Making Medicaid Part of the Welcome Home from Prison

Every year, more than 650,000 people come home from prison.[1] Yet, they often find little institutional support for re-establishing healthy lives in their communities. This Promising Practice Brief discusses one way that state and local governments can help people get the health care they need as they rejoin their families.

OPTIONS FOR CONNECTING PEOPLE TO MEDICAID — OR KEEPING THEM CONNECTED

A clear link exists between increasing criminalization and shortfalls in our health care system, with many of those in prison finding themselves there because of unmet health needs. According to the director of Colorado's Department of Corrections, approximately 70 percent of that state's inmates suffer from substance use problems, while 34 percent experience mental illness.[2] By default, prisons have become a primary method — albeit a harmful and ineffective one — of delivering care to those whose needs are not being appropriately met through the health care system.

Medicaid can contribute to a change in this dynamic. The country's single largest health insurer, Medicaid provides comprehensive coverage and can open access to the physical health, mental health, and substance use treatment that people need.

The Affordable Care Act (ACA) gives states new opportunities for delivering Medicaid to a greater number of people. Most significant is the ACA's expansion of Medicaid to all low-income adults who meet immigration status restrictions. (Although the ACA made this expansion automatic nationwide, a Supreme Court decision allows states to opt out.) In addition to the Medicaid expansion, the ACA also expanded mental health parity laws and created a minimum set of benefits for new Medicaid coverage and many private plans. This set of Essential Health Benefits includes mental health and substance use treatment.[3]

These changes can help many people who are or will be incarcerated. According to one estimate, up to 35 percent of those who could be covered by the Medicaid expansion have been involved in the criminal justice system.[4] Officials in New York and Colorado estimate that 80 and 90 percent of their respective prison populations would be Medicaid-eligible.[5]

ALLIANCE FOR A JUST SOCIETY

OCTOBER 2015

Although Medicaid funds may not be used for health care received in prison, states can adopt a number of important approaches for connecting people to Medicaid while they are incarcerated:

- **Suspension instead of termination.** Most states terminate people's eligibility for Medicaid once they enter prison, requiring individuals to go through the enrollment process again after release. However, termination is not required by federal law and makes it harder for incarcerated people to re-establish coverage as they are leaving prison.[6] States can suspend Medicaid enrollment rather than terminating it.
- **Enrollment assistance before release.** As part of preparation for re-entry, health insurance enrollment assistance should be provided in the month before a person's release from prison. This can be done by placing an enrollment specialist within the prison, by allowing navigators entry to prisons, or through other approaches that facilitate enrollment.
- **Seeking federal reimbursement for health care provided outside prison wall.** Although federal Medicaid dollars cannot be used to pay for in-prison care, states may bill Medicaid for medical or nursing home care inmates receive when they are hospitalized for more than 24 hours as part of a qualifying event.[7] The availability of such reimbursement should provide states a strong incentive to help eligible inmates enroll in Medicaid.

PUSHING STATES IN THE RIGHT DIRECTION

A growing number of states and cities are taking action to increase access to Medicaid for people coming out of prison. An increasing number of states have adopted suspension of Medicaid enrollment for at least some period of time, and some counties are working with their respective state Medicaid agencies to suspend rather than terminate.[8]

Depending on the state, increasing access to Medicaid may require legislation, or it may be done administratively. In Washington state, a memorandum of understanding between the state Health Care Authority and Department of Corrections allows the Department to enroll incarcerated people in Medicaid before release or if they are admitted for inpatient care while incarcerated. Northwest Health Law Advocates worked with state officials to adopt this process and continues to be involved in implementation.

Whether through legislation or administrative advocacy, Medicaid expansion — and ACA implementation more broadly — provides health care groups an opportunity to promote access to Medicaid for those coming home from prison.

WINNING SUSPENSION & ENROLLMENT SUPPORT IN NEW MEXICO[9]

Medicaid suspension had been percolating in the New Mexico Legislature since 2005 but gained new momentum when lawmakers and advocates pushed for Medicaid expansion in 2013. Though suspension passed both houses that year — with strong bipartisan support — Gov. Susana Martinez vetoed the bill, claiming that the same results could be achieved through administrative action.

In 2015, the New Mexico Center for Law and Poverty (NMCLP) led a coalition to take another crack at legislation — and this time succeeded. In addition to working with long-time allies, NMLCP cast a wide net, reaching out to substance use and mental health providers, health for the homeless advocates, district attorneys, and police departments and sheriffs' offices. Although not all these stakeholders could take a public stance, many supported the bill behind the scenes, and the state attorney general and the state's chief public defender both stood publicly for suspension.

