Health Coverage for your County Jail's Pretrial Population
Thursday, February 23, 2012

Support for this webinar was provided by the Public Welfare Foundation

NACo National Association of Counties
The Voice of America's Counties

Webinar Agenda

Speakers

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Patrick Fleming, Director, Salt Lake County Substance Abuse, Division of Behavioral Health Services, Salt Lake County, UT

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The Affordable Care Act and Issues Related to Incarceration

Sarah Somers

NACO Webinar

February 23, 2012

"Securing Health Rights for Those in Need"

Medicaid

- Cooperative Federal-State Program
  - Federal match of state expenditures (FFP)
  - U.S. DHHS-single state agency
  - Federal and state law requirements

Medicaid

- Rules governing:
  - Eligibility
    - Mandatory and optional categories
    - Currently: categories of children, caretaker relatives, people with disabilities and/or over 65
    - NEW! In 2014, expansion to most under 133% of federal poverty level
  - Services
    - Mandatory and optional

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Medicaid

- Federal Financial Participation (FFP)
  - Reimburses states for substantial part of expenditures
  - Federal Medical Assistance Percentage (FMAP)
    - Ranges from 50% to 74%
  - Requirements phrased in terms of availability of FFP
    - E.g. abortion

Medicaid

- Incarcerated individuals
  - NO *federal eligibility* requirements/prohibitions related to incarceration
  - In 2014, nearly all under 133% FPL will qualify
    - Big exception – most immigrants

Medicaid for the incarcerated

- No FFP for "inmates of public institutions" 42 USC § 1396d(a)(27)(A), 42 C.F.R. §435.1009(a)(1)
  - Inmate:
    - living in a public institution (42 C.F.R. § 435.1010)
    - confined involuntarily in penal facilities (including those receiving care on premises) (HHS guidance)

    EXCEPTION: if living in institution for temporary period pending other arrangements or

    in medical institution

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Medicaid for the incarcerated

- Public institution (42 C.F.R. § 435.1010)
  - Institution – provides food, shelter, some treatment to 4 or more unrelated persons
  - Public – responsibility of governmental unit (or under control of that unit)
- CMS examples:
  - Detention centers
  - Wilderness camps/halfway houses under govt. control

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Exchanges - 2014

- Govt./non profit entity that facilitates purchase of qualified health plans (QHPs) for individuals
  - one in each state

ACA § 1311

Exchanges

- "Qualified individuals" may enroll in QHPs
  - Incarceration provision:
    - "an individual shall not be treated as a qualified individual if, at the time of enrollment, the individual is incarcerated"
      - **Exception: incarceration pending disposition of charges**

ACA § 1312(f)(1)(B)

Basic Health Program

- State option
- For individuals 133% to 200% of FPL
  - Standard Health Plans (SHPs) similar to QHPs
  - Same incarceration provision applies

ACA § 1312(f)(1)(B)

Medicaid v. QHP/SHP

Medicaid	QHP/SHP
Restriction on service coverage	Restriction on eligibility
No relevance to eligibility	Eligibility bar
Does not distinguish pre/post conviction	Does not apply if awaiting disposition of charges

Proposed Federal Regulations

- Exchange eligibility determination
  - Little detail related to incarceration
  - No definition of “incarcerated”
- Medicaid eligibility
  - No provisions related to incarceration/”inmate of a public institution”

NACO Comments

- Prohibit states from terminating eligibility solely because of incarceration
- Define “inmate of public institution” to exclude individuals pending disposition of charges
- Ensure that incarcerated individuals may apply for coverage

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Final regulations?

- Predictions that they will be released soon

Questions

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Jail Population
Health Care Coverage under the Affordable Care Act

FEBRUARY 23, 2012
NACo WEBINAR

MEG SHELDON
COUNTY WELFARE DIRECTORS ASSOCIATION
OF CALIFORNIA
(CWDA)

Health Care Reform 101 – Eligibility Basics

- Advanced Premium Tax Credit (APDT)
  - Criteria
    - No asset test
    - Factors – Income & household composition
- Eligible Groups
  - Persons with income between 400% & 133% FPL (+ 5% disregard)
  - Includes persons incarcerated pending disposition of charges
- Benefit
  - Selection of Health Insurance Coverage through an Annual Tax Credit and/or Premium Cost Sharing
    - Amount varies based on income & household composition
    - Annual “true-up” process

