

HEALTH COVERAGE & COUNTY JAILS:

SUSPENSION *vs.* TERMINATION

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.¹ Counties are required by state and federal law to provide adequate health care for inmates, which can add significantly to already high jail costs.

With so many individuals cycling in and out of jail each year, the nation's county jails are a unique and opportune setting to connect eligible individuals with Medicaid or other health care coverage, which can help stop this cycle and save counties money in both health and justice while protecting public safety. In particular, the expansion of Medicaid, made possible through the Affordable Care Act (ACA), has provided the opportunity to enroll more justice-involved individuals into health care coverage than ever before.

As of July 2016, 31 states and the District of Columbia have expanded Medicaid, but even counties in states that have not expanded Medicaid can benefit from suspending instead of terminating coverage for justice-involved individuals. When coverage is terminated instead of suspended, it can take months for an individual to be reapproved for Medicaid upon release from detention. This creates a break in access to needed medical, mental health and addiction treatment when individuals reenter their community, which can impact health outcomes and lead to re-arrest. ⁷ Medicaid allows for—and the federal government encourages—continued eligibility for coverage for a person who is incarcerated. Thirty-three states and the District of Columbia have legislation that allows for suspension of Medicaid coverage when an individual is detained or incarcerated.

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*.



**WHEN A STATE TERMINATES INSTEAD OF SUSPENDS COVERAGE,
IT CAN TAKE MONTHS FOR AN INDIVIDUAL TO BE REAPPROVED
FOR MEDICAID UPON RELEASE FROM DETENTION.**



Why is this important to counties?

A: County jails across the country experience significant turnover, including high recidivism rates. Jail inmates suffer from mental and chronic health conditions at a higher rate than the general population. Fifty-three percent of people in jail suffer from substance abuse issues⁸ and 64 percent experience mental illness.⁹ Additionally, more than 76 percent of those with a mental illness also suffer from a co-occurring substance use issue. Approximately two-thirds of those detained in jails are there pretrial, many of whom are being held simply because they cannot afford their bail or have just been arrested and will be released in a few hours or days.¹⁰ Terminating coverage for such short stays in jail affects many individuals and greatly slows the speed at which they can be reconnected to coverage upon release. This delay in coverage can prevent them from obtaining needed treatment. Suspension of Medicaid coverage allows for quicker reinstatement of benefits when a person leaves jail and fewer challenges in obtaining mental health, addiction or other health services during the critical first weeks and months post-incarceration. These issues have a major impact on how much counties must spend on justice, public safety and correctional services. Maintaining a continuum of care between mental health, addiction and medical services delivered in jail and those available in the community upon release can prevent reoffending and a return to county jails.

Creating a more streamlined process to enroll eligible inmates in Medicaid before they leave jail is the first critical step to ensuring access to care and could improve public safety, public health and county budgets.

A 2012 study of recidivism rates in the Philadelphia jail system found higher re-incarceration rates among those with co-occurring mental illness and substance abuse than those with no diagnosis. The study found the following re-incarceration rates:

- 54 percent for people with severe mental illness
- 60 percent for people with no diagnosis
- 66 percent for people with substance abuse, and
- 68 percent for people with co-occurring mental illness and substance abuse.

Amy Blank Wilson, Jeffrey Draine, Trevor Hadley, Steve Metraux, Arthur Evans (2011). Examining the impact of mental illness and substance use on recidivism in a county jail. International Journal of Law and Psychiatry, v34, n4, July-August, p264-268 (Available at www.sciencedirect.com)

Access To Treatment Impacts Public Safety

In Monterey County, Calif., a study found that inmates from the county jail who received treatment for behavioral health disorders after release spent an average of 51.74 fewer days in jail per year than those who did not receive treatment.

National Conference of State Legislatures. "Providing Health Care Coverage for Former Inmates." Vol. 22, No. 15 (April 2014). Available at www.ncsl.org/documents/health/lb_2215.pdf.



What Is The Difference Between Suspension And Termination Of Medicaid Coverage?

A: In some states, Medicaid eligibility is automatically terminated upon an individual's detention or incarceration in a county jail, but termination is not required by federal law. Instead, federal law only prohibits the use of federal funds for individuals while they are incarcerated, with the exception of 24-hour inpatient care. Individuals released to the community pending trial or those on parole, probation, serving sentences in halfway houses or on home confinement can receive Medicaid benefits. The Centers for Medicare and Medicaid Services (CMS) encourages states to suspend rather than terminate Medicaid eligibility of incarcerated individuals to limit long delays in access to health care services upon release.

