



The Impact of the Affordable Care Act on Corrections

The Forensic Mental Health Association of California Conference
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**The COCHS Approach:
Public Safety and Community Health**

- Public safety and public health systems are intertwined.
- The health of the justice-involved population is intertwined with the health of the general population.
- Connecting health care in the criminal justice system to health care in the greater community preserves the investments jurisdictions make in their justice-involved populations.



The Affordable Care Act

The Affordable Care Act (ACA) expands health coverage to millions of previously uninsured Americans, creating access to needed services for many for the first time. Many of the newly insured will be justice-involved, and the increase in treatment resources could have a major impact on the criminal justice system. By harnessing the opportunities presented by the ACA, jurisdictions could improve health outcomes, reduce costs, and potentially reduce recidivism.



Overview

1. Characteristics of justice-involved populations
2. ACA basics: new eligibility, new financing, new benefits
3. New opportunities for criminal justice



1. Characteristics of justice-involved populations



Health Status of Justice-Involved Individuals

- Justice-involved individuals are disproportionately young, male, persons of color, and poor.
- They have high rates of health problems (chronic and infectious disease, injuries), psychiatric disorders, and substance use disorders (SUDs).
- 80% of individuals in jail with chronic medical conditions have not received treatment in the community prior to arrest.



Release from Prison – A High Risk of Death for Former Inmates

- A 2007 study reported overall increased mortality rates for former inmates in Washington State: 3.5x greater than the general population.
- Mortality was the highest during the first two weeks after release: 12.5x greater than the general population.
- The study found a high incidence of death due to: overdose, HIV, homicide, motor vehicle accidents, cancer, liver disease.

Birnawanger, Ingrid A., Stern, Marc, Dewo, Richard A., Heagerty, Patrick J., Cheadle, Allen, Elmore, Joann G. and Thomas Koepsell. New England Journal of Medicine, 356:157-165, January 2007.



Health Status of Justice-Involved Individuals

- Jails have become *de facto* behavioral health providers in many communities:
 - A 2009 study estimated the current rates of serious mental illness among adult jail populations to be 15% for men and 31% for women.
 - Among individuals in jail with a diagnosed mental illness, 72% of men and 75% of women have a co-occurring substance use disorder.



Health Status of Justice-Involved Individuals

- 60% - 80% of arrestees tested positive for at least one drug.
- Fewer than 10% of arrestees at 8 of the 10 sites reported receiving outpatient drug or alcohol treatment in the prior year.
- 13% - 38% of arrestees tested positive for multiple substances.
- 13% - 30% of arrestees said they had been arrested two or more times in the prior year.

The ADAM II 2011 Report



Most Individuals in Jail Return to the Community

- Nationally, only about 4% of jail admissions result in sentences to prison.
Or, in other terms...
- 96% of jail detainees and inmates return *directly* to the community from jail.



Justice-Involved Individuals and Insurance Status

- Few justice-involved individuals are enrolled in Medi-Cal because they had not been historically eligible prior to the ACA.
- One pre-ACA study showed that 90% of detainees had no health insurance upon release from jail.



Washington State and “The Mancuso Effect”: Reduced Crime, Improved Health & Safety

When chemical dependency treatment was offered to very low income adults—a population that included many individuals with histories of justice-involvement—research found:

- Reduced crime and recidivism, and correlated savings to crime victims and criminal justice systems.
- Improved physical and mental health, and significant cost savings in health care.

– Mancuso, D, Felver, B. *Bending the Health Care Cost Curve by Expanding Alcohol/Drug Treatment*. Washington State DSHS Research and Data Analysis Division, RDA Report 4.81 (Sept 2010).
– Mancuso, D, Felver, B. *Providing chemical dependency treatment to low-income adults results in significant public safety benefits*. Washington State DSHS Research and Data Analysis Division, Report 11.130 (Feb 2009).



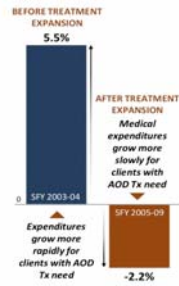
Washington State: Criminal Justice System Benefits

| | |
|--|--------|
| Decline in arrests relative to untreated comparison group | 33% |
| Cost savings to criminal justice system per dollar of cost | \$1.16 |
| Cost savings to crime victims and criminal justice system per dollar of cost | \$2.83 |



Washington State: Medical Costs Decrease with Treatment

Growth in medical costs relative to coverage group:



The Economics of Treating the Justice-Involved Population

- Without access to care, many justice-involved individuals will be “frequent flyers” of emergency room services, inpatient psychiatric services in the community, and jail health services.
- From a fiscal perspective, it will be in the interest of state and local jurisdictions to offer effective mental health and substance use disorder treatment to justice-involved individuals.



