

Federal Medicaid Opportunities for Justice Involved Individuals

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Today's Agenda

Medicaid Eligibility for Justice Involved Individuals

Consolidated Appropriations Act (2023) – Sections 5121 & 5122

1115 Reentry Waiver Opportunity

Medicaid Eligibility for Justice-Involved Individuals

Definitions of inmate and correctional institution

- Federal regulations define an inmate of a public institution as a “person living in a public institution” and a public institution as “an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.”
- An inmate can be an individual of any age who is in custody and held involuntarily through operation of law enforcement authorities in a public institution.
- A public institution includes a correctional institution – e.g., federal or state prison, jail, detention facility, or other correctional facility.
- Correctional institutions may provide medical and related services but are organized for the primary purpose of involuntary confinement and, thus, are never considered to be medical institutions.

Medicaid eligibility for inmates and restrictions on payment for services

- Incarceration does not preclude an inmate from being determined Medicaid-eligible
- Federal law prohibits use of Medicaid funds for services provided to an inmate of a public institution (Medicaid Inmate Exclusion Policy)
- Exception to the Medicaid Inmate Exclusion Policy is when an individual is not an inmate of a public institution because he/she was admitted as an inpatient to a medical institution for a stay of 24 hours or more

Federal Medicaid funds are available for the following Medicaid-eligible justice involved individuals

- On parole, probation or have been released to the community pending trial and are not considered inmates.
- On home confinement
- Residing in state or local corrections-related supervised community residential facilities with freedom of movement and association while residing in the facility (i.e., Treatment Transfer and Transitional Control individuals residing in ODRC-licensed halfway houses)
- Residing voluntarily in a public institution for a temporary period pending other living arrangements, including after his/her case has been adjudicated and other arrangements are being decided
- Residing in a public education or vocational training institution for purposes of securing education or vocational training

Citations: Ohio Administrative Code: 5160: 1-1-03; 42 Code of Federal Regulations 435.1010; SHO #16-007 (dated 4/28/2016)

Ohio's settings for justice involved juveniles and adults

Correctional Settings	
28 Prisons	Adults 18+ convicted of felonies min 6 moths; post adjudication status
3 Juvenile correctional facilities	Felony offenders under 21 who have been adjudicated by one of the 88 courts; post adjudication status
11 Juvenile community correctional facilities	Felony youth under 21 on suspended DYS commitment; post adjudication
34 Juvenile detention centers	Serves youth under 21; all felony crimes; pre and post adjudication status
19 community based correctional facilities	Prison diversion residential programs; pre & post adjudication status
302 Jails	Youth can be held; adults; pre and post adjudication

Community Settings	
Alternative Placements including QRTPs	Community based alternative placements Youth under 21 serving institutional time with DYS
Psychiatric residential treatment facilities	Youth up to age 21
Halfway Houses – 8 agencies	Treatment transfer and transitional control individuals
Residential setting	Parole or probation
	Home confinement

Most restrictive settings – “inmates of a public institution” -- when individual is “patient of a medical institution” can access limited Medicaid inpatient benefit plan

Least restrictive settings – residents with “freedom of movement & association” can access full Medicaid

Consolidated Appropriations Act, 2023: Justice Involved Youth Provisions - Sections 5121 and 5122

Consolidated Appropriations Act (CAA) of 2023: Overview of sections 5121 & 5122 for incarcerated youth

- Section 5121 is *mandatory* and requires states to have a plan in place to cover the following for eligible juveniles who are post-adjudication in a public institution:
 - **Coverage of certain screening or diagnostic services**, including behavioral health, 30 days prior to release (or no later than one week or soon as practical following release); and
 - **Coverage of targeted case management services**, including referrals to appropriate care and services in the geographic region of the home or residence for the eligible juvenile – 30 days prior to release and at least 30 days post-release
- Section 5122 is *optional* and allows states to provide Medicaid coverage (of all services to which an eligible individual would be entitled absent the inmate exclusion) to eligible juveniles in a pre-adjudication status (or pending disposition of charges)

Overview of sections 5121 & 5122 (cont.)