Suspension

of Medicaid coverage permits an individual incarcerated in a county jail to remain on the Medicaid

rolls in a suspended status, which retains his or her eligibility for Medicaid coverage while cutting off benefits during incarceration. When an individual reenters the community following completion of their detention, Medicaid benefits can be reinstated more quickly without having to go through a new eligibility determination.¹⁴

Partial Suspension

of Medicaid coverage permits an individual incarcerated in a county jail to temporarily remain on Medicaid in a suspended status. Individuals in partial suspension states retain their eligibility for Medicaid coverage for a set

time before termination if the individual remains incarcerated. If an individual reenters the community before suspension expires, Medicaid benefits can be reinstated more quickly. Complete suspension is preferable, as it ensures that all eligible individuals can better access benefits upon reentering the community, instead of only a portion of those released.

NACo POLICY SUPPORTS TOTAL SUSPENSION INSTEAD OF TERMINATION OR PARTIAL SUSPENSION, AS IT ENSURES A CONTINUITY OF CARE FOR ALL JUSTICE-INVOLVED INDIVIDUALS RELEASED TO THE COMMUNITY. CMS ALSO ENCOURAGES STATES TO DEVELOP SUSPENSION POLICIES. ALTHOUGH CHALLENGES EXIST IN SWITCHING FROM A TERMINATION TO A SUSPENSION POLICY, CMS HAS MADE AVAILABLE ENHANCED FEDERAL FUNDING FOR NEW OR IMPROVED ELIGIBILITY SYSTEMS.¹⁵

Termination

of Medicaid coverage refers to the removal of an individual from a state's Medicaid rolls upon incarceration in a jail. The time between detention or incarceration and termination of coverage varies by state, but most states that terminate Medicaid eligibility do so when an individual is booked into jail. Some states have passed laws to expand that timeframe to avoid terminating coverage for those being detained for a brief time or serving short sentences.¹⁶ Termination has no effect upon an individual's eligibility for the program. If an individual is terminated from the state's Medicaid rolls due to incarceration, he or she must submit a new application for Medicaid enrollment upon release. A new eligibility determination can take as long as 45 to 90 days under federal guidelines.



What Can Counties Do?

Despite the benefits of suspending Medicaid upon incarceration¹⁸ and encouragement by the federal government to do so, some states still terminate a person's eligibility when he or she is booked into jail. Counties can, however, work with their state Medicaid agency to create a system through which inmates' Medicaid eligibility is suspended rather than terminated during incarceration in the county—even if the state policy is to terminate.¹⁹

As states evaluate how their health and justice systems operate, it is important for counties to demonstrate the impact that suspending rather than terminating Medicaid coverage has had or could have on their county justice, public safety and correctional services. Counties should work with their state Medicaid authority to communicate the burden on their budgets from terminating Medicaid coverage during detention

or incarceration, including the length of time it takes to reinstate an individual upon release in the county and how many individuals they process that qualify for Medicaid coverage.

Aside from suspending Medicaid eligibility, counties can also make an impact by ensuring that all individuals that are eligible for Medicaid are enrolled and prepared to access services when they are released.

Maricopa County, Ariz.

The county initiated an intergovernmental agreement (IGA) with the state Medicaid authority to allow individuals to have their Medicaid eligibility suspended instead of terminated during their incarceration. Through the IGA, in order to suspend eligibility, the county and Medicaid authority share data:

- The county electronically submits a list of all individuals booked or released from jails in the county for the preceding 24 hours,
- The state Medicaid authority checks the list against its database and either suspends or reinstates all of the matches, and
- The state Medicaid authority provides a daily list of results identifying the action taken and renewal of eligibility dates, when applicable.

As part of the IGA, Maricopa County is responsible for the state share of the Medicaid match. As a Medicaid expansion state, the amount the county must pay is far lower than it was prior to expansion and for current non-expansion states. The county is currently not responsible for any match and by 2020 the county will be responsible for 10 percent. Prior to expansion, the county was responsible for 32.77 percent of the cost.

Montana

In recent years there has been a renewed focus on facilitating successful reentry of returning citizens in Montana. In March 2016, Montana transitioned from a Medicaid termination state to a suspension state; Medicaid suspension is not time-limited but in effect throughout the period of incarceration. In June 2016, the Montana Department of Public Health and Human Services, working in conjunction with the Montana Commissioner on Securities and Insurance, provided additional clarification that a person who has been released pending trial and is under the supervision of pretrial services is eligible for Medicaid, as long as that

person “is allowed to (1) work in the community, (2) use community resources like libraries or grocery stores, and (3) get health care in the community – even if the pre-release is locked during certain hours, requires residents to sign in and out, or requires them to avoid certain parts of town.”

