

## Health and Corrections Terrain in the Next Administration

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### Introduction

Criminal Justice is a local product. Often advances in both health care and criminal justice have been limited by one-size-fits-all regulations that failed to meet the local needs of jurisdictions. Time and time again we have seen that states that use discretion appropriately can achieve incredible leaps forward by leveraging federal resources and local knowhow. COCHS' commitment to criminal justice and healthcare reform remains the same regardless of administration or method. While we, too, are concerned that many of the advances that have been made in recent years could be lost, we believe that there are substantial reasons to be hopeful in the coming years. Below, we describe some of the options for the future of health care and describe how these programs could be leveraged to improve public health and public safety.

### Block Grants

Across both sides of the aisle, policymakers and politicians alike have been frustrated by the narrow confines of the Medicaid program. In order to remove these constraints, many have suggested that Medicaid should be turned into a block grant program. Medicaid block grants would give states a fixed sum of money that could be invested by the state in a way it chooses. Block grants could be used to subsidize private health insurance or directly insure beneficiaries. A block grant program could have some unforeseen benefits: it could allow for an instant workaround to archaic Medicaid regulations that have historically done more harm than good. Institutions of Mental Disease and Inmates of Public Institutions were banned from using Medicaid funds, but with block grants, these limitations could hopefully go away. This could allow for block grant funds to be used in correctional settings, which would allow for greater continuity of care inside and outside the walls of the correctional facility. Connecting our correctional facilities into our network of care providers could also allow for new oversight, greater flexibility to target the needs of justice-involved individuals, and better data regarding what works for justice-involved individuals.

### Novel 1115 Waivers

If Medicaid is not turned into a block grant program, we can expect that the federal government would be more likely to approve novel 1115 Medicaid waivers that can demonstrate savings and allow for more local control. For past year, COCHS has advocated for an 1115 that could allow for several interventions to be paid by Medicaid behind the walls of a correctional facility that would stem the opioid crisis.<sup>1</sup> Illinois<sup>2</sup> and New York<sup>3</sup> have both submitted 1115 waivers that request that Medicaid dollars be made available behind the walls of a correctional facility—improving the health of justice-involved individuals and communities from which they come. If Medicaid were not turned into a block grant program, states should be actively considering how they could submit 1115 waivers that meet the needs of justice-involved individuals.

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<sup>1</sup> <http://cochs.org/files/IMD/disparate-impact-opioid-epidemic.pdf>

<sup>2</sup> <http://cochs.org/files/election2016/ILLINOIS-1115.pdf>

<sup>3</sup> <http://cochs.org/files/election2016/NEW-YORK-1115.pdf>

## State and Federal Regulations

As we know, many individuals are in the criminal justice system because of their unmet behavioral health needs. This means that many individuals may find themselves in the criminal justice system because the criminal justice decision makers do not know that their clients could be better served by community programming. Unfortunately, federal regulations have made sharing such data challenging. Regulations, such as 42 CFR §2 were written to protect justice-involved individuals, but could lead to barriers to care that ensure an individual does not receive appropriate treatment. In the future, it would not be surprising to see such barriers to data sharing eliminated. Once we can better leverage data to understand the health needs of justice-involved individuals, we could understand what modalities of treatment will keep these individuals out of the criminal justice system.

## Mental Health Investments

Congress has found bipartisan support for improving investments in mental health. This overall commitment is unlikely to change. As we can expect to see more funding coming to states for mental health services, we should use this as an opportunity to remove barriers to treatment and reimagine the contours of our mental health system. This includes phasing out four-walls models of treatments and moving towards modalities of care that allow us to meet individuals where they are.

COCHS remains committed to empowering justice-involved individuals and the communities from which they come. As we move into the next stage of health care financing, we are optimistic about the opportunities that exist, and we remain dedicated to ensuring that individuals and communities touched by the criminal justice system can be included in our health care system moving forward.