

All-State Medicaid and CHIP Call

April 18, 2023



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All State Call Agenda

Agenda

- Reentry Section 1115 Demonstration Opportunity
 - Background on Reentry Section 1115 Demonstration Opportunity
 - Guidance on Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated (SMD# 23-003)
 - Q and A
- Open Q and A related to unwinding and any other policy questions

Background on Reentry Section 1115 Demonstration Opportunity

- Medicaid and inmates of a public institution:
 - Medicaid regulations at 42 Code of Federal Regulations (CFR) 435.1010 define an inmate of a public institution as **"a person living in a public institution"** and define a public institution as **"an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control."**
 - **A correctional institution is considered a public institution** and may include state or federal prisons, local jails, detention facilities, or other penal settings (e.g., boot camps, wilderness camps).
 - CMS considers an individual of any age to be a inmate **if the individual is in custody and held involuntarily through operation of law enforcement authorities** in a public institution.

Background on Reentry Section 1115 Demonstration Opportunity (continued 1)

- Medicaid inmate of a public institution payment exclusion:
 - Individuals who are held involuntarily in a public institution may be eligible for and enrolled in Medicaid, but **federal Medicaid funds may not be used to pay for services** for such individuals while they are incarcerated.
 - Payment exclusion does not apply to institutional care (e.g., inpatient hospitals, nursing facilities, etc.).

Background on Reentry Section 1115 Demonstration Opportunity (continued 2)

- Section 5032 of the SUPPORT Act: The Medicaid Reentry Act
 - Directs the Secretary of HHS to convene a stakeholder group to **develop best practices and submit a report to Congress (RTC)** summarizing those best practices.
 - Directs the Secretary to **issue a State Medicaid Director letter (SMDL)** based on those best practices to inform the design of a section 1115 demonstration opportunity.



Background on Reentry Section 1115 Demonstration Opportunity (continued 3)

- Numerous studies show incarcerated individuals **experience high rates of physical and behavioral health conditions**:
 - Approximately **37 percent of people in prisons** and **44 percent in jails** have a **history of mental illness**.
 - The **rate of substance use disorders (SUDs)** in incarcerated individuals may be as high as **65 percent in prisons**.
- **Improving health care transitions** for incarcerated individuals is critically important.
- Many of these individuals are Medicaid eligible.
- **Access to services pre- and post-release** may provide these individuals with more stability.

Guidance: Demonstration Goals

- The Reentry Section 1115 Demonstration Opportunity will address the following goals:
 - **Increase coverage, continuity of coverage, and appropriate service uptake;**
 - **Improve access to services;**
 - **Improve coordination and communication;**
 - **Increase additional investments in health care and related services;**
 - **Improve connections between carceral settings and community services;**
 - **Reduce all-cause deaths; and**
 - **Reduce number of emergency department (ED) visits and inpatient hospitalizations.**

Guidance: Quality and Health Equity

- States should consider how to **advance quality of care and close health disparity gaps** by:
 - **Promoting access** to coverage, care, transitions to the community, and quality of services; and
 - **Addressing** health related social needs (HRSN).
- CMS strongly encourages states **to engage individuals with lived experience** in the demonstration design and implementation.

Guidance: Eligible Individuals

- Medicaid eligible individuals who are currently incarcerated, but close to release may be included in this demonstration.
 - This could include current Medicaid beneficiaries as well as individuals who are not currently enrolled.
- States have the **flexibility to target the population further** and should establish identification criteria.
 - For example, states may target the population to individuals with specific conditions, such as a SUDs, serious mental illnesses (SMIs), etc.
 - As states develop identification criteria and processes, they should be mindful of establishing identification criteria for individuals with undiagnosed conditions.

Guidance: Medicaid Eligibility and Enrollment

- States **should work with correctional facility partners** to start the application process and assist already incarcerated individuals to apply for Medicaid. The state should assist with applications upon incarceration and **no later than 45 days before** the individual's expected date of release.
- Once enrolled, states are expected to **suspend and not terminate eligibility**.
 - Suspending (rather than terminating) eligibility supports the goals of ensuring states limit coverage and payment to authorized Medicaid benefits and services during incarceration and making coverage and payment for full Medicaid benefits and services available as soon as possible upon release.
 - States that cannot do suspension now may propose alternative policies and procedures while they implement suspension. A glide path of up to two years to implement this fully may be provided.

