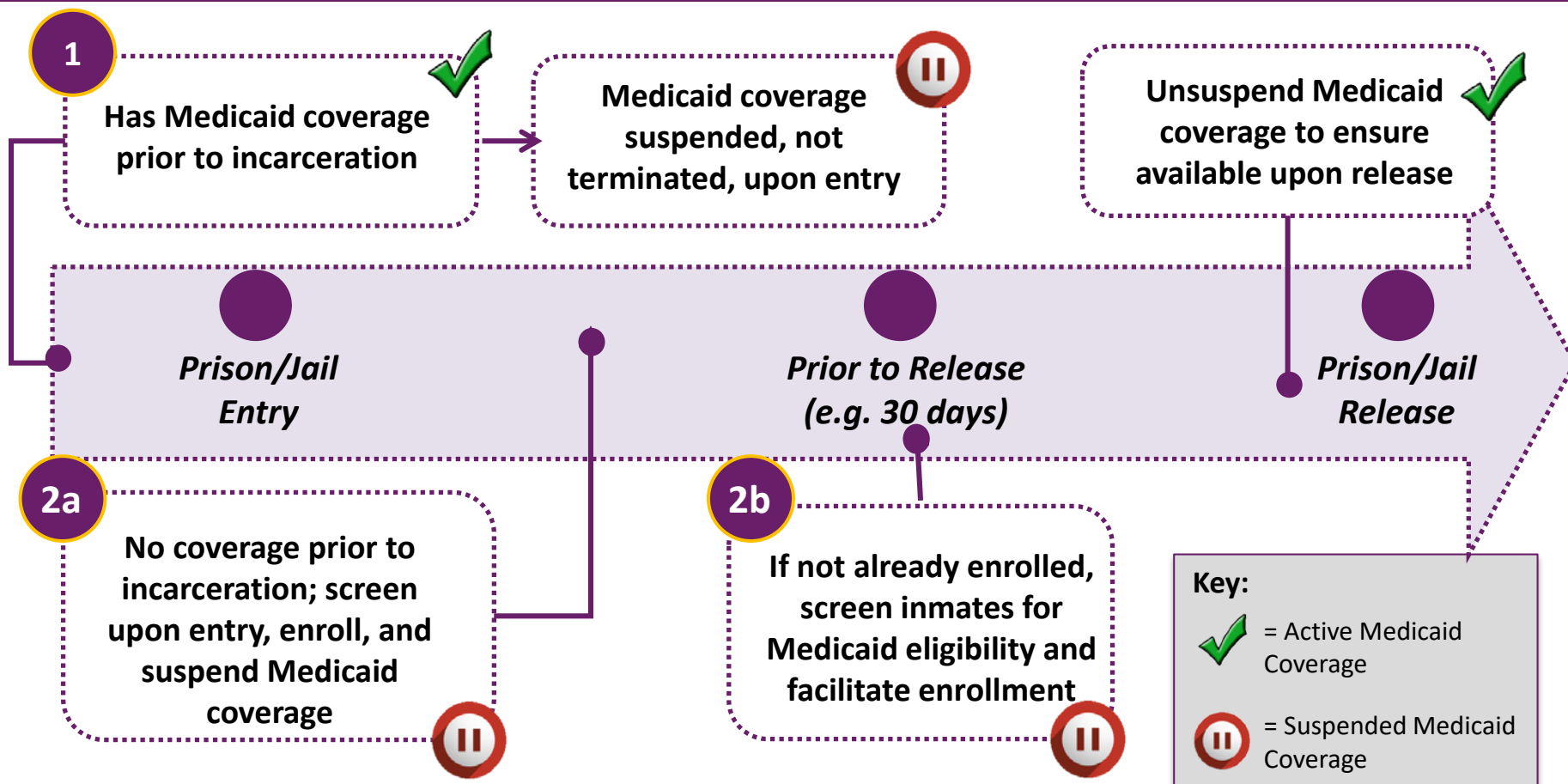


**Establish Linkages to Resources that Address Social Needs**



# Enroll and/or Suspend Medicaid Upon Entry to or Prior to Release from Prison/Jail

Many states already have enrollment and/or suspension processes in place for juveniles and adults. Now all states will need to implement these processes for juveniles and former foster care youth in order to comply with the SUPPORT Act requirements.





# Suspending Medicaid During Incarceration

With suspension, an inmate's Medicaid eligibility is maintained while incarcerated, but the state Medicaid agency ensures that reimbursement is limited to covered inpatient services in a medical institution

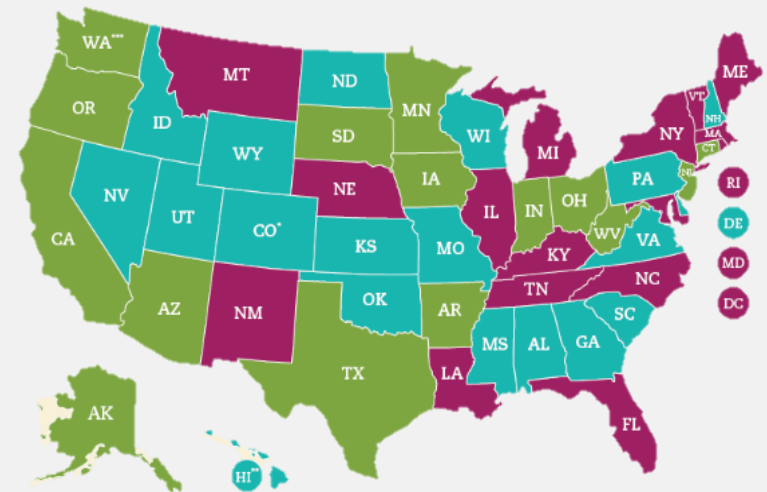
## Benefits

- Allows correctional institutions to bill Medicaid for allowable inpatient services
- May be easier to “re-activate” coverage than to initiate new application
- Helps ensure timely coverage upon release

