



MEDICAID AND THE CRIMINAL-LEGAL SYSTEM: PROSECUTORS

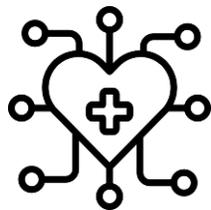
From determining criminal charges to shaping bail policies and practices, prosecutors have significant influence over one’s ability to hold a job, remain housed, connect with substance use disorder treatment, and even access health insurance coverage. This role is particularly difficult given the longstanding challenges safety-net systems face in providing physical and mental health services many justice-involved individuals.



While public health and public safety have been historically separated, both systems increasingly recognize that cross-sector collaboration can help improve individual and community health and well-being. Partnering with healthcare providers offers prosecutors more options for prosecutorial discretion and, by extension, strengthens communities and families that are disproportionately impacted by the criminal-legal system.

This white paper describes upcoming Medicaid policy developments that will affect how healthcare is delivered in carceral settings and offers present opportunities for partnerships that can help improve individual lives and community safety.

MEDICAID’S ROLE IN THE CRIMINAL-LEGAL SYSTEM

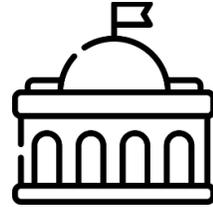


Medicaid is the health insurance program for low-income individuals and individuals who qualify based on certain financial and medical conditions. However, the Social Security Act forbids Medicaid from paying for most services while an individual is an “inmate of a public institution,” including jails, prisons, and juvenile justice facilities. This means that people lose access to Medicaid with every booking. Upon release, it can take weeks or months for Medicaid agencies to reinstate medical and pharmacy benefits which impedes timely access to care.

The Consolidated Appropriations Act of 2023 made substantial changes to how Medicaid operates for incarcerated juveniles. Beginning in 2025, states must provide Medicaid’s screening and diagnostic benefits to sentenced juveniles thirty days before release from a jail, prison, juvenile justice facility, or other “public institution.” It also requires thirty days of targeted case management before and after release. The law allows states to opt to maintain Medicaid benefits for pretrial juveniles.

At the same time, the federal government is approving state plans to extend Medicaid benefits into carceral settings before release.

California will offer eligible beneficiaries targeted services 90 days before release from a jail, prison or juvenile justice facility. Many states have submitted waivers to change their state Medicaid plan to cover services for people during incarceration. These waivers will improve access to services that impact health and justice. State- and federal-level Medicaid policies can improve your opportunities for collaborating with health partners, and your input is crucial to ensure that you can rely on Medicaid systems to sustainably screen and treat people in your programs while providing alternatives to incarceration.



Examples of submitted waivers pending federal approval:

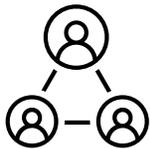
- **Kentucky:** Would provide **SUD treatment** to eligible incarcerated members throughout period of incarceration (including pretrial) and enroll eligible members into a Medicaid program thirty days prior to release.
- **Utah:** Would provide **full set of Medicaid State Plan** benefits to eligible members thirty days prior to release. Eligibility criteria includes chronic physical or behavioral health condition, mental illness, or opioid use disorder.
- **Arizona:** Focused on members at **high risk of experiencing homelessness**, waiver would provide Medicaid-reimbursable reentry services (case management, coordinating housing, linkages to physical and behavioral providers) to members thirty days prior to release.

Source: [State Policies Connecting Justice-Involved to Medicaid Coverage and Care, Kaiser Family Foundation](#)

RESOURCES FOR PROSECUTORS

As the industry leader of health strategy for systems-involved populations, COCHS has identified ways that prosecutors can take advantage of these opportunities and prepare for collaboration with Medicaid as policies change.

Work with local partners to ensure continuous insurance coverage: Systems-involved individuals are often unable to maintain employment, housing, and Medicaid coverage as their case is adjudicated. For example, prosecutors may agree to allow a person to leave jail under the supervision of a drug court, but due to the inmate exclusion, the individual is no longer covered by Medicaid and therefore has no health insurance coverage. Community collaborations can begin to address these coverage gaps.



Action item: Monitor the Bureau of Justice Assistance’s [current funding page](#) to identify funding opportunities in your community to create collaborations that reduce barriers to Medicaid benefits. Use these collaborations to adjust flow through the justice systems in a way that maintains Medicaid benefits.

Public health can support public safety: Lack of access to healthcare services can lead to an [increase in crime](#). Prosecutors’ offices [across the country](#) have collaborated with health systems through Medicaid-funded, innovative programs to address justice-involved populations’ unmet health and social needs.

- **Action item:** Identify opportunities to divert individuals into non-carceral programs. There are many resources and funding sources for local jurisdictions to identify opportunities to divert individuals to more appropriate health settings, including the [Sequential Intercept Model](#). By understanding community-based services, you will bolster your relationships with external providers and case managers who can help ensure court appearances.

Seek funding for pretrial services and enhanced screening: Health and well-being depend not only medical care, but access to basic needs like housing, food, and employment. Criminal-legal departments play an important role in meeting these needs through mental health and social needs screening, case plans, and pretrial diversion programs.

- **Action item:** Use resources like the nonprofit [Kaiser Family Foundation](#) state waiver tracker to familiarize yourself with Medicaid waivers and amendments in your state and how [other states](#) are using Medicaid to improve access to care. Begin a conversation with your state Medicaid agency and justice partners about how other states are supporting social needs interventions for people involved with the criminal-legal system.

THE FUTURE

Many people are stuck in a feedback loop of poor health outcomes and frequent incarceration. Prosecutors play a key role in breaking this cycle by partnering with the healthcare sector and incorporating Medicaid approved programs. COCHS is ready to help you prepare for these important conversations. As criminal-legal and healthcare systems come together to meet this challenge, we aim for a future where everyone can be healthy and safe.

