

Health Care Funding for Youth in Custody

Position Statement

The National Commission on Correctional Health Care (NCCHC) supports equity in access to and funding for health care and recommends that all youth in public and private detention and confinement facilities remain eligible for all public (e.g., Medicaid) and private health care coverage, consistent with federal, state, and local eligibility requirements:

- Consistent with Section 5121 of the Consolidated Appropriations Act of 2023, each state must implement a plan to provide screening and diagnostic services (including a behavioral health screening or diagnostic service) to eligible youths in the 30 days before their release, or not later than 1 week, or soon as practicable, after release. Each state must also provide targeted case management for at least 30 days prior to release and for at least 30 days postrelease.
- Consistent with Section 5122 of the Consolidated Appropriations Act of 2023, states may opt to provide Medicaid and Children's Health Insurance Program (CHIP) benefits for eligible youth while they are in custody pending disposition of charges.

NCCHC further advocates that states and jurisdictions:

- Ensure seamless Medicaid coverage and continuity of care with no disruption in coverage for youth in custody.
- Implement policies and practices that assist children and adolescents in applying for or reactivating health insurance, including Medicaid or CHIP, prior to release.
- Participate in the Medicaid Reentry Section 1115 Waiver Demonstration Opportunity.

Discussion

Youth in custody represent an especially vulnerable population at high risk for illness and disability. Early diagnosis and treatment of acute and chronic health conditions and continuity of care are essential. Every young person in the United States deserves equitable access to health care regardless of placement in public or private facilities.

When youth in juvenile detention and confinement facilities return to their communities, it is important that they receive adequate support to help them reach their full potential and maximize their health. That support includes essential health care services, such as early diagnosis and treatment for acute and chronic diseases and mental health challenges. The likelihood that needed health care will be provided postrelease is contingent upon the availability of funding for those services.

Justice-involved youth are disproportionately poor, minoritized, and from socially and economically disadvantaged families. Medicaid is often the only available source of insurance coverage while in the community. Youth placed in foster homes, private residential facilities, or group homes remain eligible for Medicaid, ensuring that the federal and local governments share the required health care cost. Eligibility is often lost, however, while detained and is often difficult to initiate or reinstate upon release.

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Historically, federal regulations disallowed any federal reimbursement for health services to people in custody, including youth, in a provision of the Social Security Act known as the “federal inmate exclusion.”¹ Instead, local governments (e.g., states, counties, cities) were responsible for financing needed health care, often resulting in inequities in access to and quality of care.

In 2014, the Affordable Care Act (ACA) expanded insurance coverage, providing opportunities for many youth in correctional settings. The ACA led to the expansion of Medicaid in many states, established health insurance exchanges with subsidies for low-income families, extended coverage under parents’ health insurance to age 26, and removed exclusions for preexisting physical and mental health conditions.

In December 2022, Congress passed the Consolidated Appropriations Act of 2023, authorizing federal expenditure for youth being released from “public institutions” (including youth in custody).^{1,2} This legislation, which takes effect in January 2025, requires states to have a plan in place for youth who are post-adjudication (i.e., sentenced by the court) being released from public institutions to receive screening and diagnostic services and targeted case management services in the 30 days prior to release. The legislation also requires targeted case management and referrals for health needs and health-related social needs, such as nutritious food, affordable housing, and convenient transportation, for at least 30 days postrelease. The legislation gives states the option to provide Medicaid and CHIP coverage to youth in public institutions during the period “pending disposition of charges” (i.e., the youth has been charged with an offense and is detained while awaiting the outcome of the charges) and receive federal financial participation under Medicaid or CHIP, as described by the Centers for Medicare & Medicaid Services (CMS).¹

In April 2023, CMS released guidance on a Medicaid Reentry Section 1115 Waiver Demonstration Opportunity that allows state Medicaid programs to cover a set of prerelease services for people who are incarcerated in state prisons, jails, and juvenile facilities. The policy change allows states to provide a specific set of Medicaid-covered services to individuals during the 90 days before their anticipated release from incarceration. The minimum services that states must provide to be approved for the waiver program are case management, medication-assisted treatment, and a 30-day supply of medications upon release. States can go beyond those three services in designing their service package and have flexibility to identify which populations are covered and which facilities provide services.

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October 2014 – reaffirmed

October 2019 – reaffirmed

January 2025 – reaffirmed with revision by the National Commission on Correctional Health Care Governance Board

Note: Earlier versions of this statement were titled Health Care Funding for Incarcerated Youth.

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References

- ¹ Centers for Medicare and Medicaid Services. (2024, July 23). *RE: Provision of Medicaid and CHIP services to incarcerated youth*. <https://www.medicare.gov/federal-policy-guidance/downloads/sho24004.pdf>
- ² Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459 (2022). <https://www.congress.gov/bill/117th-congress/house-bill/2617/text>