Colorado's 1115 SUD Waiver Amendment Overview

November 2023

Waiver Amendment Overview to expand services through an 1115 SUD Medicaid Demonstration Waiver: continuous coverage (0-3 & adults leaving incarceration), serious mental illness (SMI) and serious emotional disturbance (SED), criminal justice re-entry.

Introduction

Consistent access to health care is critical to prevention, intervention, and ongoing treatment of individuals with physical and behavioral health needs. This waiver amendment proposal by the Colorado Department of Health Care Policy and Financing (HCPF) seeks to improve health outcomes, promote long-term recovery, and reduce overdose deaths by extending member coverage for priority populations. For children ages zero to three, continuous coverage means they have immediate access to services from birth across multiple developmental stages with a consistent and trusted health care provider, uninterrupted by changes in insurance[1]. Through regular screenings, providers can detect problems faster in individuals, as well as their caregivers and home environments leading to earlier prevention and intervention efforts. Early adversity, such as home life instability, abuse or illness, can interrupt foundational brain development in the first years of life putting children at greater risk of developing lifelong health problems, including substance use disorders[2]. Continuous coverage ensures children ages zero to three and their caregivers have access to mental health services like Colorado's Child First home-visiting program, proven to reduce poor behavioral health among the child and caregiver, decrease exposure to traumatic events, and increase access to services[3]. Families can receive screenings, therapeutic interventions, care coordination, and develop trusted relationships with a consistent provider which act as protective factors in preventing adverse childhood events, substance misuse and other negative outcomes for children as they grow[4].

Continuous and immediate access to reliable healthcare is critical to individuals upon release from a correctional facility when they are at highest risk of recidivism, illness, overdose and death. Individuals leaving adult and youth correctional facilities may only receive timely services if they are quickly connected to health care services,

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[1]Cohen, S. (2021) *Three Principles to Improve Outcomes for Children and Families, 2021 Update.* Center on the Developing Child at Harvard University. Retrieved From: https://harvardcenter.wpenginepowered.com/wp-content/uploads/2017/10/3Principles_Update2021v2.pdf

[2]Ali N., Borgman, R., Costello, E., Cruz K., Govindu, M., Roberts M., Rooks-Peck, C., Wisdom, A., Herwehe, J., McMullen, T. (2022) *Overdose Data to Action Case Studies: Adverse Childhood Experiences.* National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. Retrieved from: https://www.cdc.gov/drugoverdose/od2a/pdf/OD2A-ACEs-case-study-508.pdf

[3]Crusto, C.A. Lowell, D.I., Paulicin, B., Reynolds, J., Feinn, R., Friedman, S. R., & Kaufman, J. S. (2008) *Evaluation of a Wraparound Process for Children Exposed to Family Violence.* Best Practices in Mental Health: An International Journal, 4(1), 1-18

[4]Child First (2023) *Home-Based Intervention. Child First.* Retrieved from: https://www.childfirst.org/our-work/home-based-intervention

which is why Colorado seeks to improve pre-release services to ensure that eligible individuals are already connected to the community-based support they need prior to release. Continuous coverage for eligible individuals guarantees health care access for 12 months after release which may lead to outcomes including reducing the likelihood of initiating or returning to substance use. For individuals with SMI or SED who may need additional support in an institutes for mental disease (IMD) acute or residential stay, expanding reimbursement opportunities can improve quality and access to these services. This amendment to Colorado's current 1115 "Expanding the Substance Use Disorder Continuum of Care" Waiver for children, youth and adults promotes access to health care as a core component of substance misuse prevention, reducing hospitalization and incarceration, and prioritizing physical and behavioral health promotion in Colorado.

Colorado goals for this request

HCPF oversees Colorado State's Section 1115 Medicaid demonstration waiver called "Expanding the Substance Use Disorder Continuum of Care" (1115 SUD Waiver). The 1115 SUD waiver demonstration approval period is January 1, 2021 through December 31, 2025.

HCPF is requesting an amendment to the current 1115 SUD waiver, which would authorize:

- Continuous eligibility for ages 0-3 and adults leaving a Colorado Department of Corrections (DOC) facility;
- Prerelease services for individuals transitioning from correctional facilities; and
- Reimbursement for acute inpatient and residential stays in IMD for individuals diagnosed with a SMI or SED.

Continuous coverage for children to age three and adults leaving a Colorado Department of Corrections (DOC) facility

Colorado House Bill 23-1300 authorizes HCPF, by April 1, 2024, to seek federal authority to provide continuous Medicaid coverage for children up to age three and for twelve months for adults who have been released from a Colorado Department of Corrections facility, regardless of any change in income during that time by January 1, 2026. [5] Through this legislation, Colorado aims to improve the health and well-being of people in Colorado through consistent access to health care coverage during critical periods in life. During the COVID-19 public health emergency, longer periods of continuous coverage in the state's medical assistance programs allowed more Colorado families to access and maintain health insurance. This continuous coverage reduces family stress, increases the use of preventive services, and reduces costly, avoidable emergency department (ED) visits and hospitalization stays. Continuous coverage assists children in healthy early development and strength's overall mental health through regular connections with the health system.