Health Care Reform 101 – Eligibility Basics (Continued)

- MAGI Medicaid
  - Criteria
    - No asset test
    - Factors – Income & household composition (same as APTC but definitions may vary)
  - Eligible Groups
    - Continuing groups (with some changes)
      - Parents & Caretaker Relatives
      - Children
      - Pregnant mothers
    - Newly eligible – single individuals age 19-64
- Benefit
  - State arranged minimum benefit levels offered by selected health plans

Health Care Reform 101 – Eligibility Basics (Continued)

- Non-MAGI Medicaid
  - Criteria
    - Same as today
  - Eligible Groups
    - Categorically Eligible
      - TANF
      - Supplemental Security Income – Aged, Blind, Disabled
      - Foster Care
    - Long Term Care
  - Benefit
    - State arranged minimum benefit levels offered by selected health plans

Health Care Reform 101 -- Timeline

- Before July 1, 2013 – Develop strategies to identify potential clients in advance
- July 1, 2013 – Operational & automation systems in place
- July 1 to December 31, 2013 – "Pre-enrollment" as early as July 1, 2013
- January 1, 2014 – Operational

Health Care Reform 101 – Funding

- Grants to states to set up Exchanges
  - 100% federally funded
  - Exchanges must be self-supporting by January 1, 2015
- Enhanced funding for automation
  - 90/10 funds through December 2015 to develop approved projects
  - 75/25 on-going funding for approved projects
  - Can use for systems/changes that benefit multiple programs
- Medicaid eligibility operations
  - Funded at normal ratios – generally 50/50
- Shared costs for services/systems serving multiple programs

Opportunities

- Coverage for some prisoners while in jail
- Reduced county cost for inmate medical services
- Consistent coverage
- Greater continuity of care
- Coverage upon release

Opportunity – Coverage While in Jail

- Medicaid eligibility for low-income 19-64 year olds
- Advocate for continued Medicaid eligibility for individuals pending disposition
- Coordinate with jail
  - Identify inmates with coverage
  - Enroll those eligible but not covered
- Establish approaches that preserve continuity of care

Opportunity – Release Planning

- Arrange for coverage to begin upon release
  - Tap into jail data to obtain basic information
  - Develop a process to follow-up with individuals
  - Complete eligibility determination to take effect upon release
  - Build in flexibility to accommodate release date changes

Los Angeles Example

- State Prison Population – Current Effort
  - Obtain prisoner information from the California Department of Corrections & Rehabilitation
  - Complete Medicaid application prior to release
  - Approve & suspend pending release
  - Challenges
    - Data incomplete
    - Release dates change
- Probationers – Current Effort
  - Co-located at the Probation Department
  - Screen for likely eligibility
  - Refer to county eligibility staff for full application
- County Jail Population – Planned Effort
  - Low Income Health Program (LIHP) – under development

Opportunities

- Familiarize prisoners with new law
  - Requirements
  - Opportunities
- “Culture of Coverage”
- Continuity of care
- Improved health outcomes

Challenges

- Disruption in coverage (and possibly care)
  - When jailed
  - When released
  - When income and/or household composition changes
- Rules are not yet clear
  - Ex: How will prisoner be considered in context of the rest of the family household?
- Access to data about prisoners

Critical Issues

- Consistent definitions across programs
- Ability to suspend eligibility during short periods of incarceration
- Link to data bases for automatic transfer of information
- Consistent coverage across programs

