September 2013

ENROLLING

COUNTY JAIL AND PROBATION POPULATIONS IN HEALTH COVERAGE

A TOOLKIT FOR PRACTITIONERS

CALIFORNIANS FOR SAFETY AND JUSTICE

LOCAL SAFETY SOLUTIONS PROJECT

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Californians for Safety and Justice

Californians for Safety and Justice is a nonprofit working to replace prison and justice system waste with common sense solutions that create safe neighborhoods and save public dollars. Through policy advocacy, public education, partnerships and support for best practices, we aim to stop cycles of crime and build healthy communities.

Local Safety Solutions Project

Partnering with experts from across the country, our Local Safety Solutions Project provides direct support to counties interested in using innovative approaches to increase safety and reduce justice system costs.

Acknowledgements

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INTRODUCTION

What You Will Find in This Toolkit

Since 2010, both the nation's health care system and California's criminal justice system have undergone unprecedented reforms. This toolkit outlines what these two parallel transitions have to do with one another, and how California's counties can leverage them to reduce costs and increase public safety. Inside, public safety officials, county executives and community stakeholders will learn:

1. The basics of how federal and state health care coverage programs work;
2. How accessing health care programs for county criminal justice populations can reduce costs (for justice and health systems), reduce recidivism and alleviate county jail pressures; and
3. How the enrollment process works and options for expanding enrollment for criminal justice populations, including tips on how to design and implement an enrollment program.

The Affordable Care Act of 2010

In 2010, President Obama signed the Patient Protection and Affordable Care Act (ACA) – the most sweeping overhaul of the nation's health care system since the creation of Medicare and Medicaid in 1965. In addition to its goals of improving health care quality and reducing costs, the ACA also will increase access to affordable health coverage by prohibiting insurance companies from denying coverage based on pre-existing conditions, allowing young adults to stay on their parents' insurance longer, providing tax credits to help people pay for coverage, and allowing states to cover more people on Medicaid.

The changes in the law provide nearly universal access to health insurance for many populations that historically have not had such access. The ACA also requires health plans to cover mental health care and substance abuse treatment at levels similar to what must be offered for medical care coverage.

ACA Implementation in California

Health care reform is being implemented in phases. In California, some changes to health insurance programs have already been made, some are being established, and others are still subject to decisions that must be made by state lawmakers this year. The bulk of the ACA's implementation will be completed by January 1, 2014.

California Assembly Bill 109: Public Safety Realignment

A year after the passage of federal health care reform, California lawmakers enacted a different piece of historic legislation for the state's criminal justice system. "Public Safety Realignment" shifted the management of individuals convicted of specified nonviolent, non-sex, non-serious felonies from the state prison system to county jails and probation. It also shifted the supervision of most people coming out of state prison from state parole to county probation departments.

The law authorized local "Community Corrections Partnerships," chaired by county probation chiefs, to develop implementation plans for counties' new responsibilities. Lawmakers also committed to provide billions of dollars to counties to pay for these new responsibilities – and to give county officials flexibility to determine the best use of Realignment funds.

In part, lawmakers passed these reforms to alleviate severe state prison overcrowding and institute long-term reforms to sustain reductions in the prison population. The state was facing budget deficits, a federal court order (*Plata v. Brown*) to reduce prison overcrowding and improve medical and mental health care in the state prison system, and high recidivism rates for people leaving prison.

So far, the state prison population has dropped by more than 25,000 people. Counties are now working to manage these individuals in local systems through jail sentences, split sentences (jail and probation), rehabilitation programs and treatment. Despite some challenges, Realignment holds promise as a new strategy that can increase public safety by fostering local solutions to the justice system's overcrowded prisons and high recidivism rates. Counties have the opportunity to create new programs or strengthen existing ones that can reduce the number of people cycling in and out of the justice system.

Adapting to Both the ACA and AB 109: Leveraging Change to Increase Safety and Savings

In this era of ACA and Realignment implementation, new opportunities have emerged to strengthen the role of the health care system in creating safe communities. A large percentage of the individuals that cycle in and out of the justice system do not have health insurance and suffer from myriad of health problems, including mental illness and addiction issues. These unresolved health problems contribute to recidivism and high costs in the justice system.