[5] Continuous Eligibility Medical Coverage Act, HB23-1300. 2023 Colorado State Legislative Session. Retrieved from https://leg.colorado.gov/bills/hb23-1300

Providing continuous Medicaid coverage can decrease gaps in insurance coverage (churn: losing and then re-enrolling in coverage often for administrative reasons or small fluctuations in income) and enhance the continuity of care and delivery of physical and behavioral health services during early childhood and when adults experience the difficult transition of leaving the criminal justice system.

This demonstration request will end churn among Medicaid and CHP+[6] enrolled children through age three, enabling their families and providers to better address their primary and preventive health care needs.[7] Children need consistent access to health care, especially in their early years, when frequent screenings, vaccinations, and wellness checkups are critical to their development and school readiness. This request will ensure that coverage disruptions do not prevent children from receiving ongoing treatment and services they require during the critical early years of development and growth. This request seeks to:

- Ensure continuous Medicaid and CHP+ coverage for young children;
- Promote longer-term access to and continuity of physical health care, behavioral health care, dental care and preventive services;
- Combat racial inequities; and
- Improve health outcomes and well-being for low-income young children.

This demonstration request will also end churn among Medicaid-enrolled adults for the year after they leave a Colorado DOC facility and re-enter the community, enabling these individuals and their providers to better address their physical and behavioral health care needs. Ensuring continuous coverage for previously incarcerated adults not only improves health outcomes but supports stability and may also improve public safety by reducing rates of recidivism. For example, adults with substance use disorder (SUD) convictions have a greater risk of criminal re-involvement and recidivism.[8]

This request will ensure that coverage disruptions do not prevent adults leaving incarceration in Colorado DOC facilities from receiving ongoing treatment for physical or behavioral health needs during a critical time that can improve SUD and mental health treatment, reduce recidivism rates and reduce costly hospitalizations and unnecessary ED visits.[9] This request seeks to:

- Ensure 12 months of continuous Medicaid coverage for adults leaving a DOC facility;

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[6] In Colorado, the Children's Health Insurance Program is called the Child Health Plan Plus (CHP+)

[7] Alker, J., Kenney G., Rosenbaum S. (2022) T*he Biden Administration Should Approve Oregon's Request To Cover Children Until Their Sixth Birthday*. Health Affairs. Retrieved from: https://www.healthaffairs.org/content/forefront/biden-administration-should-approve-oregon-s-request-cover-children-until-their-sixth

[8] NIDA. (2020) *Criminal Justice DrugFacts*. National Institute on Drug Abuse. Retrieved from: https://nida.nih.gov/publications/drugfacts/criminal-justice

[9] Frank, J. W., Linder, J. A., Becker, W. C., Fiellin, D. A., & Wang, E. A. (2014) *Increased hospital and emergency department utilization by individuals with recent criminal justice involvement: results of a national survey*. Journal of general internal medicine, 29(9), 1226–1233. Retrieved from: https://doi.org/10.1007/s11606-014-2877-y

- Promote longer-term access to and continuity of physical and behavioral health care and care coordination;
- Combat racial inequities; and
- Improve short and long-term physical and behavioral health outcomes and reduce recidivism for adults leaving a Colorado DOC facility.

Pre-release services for individuals transitioning from correctional facilities

In 2022, the Colorado Legislature committed to exploring whether the state should seek federal authority to improve health outcomes for the justice population through Senate Bill 22-196. This 1115 demonstration request will allow for the continuity of medical assistance services for people in Colorado leaving the DOC and Division of Youth Services (DYS) facilities. To best scale these services, the demonstration would begin with state-run prisons and detention centers first. This request seeks to:

- Improve health outcomes for individuals with complex or unmet health needs;
- Create greater health equity within the healthcare continuum; and
- Reduce the disparities for criminal justice-involved individuals by improving access to quality health care, allowing for successful transitions back to the community.

Serious mental illness (SMI) and serious emotional disturbance (SED)

Through this amendment, HCPF seeks to expand this authority to reimburse for acute inpatient and residential stays in an IMD for individuals diagnosed with a SMI or SED. This request seeks to:

- Reform HCPF's current IMD reimbursement policy to cover up to 15 days each calendar month without length of stay restriction, so long as providers maintain an average length of stay of 30 days or less;
- Reduce utilization and lengths of stay in EDs among Medicaid beneficiaries with SMI or SED while awaiting mental health treatment in specialized settings;
- Reduce preventable readmissions to acute care hospitals and residential settings;
- Improve availability of crisis stabilization services including services made available through call centers and mobile crisis units, intensive outpatient services, as well as services provided during acute short-term stays in residential crisis stabilization programs, psychiatric hospitals, and residential treatment settings throughout the state;
- Improve access to community-based services to address the chronic mental health care needs of beneficiaries with SMI or SED including through increased integration of primary and behavioral health care; and
- Improve care coordination, especially continuity of care in the community following episodes of acute care in hospitals and residential treatment facilities.