2. ACA Basics: New Eligibility, New Financing, New Benefits



Expanded Coverage

- A. The ACA allows the expansion of Medicaid at state option, and California elected to expand the Medi-Cal program.

- B. The ACA allows qualified individuals to enroll in private Qualified Health Plans (QHPs) offered through the new health insurance Marketplaces (also known as Exchanges) and, if eligible, to receive federal tax credits to assist with premium payments.



Expanded Coverage: Medi-Cal Eligibility

- Medi-Cal will be newly available to adults with income up to 138% FPL, which is about \$16,000 for an individual.



Medi-Cal Coverage for Former Foster Youth

Under the ACA, young adults now remain eligible for Medi-Cal until they turn 26 if they were:

- In foster care when they turned 18
and
- A Medi-Cal beneficiary when they turned 18



Medi-Cal Coverage for Justice-Involved

- Justice-involved individuals residing in the community (e.g., awaiting trial in the community, participating in drug court, etc.) can be eligible for Medi-Cal and can receive coverage (i.e., services provided can be paid for by Medi-Cal).
- The ACA did not change Medi-Cal eligibility or coverage policies as they relate to incarceration. If an individual is in jail or prison, regardless of whether they are pending disposition, they cannot be covered by Medi-Cal (i.e., services provided cannot be paid for by Medi-Cal).
- Although Medi-Cal *coverage* is not available for individuals in prison or jail, individuals who are otherwise eligible retain their *eligibility* while in prison or jail and can enroll.

– 42 U.S.C. § 1396d(a)(27)(A); 42 CFR § 435.1010



Medi-Cal Coverage: Inpatient Hospitalization

There is an exception to the preclusion of Medi-Cal coverage for prison and jail inmates that predates the passage of the ACA:

- Medi-Cal coverage is available for prison and jail inmates who are eligible for Medi-Cal and who are inpatients in non-correctional medical facilities for at least 24 hours.
- Pay attention to inpatient vs. observation status.

– 42 U.S.C. § 1396d(a)(27)(A); 42 CFR § 435.1009(b)



Enrollment for Hospital Care

- California AB 1628 (2010) allows the California Department of Corrections and Rehabilitation to act on behalf of a state prison inmate for purposes of applying for Medi-Cal or determining Medi-Cal eligibility, without requiring the participation of the inmate.
- AB 720 (2013) extends similar authority to counties for individuals in jail (for individuals requiring acute hospital care).



Medi-Cal Expansion Funding

California will receive federal funding for services provided to the Medi-Cal expansion population to the tune of:

- 100% in 2014 – 2016
- 95% in 2017
- 94% in 2018
- 93% in 2019
- 90% in 2020 and beyond



Marketplace Tax Credit Eligibility

- Qualified individuals with income from 100% - 400% FPL will be able to purchase QHPs with federal premium tax credits through Covered California, which is the state's health insurance Marketplace (aka Exchange).
- Tax credits are awarded on a sliding scale depending on income.



Marketplace Tax Credit Eligibility

| | Number of people in your household | | | | | |
|---|------------------------------------|---------------------|---------------------|---------------------|----------------------|----------------------|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| Lower Premiums You may qualify for lower premiums on a Marketplace insurance plan if your yearly income is between... | \$11,490 - \$45,960 | \$15,510 - \$62,040 | \$19,530 - \$78,120 | \$23,550 - \$94,200 | \$27,570 - \$110,280 | \$31,590 - \$126,360 |
| <small>See how (if your income is at the lower end of the range.)</small> | | | | | | |
| Lower Premiums AND Lower Out-of-Pocket Costs You may qualify for lower premiums AND lower out-of-pocket costs for Marketplace insurance if your yearly income is between... | \$11,490 - \$28,725 | \$15,510 - \$38,775 | \$19,530 - \$48,825 | \$23,550 - \$58,875 | \$27,570 - \$68,925 | \$31,590 - \$78,975 |
| Medicaid Eligibility If your state is expanding Medicaid in 2014, you may qualify for Medicaid coverage if your yearly income is below... | \$16,105 | \$21,707 | \$27,310 | \$32,913 | \$38,516 | \$44,119 |
| If your state isn't expanding Medicaid, you may not qualify for any Marketplace savings programs if your yearly income is below... | \$11,490 | \$15,510 | \$19,530 | \$23,550 | \$27,570 | \$31,590 |

