



# Medicaid's New Role in Advancing Reentry: Key Policy Changes



## For the first time, Medicaid is being authorized to cover some health services for individuals in the period before they are released from incarceration.

Historically, Medicaid's inmate exclusion prevented Medicaid from covering services for people who are incarcerated except for inpatient hospital stays, even though people who are incarcerated may remain eligible for and enrolled in Medicaid. The goal of these policy changes is to ensure smoother transitions at reentry, establish connections to community-based providers on release, and promote access to needed care and support. Ensuring that individuals have Medicaid coverage and connections to care upon reentry has the potential to improve a range of health and public safety outcomes, including reducing mortality, unnecessary emergency room visits and hospitalizations, and rates of reincarceration.

These policy changes are groundbreaking and ongoing, with some changes already enacted and in the process of being implemented and others only proposed. Changes have taken place through statutory changes made by Congress and administrative changes made by Centers for Medicare and Medicaid Services (CMS) via 1115 demonstration waivers. 1115 demonstration waivers are a tool through which CMS can waive provisions of federal law for individual states, provided that the waiver serves the objectives of the Medicaid program. The reentry policy changes and their next steps are summarized below:

## NATIONAL POLICY CHANGES FOR YOUTH



**What is the policy change?** In last year's Omnibus Consolidated Appropriations Act of 2023, Congress enacted the first nationwide changes to the inmate exclusion by authorizing Medicaid and the Children's Health Insurance Program (CHIP) to cover certain services provided to eligible youth.



**What does it do?** The law requires states to cover:

- Case management for youth who are incarcerated during the 30 days prior to their release and for at least 30 days following release after adjudication, including referrals to services.
- Some diagnostic and screening services, including behavioral health screenings, in the 30 days prior to release, or immediately after release.

It also gives states the option to offer Medicaid-covered services to youth who are incarcerated pending disposition of charges. These changes apply to all youth who are under age 21 as well as former foster care youth (who remain eligible for Medicaid until they reach age 26), meaning that this policy change affects people who are in jails and state prisons in addition to youth correctional facilities.



**What's next?** CMS is developing policy guidance regarding how this change will be implemented. The policy takes effect in January 2025.

## MEDICAID 1115 DEMONSTRATION WAIVERS: CMS GUIDANCE AND APPROVED/ PENDING WAIVERS



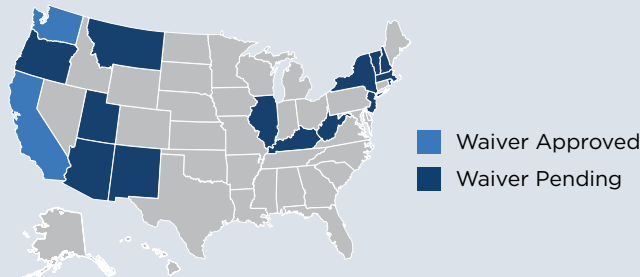
**What is the policy change?** In April 2023, CMS released guidance on a Medicaid Reentry Section 1115 Waiver Demonstration Opportunity that will allow state Medicaid programs that wish to do so to cover a set of pre-release services for people who are incarcerated in state prisons, jails, and youth corrections.



**What does it do?** The policy change allows states to provide a specific set of Medicaid-covered services to individuals during the 90 days before their anticipated release from incarceration. The minimum services states must provide to be approved for a waiver are case management, medication assisted treatment (MAT), and a 30-day supply of medications upon release. States can go above and beyond these three services in designing their service package, and have flexibility to identify which populations are covered and what facilities provide services. CMS established some requirements for states to receive waiver approvals, including that states must submit a reinvestment plan identifying how any federal funds that replace preexisting state and local funding for carceral services will be reinvested to support the goals of the reentry demonstration. To support some of the capacity investments needed to stand up these services, CMS will consider state requests for temporary funding to support implementation as well as an ongoing enhanced federal matching rate for investments in technology infrastructure.



**What's next?** CMS approved California and Washington's waivers in 2023. California and Washington can start delivering Medicaid-covered pre-release services in April 2024 and July 2025, respectively. Additionally, 14 other states have submitted waiver proposals, which CMS is considering: Arizona, Illinois, Kentucky, Massachusetts, Montana, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, and West Virginia.



## PROPOSED FEDERAL LEGISLATION



**What are the proposed policy changes?** Three pieces of federal reentry legislation were introduced in Congress but have not been passed or enacted.



- What would the proposed legislation do?**
- The Reentry Act would amend the Medicaid inmate exclusion to require that Medicaid cover services provided to eligible incarcerated individuals during the 30-day period prior to release from prison or jail.
  - The Due Process Continuity of Care Act would amend the Medicaid inmate exclusion to allow for Medicaid coverage of health care services for pre-trial detainees.
  - The Humane Correctional Health Care Act would end the Medicaid inmate exclusion, meaning that Medicaid and CHIP can cover health services for eligible individuals who are incarcerated.



**What's next?** The prospects for passage of any of these proposals in the current Congress are unclear—while most of the proposals have bipartisan support, each also carries a substantial cost, which, if passed, would need to be offset through other policy changes. Congress continues to examine these and other reentry related proposals through Committee deliberations.