



## MEDICAID AND THE CRIMINAL-LEGAL SYSTEM: SPECIALTY COURTS

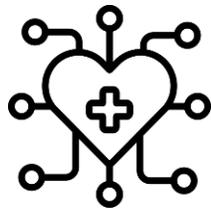
From assessing risk to connecting clients to essential behavioral health treatment, specialty courts play a critical role in helping people access medical care and avoid incarceration.



While health and public safety systems have historically been siloed, both systems increasingly recognize that cross-sector collaboration can improve individual and community health and well-being. Healthcare partnerships can support the care management and resource navigation roles of specialty courts and, by extension, strengthen 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 within criminal-legal systems and offers opportunities for partnerships that can help improve individuals' 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 or 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 requests 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. This could provide courts with significant insights into the health needs of people before they leave incarceration and support planning that will keep people from returning to

incarceration. 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.



**Examples of submitted waivers pending federal approval:**

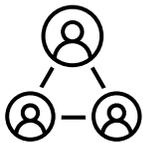
- **Kentucky:** Would provide **SUD treatment** to eligible incarcerated members throughout period of incarceration (including pretrial) and enroll eligible members into a Medicaid program thirty days prior to release.
- **Utah:** Would provide **full set of Medicaid State Plan** benefits to eligible 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 SPECIALTY COURTS

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

**Use Medicaid-funded risk and need assessments:** Without an in-depth assessment about the needs of a client, many courts may refer to the same community resources regardless of an individual’s circumstance or fit for the program. This approach can worsen program outcomes by not matching a clients’ actual needs to the appropriate services. Evidence-based risk assessment tools such as the **ASAM criteria** are often Medicaid reimbursable and can help your court identify the clinically appropriate level of care for the risks and needs of the individual.



**Action item:** Identify how your court refers clients to community resources. If your court refers clients to programs regardless of their specific need, work with your state health department to identify how tools like the ASAM Criteria can help you better fit screenings to services and receive reimbursement.

**Identify opportunities for cross-sector support:** Once you understand the level of need for those participating in your program, it is important to connect your participants with the adequate services. Many specialty courts contract directly with programs, which can be an administrative and cost burden for the court and isolate the services offered from the rest of the health services. Your state, however, authorizes providers to offer the variety of necessary levels of care to meet people’s needs which ensures that those services are funded through Medicaid.

- **Action items:** Your state health services department will be an excellent partner for identifying how to work better with the health system. Work with your state health agency to identify opportunities to connect participants to Medicaid-funded, clinically driven substance use programming. Incorporate members of the health system into your specialty court teams so that your court can align with the range of services funded through Medicaid.

**Professional development:** Many specialty court staff face difficulties navigating confusing healthcare and addiction services on behalf of their clients. Just like the criminal-legal systems, these systems are bureaucratic and have a language of their own. Medicaid can fund professional development for healthcare-adjacent staff, including court coordinators and drug court specialists. These trainings could include overviews of medication-assisted treatment for OUD and other common co-occurring chronic conditions.

- **Example:** [Michigan](#) and [Alaska](#) have proposed using federal funding to train drug court professionals in the efficacy of medication-assisted treatment. The [National Drug Court Institute](#) and [National Association of Drug Court Professionals](#) also offer trainings on substance use disorder treatment and other behavioral health issues.

## THE FUTURE

Many people who are involved with multiple systems are stuck in a feedback loop of poor health outcomes and frequent incarceration. Specialty courts can play a key role in breaking this cycle by partnering with the healthcare sector and incorporating Medicaid 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.

