

## **The Reentry Act: An Essential Component of the COVID-19 Public Health Response**

### **Key Takeaway**

In May, the House of Representatives passed COVID-19 relief legislation that includes a provision enabling Medicaid to cover services to incarcerated Medicaid-eligible individuals who are about to return to their communities. This provision, the Reentry Act, would:

- improve access to COVID-19 testing and treatment;
- significantly strengthen continuity of care as people return to communities; and
- support the health of communities that are affected by incarceration and help reduce COVID-19 transmission.

The Senate has not yet acted on this legislation. This fact sheet describes the likely impact of this provision on efforts to mitigate the impact of COVID-19 on people who are incarcerated and overall public health. The Reentry Act is described in greater detail in a companion fact sheet, titled “The Reentry Act’s Impact on Health Care and the Criminal Justice System: A Fact Sheet.”

### **The Reentry Act would advance access to health care services needed to address the COVID-19 pandemic**

The Reentry Act is found in Section 30110 of the emergency supplemental appropriations bill passed by the House of Representatives on May 15 called the HEROES Act. The Reentry Act would, for the first time, provide Medicaid coverage for health care services for Medicaid beneficiaries who are incarcerated during the thirty days immediately preceding their release.<sup>1</sup> This provision would apply to jails, prisons, and juvenile justice facilities, and would close a substantial gap in services for people who are incarcerated, many of whom are Medicaid eligible.<sup>2</sup> This discontinuity in care challenges an effective public health response to a crisis like COVID-19, which is spreading rapidly in prisons and jails.

### **COVID-19 is having a devastating impact on justice-involved individuals—and racial equity**

The national response to the COVID-19 pandemic is exposing life-threatening gaps in the health system for people who are involved in the criminal justice system.<sup>3</sup> COVID-19 has hit racial and ethnic minorities harder than the broader population, and the criminal justice-legal system compounds this disparity.<sup>4</sup> Many justice-involved individuals are testing positive for COVID-19, and correctional facilities are challenged to respond to this unique threat. This is largely due to overcrowding and the fact that these facilities are designed around communal, shared spaces, including lavatories and medical rooms, making social distancing extremely difficult. Supplies of soap, hand sanitizer, and other basic cleaning materials that can help mitigate the virus’s spread are not always adequate.

Jails are particularly likely to be sources of transmission of COVID-19 because individuals are constantly cycling in and out of detention. In 2018, the weekly jail inmate turnover rate was fifty-five percent, and the average jail stay was only twenty-five days.<sup>5</sup> During a pandemic, any movement in and out of correctional facilities by people who are incarcerated and staff can spread the virus through prisons, jails, and communities.

The data on COVID-19's spread in correctional settings indicates:

- In mid-May, the most recent period from which data are available, the CDC reported that of the thirty-seven jurisdictions that reported information, thirty-two (eighty-six percent) had at least one confirmed COVID-19 case among incarcerated individuals and correctional staff.<sup>6</sup>
- A national data project out of the UCLA School of Law reported that as of early June 10, there were 48,090 confirmed COVID-19 cases among the nation's jail and prison inmate population, and 529 confirmed deaths. Additionally, they report 11,170 confirmed cases among correctional staff, and fifty-two deaths.<sup>7</sup>
- Some prisons and jails have reported very high rates of COVID-19 transmission. Marion County Correctional Institution reported that over eighty percent of the inmates had tested COVID positive. On Rikers Island in New York City, at least 1,259 staff have tested positive.<sup>8</sup>
- As of late April, over seventy percent of tested inmates in federal prisons had COVID-19.<sup>9</sup> In early June, the Bureau of Prisons (BOP) reported that 2,134 federal inmates and 190 BOP staff had tested positive for COVID-19, and that seventy-nine of these inmates and one BOP staff member had been killed by the virus.<sup>10</sup>
- Researchers have estimated that cycling in the Cook County jail is associated with nearly sixteen percent of COVID case transmission in Illinois.<sup>11</sup>
- Even with limited testing, as of June 8 at least 562 juveniles and 653 staff in juvenile facilities had tested positive.<sup>12</sup>

Furthermore, people who are incarcerated are much more likely to suffer from chronic health conditions, such as hypertension and diabetes, than are non-incarcerated individuals, which puts them at even greater risk of contracting and dying from a virus like COVID-19.<sup>13</sup> People who are incarcerated also experience disproportionately high rates of substance use disorders and mental illness, which also increase risks associated with COVID-19.

### **The Reentry Act will remove significant barriers to addressing COVID-19 among people who are involved in the justice system including correctional staff**

Medicaid's longstanding inmate exclusion provision inhibits Medicaid providers' ability to treat and care for the justice-involved population while incarcerated. It also limits access to needed services and coordination of care at reentry. This is a major hurdle for the providers responsible for responding to the COVID-19 crisis behind bars—many of these providers are reporting that they are reducing services as a result of difficult fiscal conditions created by the pandemic.<sup>14</sup> This inability to coordinate could mean that individuals who are incarcerated may be unable to identify their COVID status, endangering the incarcerated individuals, correctional staff, and their families.