Background

Continuous coverage for children to age three

People need insurance coverage to access health care and maintain good health for themselves and their families.[10] Among families without insurance coverage, children are less likely to access pediatric preventive care than their Medicaid-covered peers.[11] Continuity of coverage for young children provides an essential base for providers and health plans to focus their efforts on necessary primary and preventive care and early diagnosis and treatment of problems that will improve long-term physical and behavioral health.

Over the past two years, COVID-19 disrupted early childhood services and programs, severely impacting the development, and emotional and behavioral health of children and youth. In particular, children ages zero to five from lower income households, single-parent families, and Black households, as well as young children with disabilities, experienced significant increases in emotional or behavioral problems, including depression.[12] Now, more than ever before, we need to ensure uninterrupted coverage and access to health care for children. Continuous enrollment will keep young children connected to coverage and care without the risk of coverage losses and the discontinuity in care. Through this proposal, Colorado seeks to ensure that young children get the care they need when they need it.

Studies demonstrate inconsistent coverage (churn) leads to a higher likelihood of unmet medical, prescription and dental needs, a delay in accessing urgent care and a lower likelihood of having a usual source of care and well child care. [13] [14] [15] Therefore, continuous coverage for young children is an important tool to promote consistent access to health care and the preventive services needed to identify and address physical, behavioral, and developmental concerns before they impede a child's

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[10] Hailun L., May A.B., and Shaker M. E. (2019) *Health Needs, Utilization of Services and Access to Care Among Medicaid and Uninsured Patients with Chronic Disease in Health Centres. Journal o*f Health Services Research & Policy 24, no. 3 (Jul 2019): 172-181.

[11] Venkataramani, M., Pollack C. E., Roberts E. T. (2017) *Spillover Effects of Adult Medicaid Expansions on Children's Use of Preventive Services*. Pediatrics. 140 (6): e20170953. Retrieved from: https://doi.org/10.1542/peds.2017-0953.

[12] Jones, K. (2021) *The Initial Impacts of Covid-19 on Children and Youth (Birth to 24 Years): Literature Review in Brief*. Washington, DC: Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. Retrieved from: https://aspe.hhs.gov/sites/default/files/documents/188979bb1b0d0bf669db0188cc4c94b0/impact-of-covid-19-on-children-and-youth.pdf

[13] Sugar, S., Peters C., DeLew. N., Sommers, BD. (2021*) Medicaid Churning and Continuity of Care: Evidence and Policy Considerations Before and After the COVID-19 Pandemic (Issue Brief No. HP-2021-10)*. Washington, DC: Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. Retrieved from: https://aspe.hhs.gov/sites/default/files/private/pdf/265366/medicaid-churning-ib.pdf

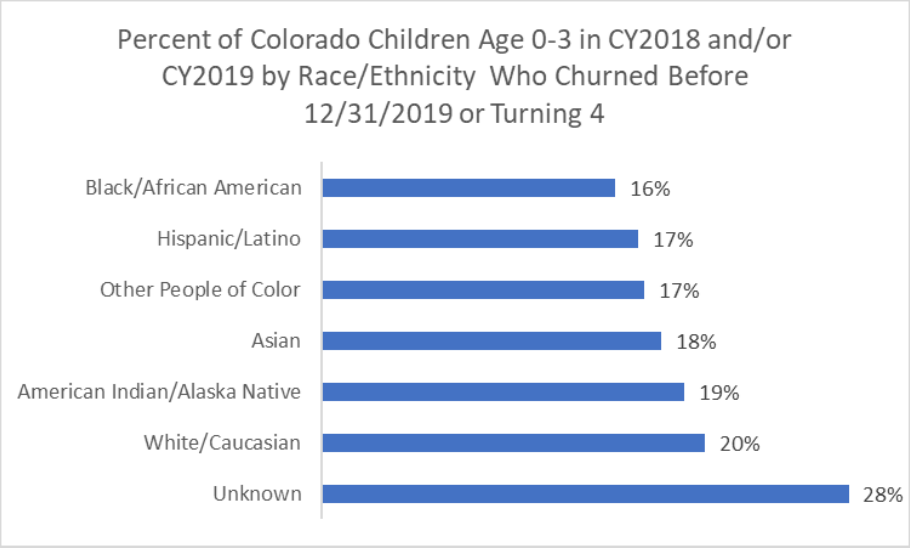
[14] DeVoe, J. E., Graham, A., Krois, L., Smith, J., & Fairbrother, G. L. (2008) *"Mind the Gap" in children's health insurance coverage: does the length of a child's coverage gap matter*. Ambulatory pediatrics : the official journal of the Ambulatory Pediatric Association, 8(2), 129–134. Retrieved from: https://doi.org/10.1016/j.ambp.2007.10.003