Guidance: Medicaid Eligibility and Enrollment (continued)

- States may **utilize presumptive eligibility (PE)** to connect individuals to coverage.
 - Permitting local jails and prisons to serve as qualified entities allows them to make determinations of PE prior to a person’s release, **providing immediate access to health coverage upon reentry** while the individual applies for Medicaid or waits to learn if they qualify for Medicaid.
 - CMS encourages states to **consider utilizing PE for individuals who are anticipated to have short-term stays** and enroll individuals who are likely eligible under a state’s Medicaid eligibility guidelines for a temporary period of time.
 - **Individuals should be informed that filing a full Medicaid application is necessary for coverage to continue**, and states may require jails or prisons serving as qualified entities assist individuals in completing a full Medicaid application during the PE period prior to date of release.

Guidance: Carceral Settings

- States may include individuals in state and/or local jails, prisons, and/or youth correctional facilities for pre-release services.
 - States have the **discretion** to propose the **types of carceral settings** and **individual carceral facilities for participation**.
 - States **may propose a phased approach** to adding carceral facilities.
 - Participating states will **conduct a readiness assessment of carceral settings** before implementing the demonstration in those locations.
- States may include individuals in federal prisons to help them submit Medicaid application(s).
 - However, **federal prisons are otherwise not included** in the demonstration as a setting in which pre-release services are provided.

Guidance: Scope of Health Care Services

- States are expected to include the following as a minimum pre-release benefit package:
 - **Case management** to assess and address physical and behavioral health needs, and health related social needs (HRSN);
 - **Medication-assisted treatment (MAT)** services, as clinically appropriate, with accompanying counseling for all types of SUD; and
 - **A 30-day supply of all prescription medications**, as clinically appropriate based on the medication dispensed and the indication, provided to the individual immediately upon release from the correctional facility.

Guidance: Scope of Health Care Services (continued)

- States are encouraged to consider **covering additional services**.
 - For example, family planning services and supplies, peer supporters and community health workers with lived experience, behavioral health rehabilitative or preventive services, and treatment for Hepatitis C.
 - Additional services should be **based on the needs** of the carceral populations.
 - States should **provide justification** for such services, and must capture those services in the demonstration monitoring and evaluation.

Guidance: Details About Scope of Health Care Services

- Case management **includes the activities coverable under the targeted case management services benefit.**
 - Pre-release case management **should build a bridge** to post-release physical health, behavioral health, and HRSN services.
 - The **case manager may be different** between pre- and post-release services.
 - A **warm hand-off is necessary** to ensure continuity of services.
- In order for states to be **permitted** under this demonstration opportunity to **seek pharmacy rebates, all covered outpatient drugs must be provided** pre-release and meet the Medicaid Drug Rebate program section 1927 requirements.
 - To the extent a state **provides less than full outpatient drug coverage**, including only MAT drugs, the state **may not seek rebates** for any of the pre-release drugs provided under the demonstration.

Guidance: Providers of Pre-Release Services

- States may cover services **in-person and/or via telehealth**.
- “In reach” pre-release services by community providers is preferred by CMS.
- States may use **pre-release carceral and/or community providers**.
 - Generally, states relying on carceral health care providers to furnish pre-release services **are expected to ensure the providers comply with Medicaid provider participation requirements** set by the state.

Guidance: Pre-Release Timeframe

- States generally will be expected to cover demonstration services beginning **30 days immediately prior** to the individual's expected date of release.
- CMS will consider approving demonstration authority to begin coverage up to **90 days prior** to the expected release date.
- If a state requests a pre-release service **timeframe longer than 30 days**, the state should incorporate into its statement of the demonstration purpose **one or more elements to be tested** for that additional period.