The Reentry Act today would:

- authorize Medicaid to cover health care services provided to inmates in the critical thirty days preceding release;
- support increased COVID-19 testing and treatment capacity by providing Medicaid coverage and financing (having Medicaid cover and finance services can help enable prompt identification of new COVID-19 cases, facilitate treatment, and support potentially lifesaving preventive measures); and
- help providers establish a broader continuum of care to address COVID-19 and other chronic health conditions as people transition back to communities.

## Conclusion

In providing Medicaid coverage for health care services to justice-involved individuals in the thirty days immediately preceding release, the Reentry Act has the potential to establish critical access and continuity of care for people who are reentering communities. The Reentry Act will help overcome longstanding barriers to care for people who are incarcerated, serve as an essential component of the COVID 19 public health response, and help address the devastating and disproportionate impact COVID-19 is having on people who are incarcerated, correctional staff, and their families.

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<sup>1</sup> U.S. Congress, House, *The HEROES Act*, HR 6800, 116<sup>th</sup> Cong., introduced in House May, 12, 2020, <https://www.congress.gov/bill/116th-congress/house-bill/6800/text>; U.S. Congress, House, *Medicaid Reentry Act*, HR 1329, 116<sup>th</sup> Cong., introduced in House February, 25, 2019, <https://www.congress.gov/bill/116th-congress/house-bill/1329/text>.

<sup>2</sup> For more information about what the Reentry Act does, please see COCHS' factsheet titled "The Reentry Act's Impact on Access and Continuity of Care for People Involved in the Justice System: A Fact Sheet" published on June 11, 2020. Available at <https://cochs.org/files/covid-19/reentry-cj-health-care-fact-sheet.pdf>.

<sup>3</sup> Community Oriented Correctional Health Services, *Establishing State and Federal Correctional Health Coordinators to respond to the COVID-19 Pandemic*, (Washington, DC: COCHS, 2020), <https://cochs.org/files/covid-19/chc-proposal.pdf>.

<sup>4</sup> "Coronavirus Disease 2019: Racial & Ethnic Minority Groups," Centers for Disease Control and Prevention, June 4, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>.

<sup>5</sup> Zhen Zeng, *Jail Inmates in 2018* (Washington, DC: Bureau of Justice Statistics, 2020).

<sup>6</sup> Megan Wallace et al., *COVID-19 in Correctional and Detention Facilities – United States, February–April 2020*, (Washington, DC: Centers for Disease Control and Prevention, 2020), available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e1.htm>.

<sup>7</sup> Sharon Dolovich et al., "UCLA Law COVID-19 Behind Bars Data Project," UCLA Law School, June 9, 2020, [https://docs.google.com/spreadsheets/d/1X6uJkXXS-O6eePLxw2e4JeRtM41uPZ2eRcOA\\_HkPVtk/edit#gid=1197647409](https://docs.google.com/spreadsheets/d/1X6uJkXXS-O6eePLxw2e4JeRtM41uPZ2eRcOA_HkPVtk/edit#gid=1197647409).

<sup>8</sup> Editorial Board. "Ohio's Marion Prison Reveals Coronavirus Challenges behind Bars. None Is Easy. All Are Urgent: Editorial," May 6, 2020. <https://www.cleveland.com/opinion/2020/05/ohios-marion-prison-reveals-coronavirus-challenges-behind-bars-none-is-easy-all-are-urgent.html>; Ransom, Jan. "Virus Raged at City Jails, Leaving 1,259 Guards Infected and 6 Dead," May 20, 2020. <https://www.nytimes.com/2020/05/20/nyregion/rikers-coronavirus-nyc.html>.

<sup>9</sup> Michael Balsamo, "Over 70% of tested inmates in federal prisons have COVID-19," *AP News*, April 29, 2020, <https://apnews.com/fb43e3ebc447355a4f71e3563dbdca4f>.

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<sup>10</sup> “COVID-19 Cases,” Federal Bureau of Prisons, June 10, 2020, <https://www.bop.gov/coronavirus/>.

<sup>11</sup> Eric Reinhard and Daniel Chen, “Incarceration and its Disseminations: COVID-19 Pandemic Lessons from Cook County Jail” Health Affairs, June 4, 2020. <https://doi.org/10.1377/hlthaff.2020.00652>.

<sup>12</sup> Josh Rovner, *COVID-19 in Juvenile Facilities* (Washington, DC: The Sentencing Project, 2020), <https://www.sentencingproject.org/publications/covid-19-in-juvenile-facilities/>.

<sup>13</sup> Laura M. Maruschak, *Medical Problems of State and Federal Prisoners and Jail Inmates, 2011–12* (Washington, DC: Bureau of Justice Statistics, 2015), <https://www.bjs.gov/content/pub/pdf/mpsfpi1112.pdf>.

<sup>14</sup> “Survey Shows Reentry Services Halting Across U.S.,” Council of State Governments: Justice Center, April 22, 2020, [https://csgjusticecenter.org/survey-shows-reentry-services-halting-across-u-s/?mc\\_cid=13c23b1fd9&mc\\_eid=d901682358](https://csgjusticecenter.org/survey-shows-reentry-services-halting-across-u-s/?mc_cid=13c23b1fd9&mc_eid=d901682358).