[15] Cassedy A., Fairbrother G., Newacheck P. W. (2008) *The impact of insurance instability on children's access, utilization, and satisfaction with health care*. Ambulatory Pediatrics. 2008 Sep-Oct;8(5):321-8. doi: 10.1016/j.ambp.2008.04.007. Epub 2008 Jun 16. PMID: 18922506.

performance in school.[16] These gaps in access are particularly consequential for the preschool aged children that Colorado has prioritized, as experts recommend 12 well-child checks before age 3.[17]

Colorado previously adopted the 12-month continuous coverage state plan option for children. While that policy is effective in maintaining coverage during the 12 months between redetermination of Medicaid eligibility, even with a streamlined renewal process, coverage losses at redetermination continue to be an issue for children and families due to change of address, paper work issues and other administrative reasons.

An analysis of Colorado's enrollment data in calendar years 2018 and 2019 shows that 20 percent of children ages 0-3 with eligibility at any time in the two years experienced Medicaid or CHP+ coverage gaps. See the charts for coverage gaps broken out by race and ethnicity.



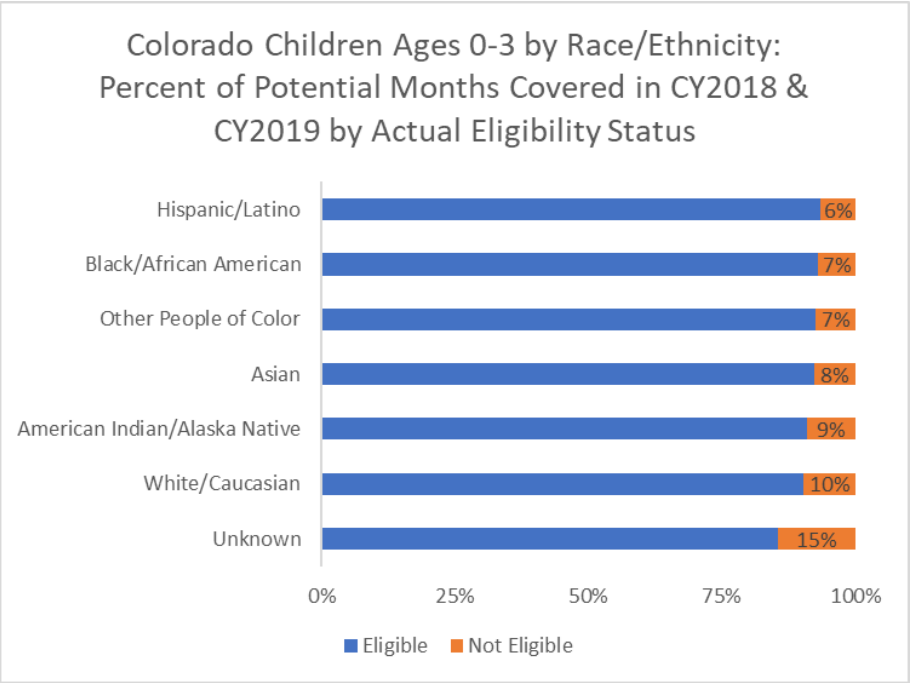
In September of 2022, Oregon received Federal authority from the Centers for Medicaid and Medicare Services (CMS) to provide continuous coverage for Medicaid and Children's Health Insurance Program (CHIP) enrolled children from 0 to age 6, regardless of income. In June 2023, Washington received similar authority for continuous coverage for Medicaid enrolled children from 0 to age 5. Colorado seeks the same Federal authority to provide continuous coverage with Federal Financial Participation (FFP)

[16] Brooks T., Gardner A. (2021) *Continuous Coverage in Medicaid and CHIP*. Georgetown University Health Policy Institute, Center for Children and Families. Retrieved from: https://ccf.georgetown.edu/wp-content/uploads/2021/07/Continuous-Coverage-Medicaid-CHIP-final.pdf

[17] Burak E. W. (2018) *Promoting Young Children's Healthy Development in Medicaid and the Children's Health Insurance Program (CHIP)*. Georgetown University Health Policy Institute, Center for Children and Families. Retrieved from: https://ccf6.georgetown.edu/wp-content/uploads/2018/10/Promoting-Healthy-Development-v5-1.pdf

for Medicaid and CHIP enrolled children from birth to age 3.