Health Coverage for Your County Jail's Pre-trial Population

Some Things Salt Lake County is Doing to Prepare

NACo Webinar – February 23, 2012

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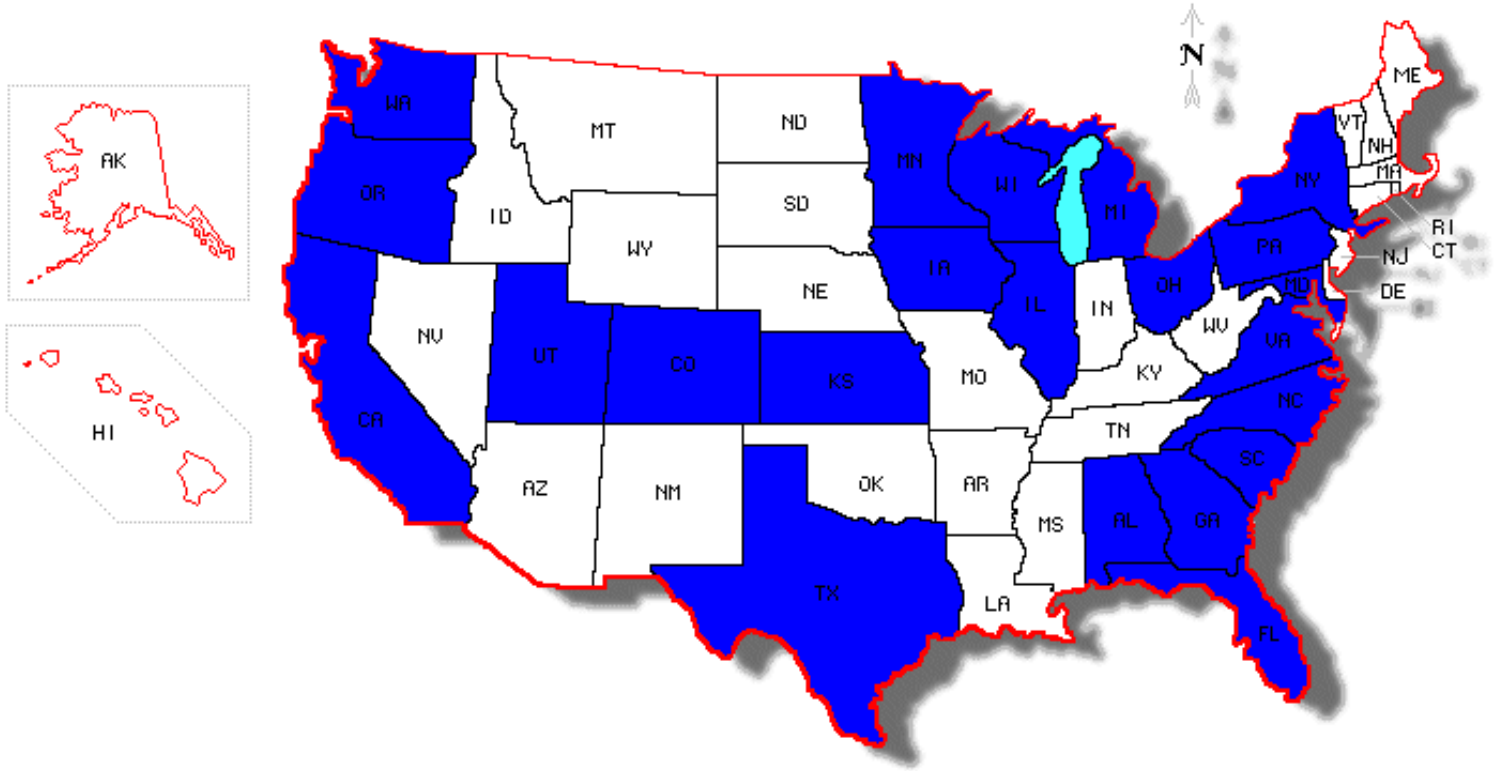
States Where Counties Deliver Mental Health Services



NOTES:

MH

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Salt Lake County & Utah Snapshot

- Largest urban county in Utah with a Population of a 1 Million
- Two Jails (1 = Minimum/Medium and 1 = Medium/Maximum) 2,100 Total Operational Beds
- SLCo also has a Division of Criminal Justice Services which is the county "pre-trial agency".
- Since 1982, SLCo has had an operational Criminal Justice Advisory Council (CJAC) which advises, coordinates, and plans for criminal justice services.
- Utah is a state where counties are required to deliver Behavioral Health (SA/MH) Services and are designated the "Local Behavioral Health Authority" by the Legislature.
- Utah "carves out" behavioral health from the general state Medicaid Plan and requires counties to manage the Medicaid BH carve out and pay the local match.
- SLCo operates a private/public partnership model for behavioral health (BH) services with 18,000 mental health admissions and 12,000 substance abuse admissions per year through a network of over four hospitals, 40 programs, and 300 individual practice providers.
- Utah's FMAP (federal medical assistance percentage) is 30 cents local 70 cents federal.
- All SLCo agencies coordinate very well with one an another and with community and state partners.

What is Going to Happen and How Do We Prepare?

