



Frequently Asked Questions on Medicaid Reentry (updated January 2024)

What is Medicaid reentry?

Medicaid reentry refers to the concept of using federal Medicaid funds to pay for transitional health care services as people return home from prison and jail. Currently, federal law prohibits federal Medicaid dollars from being used to fund health care for people who are incarcerated.

Why is Medicaid reentry important?

By improving access to Medicaid coverage and needed health care services as people prepare to return to the community from prison/jail, Medicaid reentry would strengthen reentry outcomes, improve individual and public health, and promote greater racial justice and equity. People reentering the community are 129 percent more likely to die from a drug overdose and are at significantly higher risk to die by suicide. Untreated mental health and substance use disorders are a significant driver of the overrepresentation of Black and Brown people in jails and prisons. Strengthening people's access to quality community-based health care upon reentry would foster racial justice and equity by improving Black and Brown people's health outcomes and reducing rates of re-involvement with the criminal legal system. Allowing for Medicaid coverage just prior to release also would reduce the use and costs of emergency departments, hospitalizations, and other medical expenses connected to health care needs upon reentry.

What work is the Biden-Harris administration doing on Medicaid reentry?

The administration, through the Department of Health and Human Service's Centers for Medicare and Medicaid Services (CMS), is doing significant work to implement Section 5032 of the SUPPORT Act, which required CMS to convene a best practices stakeholder group to inform the development of policy guidance on continuity of care for people in the criminal legal system.

On April 17th, CMS/Medicaid released a [State Medicaid Director letter](#) that outlines the opportunity for states to develop Section 1115 demonstration projects to strengthen care transitions for people preparing to leave incarceration and for the first time allows for federal Medicaid dollars to finance care provided to people who are preparing to return home from jails, prisons and juvenile carceral settings. This opportunity represents the first time that federal Medicaid dollars are being allowed to finance needed transitional health care for people preparing to reenter the community from jails/prison.

What are the goals of CMS's new Medicaid reentry opportunity?

- Increasing coverage, continuity of coverage, and service uptake
- Improving access to services before release and care continuity to the community
- Strengthening coordination and communications with corrections, Medicaid, managed care, and community-based providers
- Increasing investment in health care and related services
- Improving communications between carceral settings and community services
- Reducing death post-release and reducing ER use and inpatient hospitalization

Which benefits are required to be covered in the new Medicaid reentry demonstration opportunity?

CMS/Medicaid largely leaves it up to the states to determine which services/medications are covered but their guidance does make clear that the agency expects the benefit package to be “sufficiently robust.”

CMS states that the agency expects that all states participating in this demonstration opportunity will at minimum cover the pre-release benefit package which includes the following:

- Case management to assess and address physical and MH/SUD needs
- Medication-assisted treatment; the guidance includes language encouraging states to use all FDA-approved addiction medications and to leverage this and other CMS opportunities to strengthen MOUD access to all incarcerated people, not just reentering people who are receiving Medicaid benefits as a part of this demonstration opportunity
- A 30-day supply of prescription medications

CMS/Medicaid also encourages states to cover a full array of services to address health-related social needs including housing supports and services to address food insecurity.

Which service providers are eligible to provide services under the new Medicaid reentry demonstration?

CMS’s guidance expresses a preference for states to engage with community-based service providers but does allow states to use carceral health providers to provide covered services. Jail/prison health entities that provide services through this demonstration project must comply with state Medicaid provider policies.

How long before a person is released from prison/jail can federal Medicaid dollars finance needed care?

CMS’s guidance references the 30-day time period established by the SUPPORT Act and makes clear that that authority granted was specific to improving transitions to the community at reentry. CMS further clarifies that states that only seek to improve coverage and care transitions will be limited to receiving reimbursement for up to 30 days. However, there is an opportunity for states to collect beyond 30 days of federal reimbursement. To receive federal reimbursement for additional days of services, CMS asserts that states will need to go beyond improving care transitions and test other things that further the goals of the Medicaid program. For example, under [California’s approved Medicaid reentry waiver](#), the state is providing short-term enrollment assistance to identify and treat chronic illness, to reduce use of acute care and *to test whether pre-release services improve utilization and continuity of MAT and other SUD and MH services*. Testing this novel approach falls under a different CMS expenditure authority and allows California to collect up to 90 days of FFP/federal Medicaid reimbursement. Most people preparing to reenter the community from incarceration are eligible for Medicaid through the Affordable Care Act’s Medicaid expansion provisions, which provide an enhanced 90 percent federal share for benefits provided, a significant opportunity for states/localities to build community capacity of SUD, MH, and other needed health care.

What are some additional key provisions of Medicaid’s new reentry demonstration opportunity?

- CMS/Medicaid urges and expects states to include people with lived experience in design and implementation of their demonstration projects
- CMS/Medicaid states that the agency’s expectation is to only approve a state’s 1115 reentry waiver application if the state has developed a Medicaid coverage suspension (rather than termination) system. States that terminate will be given two years to convert to suspension.
- CMS/Medicaid further requires that pre-release outreach services with Medicaid eligibility screening and enrollment support be provided to all incarcerated individuals in facilities participating in the demonstration.
- Under this opportunity, CMS allows states to receive enhanced federal funding for a number of administrative services and system improvements which traditionally receive a lower share of federal Medicaid financing. A 90/10 federal/state reimbursement match rate will apply to services related to the

design, development and implementation of certain systems and system improvements to support eligibility determinations and enrollment, and health information technology.