Early on, NMCLP sat down with the state's Human Services Department (HSD) to discuss the bill. Although HSD initially preferred to achieve suspension through administrative policy rather than legislation, the Secretary and his staff showed encouraging willingness to compromise on legislative language. After the bill passed by a nearly unanimous vote in the Senate, HSD representatives sat down with lawmakers and advocates to craft legislation that replaces termination with suspension and requires that unenrolled but Medicaid-eligible inmates be given an opportunity to apply before release.

This bill passed the House — but there was still no word from the governor about whether she'd sign the legislation or veto it. NMCLP and its allies kicked their campaign into high gear, generating daily calls from families, provider groups, and corrections leaders,

urging the governor to sign. Just before noon on the day an automatic veto would have been triggered, Gov. Martinez signed Medicaid suspension into law.

In the end, a straightforward message won the day: These are vulnerable individuals, and the state is spending a lot of money incarcerating them. If the state closed its gap in coverage, it could create a much better path to recovery. In the halls of the capitol, this message was reinforced by family members — such as those brought by NMCLP ally Strong Families New Mexico — who spoke to the difference immediate Medicaid coverage would have made in the lives of their loved ones.

Now, NMCLP and its allies turn to the task of securing successful implementation of their legislative victory, recognizing that winning the Medicaid suspension bill is one step toward creating a successful re-entry strategy.

TURNING THIS PROMISING PRACTICE INTO A BEST PRACTICE

As important as it is to win suspension and enrollment legislation or policy, this is just the first step. Ongoing engagement is required to make sure the enrollment process is working and people are getting the health care they need. Experience thus far has yielded a number of recommendations and lessons learned, among them the following:

- **Streamlined application process.** The application process should be streamlined so inmates can enroll in any coverage for which they're eligible.
- **Education while people are still in prison.** Many people living in prison have never had adequate health insurance — or any health insurance at all — and they need effective education on both how to enroll in (and maintain) their coverage and how to use it.
- **Qualified enrollment support.** Staff helping inmates prepare for release must be adequately trained on health care enrollment, and on Medicaid specifically. Policies and procedures should also be in place so enrollment and/or release counselors provide full enrollment support for those who wish to enroll.
- **Proper coordination between corrections and Medicaid agencies.** Making enrollment work will require attention to technical issues and other issues of agency coordination. Advocates should call for an ongoing work group for addressing these issues and for reviewing data on enrollment.
- **Engagement with agencies and service providers in the community.** People coming out of prison need coordination and support among corrections, service providers, and health organizations once they're back home. Such collaboration can help people put their new coverage to use and get the services they need for living healthy lives in their home communities.

REFERENCES

1 Peter Wagner & Leah Sakala, "Mass Incarceration: The Whole Pie," Prison Policy Initiative, March 12, 2014, http://www.prisonpolicy.org/reports/pie.html.

2 Erica Goode, "Little-Known Health Act Fact: Prison Inmates Are Signing Up," New York Times, March 9, 2014, http://www.nytimes.com/2014/03/10/us/little-known-health-act-fact-prison-inmates-are-signing-up.html.

3 "Essential Health Benefits: Mental Health and Substance Use Disorders Advocacy," Community Catalyst, updated October 2012, http://bit.ly/1jbznX1.

4 Erica Goode, "Little-Known Health Act Fact: Prison Inmates Are Signing Up," New York Times, March 9, 2014.

5 "Medicaid: Information on Inmate Eligibility and Federal Costs for Allowable Services," U.S. Government Accountability Office, p. 4, September 5, 2014, http://gao.gov/assets/670/665552.pdf.

6 "Health Coverage and County Jails: Suspension vs. Termination," National Association of Counties, December 2014, http://www.naco.org/sites/default/files/documents/Suspension-termination_2015.pdf.

7 Christine Vestal, "States Missing Out on Millions in Medicaid for Prisoners," Stateline, Pew Charitable Trusts, June 24, 2013, http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2013/06/25/states-missing-out-on-millions-in-medicaid-for-prisoners.

8 "Health Coverage and County Jails: Suspension vs. Termination," National Association of Counties, p. 2, December 2014.

9 Information on NMCLP campaign provided by Abuko Estrada, Staff Attorney, New Mexico Center on Law and Poverty, August 7, 2015.

In the end, a straightforward message won the day: These are vulnerable individuals, and the state is spending a lot of money incarcerating them. If the state closed its gap in coverage, it could create a much better path to recovery.