Guidance: Administrative Information Technology System Costs

- State Medicaid agency (SMA) information technology (IT) system costs **may be eligible for enhanced federal financial participation (FFP)** that meets required criteria through an Advanced Planning Document.
 - This may include IT systems that support data sharing between SMAs, correctional agencies, carceral facilities, Medicaid providers, and other systems (e.g., housing or other HRSN data systems/sources).
 - Enhanced FFP may be claimed for **new systems or improvements to existing systems**.
 - If states have questions related to IT topics and IT system expenditures, CMS encourages states to contact their Medicaid Enterprise Systems State Officer

Guidance: Transitional, Non-Service Expenditures

- States **may request time-limited support** in the form of FFP for certain new expenditures required by states, correctional facilities, and health care providers **to implement and expand service provision and coordination** with community providers.
 - Examples include development of new business or operational practices, workforce development and outreach, education, and stakeholder convening.

Guidance: Reinvestment Plan

- **CMS does not expect to approve** state proposals for any existing carceral health care services that are currently funded with state and/or local dollars **unless**:
 - **The state agrees to reinvest the total amount** of federal matching funds received for such services under the demonstration into activities and/or initiatives that **increase access to or improve the quality** of:
 - **Health care services** for individuals who are incarcerated or were recently released from incarceration; or
 - **Health-related social services** that may help divert individuals from criminal justice involvement.
- **States are expected to include a reinvestment plan** in the implementation plan that:
 - **Outlines the aggregate amount of federal matching funds for carceral health care services that are currently funded with state and/or local dollars** that is being requested; and
 - **Where reinvestments** will be made.

Guidance: Reinvestment Plan (continued)

- Any investment in carceral health care **is expected to:**
 - **Add to or improve the quality of health care services and resources** for incarcerated individuals; and
 - **Supplement not supplant existing state or local spending** on such services and resources.
- Examples of reinvestments include, but are not limited to:
 - Improved access to behavioral and physical health care services in the community.
 - Improved health information technology and data sharing.
 - Increased community-based provider capacity.
- The state's share of expenditures for new, enhanced or expanded pre-release services approved under the demonstration can be considered an allowable reinvestment.
- **CMS will not approve a reinvestment plan** under which funds are used to build prisons, jails, or other carceral facilities; used for non-health-related improvements for such facilities; or increases the profits of private carceral facilities.

Guidance: Implementation Plan, Monitoring and Evaluation

- States **must submit an implementation plan**, subject to CMS approval.
- CMS is developing an implementation plan template for states to use.
- FFP for services provided during individuals' stays in carceral settings will be contingent upon CMS approval of the state's implementation plan.
- **States will be required to conduct systematic monitoring and robust evaluation** of the demonstration.
 - CMS will **identify a set of monitoring metrics** and will **provide evaluation design guidance**.
 - States will be expected to **describe its plans for monitoring** in a Monitoring Protocol, and report on a **quarterly and annual basis**.
 - The state will also complete a Mid-Point Assessment.
 - The state's monitoring and evaluation will test the goals and milestones identified in the approved demonstration project, including state-specific nuances to implementation that CMS approves.

Guidance: Implementation Plan, Monitoring and Evaluation (continued)

- The **evaluation should be mixed-methods** and include how the state will test whether the demonstration improved care transitions for individuals who are released from incarceration.
- The state **will submit an evaluation design**, to be approved by CMS, and an interim and summative evaluation report.
- **Evaluation outcomes of interest include**, but are not limited to:
 - Assessment of cross-system communication and collaboration;
 - Connections between carceral settings and community services;
 - Provision of preventive and routine physical and behavioral health care;
 - Avoidable ED visits and inpatient hospitalizations; and
 - All-cause deaths.

Guidance: Budget Neutrality

- The services CMS is likely to approve as coverage for Medicaid enrollees during their pre-release period are otherwise state plan covered services, meaning **budget neutrality savings would not be needed.**

Emerging Interest in Reentry Demonstration Opportunity

- CMS approved the first Reentry Section 1115 Demonstration Opportunity, California, on January 26, 2023.
- Fourteen other states have applied:
 - Arizona, Kentucky, Massachusetts, Montana, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington, and West Virginia.
- An application to CMS to pursue this Section 1115 opportunity is subject to 1115 transparency requirements for public notice and tribal consultation.
- For more information, contact your Section 1115 Project Officer.

Q&A on Reentry Section 1115 Demonstration Opportunity

Open Mic: General Q and A