

# HEALTH COVERAGE & COUNTY JAILS:

## INPATIENT EXCEPTION

At a cost of \$176 billion annually, criminal justice and health systems are a huge budget item for counties. Approximately 11.4 million individuals cycle through county jails each year, many of whom have physical and/or behavioral health issues. Counties are required by federal and state law to provide adequate health care to inmates, which can add significantly to already high jail costs.

As changes are made to criminal justice and health systems across the country, including the implementation of the Affordable Care Act, counties and jails are revisiting their Medicaid enrollment and billing practices for detainees and inmates. One Medicaid provision of note for county jails is the 24-hour inpatient exception, which allows jails to bill Medicaid when an eligible detainee or inmate is taken to a hospital or other medical facility for more than 24 hours. As a general rule, a person becomes ineligible for Medicaid coverage when he or she is booked into jail, which means that counties are solely responsible for the cost of medical or behavioral health care provided to individuals in their jails. The inpatient exception, however, makes clear that these individuals are eligible for Medicaid reimbursement (known as federal financial participation, or FFP) “during that part of the month in which the individual is not an inmate of a public institution.”<sup>2</sup> This means that counties can seek Medicaid reimbursement for care provided to inmates who are treated for at least 24 hours in a medical institution outside of the jail.

The ACA did not change this provision, but in states that are expanding Medicaid it does have the effect of increasing the number of inmates who are eligible for Medicaid and thus the inpatient exception. This allows jails in those states to have costs covered for more inmates who receive inpatient services outside of the jail.

This brief is part of a series of publications focused on health coverage for justice-involved individuals. Other briefs in this series include: *Questions & Answers: Health Coverage Enrollment for Justice-Involved Individuals* and *Health Coverage & County Jails: Suspension vs. Termination*.



### Who is eligible for the inpatient exception?

**A:** There are two key terms important to this exception: “inpatient” and “medical institution.” The Centers for Medicare and Medicaid Services (CMS) defines inpatient as an individual who receives “room, board and professional services” in a medical facility for a 24-hour period or longer or is expected to be in the facility for 24 hours or longer.<sup>3</sup> CMS has clarified that a medical institution is “a hospital, nursing facility, juvenile psychiatric facility, or intermediate care facility.”<sup>4</sup> If an inmate meets both of these criteria, FFP is permitted to cover his or her care during his or her inpatient stay.<sup>5</sup>



### Why is this important to counties?

**A:** Counties can achieve major cost savings by developing processes to enroll eligible individuals and bill Medicaid for their inpatient care. These savings can be leveraged to fund staff that help enroll eligible inmates into Medicaid, for additional health or human services staff in the jail, for education and training for inmates about the importance of health coverage and how to access care and more.

**EXAMPLE:** Inmate Smith is transferred to a hospital or other facility for treatment expected to last more than 24 hours, such as surgery or chemotherapy. He can be enrolled in Medicaid (or his coverage can be reinstated if his state suspends instead of terminates Medicaid coverage upon incarceration) and a federal contribution can be applied to the county's cost of Inmate Smith's entire stay. Even if Inmate Smith is released from the hospital in less than 24 hours, his stay is still eligible for FFP because treatment was expected to last at least that long.



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For example, Lake County, Ind., began enrolling inmates into Medicaid in January 2016 and estimates that it will save up to \$700,000 per year by taking advantage of the inpatient exception.<sup>7</sup> In the first nine months of 2015, El Paso County, Colo., saved approximately \$501,000 by enrolling eligible inmates in Medicaid who were sent to the hospital for at least 24 hours.<sup>8</sup> Since July 2014, the Marion County (Ore.) jail has successfully submitted 35 inpatient exception claims to Medicaid, resulting in reimbursements for 155 total hospital days and an estimated savings of approximately \$775,000. They also currently have five more applications pending for a total of 20 hospital days, for an estimated savings of an additional \$100,000.

**Federal reimbursement for medical services for newly eligible adults — most inmates will be newly eligible — is 100 percent for 2016, 95 percent for 2017 and will phase down to 90 percent from 2020 and beyond.<sup>6</sup>**

Because each state has its own unique Medicaid program, counties should be sure to work with their state Medicaid authority, insurance commission and department of health or comparable agency and to understand the applicable laws and establish appropriate and effective processes.

### Indiana

Indiana developed a special presumptive eligibility process for inmates, which makes them eligible for reimbursement for inpatient hospitalizations at certain hospitals. Presumptive eligibility allows for same-day eligibility determinations (which are required for the stay to be covered in Indiana) and can be done 24 hours a day at the hospital through a web-based tool.<sup>10</sup> Once presumptive eligibility is determined, the hospital submits the inpatient stay as a fee-for-service to the state's fiscal intermediary. The state's Family and Social Services Administration pays the claim and then collects the appropriate payment from the county.<sup>11</sup>

### Colorado

In Colorado, county jails send an inmate's Medicaid application to local Department of Human Services agencies, which then process the applications. If the inmate is eligible for Medicaid, the medical facility submits a Medicaid claim and is directly reimbursed.<sup>12</sup> Jails have up to 90 days after an inmate is discharged from the hospital to determine if he or she is eligible for Medicaid reimbursement.<sup>13</sup>

### Oregon

Oregon's county jails assist an inmate with submitting an application for Medicaid eligibility to the state health department (the Oregon Health Authority, or OHA). OHA then determines the inmate's eligibility and, if the inmate is eligible, approves or reinstates Medicaid coverage. When a hospital provides care for an eligible inmate, the hospital directly bills state Medicaid (the OHA's Division of Medical Assistance Programs).<sup>14</sup>

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## What can counties do to take advantage of this provision?

**A:** Processes for enrollment and reimbursement will vary by jurisdiction depending on state laws, but all county jails should work to identify inmates who are eligible for Medicaid and, when possible, identify dates of planned future hospitalizations and start the necessary paperwork in advance. County jails can work with their local departments of health, directly with hospitals and other medical providers or hire external organizations to submit and process applications for inmates.



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