Adults leaving a Colorado Department of Corrections (DOC) facility



Evidence shows that continuous enrollment improves continuity of care, access to preventive services and quality. One 2015 study examined the impact of churn and found that people who experienced a coverage gap as part of their churn were more likely to have to switch doctors and more likely to skip doses or stop taking medications, compared to those who changed coverage without a coverage gap. They were also more likely to report delaying care due to cost, having trouble paying bills, or receiving low-quality care. Half of those who experienced a coverage gap reported it had a negative impact on their overall health and quality of care, compared to 20% for those without a gap.[18]

Risks associated with churn and lack of health insurance are exacerbated for the justice-involved population at reentry.[19] Ensuring Medicaid coverage for this population, particularly for individuals who experience racial inequities, is a high priority for Colorado. Continuity of care is an important approach to alleviate health inequities, reduce recidivism, prevent overdoses, and reduce costly hospitalizations[20] [21]

Formerly incarcerated individuals have higher rates of chronic health conditions, including hepatitis C, diabetes, and high blood pressure, as well as higher rates of

[18] Sommers B. D., Gourevitch R., Maylone B., Blendon R. J., and Epstein A. M. (2016) *Insurance Churning Rates For Low-Income Adults Under Health Reform: Lower Than Expected But Still Harmful For Many*. Health Affairs 2016 35:10, 1816-1824 Retrieved from: https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.0455

[19] Sawyer J., Wachino V., Walsh A., Lomax S. (2022) *Providing Health Care at Reentry Is a Critical Step in Criminal Justice Reform*. To the Point (blog), Commonwealth Fund, Sept. 9, 2022. Retrieved from: https://doi.org/10.26099/g765-7947

[20] Albertson, E. M., Scannell, C., Ashtari, N., & Barnert, E. (2020) *Eliminating Gaps in Medicaid Coverage During Reentry After Incarceration*. American journal of public health, 110(3), 317–321. Retrieved from: https://doi.org/10.2105/AJPH.2019.305400

[21] Frank et al (2014)

addiction and mental health needs[22]. 80% of those returning to the community have chronic physical or behavioral health concerns at release. Ensuring access to preventive health services during reentry may be especially critical for incarcerated people with mental illness or substance use disorder. One study of people on parole in California found that 53% of those with mental illness were reincarcerated within one year, compared with 30% of those without mental illness. Importantly, reincarceration for those with mental illness was often due to technical violations such as failing to attend mental health appointments.[23] Additionally, the risk of opioid overdose within two weeks after release is 40 times higher than the general population.[24] Providing coverage and access to care is critical to address the SUD and mental health needs of adults at reentry.

Colorado has seen recent improvement in engagement in behavioral health services for adults at reentry. Regional Accountable Entities (RAEs), that manage behavioral health services and care coordination for Medicaid members, implemented data sharing agreements in 2019 with DOC and Judicial to better support members as they transition from incarceration to the community. These data connections have resulted in higher engagement in behavioral health services (from 9% to 20%) within 14 days of release. Providing continuous coverage will enhance these important gains.

In September of 2022, Massachusetts received Federal authority from CMS to provide 12 months of continuous coverage for Medicaid enrolled adults leaving incarceration. Colorado seeks the same Federal authority to provide continuous coverage with FFP for Medicaid enrolled adults leaving a Colorado DOC facility.

Pre-release services for individuals transitioning from correctional settings

The Inmate Payment exclusion has been in place since the Medicaid program began in 1965. The inmate payment exclusion as provided in the last paragraph of section 1905 (a) of the Social Security Act[25] outlines that federal Medicaid funds may not be used to pay for services for individuals while they are incarcerated, except when they are inpatients in a medical institution. Individuals released from carceral settings like jails and prisons often have complex co-occurring health concerns, including SUD, mental health needs, and ongoing chronic and infectious illness – all requiring linkages to community-based care upon reentry. In the first two weeks following release from incarceration, individuals are 129 times more likely to die from an overdose than their peers in the community, and they often have higher rates of cardiac conditions, diabetes, Hepatitis C, mood, and anxiety disorders as well as severe and persistent

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[22] Binswanger, I. A., Stern, M. F., Deyo, R. A., Heagerty, P. J., Cheadle, A., Elmore, J. G., & Koepsell, T. D. (2007) *Release from prison--a high risk of death for former inmates.* The New England journal of medicine, 356(2), 157–165. Retrieved from: https://doi.org/10.1056/NEJMsa064115

[23] Louden J. E., Skeem J. L. (2011) *Parolees with mental disorder: toward evidence-based practice.* The Bulletin UC Irvine. Retrieved from: https://ucicorrections.seweb.uci.edu/files/2013/06/Parolees-with-Mental-Disorder.pdf.

[24] Ranapurwala, S. I., Shanahan, M. E., Alexandridis, A. A., Proescholdbell, S. K., Naumann, R. B., & Edwards, D. (2018) *Opioid overdose mortality among former North Carolina inmates: 2000–2015. American Journal of Public Health, 108*(9), 1207–1213. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6085027/

[25] Social Security Act,42 U.S.C. § 1396d 1905 (a)(A). Retrieved from: https://www.ssa.gov/OP_Home/ssact/title19/1905.htm

mental illness.[26] Providing medication-assisted treatment (MAT) is an essential service for individuals who experience forced abstinence, such as those in jails and prisons. Individuals with substance use disorders or substance-related criminal charges who are reentering the community are at greater risk of criminal re-involvement and recidivism, underscoring that addressing public health needs may help advance public safety outcomes and reduce future incarceration. Colorado has undertaken significant reform efforts to improve health outcomes, services, and care for the justice-involved population.