- <https://www.healthcare.gov/how-can-i-save-money-on-marketplace-coverage/>



Marketplace Eligibility and Coverage for Justice-Involved

- Justice-involved individuals residing in the community, (e.g., awaiting trial in the community, participating in drug court, etc.) can be eligible for QHPs available through Covered California and can receive coverage.
- Incarcerated individuals who have been sentenced cannot enroll in or be covered by a QHP.



Marketplace Coverage for Pending Disposition

- Regarding QHPs available through the Marketplaces, the ACA specifies that: “[a]n individual shall not be treated as a qualified individual if, at the time of enrollment, the individual is incarcerated, other than incarceration pending the disposition of charges.”
- This means that, subject to the requirements of health plans, individuals may be able to newly enroll or maintain existing coverage in a QHP while *incarcerated while pending disposition of charges*.
- Services provided while the individual is pending disposition can potentially be paid for by the QHP.



Parity for Mental Health and Substance Use Treatment

- The ACA extends the requirements of the 2008 Mental Health Parity and Addiction Equity Act to millions of Americans, including those who will be newly eligible for coverage.
- These requirements aim “to ensure that when coverage for mental health and substance use conditions is provided, it is generally comparable to coverage for medical and surgical care.”

- U.S. Department of Health and Human Services



Essential Health Benefits in Medi-Cal and QHPs

1. Ambulatory patient services
2. Emergency services
3. Hospitalization
4. Maternity and newborn care
5. **Mental health and substance use disorder services, including behavioral health treatment**
6. Prescription drugs
7. Rehabilitative and habilitative services and devices
8. Laboratory services
9. Preventive and wellness services and chronic disease management
10. Pediatric services, including oral and vision care



Expanded SUD Benefits in California


Through Drug Medi-Cal, all Medi-Cal beneficiaries will now have access to:

- Intensive outpatient treatment (aka day care rehabilitation)
- Residential SUD services
- Elective inpatient detoxification
- Outpatient drug free counseling
- Narcotic replacement therapy

Through primary care providers, all Medi-Cal beneficiaries will have access to SUD screening, brief intervention, and referral to treatment (SBIRT)



3. New opportunities for criminal justice



Enrollment Creates New Opportunities for Criminal Justice

At the point of initial contact with law enforcement:

- Expanded use of Crisis Intervention Teams

Prior to Booking:

- History and physical exam by qualified individual prior to booking

Pre-trial:

- Expand use of community-based pre-trial supervision combined with treatment



Enrollment Creates New Opportunities for Criminal Justice

Specialty courts:

- Coordinate between courts and providers to maximize resources

Inpatient hospitalization

- Bill Medi-Cal for jail and prison inmates who are hospitalized in non-correctional medical facilities for over 24 hours.

Re-entry:

- Preserve continuity of care



Key Considerations

Criminal justice stakeholders looking to capitalize on new opportunities created by the ACA would be wise to consider key issues related to reimbursement from third party payers such as Medi-Cal and private insurance plans:

- Benefit exclusions for court-ordered services
 - Medical necessity
 - Provider licensure and certification
- Moreover, all new opportunities depend on enrollment



Enrollment can be Challenging

- According to a 2010 NASADAD study, less than 3% of Massachusetts residents are uninsured, but the uninsured residents “are likely to have elevated rates of chronic SUDs.”
- In fact, approximately 22% of the admissions for publicly funded SAT in MA in 2009 were uninsured. The uninsured population was disproportionately low-income and young adult, Black, and Hispanic, characteristics that mirror the demographics of the jail-involved population.



Alameda County Enrollment Project

Planning process for enrollment at jail booking:

- Existing data from jail management system (JMS)
- Data bridge from JMS to online application on iPad
- Sheriff designated as authorized representative
- Maintenance of community policing philosophy
- Process can be supported with Medi-Cal Administrative Activities funds



Questions?

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