- Effective on **January 1, 2025**; Federal financial participation is available for both provisions
- Eligible juvenile (defined in section 1902(nn) of the Social Security Act) includes:
 - A Medicaid eligible individual under 21 years of age; and
 - An individual between the ages of 18 and 26 who is eligible for Medicaid under the mandatory former foster care children group
- Applies to **all correctional settings where eligible juveniles** may be detained

1115 Reentry Waiver Opportunity

Supporting Justice Involved Individuals to Return to the Community

This 1115 waiver provides states an opportunity to improve care transitions for certain incarcerated individuals. The waiver aims to address the specific needs of the incarcerated population and support their transition back to the community.



Individuals who are incarcerated **have higher rates of mental illness and chronic and other physical health care needs** than the general population.



According to a 2020 report, the rate of **substance use disorders (SUDs) in incarcerated individuals may be as high as 65%** in prisons nationally.



Formerly incarcerated individuals with mental health conditions and SUDs have difficulty succeeding upon reentry because of **obstacles immediately at release, such as high rates of poverty and risk of poor health** outcomes.



Without access to affordable health care services post-release, **formerly incarcerated individuals do not seek outpatient medical care and are at significantly increased risk of emergency department (ED) use** and hospitalization.



Individuals reentering from correctional facilities are at **greater risk of overdose death, criminal related charges, and recidivism.**

Section 1115 Demonstration Opportunity to Support Reentry for Justice Involved Populations

April 17, 2023

Centers for Medicare & Medicaid Services (CMS) issued the State Medicaid Director letter #23-0003

Key Details

- Under section 1115, we have an opportunity to test transition-related strategies to support community reentry and improve care transitions for individuals who are incarcerated
- We can submit a waiver of the inmate exclusion to receive Federal Financial Participation (FFP) for Medicaid expenditures for certain pre-release health care services provided to incarcerated individuals eligible prior to their release

10 Approvals

CMS approved the first waiver (California) in January 2023. Montana, Washington, Massachusetts, Illinois, Kentucky, Oregon, Utah, Vermont and New Hampshire also received approval

14 Demonstration Requests

14 additional states have reentry demonstration requests

Section 1115 Demonstration Goals

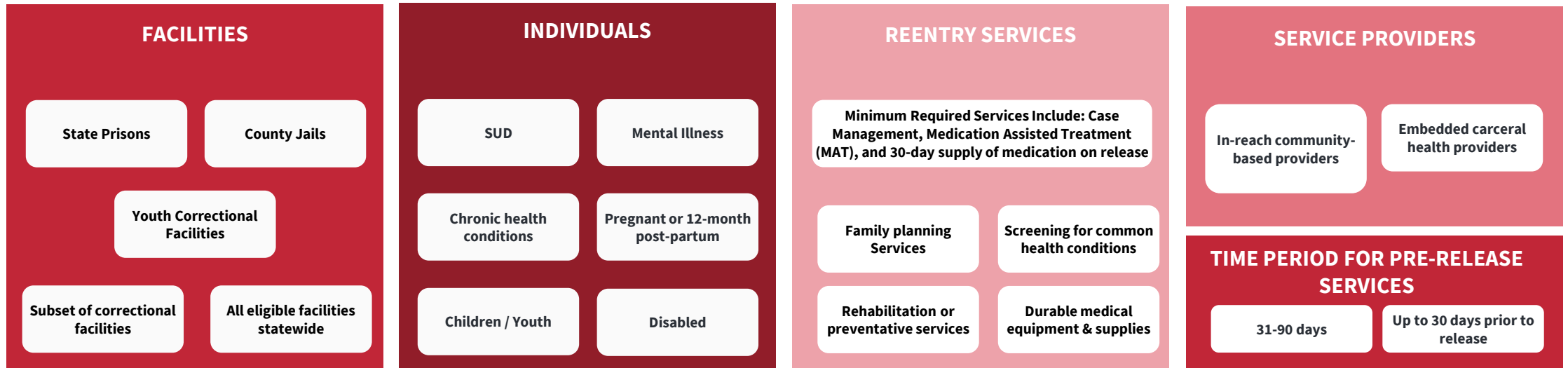
- **Increase coverage, continuity of coverage, and appropriate service uptake** through assessment of eligibility and availability of coverage for benefits in carceral settings just prior to release
- **Improve access to services** prior to release and improve transitions and continuity of care into the community upon release and during reentry
- **Improve coordination and communication** between correctional systems, Medicaid systems, managed care plans, and community-based providers
- **Increase additional investments in health care and related services**, aimed at improving the quality of care for beneficiaries in carceral settings and in the community to maximize successful reentry post-release
- **Improve connections between carceral settings and community services** upon release to address physical health, behavioral health, and health-related social needs (HRSN)
- **Reduce all-cause deaths** in the near-term post-release
- **Reduce number of ED visits and inpatient hospitalizations** among recently incarcerated Medicaid beneficiaries through increased receipt of preventive and routine physical and behavioral health care