As of April 30, 2023, Colorado correctional institutions reported an inmate population of approximately 31,000 individuals[27]. About 70-80% of these individuals have a substance use disorder, mental health diagnosis, or chronic health condition, which has required the corrections system to become the de facto primary provider of behavioral health and SUD services for justice-involved individuals[28]. Individuals with recent criminal justice involvement makeup 4.2% of the United States adult population, and account for an estimated 7.2% of hospital expenditures and 8.5% of ED expenditures[29]. Those individuals with SUD diagnosis are 80% more likely to recidivate. A disproportionate number of incarcerated individuals are minorities, specifically Black, Hispanic, and Indigenous[30]. The disproportionate number of incarcerated Black individuals compounds existing health disparities affecting these underserved populations. The justice-involved population and the minority populations' healthcare outcomes are interconnected.

In January 2023, California received federal authority from CMS to cover certain pre-release services to Medicaid and CHIP eligible justice individuals for up to 90 days immediately prior to their expected date of release from incarceration in institutions such as county jails, state prisons, and youth correctional facilities. In April 2023, CMS shared with state guidance on how to develop a plan for Medicaid coverage of pre-release individuals in a carceral setting.[31] Colorado seeks the federal authority to provide certain prerelease services with FFP.

Serious mental illness (SMI) and serious emotional disturbance (SED)

The Medicaid IMD exclusion[32] has been in place since the Medicaid program began in 1965. The IMD exclusion prohibits "payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases." The statutory provisions relating to IMDs include two categories

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[26] Binswanger et al (2007)

[27] Prison Policy Initiative (2023) Colorado profile. Retrieved from: https://www.prisonpolicy.org/profiles/CO.html

[28] Criminal Justice Federal Authority Project: Specifications for Different Federal Authority Solutions, 2023-8. April 2023

[29] US Department of Justice Medical Problems of State and Federal Prisoners and Jail Inmates, 2011-12. January 2015. Available at: https://bjs.ojp.gov/content/pub/pdf/mpsfpji1112.pdf

[30] Binswanger et al (2007)

[31] Tsai, D. (2023) SMD# 23-003 RE: Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated. DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services. Retrieved from: https://www.medicaid.gov/sites/default/files/2023-04/smd23003.pdf

[32] Social Security Act,42 U.S.C. § 1396d 1905 (a)(B). Retrieved from: https://www.ssa.gov/OP_Home/ssact/title19/1905.htm

of covered services and a broad payment exclusion that excludes FFP[33] for any medical assistance under title XIX for services provided to any individual who is between the ages of 21-64 and who is a patient in an IMD. Conversely, the original Medicaid legislation included a benefit for individuals 65 years of age or older who are in hospitals or nursing facilities that are IMDs. In 1972, the policy was expanded to include inpatient psychiatric hospital services for individuals under age 21, or, in certain circumstances, under age 22.

The exclusion was designed to assure that states, rather than the federal government, have principal responsibility for funding inpatient psychiatric services. The law was enacted during a time when states maintained large psychiatric hospitals, which served as the primary providers of psychiatric care to patients who often experienced long lengths of stay (LOS). The IMD exclusion followed the Community Mental Health Act of 1963,[34] which provided grants to states to establish community mental health centers in an effort to deinstitutionalize individuals with mental illness as well as developmental. FFP is the portion paid by the federal government to states for their share of Medicaid expenditures.

At present, CMS provides two options for states to receive FFP for short-term IMD stays. First, states may use "in lieu of authority" through its managed care contracts to reimburse IMD stays of up to 15 days in a calendar month. Second, under 1115 waiver authority, states may reimburse for IMD stays of up to 60 days if an average statewide length of stay of 30 days or less is maintained. Currently, Colorado utilizes "in lieu of" authority through its managed care contracts with RAEs to provide IMD reimbursement for stays of up to 15 days in a calendar month. This authority provides sufficient coverage for most acute psychiatric inpatient stays. However, there remain IMD stays that exceed the 15-day limit due to issues such as patient acuity and additional time needed to ensure a safe and appropriate transition to community-based services. Stays that exceed the 15-day LOS rule are not eligible for any reimbursement for services rendered.

Through this amendment, HCPF seeks authority to reimburse up to 15-days each calendar month even if a stay exceeds the current limit under "in lieu of authority." This will permit Colorado to modify its current practice through which a prorated capitation payment is made to the RAE for the days within the month that the enrollee was not in an IMD and the RAE's subsequent payment recoupment from the IMD for the entire stay. It will also address the clinical decision making challenges in which providers are choosing between discharging a patient and receiving 15 days of reimbursement, and recognizing that some clients may have extended LOS due to discharge barriers such as housing, transportation, access to step down or psychiatric care, or physical safety in the home.

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[33] Federal financial participation (FFP) is the portion paid by the federal government to states for their share of Medicaid expenditures.