Partnerships between criminal justice and health care systems can address the long-standing challenges caused by the prevalence of uninsured individuals with health problems in the justice system. This toolkit aims to help counties leverage both the increased opportunities for health coverage under the ACA and the increased flexibility and local responsibility under Realignment to increase both safety and savings.

County agencies (in collaboration with community stakeholders) can leverage potentially under-utilized health care resources, wholly or partially funded by federal dollars, to reduce:

- Jail operating costs;
- Jail population pressures;
- Health care expenditures by probation; and/or
- County general fund expenditures for health care and criminal justice.

Widespread enrollment of people in jails and on probation in health plans is an enormous opportunity. With the right information and partnerships, the public safety community can to play a critical role in coordinated enrollment efforts while furthering its mission to protect communities.

HEALTH CARE ENROLLMENT FOR INDIVIDUALS IN THE JUSTICE SYSTEM SAVES COUNTIES MONEY

- Health care enrollment reduces the high cost of delivering care to people in jail. **Medi-Cal may fully or partially reimburse the cost of medically necessary inpatient care**, like hospital or nursing facility stays, for people in jail.
- **Medi-Cal will also fully or partially cover certain inpatient and outpatient substance abuse and mental health treatments.** For some individuals, **participating in such treatment can also serve as an alternative to jail stays before or after their trials** – saving jail bed space and money.
- Being enrolled in health care before leaving jail, whether pre-trial or post-sentence, **improves individuals' continuity of health care** and access to preventative care, which makes it less likely that they will require costly emergency room care.
- Enrollment in health care also provides **an additional revenue stream for health care services** provided to individuals on probation that otherwise could be costs incurred by the county.
- Most importantly, access to care for people with addiction or mental health issues **reduces the chance that they will end up back in the justice system** in the future.

DEFINITION OF KEY TERMS

Federal Poverty Level (FPL), set annually, is used to determine eligibility for various government programs. This is the minimum income the federal government determines that an individual or family needs for food, transportation, shelter and other necessities.

Medicaid is a joint federal-state insurance program that provides health coverage, including mental and behavioral health benefits, for certain low-income families and individuals. It is financed jointly by the federal government and states, and administered by states and/or counties within broad federal guidelines. Under the ACA, states can expand their Medicaid program to provide coverage to all citizens 18-64 years old and certain lawfully present non-citizens with incomes up to 138 percent of the FPL.

Medi-Cal is California's version of the Medicaid program. California has opted to expand Medi-Cal coverage under the ACA.

Health Exchanges are marketplaces where people will be able to buy health insurance and access federal tax credits to subsidize the cost of insurance. Health insurance plans offered on the health exchanges are certified as meeting certain minimum standards and covering essential health benefits. States can elect to build a fully state-based exchange, enter into a state-federal partnership exchange, or default into a federal exchange. California has opted to create its own exchange.

Covered California is the state health exchange, a marketplace where people will be able to determine their eligibility for public health insurance or tax credits to help pay for a health plan, access tax credits and select and enroll in health coverage that takes effect January 1, 2014.

Essential Health Benefits (EHB) is the description of minimum benefits that must be included in all health plans offered by a health benefits exchange. According to federal guidelines, each plan must cover the following 10 categories of benefits: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance abuse services; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services; chronic disease management; and pediatric services, including oral and vision care. Each state must select a benchmark plan as the standard for benefits in those categories. California has selected the Kaiser Foundation Small Group HMO 30 plan. State Medicaid plans must also cover essential health benefits. (For more information about California's EHB benchmark plan, see page 23.)

Mental Health Parity and Addiction Equity Act of 2008 is a federal law that generally prevents health plans that provide mental health and substance abuse disorder benefits from imposing more limitations on those benefits than they do on medical/surgical coverage. Under the ACA, Medicaid and all health plans offered on the health benefits exchange must comply with this law.