- The CMS guidance makes clear that states will need to reinvest federal matching funds they receive for services they have already been providing to improve health care quality and care access for incarcerated people (not just those people close to reentry) and formerly incarcerated people in their communities. States are also encouraged to reinvest these dollars for health-related social services that may help prevent or reduce the likelihood of criminal justice system involvement. States are required to develop and submit to CMS reinvestment plans.

How are states approaching the new Medicaid reentry demonstration opportunity?

Since 2016, when New York became the first state to seek CMS permission to use federal Medicaid dollars for transitional health services at reentry, a number of diverse states (including AZ, CA, DC, IL, KY, MA, MT, NC, NH, NJ, NM, NY, OR, RI, UT, VT, WA, and WV) have developed/submitted Medicaid reentry waiver requests to CMS.

[California](#) and [Washington](#) were the first states to receive CMS approval for the waivers they developed, consistent with [CMS's recent guidance](#) that details "Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated." Many states are working to develop their own demonstration projects, or to adapt a previous application based on CMS's new guidance. All state proposals will likely follow the model established in California's approved waiver. More about California's Medicaid reentry waiver can be found [here](#). Recent state proposals include:

- North Carolina's recent submission to CMS of its own [Medicaid reentry waiver proposal](#)
- Arkansas's [Medicaid reentry demonstration proposal](#) which was submitted to CMS in December 2023

What is Congress doing on Medicaid Reentry?

Congress is also considering the Medicaid Reentry Act, which would change Medicaid law to allow states to use federal Medicaid dollars to support transitional health care services for Medicaid-eligible people in the last 30 days of incarceration. The Medicaid Reentry Act, HR 955 in the U.S. House and S.285 in the U.S. Senate, is bipartisan legislation which was approved by the House of Representatives in 2021. The Medicaid Reentry Act enjoys significant support from a number of stakeholder groups including the mental health/substance use disorder advocacy community, health consumers, law enforcement, and those advocating for criminal legal system reform.

What next steps should we expect?

- Approval by CMS of additional Medicaid reentry demonstration projects and submission of 1115 waiver applications by additional states
- Continued discussion in Congress about passage of the Medicaid Reentry Act.
- Additional work in the states to improve Medicaid coverage and continuity of care for people leaving prison/jail.

What can I do to advance Medicaid reentry in my community/state?

- Learn about your state's current policies and practices on connecting Medicaid-eligible people in the criminal legal system with Medicaid at reentry; questions to consider:
 - Has your state developed or is it in the processing of developing a Medicaid reentry demonstration?
 - Does your state suspend or terminate Medicaid and through what mechanism? Does your state have different Medicaid policies for the jail and prison populations? When is Medicaid suspended or terminated (immediately? After 30 days of incarceration? After 60 days?) Is the suspension time-limited (i.e., although Medicaid may initially be suspended, is it later terminated after an individual has been incarcerated for one year?) What the processes are for redetermination,

reenrollment, and reactivation? What changes should be made to make Medicaid coverage continuous and care available without interruption?

- Do community-based MH and SUD providers provide in-reach services before individuals leave incarceration and reenter to the community? Which state and/or federal dollars can be leveraged to expand in-reach and improve health outcomes for people leaving incarceration?
- What are the specific care access barriers for justice-involved people in your state? Are there initiatives, including those led by peers, that focus on providing health literacy and navigation services for justice-involved people? Can Medicaid be utilized to finance these initiatives?
- Learn about [work happening around the country](#) to better leverage Medicaid to strengthen health and justice outcomes for people in the criminal legal system; consider other states' specific policies and guidances, including MOUs between corrections and Medicaid agencies, that may be adapted and replicated.
- [Contact LAC](#) for help in promoting Medicaid reentry in your state.

What if my state hasn't yet expanded Medicaid under the Affordable Care Act? Is there anything I can do to promote Medicaid reentry in my state?

States that haven't yet fully expanded Medicaid may be less likely to participate since fewer reentering people will be Medicaid eligible and states/localities will have less ability to collect federal matching dollars.

Although state Medicaid agencies need sign-off from the Governor's office to apply for Medicaid Reentry waivers, consider whether there might be synergy between a Medicaid reentry waiver and other state Medicaid waivers or initiatives. Related state activities that could help make the case for your state to pursue a Medicaid reentry waiver could include work at the executive or legislative level on:

- Criminal legal system reform, including making reentry more successful
- Strengthening access to mental health or substance use disorder care, particularly Medications for Opioid Use Disorder (MOUD)
- Policy reforms to prevent deaths by overdose or suicide
- Practice reforms to reduce use of emergency departments and hospitalization
- Determining the use of your state's share of opioid settlement funds
- Better addressing health-related social needs, including related to housing and nutrition supports

If your state isn't yet planning to pursue a Medicaid reentry waiver, there is still work stakeholders can do.

Possible areas of focus include:

- Deepening collaboration with other stakeholders working to improve equitable health outcomes, strengthen care access, and improve successful reentry; work in coalition to advance your many shared priorities
- Additional cross-health/justice systems work between health/justice stakeholders and decision-makers including a landscape review to identify strengths and gaps in your state's health/justice policies and practices
- Advancing reforms that strengthen coverage for people who are eligible for Medicaid and leaving incarceration
- Considering whether there are other dollars that can be leveraged to support in-reach by community providers, including peer-led services

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