- Try to stay informed – NACo, NACBHDD, NSA
- Try to understand how ACA might effect your county jail
- Engage your elected officials and coordinate with other county agencies
- Become good friends with your sheriff and the jail command staff – you REALLY are on the same team
- Gather data and understand your jail population
- Your jail may be the point of first contact – should the jail also be one of the sites where enrollment occurs?
- Communicate with your State Medicaid Office (SMO) and Health Insurance Exchange (HIX) Director
- Brainstorm ideas about systems of care and develop partnerships with community social service and health care providers
- TAKE ACTION – LEAD – GET OUT IN FRONT!!!

Stay Informed, Stay Engaged, Take a Guess

- Rely on your national associations and advocacy groups
  - National Association of Counties
  - National Association of County Behavioral Health and Developmental Disabilities Directors
  - National Association of Sheriffs
  - Henry J. Kaiser Family Foundation
- Work with your state association of counties
- Talk to state-level advocates
- Talk with your SMO and see if they are making estimates of new eligibles
- If so, see if they can break the state estimate down to the county level

ACA Impact on Medicaid – January 2014
From Categorical Eligibility to Income-based Eligibility

2014 Population Expansion:

- Eligibility for Medicaid goes from categorical eligibility (i.e. aged, blind, disabled, mothers with dependent children, etc.) to income eligibility at 133% of FPL with a 5% income disregard (so 138% of FPL).
- Many of the new eligibles may have a behavioral health condition and are also the population who would be most likely to be incarcerated at some point in their lives.

2011 HHS Poverty Guidelines

Persons in Family	100% FPL 48 Contiguous States and D.C.	133% FPL	138% FPL
1	$10,890	$14,484	$15,028
2	14,710	$19,564	$20,300
3	18,530	$24,645	$25,571
4	22,350	$29,726	$30,843
5	26,170	$34,806	$36,115
6	29,990	$39,887	$41,386
7	33,810	$44,967	$46,658
8	37,630	$50,048	$51,929
For each additional person, add	3,820	$5,081	$5,272

ACA Federal Share

YEAR	FMAP
2014	100%
2015	100%
2016	100%
2017	95%
2018	94%
2019	93%
2020>	90%

ACA* and its Potential Impact on County Delivered Services**

Impact on the United States :

- ✓ Currently Uninsured Americans = 50 million
- ✓ January 2014 Newly Insured Americans = 32 Million (64% increase in coverage)
- ✓ About 16 Million of the 32 million newly covered thru Medicaid
- ✓ About 16 Million of the 32 million newly covered thru Health Insurance Exchanges

ACA – Impact on Utah:

- ✓ Currently Uninsured Utahns = 450,000
- ✓ Currently Enrolled Utahns in Medicaid = 230,000
- ✓ January 2014 Newly Insured Utahns = 290,000 (Medicaid 120,000 + employers 170,000)
- ✓ Expands Medicaid Coverage from 220,000 to 340,000 Utahns

ACA – Medicaid Impact on Salt Lake County:

- ✓ Current SLCo Residents on Medicaid = 95,000
- ✓ After ACA - Expands Medicaid Coverage from 95,000 to 152,000 SLCo Residents
- ✓ Most inmates in the SLCo Jail system will be eligible for Medicaid in 2014

* Patient Protection and Affordable Care Act ** Based on Kaiser Family Foundation estimates

Engagement of Elected Officials

- Elected officials realized Jail incarceration is one of the largest budget items in county government BUT public safety is one of the core services of county government.
- Data showed that 60% of inmates had mental and/or substance abuse problems and also had very poor overall health status.
- Jail inmate population is a "vector" population for STDs and other communicable diseases such as TB.
- SLCo spends over $7mil.on per year on inmate medical/dental services of which$4mil.on alone is on inmate inpatient hospital services.
- Data showed that a large number of jail inmates were being held in pre-trial status.
- Elected Officials decided to develop a "Criminal and Social Justice" Plan which focused on commitment to public safety through wise and effective use of public resources based on a foundation of social justice which believes that people can and do change their lives.

