



April 12, 2016

The Honorable Sylvia Mathews Burwell
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Ave, SW
Washington, DC 20201

CC: Cecilia Muñoz, Director, Domestic Policy Council, the White House
Jerry Abramson, Director, Intergovernmental Affairs, the White House
Andy Slavitt, Acting Administrator, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services
Vikki Wachino, Deputy Administrator and Director, Center for Medicaid and CHIP Services, Centers for Medicare and Medicaid Services, U.S. Dept. of Health and Human Services

Dear Secretary Burwell:

As the chief elected officials from some of the nation's largest jurisdictions, we kindly ask CMS to consider issuing a new, narrowly crafted Section 1115 Medicaid waiver that would offer states and counties tools to improve outcomes for Medicaid beneficiaries in local jails who are without access to benefits due to the statutory exclusion of federal financial participation (FFP) for services provided to inmates of public institutions (inmate exclusion).

Counties take our responsibility for protecting the health and well-being of our 305 million residents seriously, investing almost \$83 billion in community health annually. Through 714 county-owned and supported long-term care facilities, 976 county-supported hospitals, 750 county behavioral health authorities and 1,592 local public health departments, counties deliver a wide range of health services, including many that are eligible for Medicaid reimbursement. Additionally, counties and other local governments help finance the Medicaid program, contributing \$28 billion to the non-federal share in 2012.

In addition to the \$83 billion spent on community health, counties spend another \$93 billion annually on justice and public safety services, including the entire cost of medical care for all arrested and detained individuals in jails. Counties are required by federal and state law to provide adequate health care for the approximately 11.4 million individuals who pass through county jails each year, two-thirds of whom are held in pre-trial detention simply because they cannot afford to post bond. Counties, often through their behavioral health programs, are developing innovative systems of care that link this population to community-based resources but face challenges. Most states terminate Medicaid benefits for inmates, instead of suspending them as CMS has long encouraged, and it can take months for former inmates to reenroll and for benefits to be restored upon reentry into the community. This is even more concerning considering that more than 95 percent of jail inmates eventually return to our communities, bringing both their physical and behavioral health conditions with them.

In fact, serious mental illnesses are three to four times more prevalent among inmates than the general population, and almost three quarters also have substance abuse disorders

From the county perspective – at the intersection of the local health and justice systems – we suggest that a new narrowly targeted Inmate Waiver could improve the ability of counties to provide access to appropriate, targeted health services and substance abuse treatment to this population. We believe that it would result in reduced medical costs to both the Medicaid program and to counties. Importantly, it would also help reduce health disparities, recidivism and the disproportionate burden of incarceration on individuals and communities of color.

We offer for your consideration some potential components of an Inmate Waiver which NACo partners and stakeholders have proposed:

- Allow states and counties to use FFP to work with Medicaid providers to identify patients in county jails who are receiving community-based care and then to maintain their treatment protocols. Better coordinating care would reduce the need for in-patient hospitalizations of inmates under the inpatient exception to the Medicaid inmate exclusion, thereby reducing Medicaid spending and reducing health disparities for justice-involved beneficiaries. This would also have the important public health benefit of limiting the proliferation of medication-resistant viruses that result when treatment is interrupted – a frequent occurrence in jails with infectious diseases such as HIV and Hepatitis C.
- Allow states and counties to use FFP for Medicaid providers to work with county jails to develop treatment and continuity of care plans for released or diverted individuals. Access to care upon release or diversion from jail is essential to good health outcomes – especially in the crucial 24 to 72 hours after release or diversion. Delays in re-activating Medicaid increase overall Medicaid costs, lead to treatment interruptions and can adversely impact communities, especially when access to psychotropic medications is hindered. Allowing the use of FFP to prescribe and dispense treatment prior to the point of release or diversion would reduce Medicaid spending and improve the health and safety of individuals and communities.
- Allow states and counties to use FFP to initiate medication-assisted therapy or other forms of medically necessary and appropriate intervention for jailed individuals with opiate addiction whose release is anticipated within 7 to 10 days. Many individuals booked into county jails have previously undiagnosed and untreated disorders. Allowing FFP to be used to cover the costs of treatment prior to release would prevent medical disorders from deteriorating upon release and save federal dollars. A disproportionate number of unintentional overdoses occur after release from jail, and such interventions can avoid these tragedies and improve overall health outcomes.
- Allow states and counties to use FFP to reimburse peer counselors to facilitate reentry and increase jailed individuals' health literacy. This has been shown to be cost effective in the Center for Medicare and Medicaid Innovation Transitions Project demonstration.

- Allow states and counties to waive the state-wide requirement in order to permit implementation of the new Inmate Waiver in counties with the capacity and desire to implement and test the demonstration projects.

We thank you for your attention to our request and look forward to continuing to work with you to improve the effectiveness of the Medicaid program for the benefit of the people it serves. For additional information, please do not hesitate to contact Brian Bowden, NACo Associate Legislative Director for Health, at 202.942.4275 or bbowden@naco.org.

Sincerely,

Sallie Clark, NACo President, Commissioner, El Paso County, Colorado

Jim McDonough, NACo Large Urban County Caucus Chair, Commissioner, Ramsey County, Minnesota

Clint Hickman, Supervisor and Chair, Maricopa County, Arizona

Scott Haggerty, Supervisor and President, Alameda County, California

Jane Parker, Supervisor and Chair, Monterey County, California

Edwin Lee, Mayor, City and County of San Francisco, California

Warren Slocum, Supervisor and President, San Mateo County, California

Dick Monteith, Supervisor and Chair, Stanislaus County, California

Libby Szabo, Commission Chair, Jefferson County, Colorado

Martin Kiar, Mayor, Broward County, Florida

John Eaves, PhD, Chairman, Fulton County, Georgia

Larry Johnson, Commission Chair, DeKalb County, Georgia

Toni Preckwinkle, President, Cook County, Illinois

Joseph Hogsett, Mayor, Indianapolis - Marion County, Indiana

Bernard Young, City Council President, Baltimore City, Maryland

Isiah Leggett, County Executive, Montgomery County, Maryland

Rushern Baker III, County Executive, Prince George's County, Maryland

Jan Callison, Commission Chair, Hennepin County, Minnesota

Victoria Reinhardt, Commission Chair, Ramsey County, Minnesota

Mary Ann Borgeson, Commission Chair, Douglas County, Nebraska

Maggie Hart Stebbins, Commission Chair, Bernalillo County, New Mexico

Mark Poloncarz, County Executive, Erie County, New York

John O'Grady, Commission President, Franklin County, Ohio

Rich Fitzgerald, County Executive, Allegheny County, Pennsylvania

James Kenney, Mayor, City and County of Philadelphia, Pennsylvania

Nelson Wolff, County Judge, Bexar County, Texas

Clay Jenkins, County Judge, Dallas County, Texas

Veronica Escobar, County Judge, El Paso County, Texas

Sarah Eckhardt, County Judge, Travis County, Texas

Ben McAdams, Mayor, Salt Lake County, Utah

Sharon Bulova, Supervisor and Chair, Fairfax County, Virginia

Dave Somers, County Executive, Snohomish County, Washington

Chris Abele, County Executive, Milwaukee County, Wisconsin