THE INTERSECTION OF HEALTH CARE AND CRIMINAL JUSTICE: HOW HEALTH ACCESS LEADS TO PUBLIC SAFETY

Prevalence of Health Problems in the Justice System

As many county leaders know, **the need for health insurance among people in the justice system is acute.** This population is more likely to suffer from physical, mental and/or behavioral health conditions than the general population.

A nationally representative, cross-sectional survey comparing the incarcerated population to other adults found that **jail inmates had a significantly higher prevalence of certain chronic diseases** (including hypertension, diabetes, heart attack, asthma, arthritis, cervical cancer and hepatitis.)[1]

There is also a high prevalence of mental health challenges among people in jails:

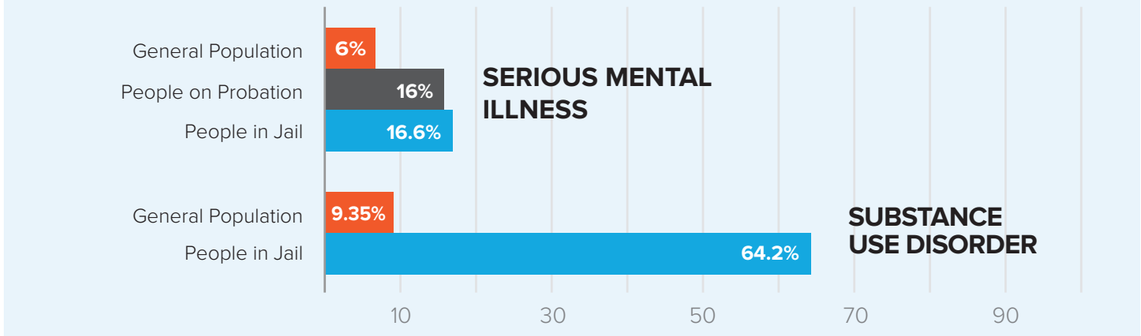
- A 2009 survey determined that the prevalence rate of serious mental illness for recently booked jail inmates was 16.6 percent – **almost three times the rate found in the general population.**[2]
- Less acute mental illness is even more common. The U.S. Bureau of Justice Statistics reported that 64 percent of jail inmates had a recent "mental health problem."[3]

Finally, many people in the justice system are suffering from addiction issues at much higher rates than the general population:

- Data collected in 2009 by the Office of National Drug Control Policy's Arrestee Drug Abuse Monitoring program showed that males 18 years and older in the justice system tested positive for recent use of drugs and admitted to that use at a far higher rate than is found in general population surveys, with **anywhere from 52 percent** (Washington, DC) **to 80 percent or more** (Chicago and Sacramento) of arrestees testing positive for the presence of at least one drug.[4]
- A federal report indicated that across the United States, **almost one in three probationers reports abusing alcohol, and one in six admits abusing methamphetamines**.[5]

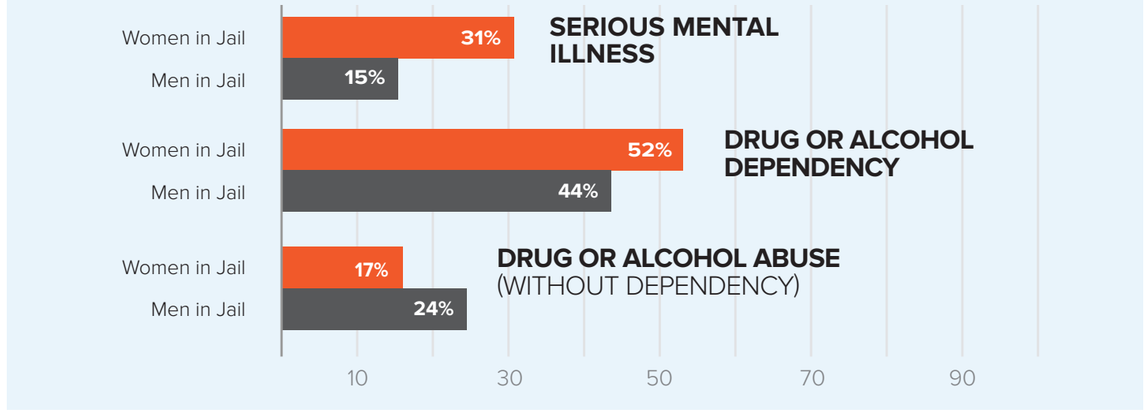
Once in jail, people with mental health problems tend to stay longer and are less likely to be placed on community supervision (in lieu of incarceration) compared to others charged with similar offenses. In addition to the costs of care while in jail, longer lengths of stay is one factor that makes incarceration of people with mental health problems significantly more expensive than the general population.