SALT LAKE COUNTY
CRIMINAL JUSTICE ADVISORY COUNCIL (CJAC)**
ORGANIZATION MEMBERSHIP

- **Salt Lake County Mayor's Office**
- **Local Municipal Prosecutor Representative**
- ***Criminal Justice Services**
- **West Valley Justice Court**
- ***Human Services Department**
- ***Police Chiefs Representative**
- **Salt Lake City Justice Court**
- **Salt Lake County Substance Abuse Services**
- **Salt Lake City Police Department**
- **Utah House of Representatives**
- **Utah State Department of Corrections**
- ***Salt Lake County Council**
- ***Legal Defender Association**
- ***Third District Court**
- ***District Attorney's Office**
- ***Local Municipal Mayor Representative**
- ***Salt Lake County Sheriff's Office**
- **Statewide Association of Prosecutors**
- **Salt Lake County Mental Health Services**
- **Utah State Senate**
- **Administrative Office of the Courts**

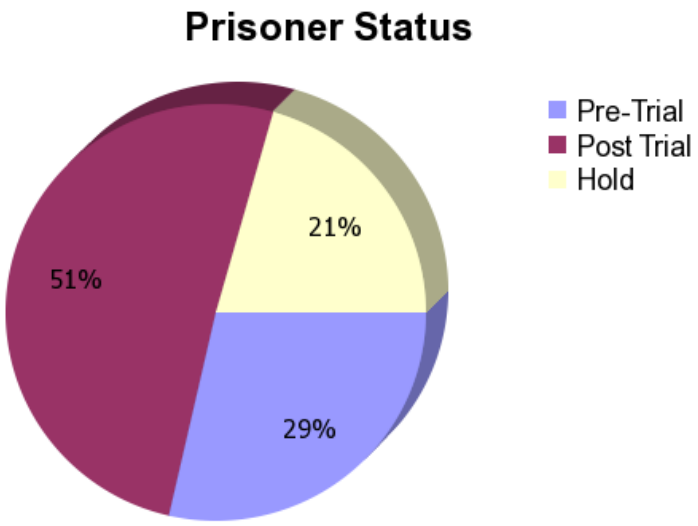
* Executive Committee ** SLCo CJAC has been in existence in 1982

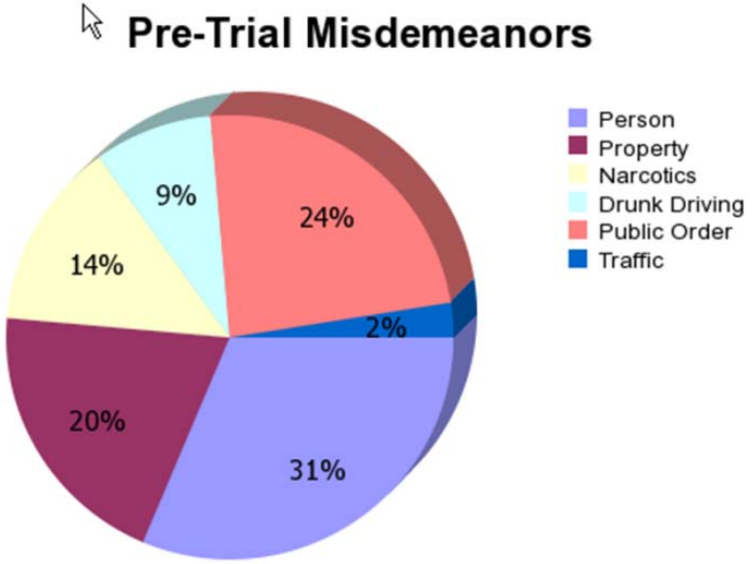
An Action Plan: Criminal and Social Justice Reform

