NATIONAL COMMISSION ON CORRECTIONAL HEALTH CARE

Optimizing Insurance Coverage for Individuals Pre- and Postrelease

Position Statement

The National Commission on Correctional Health Care (NCCHC) supports optimizing health insurance coverage and continuity as an important way to improve health care for people in carceral facilities.

Discussion

Most individuals imprisoned in federal and state prisons and a large proportion of people in jails lack health insurance, yielding worse health care access postrelease, disruptions in continuity of care for serious conditions, heightened relapse risk for many health issues, and death. Lack of insurance coverage postrelease, particularly for mental health and substance use disorder services, increases the risk of rearrest, poor health outcomes, and becoming unhoused.

Local jails admit more than 7 million individuals each year[1], half of whom have serious chronic health conditions, while nearly two thirds suffer from major mental illness. More than half of people in prison have drug dependency issues, with half having coexisting mental health and substance use disorder diagnoses.[2]

The Affordable Care Act (ACA) created unprecedented opportunities for improving health care coverage for correctional populations postrelease. Among states with expanded Medicaid, eligibility is extended to individuals with household incomes at up to 138% of the federal poverty level, while the ACA insurance exchanges (“Marketplace”) offer subsidized private insurance through tax credits for individuals with incomes of 100% to 400% of the federal poverty level.[3] Notably, people who are detained but not convicted are eligible to apply for subsidized private insurance while in jail. Insurance coverage improves access to needed medical and behavioral treatment and can potentially reduce costly recidivism.

Federal and state legislation, funding opportunities, and Centers for Medicare and Medicaid Services (CMS) actions relevant to incarceration are changing rapidly, and facilities should stay current with the latest updates. The Consolidated Appropriations Act, 2024 (effective January 1, 2026) prohibits state Medicaid programs from terminating a person’s eligibility (i.e., disenrollment) for Medicaid or the Children’s Health Insurance Program (CHIP) because the person is incarcerated. The bill also establishes a grant program and funding to support continuity of care for incarcerated individuals who are eligible for Medicaid or CHIP, including supporting the restoration of coverage after the individual’s release. CMS will issue guidance on implementation.

CMS incentive programs offer financial payments to providers who optimize their use of health information technology, including use of electronic health records. However, to qualify for these payments, at least 30% of patients under the provider’s care must be Medicaid eligible. Those whose Medicaid has been suspended may be counted as Medicaid eligible. Thus, suspending rather than terminating Medicaid offers opportunities for improving care continuity and a means to support electronic health records in jails and detention facilities.

In contrast to Medicaid, private insurance coverage extends to pretrial detainees, meaning that health care provided during pretrial detention is potentially covered by the detainee’s insurance, providing another source

of needed revenue for health care within these facilities. However, many commercial policies exclude coverage for people who are detained or incarcerated.

In April 2023, CMS released guidance to encourage states to apply for a new Medicaid Reentry Section 1115 Demonstration Opportunity to Increase Health Care for People Leaving Carceral Facilities waiver. This opportunity allows state Medicaid programs to cover services that address various health concerns, including substance use disorders and other chronic health conditions, before correctional release. The goal is to help Medicaid enrollees establish connections to community providers to ensure their health care needs are met during their reentry process from jail or prison. The minimum services states must provide to be approved for a waiver are case management, medications to treat substance use disorder, and a 30-day supply of medications upon release. States can go beyond these three services in designing their service package and also have flexibility in identifying which populations are covered, and which facilities provide services. At the time this position statement was written, several states had approved waivers and many others had waiver proposals pending.

Suspension vs. Termination of Medicaid Coverage
States should adopt policies that minimize termination of Medicaid coverage for jail detainees and expand Medicaid. Suspending coverage significantly expedites the activation of Medicaid upon release, thus improving continuity of care. Allowing five days to lapse before suspending Medicaid provides ample time for the individual to be bailed or released, eliminating the need to request reactivation. Suspending Medicaid also allows the individual to be counted for “meaningful use” requirements, enabling more jail health care systems to qualify for payments for electronic health record systems. Expanding Medicaid will ensure that large portions of low-income individuals will have health insurance.

Discharge Planning
As part of early discharge planning, facilities should strive to assist individuals with the appropriate insurance application before release. Prisons should take advantage of federal funding for insurance navigators to facilitate this process. This may be achieved through partnerships with community agencies that provide care to these patients after release. As part of early discharge planning for detainees who have been in custody for an extended period, jails should assist them with the insurance application before release. Discharge planning is often enhanced with partnerships with community organizations, including insurance navigators that provide in-reach into jails. States should consider applying for funding through 1115 Medicaid waivers to assist with reentry.

Enrollment and Coverage in Private Insurance for Jail Detainees
When feasible, jails should help potentially eligible individuals to enroll in health insurance exchanges. They should also develop systems for billing private insurance, when possible, as a revenue source for health care services.

April 12, 2015 - adopted by the National Commission on Correctional Health Care Board of Directors
May 2020 - reaffirmed with revisions
August 2024 - reaffirmed with revision by the National Commission on Correctional Health Care Governance Board

Learn More

- Health Coverage for Incarcerated People
- National Association of Counties – Federal Policy Impacts on County Jail Inmate Healthcare & Recidivism

References

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2. Survey of Prison Inmates, 2016, Alcohol and Drug Use and Treatment Reported by Prisoners. https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/adutrpspi16st.pdf
3. Medicaid expansion and what it means for you. (n.d.). HealthCare.Gov. https://www.healthcare.gov/medicaid-chip/medicaid-expansion-and-you