FIGURE A. RATES OF SERIOUS MENTAL ILLNESS AND SUBSTANCE USE DISORDERS IN JAIL AND ON PROBATION



Sources: "The Numbers Count: Mental Disorders in America," National Institute of Mental Health, 2006. "Prevalence and Co-Occurrence of Substance Use Disorders and Independent Mood and Anxiety Disorders," National Institute of Health, 2006. "Substance Dependence, Abuse, and Treatment of Jail Inmates – 2002," Bureau of Justice Statistics, July 2005. "Characteristics of Parole and Probation Admissions Aged 18 or Over," *The TEDS Report*, Substance Abuse and Mental Health Services Administration, March 2011.

FIGURE B. RATE OF MENTAL ILLNESS AND SUBSTANCE ABUSE PROBLEMS IN MEN AND WOMEN IN JAIL



Sources: Steadman, HJ; Osher, FC; Robbins, PC; et al. "Prevalence of serious mental illness among jail inmates," *Psychiatric Services*, 60:761–765, 2009. "Substance Dependence, Abuse, and Treatment of Jail Inmates – 2002," Bureau of Justice Statistics, July 2005.

Health Coverage Rates in the Justice System

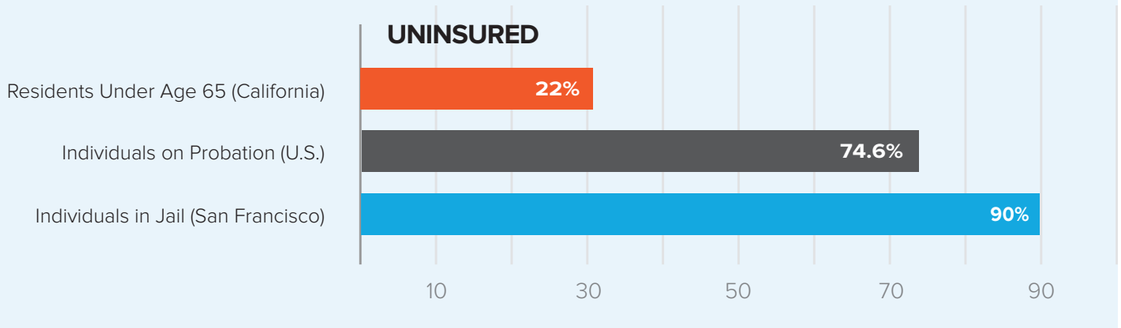
Compounding the fact that people in jails and on probation are less healthy than the general population, they are also far more likely to be uninsured.

Lack of health coverage is a particularly big problem in California: Almost one in four adults (ages 19-64) are uninsured.[6] Not surprisingly, a lack of health insurance has a critical impact on people's ability to access care and stay healthy. A comprehensive review on patterns of health care use showed that the uninsured are more likely to forego needed care and less likely to receive preventative services or the appropriate care to manage chronic illness.[7]

Lack of insurance is a far more severe problem for people in the justice system:

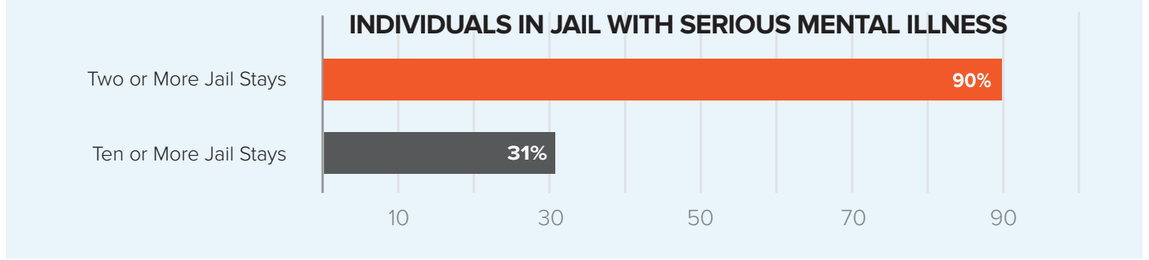
- **Nine out of 10** people detained and incarcerated in jails do not have health insurance or the financial resources to pay for medical care upon release.[8]
- Almost **three out of four** people on probation have no health insurance.[9]
- Like the rest of the uninsured population, people in jail or on probation are highly likely to experience **poor health outcomes** because of lack of access to health care.

FIGURE C. RATES OF NO INSURANCE IN GENERAL POPULATION, PEOPLE IN JAIL AND PEOPLE ON PROBATION



Sources: Fronstin, Paul. "California's Uninsured: Treading Water," California Health Care Foundation, December 2012. Wang, EA; White, MC; Jamison, R; Goldenson, J; Estes, M; Tulsky, JP. "Discharge planning and continuity of health care: findings from the San Francisco County Jail," *American Journal of Public Health*, 98:2182–84, 2008. "Characteristics of Parole and Probation Admissions Aged 18 or Over," *The TEDS Report*, Substance Abuse and Mental Health Services Administration, March 2011.

FIGURE D. INDIVIDUALS IN L.A. COUNTY JAILS WITH SERIOUS MENTAL ILLNESS



Source: "More Mentally Ill Persons are in Jails or Prisons Than Hospitals," Treatment Advocacy Center and National Sheriff's Association, May 2010.

Incarcerated People Often Lose Their Coverage

Of the handful of California arrestees who have health coverage, many are enrolled in Supplemental Security Income (SSI), a federal income supplement program designed to help elderly, blind and disabled people who have little or no income. Once incarcerated, most people lose their SSI and Medi-Cal benefits, even though the Centers for Medicare and Medicaid Services has advised against Medi-Cal termination based on incarceration.

Terminating coverage disrupts access to health care and makes it more difficult to achieve a **"continuity of care"**: The delivery of care, without disruptions, where ongoing treatment is coordinated between providers. This is a critical approach for cost-effective, high-quality patient care.

A study of jail populations with serious mental illness in Kings County, Washington, and Pinellas County, Florida, found that individuals released from jail with Medicaid coverage had 16-percent fewer subsequent arrests.[10]

Unaddressed Health Problems, Recidivism Rates and Costs

Unaddressed Health Problems and Recidivism

A lack of health coverage can increase recidivism rates. When the underlying drivers of crime remain undetected and/or untreated, the behaviors of people in the justice system often remain the same or worsen.

For many without access to physicians, therapy or medications, stints in jail or time on probation can represent inevitable stages in a cycle rooted in chronic and untreated behavioral and physical health disorders.

According to Marin County Chief Probation Officer Mike Daly, **"If we don't address the top drivers of crime – like untreated substance abuse issues – we are wasting our time and the public's money."**

There is burgeoning data that supports a link between health care enrollment and reduced recidivism rates.