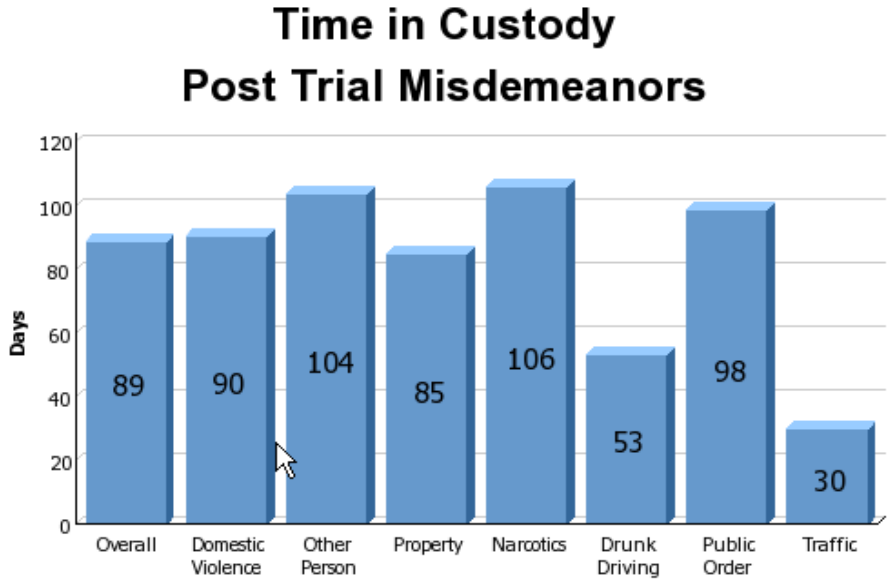
- Incarceration Rate and Crime
  - There is no correlation between crime rates and incarceration rates
  - The number of available local county jail beds will get filled
- Influences on Jail Population
  - Number of police
  - Availability of Detox/Community Receiving Centers
  - Pre-Trial Release Rate/Failure Rate
  - Early Case Resolution/Rapid Judicial Decision-Making
  - Available Alternatives/Sanctions/Effectiveness
- Action Plan - Key Components
  - Pre-Trial Services: Know who is in the jail and why
  - Swift Justice: Immediacy of process
  - One-Empty Bed: Have a credible threat of sanction
  - Philosophy: Least Restrictive, Equitable, & Humane
  - Resources: Have a comprehensive continuum of community-based services

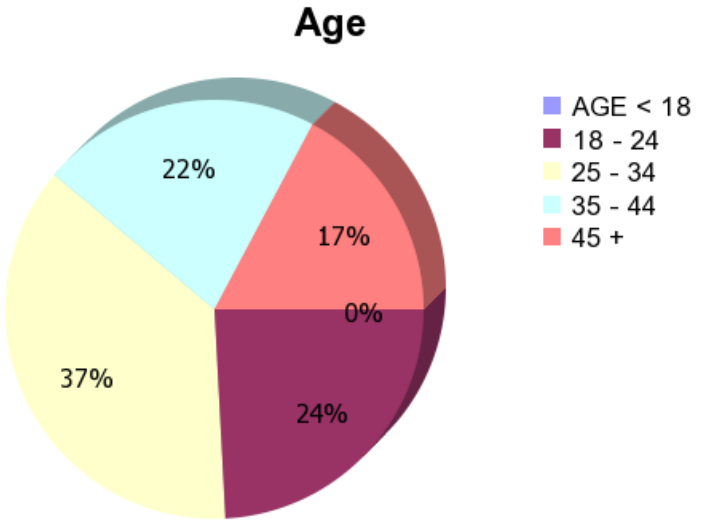
Get data and Understand It

Jail Snapshot – Examples (4 0f 50 data points)

