REPORT SUMMARY

Targeting Justice-Involved Populations through 1115 Medicaid Waiver Initiatives: Implementation experiences of three states

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Introduction

More than six and half million people (approximately 1 in 38 adults) are under some form of supervision by the United States correctional system during the year; many of whom have significant unmet physical, behavioral, and social health needs. Criminal justice-involved individuals (those who have recently served sentences in prisons or jails, who are awaiting trial or sentencing, and those under community supervision, such as parole or probation) often face obstacles to accessing health care services including lack of insurance, trouble navigating the health care system, and other barriers.[1,2] Following implementation of the Affordable Care Act, however, states that elected to expand Medicaid found that many justice-involved individuals were newly eligible for Medicaid coverage upon release. This large increase in coverage provides new opportunities and challenges for Medicaid agencies to serve the unique and complex needs of justice-involved populations, as well as reduce racial and ethnic disparities in health care and outcomes.[3]

Section 1115 demonstration projects with justice-involved initiatives

Initiatives designed to address the specific needs of justice-involved populations through Section 1115 waivers are currently a small, but growing, focus of states' efforts. Ten states currently have initiatives targeting individuals with criminal justice involvement in their 1115 waivers, and another five states and Washington, D.C. have pending waivers with justice-involved provisions (Table 1). States have been successful in using 1115 waivers to provide presumptive eligibility for the justice-involved, to target Medicaid eligibility and services (such as behavioral health or substance use disorder [SUD] case management) to justice-involved individuals, and to provide transitional care for individuals at re-entry from an institution back into the community.

Table 1. State Initiatives Targeted at Justice-Involved Populations via 1115 Waivers

Waiver Provision	Approved	Pending
Presumptive eligibility	MD	-
Targeted Medicaid eligibility	UT	SC, VA
Targeted behavioral health services	TX	-
Case management	IL	-
Transitional/Re-entry support	AZ, CA, NH, NC, RI, WA	DC, TN
Housing and employment supports	WA	VA
"In-Reach" services provided in jail/prison setting	-	DC, NY

Source: SHADAC analysis of approved and pending 1115 waivers.

Study States: Illinois, Texas, and Washington

The purpose of this study was to understand how three diverse states—Illinois, Texas, and Washington— approached the development, launch, and ongoing management of their justice-involved programs under Section 1115 waivers. To address these questions, SHADAC reviewed states' Section 1115 waiver applications, related waiver documentation, relevant grey and peer reviewed literature, and conducted interviews with both state agency and local programmatic staff involved in the implementation of waiver programs across the three study states.

Illinois

Illinois' Section 1115 SUD waiver, the Better Care Illinois Behavioral Health Initiative, began on September 1, 2018, and will run through June 30, 2023. Illinois' waiver granted the state the authority to conduct 10 statewide pilot projects, including a SUD Case Management Pilot targeting justice-involved individuals. Under this pilot Medicaid beneficiaries with an opioid or substance use diagnosis that qualify for diversion into treatment from the criminal justice system are eligible to receive case management services to assist with accessing medical, social, educational, and other services. The pilot is capped at 2,040 people statewide in the first fiscal year (July 2018 - June 2019) and rises to a cap of 2,835 people by the fifth year.

Texas

Texas' Delivery System Reform Section 1115 Waiver, the Texas Healthcare Transformation and Quality Improvement Program, was initially approved by Centers for Medicare and Medicaid Services on December 12, 2011, and was renewed on February 14, 2018, through September 30, 2022. Under the waiver, qualified organizations that serve Medicaid and low-income and uninsured individuals are allowed to use funds from a $10.83 billion delivery system reform incentive payment (DSRIP) pool to transform the delivery of care they provide. The state's 254 counties are divided into 20 "Regional Healthcare Partnerships" (RHPs), which oversee plans to identify community needs and then choose DSRIP projects and investments accordingly. One DSRIP program option (project 2.13) is "an intervention for a targeted behavioral health population to prevent unnecessary use of services in a specified setting," which includes the criminal justice setting. In Demonstration Year 6 (Oct 2016 - Sept 2017), 16 active justice-involved related projects were recorded across 12 RHPs and individual projects served anywhere between 30 and 7,549 justice-involved individuals that year.

Washington

Washington's Delivery System Reform Section 1115 waiver, the Medicaid Transformation Project, was approved January 9, 2017, and runs through December 31, 2021. The waiver authorizes up to $1.125 billion in funds for DSRIP projects through Accountable Communities of Health (ACHs), which are self-governing organizations that align with Washington's regional service areas for Medicaid purchasing and, like RHPs in Texas, oversee local needs assessments and reform projects. Five (out of nine) ACHs are currently working on either of two relevant justice-involved projects: 1) Optional Project 2B, which promotes Community Based Care Coordination across the continuum of health for Medicaid beneficiaries with complex health needs (including justice-involved); and 2) Optional Project 2C, which provides Transitional Care management services to Medicaid beneficiaries exiting intensive care settings such as prison or jail incarceration (among others).