Unaddressed Health Problems and the Cost of Jail

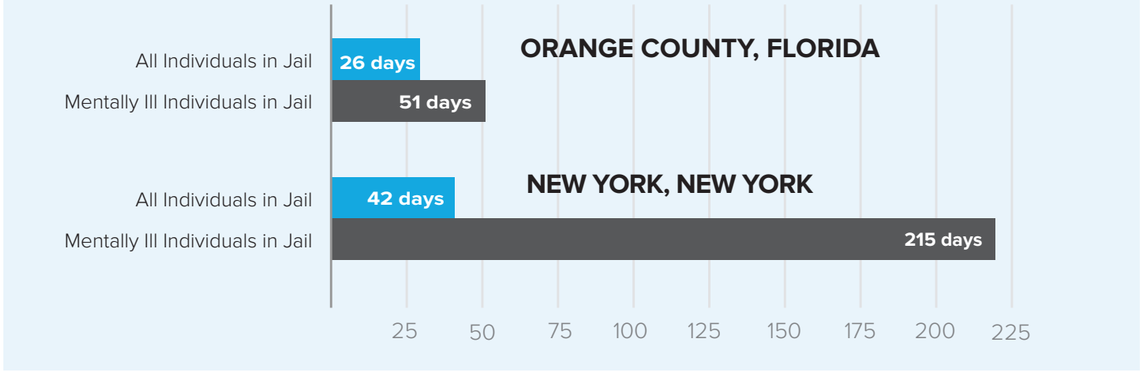
High recidivism arising from untreated and chronic health conditions is also costly.

"Frequent flyers" are individuals who are most likely to continually cycle in and out of the justice system and account for a disproportionate percentage of the system's overall costs. It is important for counties to identify frequent flyers and any potential unaddressed health problems that may be contributing to these cycles.

When frequent flyers are sick or have addiction problems, they tend to stay in jail much longer and cost jails more money. A *New York Times* report on Rikers Island (New York City's jail) indicates that based solely on longer lengths of stays, costs for jailing people with mental illnesses are likely four times greater than for the average person.[11]

People with mental illness also often face additional challenges in jails, including higher suicide rates and high costs of psychotropic medications. When mentally or chronically ill individuals are released from jail without health coverage, they are also much more likely to end up in the emergency room.

FIGURE E. MENTALLY ILL INDIVIDUALS HAVE LONGER AVERAGE LENGTHS OF STAY IN JAIL



Source: "More Mentally Ill Persons are in Jails or Prisons Than Hospitals," Treatment Advocacy Center and National Sheriff's Association, May 2010.

Unaddressed Health Problems and the Costs of Probation

Supervising people with mental illness or substance abuse issues also costs probation departments disproportionate sums. Probation departments may currently be devoting a portion of their budgets towards funding substance abuse treatment and behavioral and mental health programs that could be covered, in whole or in part, by Medi-Cal and other health coverage funding streams.

Now that a large percentage of probationers will be eligible for federally funded coverage through Medi-Cal, enrolling them can make a big impact on probation departments' bottom lines. Unlike in jail, treatment and medication obtained while an individual is on probation can be paid for with federal dollars. Enrolling probationers in Medi-Cal and probation-run treatment programs certified to bill Medi-Cal can stretch probation funds farther.

Probation caseloads filled with individuals convicted of non-violent offenses related to drug addiction reduces a probation officer's capacity to intensively supervise people with a higher risk of violence and more serious records. Helping nonviolent probationers struggling with addiction to enroll in health care and access treatment can reduce their recidivism, reducing probation caseloads and allowing probation officers to focus on other high-risk caseloads – and, ultimately, keep probation violations and jail populations down.

Unaddressed Health Problems' Negative Impact on Public Safety and County Budgets

Beyond the impacts to sheriffs' and probation departments' budgets, there are also public safety impacts to consider. People with untreated mental illness and/or addictions jeopardize public safety when they repeatedly commit crimes against property and persons.

County jails are housing a largely poor and increasingly sick population whose problems:

- Worsen from confinement without treatment;
- Lead to repeat arrests and jail stays; and
- Disproportionately strain criminal justice budgets.

Identifying ways to fund effective, community-based health care interventions is needed to break this damaging and costly cycle.

THE BASICS OF MEDI-CAL AND HEALTH COVERAGE IN CALIFORNIA

What is Medicaid?

Created by Congress in 1965, Medicaid is a public insurance program that provides health coverage to certain categories of low-income families and individuals, including children, parents, seniors and people with disabilities. Medicaid is funded jointly by the federal government and the states, with the proportion of federal to state funding based on the state's per capita income relative to the national average.[12]

Each state operates its own Medicaid program within federal guidelines. For example, every state Medicaid program covers a core set of federally **required** populations and services as well as a set of **optional** populations and services from which states pick and choose as they see fit. Because the federal guidelines are broad, states have a great deal of flexibility in designing and administering their programs. As a result, Medicaid eligibility and benefits often vary widely by state.