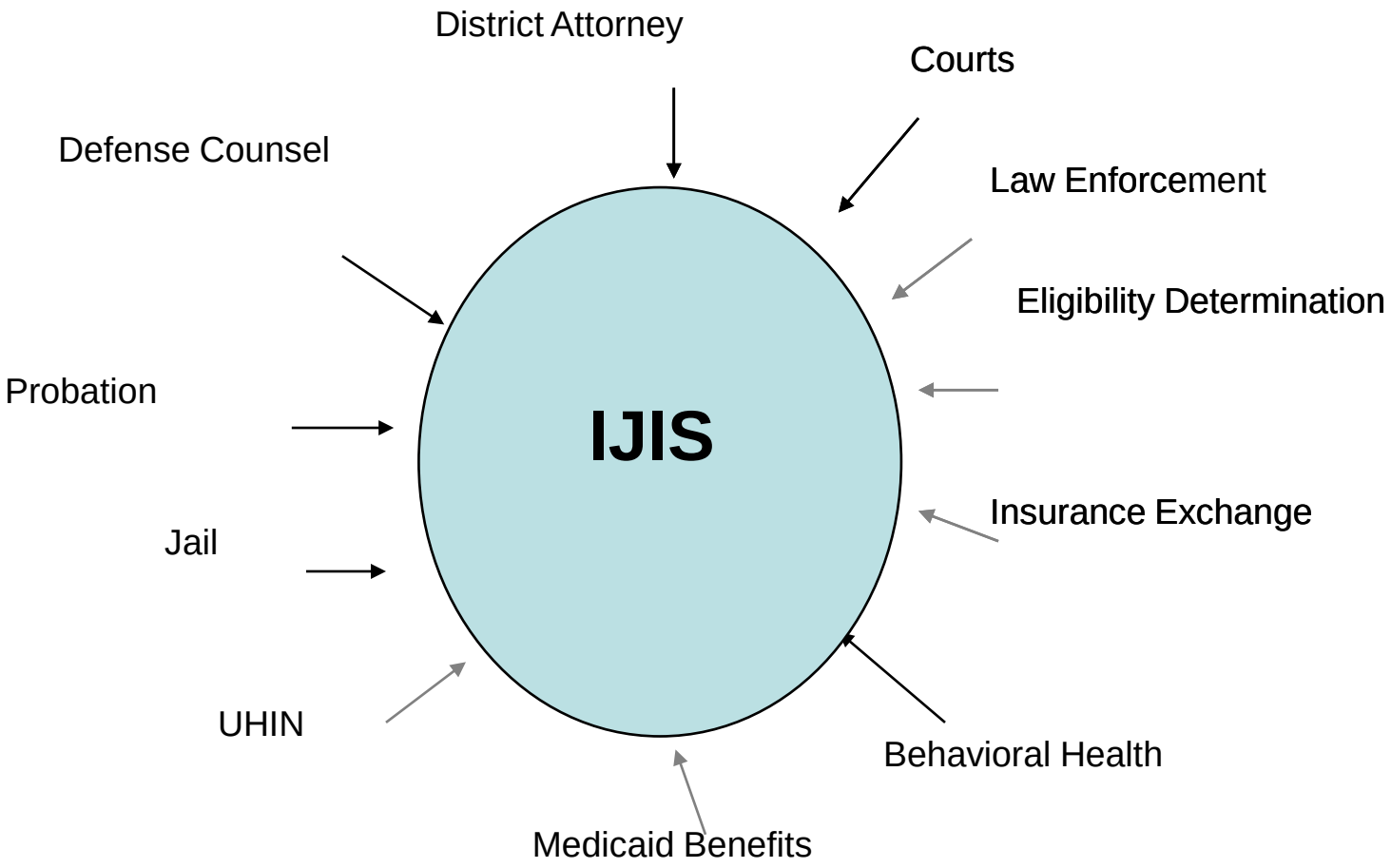








Integrated Justice Information System



Paying for Services – Jail and Community

- Inmate Exception – Now
  - Since 1998 CMS has allowed for Medicaid to pay for inpatient (hospital) services when a jail inmate is transported out of a jail.
  - 40-50% of jail inmates being held "pre-trial" with about 15-20% of all "non-hold" inmates being "otherwise" eligible for Medicaid.
  - Cost savings to SLCo based this approach to billing Medicaid could be as much as $350,000 per year of a total cost of $4million for hospital services.
- Inmate Exception – 2014
  - 40-50% of jail inmates being held "pre-trial" with about 85-90% of all "non-hold" inmates being "otherwise" eligible for Medicaid.
  - Potential for both in-jail medical and hospital services to be covered under Medicaid.
  - Insurance exchange populations also need to be considered.
- What we are doing – RIGHT NOW – to prepare
  - Enroll inmates who are most likely to be eligible for Medicaid in Medicaid
  - County is paying the Medicaid admin match (50/50) to purchase state Medicaid Eligibility workers who are then assigned 100% to the county.
  - Working with other community partners to enroll people in Medicaid on-site.

Things to Do:

- Communicate:
  - Develop a good relationship with SMO & HIX.
  - Make a place for yourself at your state's HCR policy table.
  - Share your data and ideas.
  - Be willing to partner with other health care systems (FQHC, primary care networks, etc.)
- Brainstorm:
  - Can we set up a Medicaid intake office in our jail?
  - Could our jail be a "health home" for incarcerated inmates and upon conditional release?
  - Can our county be its own ACO?
  - How can I work with other counties across the country?
- Commit to Change:
  - Get administrative and policy support at your county.
  - Dedicate staff and time – maybe devote one county staff person to be the "health care lead."
  - Share information and participate in information exchange opportunities like webinars, conference calls, etc.
  - Be willing to participate in your national and state associations as a workgroup member.

Thank you for participating in NACo's webinar

For questions about the webinar, to learn more about this issue/project or to share information about your county's work contact mgilmore@naco.org

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