



Friday, November 4, 2022

Members of the Colorado Congressional Delegation,

As the leadership of Colorado Counties Inc. Justice & Public Safety Steering Committee, we respectfully request your urgent support for the inclusion of legislation that amends the Medicaid Inmate Exclusion Policy (MIEP) in a bipartisan behavioral health legislative package that is being considered at the end of the year. This harmful federal policy, outlined under Section 1905(a)(A) of the Social Security Act, makes no distinction between individuals housed in jails versus prisons, and thus unfairly denies or revokes federal health benefits for adults and juveniles that are being housed in local jails prior to conviction. These individuals, who are pending disposition, are still presumed innocent under the United States Constitution.

The MIEP causes disruptions in primary and behavioral health care access for justice-involved populations that are enrolled in federal programs such as Medicaid, Medicare or the Children's Health Insurance Plan (CHIP). Not only does this discontinuity in care contribute to detrimental health outcomes for both individuals and their communities, but it also increases rates of jail recidivism. By contrast, uninterrupted health care helps those who enter the criminal justice system break the cycle of recidivism exacerbated by untreated physical and mental illnesses and substance use disorders.

Across our nation, approximately 11 million people cycle in and out of local jails each year, 60 percent of which are pre-trial detainees. The number of individuals being detained pre-adjudication has grown tremendously in the past several decades and paralleled the number of individuals in local jails that are experiencing mental illness and serious mental illness, often with co-occurring substance use disorders. Across Colorado, there are approximately 5,660 pre-trial detainees housed in our jails on any given day and many experience behavioral health disorders often exaggerated during incarceration. This isn't exclusive to Colorado, **our nation's jails provide critical care to individuals with mental illness, who – without adequate community resources and continuous health care coverage – rely on the jail as de facto behavioral health hospitals and treatment facilities.**

Right now, Congress has the opportunity to advance bipartisan legislation that would greatly improve care coordination for those individuals suffering from mental health, substance use and/or other chronic health conditions by allowing continued access to federal benefits such as Medicaid, Medicare and CHIP for eligible pre-trial detainees in local jails. This policy change would tackle the issue particularly for juveniles in the justice system pending disposition, a population disproportionately impacted by higher rates of

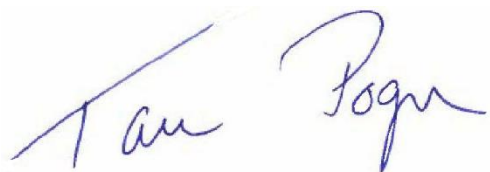
mental health challenges.<sup>1</sup> On behalf of Colorado Counties Inc., we urge you to support the inclusion of the following bills that would address MIEP:

- ***The Medicaid Reentry Act (H.R. 955/S.285)***, which would allow Medicaid payment for medical services furnished to an incarcerated individual during the 30-day period preceding the individual's release.
- ***The Due Process Continuity of Care Act (S.2697/ H.R. 6636)***, which would allow pretrial detainees to receive Medicaid benefits at the option of the state.
- ***The Equity in Pretrial Health Coverage Act (S.3050)***, which would remove limitations under Medicaid, Medicare, CHIP and the Department of Veterans Affairs on benefits for persons in custody pending disposition of charges.

As we continue our work as county governments and local behavioral health providers to ensure better access to and the continuity of care in our communities, we recognize that these local efforts will be far more effective when carried out in partnership with state and federal counterparts.

Thank you for your continued service to the people of Colorado. We hope to have your support in fostering better behavioral health outcomes through your support of this important, bipartisan policy change.

Sincerely,



Tamara Pogue  
Summit County Commissioner  
CCI Justice & Public Safety, Chair



Longinos Gonzalez  
El Paso County Commissioner  
CCI Justice & Public Safety, Vice Chair

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<sup>1</sup> Underwood, L. A., & Washington, A. (2016). Mental Illness and Juvenile Offenders. *International Journal of Environmental Research and Public Health*, 13(2), 228. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772248/>.