See the full report for additional details on SHADAC's analysis.

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Study findings - Implementation Experiences

The extremely small size of the target populations served through the programs studied here, as well as unique state contextual factors, make it difficult to draw generalizable conclusions about the best way to implement any specific program. However, the experiences of stakeholders in Illinois, Texas, and Washington can be helpful to other states as they consider whether to implement programs aimed at individuals involved in the criminal justice system via Section 1115 Medicaid waivers.

Implementation Facilitators

- **Ongoing and frequent communication among partners, and close coordination with law enforcement.** Regular communication among multiple stakeholders was necessary to keep projects on track. Law enforcement representatives, in particular, were repeatedly noted as critical stakeholders to the success of justice-involved initiatives.
- **Previous experience with justice-involved grants.** Data and lessons learned from previous experiences with SAMHSA and Department of Justice grants helped stakeholders jump-start work with this population under the waiver.
- **Tailoring program design to build on existing initiatives and provider infrastructure.** Leveraging existing initiatives and provider infrastructure, rather than starting from scratch, helped get waiver programs implemented quickly.
- **Fostering SUD subject matter expertise within Medicaid.** Developing specific SUD subject matter expertise within state Medicaid departments helped program administrators implement programs efficiently and address challenges unique to the justice-involved population as they arose.

Implementation Challenges

- **Aligning the goals of multiple sectors.** The amount of time and communication necessary to align the goals of multiple diverse sectors (e.g. clinicians, courts, and sheriffs) around a program design often took longer than initally expected.
- **Getting into jails.** Delays in approval for workers' background checks or security clearances were common, and created logistical challenges to getting workers into jail facilities to implement a program.
- **Staffing.** Program administrators struggled to hire and train culturally competent staff who understood the cultural diversity and the realities of the populations being served.
- **Data sharing.** Stakeholders faced technology barriers such as getting information from different systems into a sharable format, as well as difficulties in navigating legal issues surrounding data exchange, especially regarding information sharing with jails.
- **Calculating return on investment.** Securing analyst time and mapping data across different technology platforms was time-consuming and expensive, and many community organizations didn't have the capacity for sophisticated data analysis.
- **Housing.** Once programs were successfully in place to begin the work, the most common barrier organizations faced while providing services was helping justice-involved clients secure affordable housing. This inability to secure housing sometimes had adverse financial consequences under value-based payment models where providers are paid for outcomes.

Pros and Cons of the 1115 Waiver

Stakeholders in the three study states identified both pros and cons to conducting programs for justice-involved populations within the framework and requirements of a Section 1115 waiver.

Pros

- Waiver resources allowed for new types of infrastructure investment that could be used help identify disparities, such as population health analysis.
- Waivers increased collaboration among stakeholders who might otherwise not have collaborated, and increased opportunities for new public-private partnerships.
- Infrastructure created by the waiver facilitated unique cross-sector learning opportunities.
- Waiver programs expanded access to services that were otherwise inaccessible to the justice-involved population.

Cons

- In states with optional justice-involved projects, the waiver reimbursement methods impacted whether or not an organization chose to focus on individuals with criminal-justice involvement.
- The small size of the target population meant that specific justice-involved issues were not necessarily at the forefront of waiver discussions, and there wasn't always state support (e.g., technical assistance, training, guidance, etc.) specific to justice-involved issues throughout implementation.
- Waiver evaluations currently do not have good mechanisms to measure success specific to justice-involved populations.
- Required waiver reporting was administratively complex and burdensome for community partners.

Endnotes

1 Gates, A., Artiga, S., & Rudowitz, R. (2014). *Health coverage and care for the adult criminal justice-involved population*. Retrieved from https://www.kff.org/wp-content/uploads/2014/09/8622-health-coverage-and-care-for-the-adult-criminal-justice-involved-population1.pdf

2 Winkelman, T.N.A., Kieffer, E.C., Goold, S.D., Morenoff, J.D., Cross, K., & Ayanian, J.Z. (2016, September 16). Health insurance trends and access to behavioral healthcare among justice-involved individuals—United States, 2008-2014. *J Gen Int Med*, *31*(12), 1523-1529. doi: 10.1007/s11606-016-3845-5

3 Binswager, I.A., Redmond, N., Steiner, J.F., & Hicks, L.S. (2011, September 14). Health disparities and the criminal justice system: An agenda for further research and action. *J Urban Health*, *89*(1), 98-107. https://link.springer.com/article/10.1007/s11524-011-9614-1

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