## Challenges

- Requires coordination between corrections and Medicaid agency
- Requires IT eligibility and enrollment and/or MMIS system changes
- Changes in incarceration status can occur with little notice, making timely reactivation challenging

## State Policies on Suspending and Terminating Medicaid for People Entering Prison or Jail\*



As of May 16, 2016

- Suspension (17 states)
- Time-Limited Suspension (15 states)
- Termination (19 states)

\*1) CO passed law changing policy to time-limited suspension but state has not yet implemented law  
2) HI passed law changing to indefinite suspension but state has not yet implemented law  
3) WA passed SB 6430, which allows for indefinite suspension; implementation planned for July 1, 2017



# States Conduct “In-Reach” into Jails and Prisons to Begin Care Planning Prior to Release

Several states use their Medicaid managed care contracts to require plans to conduct “in-reach” into prisons. The SUPPORT Act opens the door for states to receive Demonstration approval to obtain Medicaid financing to conduct this in-reach 30 days pre-release.

- Plans or providers send a clinician (e.g., social worker or nurse) into a jail or prison or set up a video conference for the clinician to meet with an inmate prior to release
- The meeting typically consists of a physical and behavioral health assessment, a medication review, and the development of a post-release care plan identifying how the person will receive their health care and related social services, and where the inmate intends to live

## In-Reach by Ohio’s Medicaid Managed Care Plans

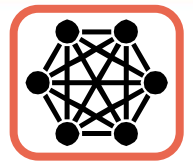


- Inmates are enrolled in Medicaid 90 days prior to release and must select a managed care plan
- All managed care plans are contractually required to conduct in-reach to assess members’ needs and identify a PCP
- Care coordination is provided to all inmates, with additional assessment and planning requirements for members with a serious illness

## Molina In-Reach Pilot in New Mexico



- Molina care coordinators are trained to work in the Albuquerque jail, receive security clearance, and meet inmates in-person twice a week
- The pilot has contributed to reducing the recidivism rate from 57% to 16% since 2015 and reducing ED use after release by 64%
- Additionally, all plans are required to participate in care coordination efforts for members leaving detention
- Plans must also designate a point of contact for jails, prisons, and detention centers



# Plans and Health Homes Emphasize Addressing Social Determinants of Health

Despite the serious health conditions affecting recently released individuals, they are often more concerned with finding a home and food than securing medical treatment or filling prescriptions

- Medicaid managed care plans and health homes conduct comprehensive assessments that include detailed questions on social and economic issues, provide linkages to social supports and case management, and, in some instances, linkages to networks of community-based organizations that provide services

Housing tends to be the most pressing issue confronting people leaving jail or prison

## Brooklyn Health Home Focuses on Housing and Social Issues



- New York's Brooklyn Health Home, operated by Maimonides Medical Center, serves Medicaid beneficiaries with significant behavioral health issues and chronic conditions, including a large population of people with a history of incarceration
- 400 community-based care managers spend 70%-80% of their time in the field working directly with clients to find housing, complete applications, and provide assistance navigating medical treatment
- Brooklyn Health Home has established formal relationships with housing organizations and trained its care managers on completing housing applications through the city's Human Resources Administration system

# **Spotlight: New York's Approach to Continuity of Care for Justice-Involved Populations**

# Spotlight on New York: Medicaid and Justice Involved Initiatives

New York has engaged in a multi-prong strategy to connect the criminal justice population to health care as they re-enter the community

- **Health Home Criminal Justice Workgroup:** a NY Department of Health-sponsored statewide group convened around the opportunities for the Medicaid Health Homes to engage the criminal justice population
- **The Justice and Mental Health Collaboration Program:** Program administered by the NY Division of Criminal Justice Services in partnership with the NYS Office of Mental Health to improve outcomes for individuals with mental illness by enhancing criminal justice and behavioral health collaboration at the local government level
- **Other Initiatives:** Various health care, community provider and criminal justice collaborations working with criminal justice involved Individuals (at the local municipality and county level)

# Spotlight on New York: Pursuit of 1115 Waiver Amendment for Justice Involved Populations

New York state is pursuing an innovative 1115 waiver amendment application to provide Medicaid coverage for justice-involved populations 30 days prior to release from a correctional facility

- **Approval of New York's 1115 waiver amendment would allow for provision of targeted Medicaid services to eligible justice involved populations 30 days prior to release from a correctional facility**
- **New York is seeking FFP for the provision of the following services:**
  - Care management including: “in-reach,” a care needs assessment, a discharge care plan, referrals to appointments and social services
  - Clinical consultation services by community-based medical and behavioral health providers
  - Medication management plan and select medications to support long term stability post release
- **Individuals eligible for these services must have two or more chronic physical/behavioral health conditions, a serious mental illness and/or HIV/AIDS**

# Discussion



# Thank You

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