Indiana

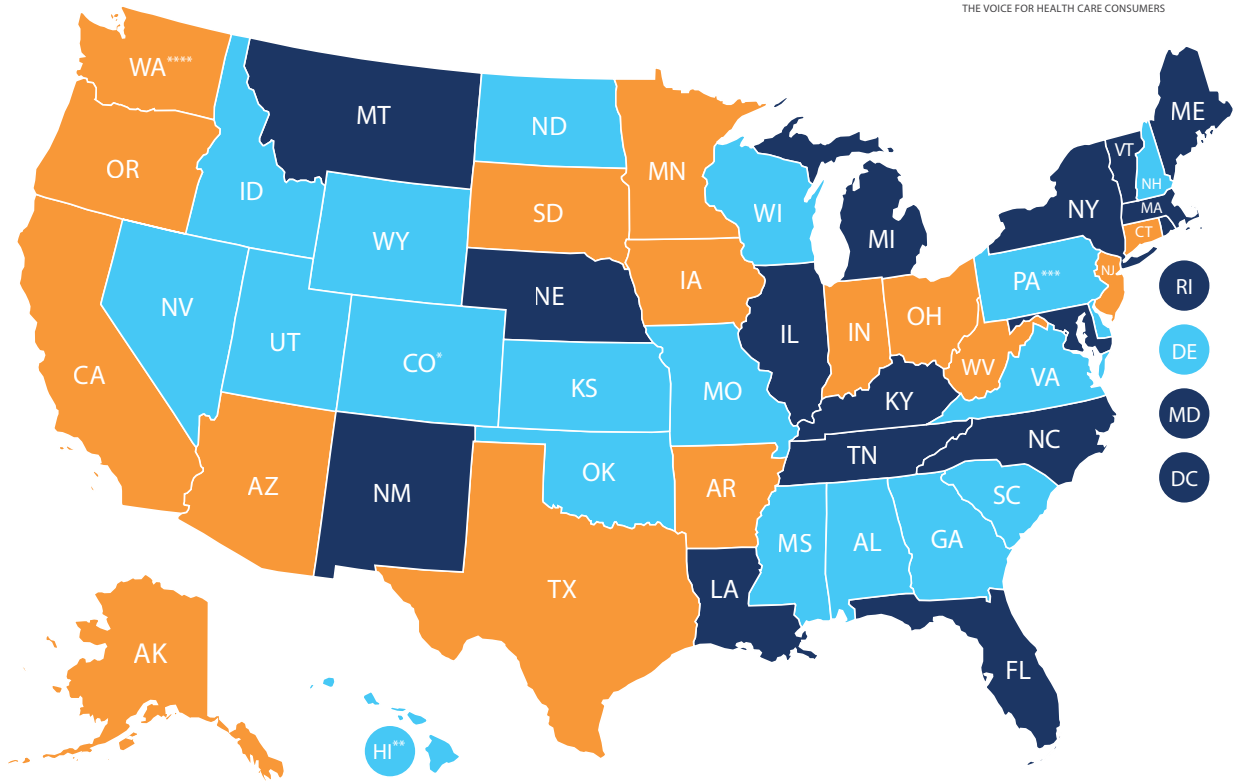
When an individual is incarcerated in Indiana, state law requires that his or her Medicaid eligibility be suspended, not terminated, if the person will be incarcerated for less than 12 months. If a person will

be incarcerated for less than 30 days, an eligibility review does not take place at all.²¹ There is no limit on the number of a times a person’s eligibility can be suspended, but eligibility will be terminated if the individual is incarcerated for more than 12 months.²²

Indiana jails fill out Medicaid applications for incarcerated individuals who are more than 60 days from release. If approved, they are put into suspension status since they are still incarcerated. Upon release, individuals are given instructions to contact the Division of Family Resources to “activate” coverage. The suspension status is then removed, and notice of coverage is sent to the individual.²³

For citations, see electronic version at www.naco.org

State Status on Suspension vs. Termination



Updated on July 12, 2016



* Colorado has passed a law changing its policy to time-limited suspension, but the state has not yet implemented this law.

** Hawaii has passed a law changing its policy to indefinite suspension, but the state has not yet implemented this law.

*** Pennsylvania passed HB 1062, which allows for a two-year suspension, on July 8, 2016. The state is in the process of implementing the law.

**** Washington passed SB 6430, which allows for indefinite suspension, but the law won't be implemented until July 1, 2017.



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