State Flexibility

This opportunity offers flexibility to states to provide coverage for certain pre-release services, individuals, and carceral facilities.

Eligible Facilities	Eligible Individuals	Minimum Covered Services	Eligible Providers	Time Period for Covering Pre-release Services
<ul style="list-style-type: none"> Flexibility to provide coverage of pre-release services in state and local correctional facilities. States may seek to provide services in all eligible facilities statewide or they can choose to only provide services in a subset of correctional facilities. States may outline a phased approach throughout the duration of the demonstration. 	<ul style="list-style-type: none"> States define their populations of focus for pre-release services and eligibility criteria. States may make all Medicaid-enrolled individuals in participating carceral facilities eligible. States also define which Medicaid eligibility groups will be covered. 	<ul style="list-style-type: none"> CMS requires states to provide a minimum set of pre-release services (Case management, medication-assisted treatment (MAT) for all SUD with accompanying counseling, and medications – upon release. States have flexibility to add services that support reentry into community (e.g., family planning services, screening for common health conditions such as blood pressure, diabetes). 	<ul style="list-style-type: none"> States must ensure that carceral providers comply with Medicaid participation requirements. States have the flexibility to allow in-reach community-based providers or embedded carceral health providers to furnish services. In reach providers may provide services in person or via telehealth. 	<ul style="list-style-type: none"> The time cannot exceed 30 days; however, several states are seeking additional time which CMS may allow if states document additional hypotheses related to longer duration of services yielding better outcomes.

Ohio will have to define the...



Possible Pre-Release Services To Support Reentry

Pre-Release Service		Mandatory Service	Optional Service <i>Included in approved applications</i>	Optional Service <i>Included in pending applications</i>
1	Case Management and Care Coordination	✓		
2	MAT and Counseling	✓		
3	30-day Supply of Medication, Upon Release	✓		
4	Physical and Behavioral Health Consultation		✓	✓
5	Medication and Medication Administration		✓	✓
6	Community Health Worker (CHW) Services		✓	✓
7	Laboratory and Radiology Services		✓	✓
8	Durable Medical Equipment (DME) Upon Release		✓	✓
9	Limited Clinical Consultation		✓	✓
10	Peer Support Services		✓	✓
11	Screening for Common Health Conditions		✓	✓
12	Hepatitis C Treatment		✓	✓
13	Family Planning, Family Home-Visiting, and Home Stabilization Services		✓	✓
14	Housing-Related Case Management (tenancy supports, linkages with providers, medications)			✓
15	Rehabilitative and Preventative Services (P)			✓
16	HIV/HCV Planning and Treatment			✓
17	Sexual and Reproductive Health Information and Connectivity			✓
18	Dental Services			✓
19	Optometry			✓
20	Tobacco Cessation			✓