[34] Community Mental Health Act of 1963, Pub. L. No. 88-164, § 406, 761 Stat. 77 (1963) Retrieved from: https://www.govtrack.us/congress/bills/88/s1576

Health First Colorado (Colorado's Medicaid Program)

The Medicaid program in Colorado, known as Health First Colorado, covered approximately 1.6 million people in Colorado during 2022. This means roughly 26.9% of Colorado's population was enrolled in Health First Colorado[35]. Of those enrolled, over 37% were children and adolescents (covered by Health First Colorado and Child Health Plan *Plus*)[36]. These programs covered 43% of all births in the state of Colorado in calendar year 2021.

Health First Colorado is a Medicaid insurance program that provides access to physical and behavioral health care, hospitalization, nursing facility care, prescription drugs, dental care and other benefits for qualifying adults and children. Physical health services are paid for through the traditional fee-for-service structure through HCPF. While behavioral health and care coordination services are capitated and provided by RAEs through contracts with HCPF. The RAEs have data sharing agreements with the Department of Corrections to better support members as they transition to community.

Since 2011, the Accountable Care Collaborative (ACC) has served as the core vehicle for delivering and managing member care for Health First Colorado. All full-benefit Health First Colorado members are enrolled in the ACC except for members enrolled in the Program for All Inclusive Care for the Elderly. The ACC integrates managed fee-for-service physical health care and managed care for behavioral health. The ACC's regional model allows it to be responsive to unique community needs. Key components of the ACC include care coordination and member support.

Colorado is seeking to ensure continuous Health First Colorado coverage for children during the first three years of their lives. Colorado covers Health First Colorado children up to 215 percent Federal Poverty Level (FPL) with Medicaid funds and up to 260 percent FPL with CHIP funds through the Child Health Plan Plus. The proposed continuous enrollment policy will apply to Medicaid-enrolled children with incomes up to 215 percent FPL, CHP+ children with incomes up to 260 percent FPL, and children who would be eligible for medical assistance coverage but are not because of their immigration status. Colorado estimates that in 2019 there were 43,984 children who lost eligibility or had a gap in eligibility before 12/31/2019 or before they turned 4. The continuous enrollment initiative would have prevented these children from churning off coverage. On average, 31,000 young children will receive continuous enrollment through this initiative. It is estimated that approximately 31,000 Colorado residents are incarcerated in local jails, federal and state prisons, and other criminal justice facilities (see figure below for breakdown)[37]. As of 2023, there were over

[35]Health Care Policy & Financing (HCPF) (2023) *State of Colorado Fact Sheet*. Colorado Department of Health Care Policy & Financing. Retrieved from: https://hcpf.colorado.gov/sites/hcpf/files/Statewide%20Fact%20Sheet.pdf

[36] Health Care Policy & Financing (HCPF) (2023) *Health Care Policy & Financing Report to the Community Fiscal Year 2021-2022*. Colorado Department of Health Care Policy & Financing. Retrieved from: https://hcpf.colorado.gov/2022-report-to-community

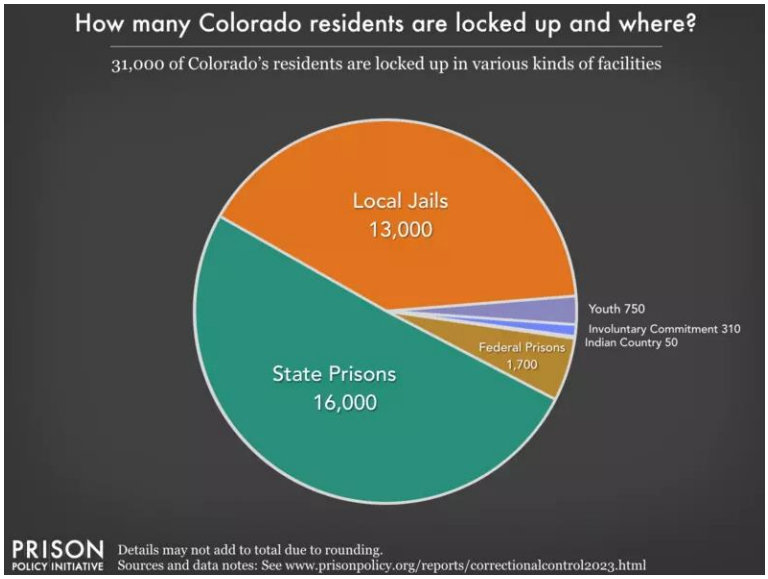
[37] Prison Policy Initiative, 2023

17,000 individuals incarcerated in 21 state prisons.[38] The average stay in state prisons is 33 months, and over 94% of prisoners are male.[39] There are approximately 5,883 releases per year, with 4,070 – 5,295 of those released are likely eligible for Medicaid.[40]

Proposed Amendment requests

Colorado is seeking authority for the below through an 1115 waiver amendment request of Colorado's current 1115 waiver: Expanding the Substance Use Disorder Continuum of Care, Waiver #: 11-W-00336/8.