Reinvestment Requirement

- **States must reinvest total amount of federal funds received through the demonstration for any existing carceral healthcare services that are currently funded with state/local dollars**
- Reinvestments focused on improving community-based physical and BH services, health information technology and data sharing, and community-based provider capacity likely allowable
- State funds for new, enhanced, or expanded pre-release services authorized under the demonstration and implementation costs may count toward state's reinvestment
- If adding a new service that is not currently available at all, reinvestment demonstration is not required; but if existing service is being replaced with Medicaid service must show reinvestment that supports re-entry
- States will need to do a survey of correctional facilities to determine what is currently being provided to determine level of reinvestment required
- Although not clear, it is expected a statewide assessment will be acceptable (i.e. dollar for dollar tracking unlikely)

Implementation and Financing

Implementation

- 5 Milestones (maintain Medicaid eligibility, cover minimum services, continuity of care/case management, connect to post release services, cross-system collaboration/data sharing)
- Implementation plan similar to other 1115s, include details such as: how facilities will be enrolled as Medicaid providers, how services will be provided, telehealth, how meds will be provided, etc.
 - Consider all aspects of bringing Medicaid into correctional facilities
- States must conduct a readiness assessment of selected carceral settings before implementing demonstration
- Federal financing for pre-release services is contingent on CMS approval



Financing

- Time-limited funding to support implementation may be available for activities such as IT, staff, outreach, education, stakeholder convening
- IT system upgrades may be eligible for 90/10 match for activities related to IT, such as:
 - communication between correctional staff, provider, MCO
 - enabling claims processing for correctional facilities
 - upgrading Electronic Health Records (EHRs)

Necessary Capabilities for Participation

To provide pre-release services, correctional agencies will be required to complete a readiness assessment to assess their existing capabilities and infrastructure of their facilities. Minimum requirements indicate that the correctional agency must have the capability in place to participate. Additional capabilities must still be supported, but may be used with discretion in determining an agency's readiness.

Minimum Requirements:

Existing presence in carceral settings

Providing healthcare (medical / behavioral) services today

Ability to screen pre-release eligibility, notify eligibility, and release information to state systems

Ability to enter claims into a system

Additional Capabilities:

Ability to notify release dates, manage re-entry care, and behavioral health handoffs

Ability to handle volume of claims

Ability to structure staffing, manage project reports, and oversight processes

Network of eligible providers enrolled with Medicaid

EHR or contracted EHR and claims billing capability

Ability to schedule consultations, support virtual/in-person consultations, and manage medical equipment upon release