- Continuous eligibility for ages 0-3 and adults leaving Colorado correctional facilities;
- Pre-release services for individuals transitioning from correctional settings; and
- Reimbursement for acute inpatient and residential stays in IMD for individuals diagnosed with a SMI or SED.



Continuous coverage for children to age three

Colorado is seeking new federal authority to provide continuous enrollment in Medicaid or CHIP for young children who have incomes below 215 percent FPL for Medicaid and 260 percent FPL for CHIP at the time of application through the end of the month their third birthday falls. A Medicaid or CHIP eligible child shall remain continuously eligible without regard to family income. Eligibility will continue to be monitored by the State. Children who have moved out of state will not retain coverage. When the family has requested voluntary disenrollment coverage will not be retained.

Adults leaving a Colorado Department of Corrections (DOC) facility

Colorado is seeking new federal authority to provide continuous enrollment in Medicaid for adults who have been released from a Colorado Department of Corrections facility. A Medicaid-eligible adult shall remain continuously eligible for Medicaid without regard to income for a period of 12 months beginning on the date of release. Eligibility will continue to be monitored by the State. Eligible adults who

[38] Thomas-Henkel, C., Williams, C., Costa, J., White, J., Kelly, T., Moore, T. (2023) Federal Authority to Support Health-Related Reentry Services for Incarcerated Populations. Retrieved from: https://hcpf.colorado.gov/sites/hcpf/files/Federal%20Services%20for%20Incarcerated%20Populations%20SB%2022-196-B_0.pdf

[39] Thomas-Henkel, et al. 2023

[40] Thomas-Henkel, et al. 2023

have moved out of state will not retain coverage. When an adult has requested voluntary disenrollment, the state determines eligibility was erroneously granted, or the individual is deceased coverage will not be retained.

Colorado is seeking to implement continuous enrollment requests by January 1, 2026. This continuous eligibility request is contingent on the receipt of FFP to the maximum extent allowed under federal law.

Pre-release services for individuals transitioning from correctional settings

In alignment with Senate Bill 22-196, this amendment request would authorize Medicaid-funded reentry services to incarcerated individuals across several settings, including state prisons and youth in correctional facilities. The 90-day reentry services would include:

- Case management (care coordination) services that include physical and behavioral health clinical screenings and consultation services;
- A 30-day supply of prescription medications and medication administration post release; and
- MAT for all FDA-approved medications (including counseling and long acting injectables).

Colorado seeks to implement prerelease services for individuals transitioning from state-run facilities (operated by the Colorado Dept. of Corrections an the Colorado Dept. of Human Services Office of Children, Youth and Families) by January 1, 2026. This prerelease request is contingent on receiving FFP to the maximum extent allowed under federal law and Colorado. The request is also to include all 51 jails in Colorado the following year, recognizing that since each facility is operated by a different local government, there is a lot of stakeholder engagement and financial and program alignment that is required, whereas with the state run facilities that work is consolidated with one accountable agency.

Serious mental illness (SMI) and Serious emotional disturbance (SED)

Colorado seeks to expand the authority to reimburse for acute inpatient and residential stays in IMDs for individuals diagnosed with SMI or SED by January 1, 2025. This request is contingent on the receipt of FFP to the maximum extent allowed under federal law and Colorado.

New Waiver Authorities

Colorado is requesting the following three authorities be added as an amendment request to Colorado's existing "Expanding the Substance Use Disorder Continuum of Care" 1115 demonstration waiver (Waiver #:11-W-00336/8).

Continuous coverage for children to age three and adults leaving Colorado a Department of Corrections (DOC) facility

42 CFR 457.343: to enable the state to waive the annual redetermination requirements, including required procedures for reporting and acting on changes (other than a change in residence to out of state, voluntary disenrollment, erroneously granted enrollment).

Pre-release services for individuals transitioning from correctional settings

Waiver of Section 1905(a) of the Social Security Act "inmate exclusion rule", as necessary to implement the state's pre-release services to justice involved individuals in state prisons, county jails and youth correctional facilities for up to 90 days prior to release.

HCPF requests expenditure authority under Section 1115 for otherwise covered Medicaid services furnished to otherwise eligible individuals, who are receiving services in a carceral setting. No additional waivers of Title XIX or Title XXI are requested through this amendment application.

Serious Mental Illness and Serious Emotional Disturbance

Waiver of Section 1905(i) of the Social Security Act "institutions for mental diseases (IMDs) exclusion rule", as necessary to implement payment for services provided to individuals in IMDs.

HCPF requests expenditure authority under Section 1115 for otherwise covered Medicaid services furnished to otherwise eligible individuals, who are primarily receiving treatment for an SMI/SED who are short-term residents in facilities that meet the definition of an IMD. No additional waivers of Title XIX or Title XXI are requested through this amendment application.

Financing

Colorado proposes to finance the non-federal share of expenditures under this request using state general funds. Expenditures under this amendment will be treated as "pass-through" for the purposes of budget neutrality.

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