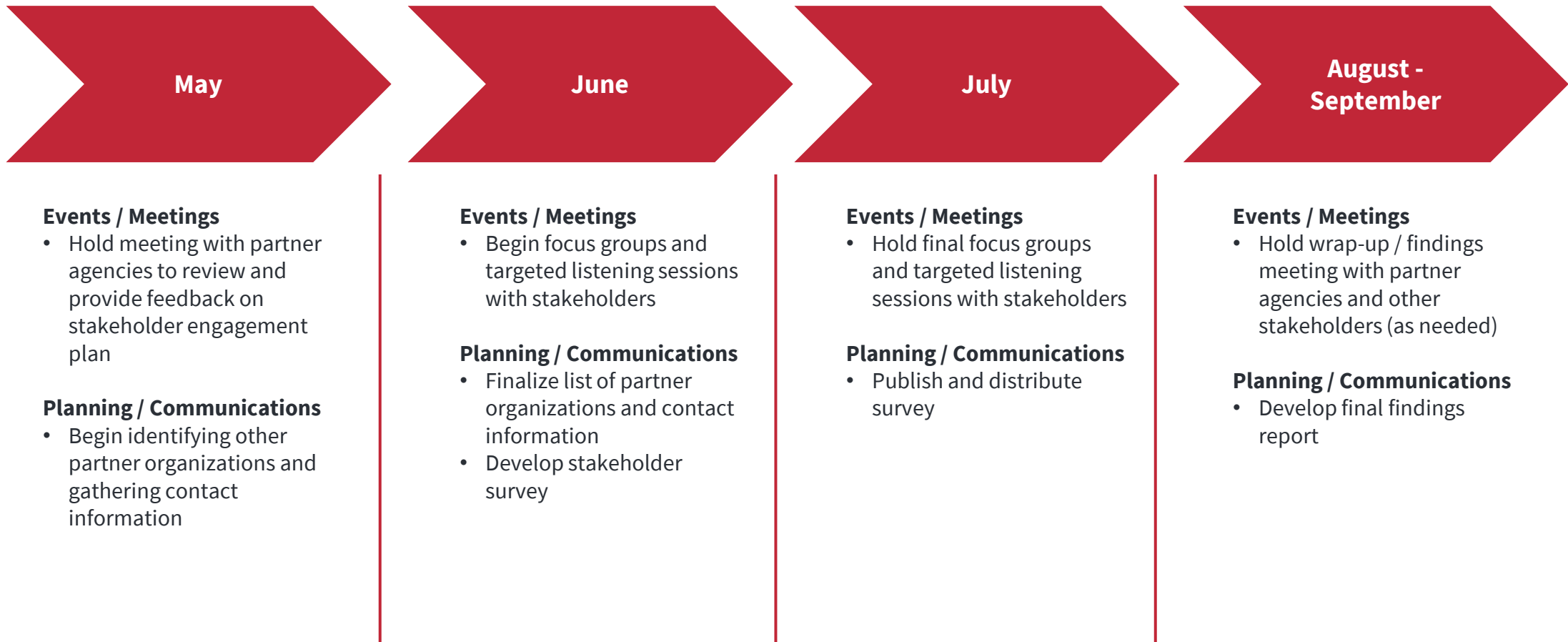
Ability to submit claims via ODM's Provider Network Management system

Ability to assign pre-release care managers, manage medications, support treatment, and handle billing

Ability to develop governance structures for partnerships

Stakeholder Engagement Timeline and Process

The stakeholder engagement process will include both educational components (e.g., an overview on what is or is not available via the 1115) and an opportunity to seek input from the various stakeholder populations (e.g., barriers to care and suggested strategies for improvement).



Stakeholder Engagement Schedule

No.	Stakeholder Group	Meeting Date/Time	Status
1	Justice/Legal	Monday, June 24 th 11:30am	Complete
2	Law Enforcement	Wednesday, June 26 th 3:00pm	Complete
3	Carceral Settings – 3 meetings: <ul style="list-style-type: none"> Halfway houses/CBCFs County Jails CCFs/JDCs 	<ul style="list-style-type: none"> Halfway houses/CBCFs – Tuesday, June 25th 9:00am CCFs/JDCs – Thursday, June 27th 8:30am County Jails Tuesday – Friday, June 28th 1:30pm 	Complete
4	County Stakeholders	Friday, June 28 th 9:00am	Complete
5	Advocacy/Community Agencies	Tuesday, July 9 th 9:00am	Complete
6	Foster Care/Youth Agencies	Monday, July 15 th 1:00pm	Complete
7	BSSA Community Corrections-Medicaid 1115 & Reentry sub-committee	Tuesday, July 16 th 9:30am	Complete
8	Health Providers	Wednesday, July 17 th 9:00am	Complete
9	MCOs	Friday, July 19 th 9:00am	Complete
10	Hospitals	Tuesday, July 23 rd at 9:30am	Complete
11	General Information Session	Friday, July 26 th 9:30am	Complete

Note: ODM will seek input from individuals with lived experience via a survey that will be distributed in July

**Please submit questions and comments to Kara Miller
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THANK YOU

medicaid.ohio.gov