The ACA expands the populations eligible for Medicaid to include virtually all citizens 18-64 years old and certain legal non-citizens with incomes up to 138 percent of the Federal Poverty Level who were not previously eligible. **To incentivize states to expand Medicaid programs to cover this group, the federal government will reimburse the costs of covering this newly eligible population** at a rate of 100 percent from 2014 to 2016, then gradually decreasing to 90 percent by 2020 (the federal share for currently eligible Californians is 50 percent). The state will pay the non-federal share.

Medicaid is sometimes confused with Medicare, which is another public insurance program that provides health coverage to people over 65 years of age and certain people with disabilities. Unlike Medicaid, Medicare is federally administered and does not consider income as an eligibility factor. Some seniors and disabled people who also have low-incomes, called "dual-eligibles," are eligible to enroll in both Medicaid and Medicare.

What is Medi-Cal?

Medi-Cal is California's version of the federal Medicaid program, available to people:

- Who receive cash assistance from SSI/SSP (Supplemental Security Income/State Supplemental Program);
- In the CalWORKs (California Work Opportunity and Responsibility to Kids) or Refuge Assistance programs; and/or
- Who are low-income and under 21; 65 or older; blind or disabled; pregnant; or the parent or caretaker relative of a child under 21.

When Medi-Cal expansion becomes law in California, eligibility will expand to cover citizens 18-64 years old and certain lawfully present non-citizens with incomes up to 138 percent of the FPL who were not previously eligible.

Currently, Medi-Cal eligibility determinations and the benefits delivery system are managed by county social service agencies. Over the years, California has allowed counties to design and administer their own Medi-Cal programs within a flexible framework. Medi-Cal has gradually evolved into a number of distinct county programs that can be generally classified according to their respective provider payment method and/or managed care model.

County Payment Schemes for Medi-Cal

Fee-For-Service (FFS): In the once dominant but rapidly declining fee-for-service paradigm, health care professionals or facilities provide services and bill for each encounter at rates set by the state.

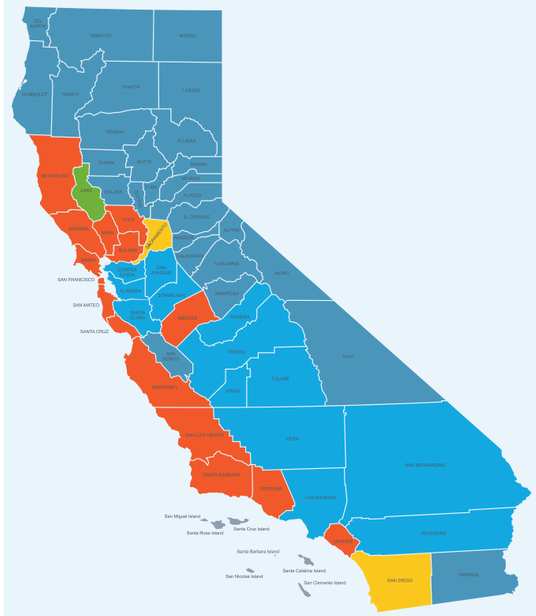
Managed Care (MC): Under managed care, the state sets a fixed monthly rate for each patient whose health care needs are managed by a public option or a private plan. Managed care counties fall into three major categories:

1. Two-Plan: Three million beneficiaries in 14 counties choose between a public "local initiative" health plan (which must include a county hospital in its provider network) or a commercial plan selected through a competitive bid process.

2. County Operated Health System (COHS): One million beneficiaries in 14 other counties enroll in a locally administered health system that is mandatory for the entire county's Medi-Cal population, usually with a county hospital as the chief Medi-Cal provider.
3. Geographic Managed Care: Half a million beneficiaries in San Diego and Sacramento counties choose one of multiple commercial plans.

As shown in the figure below, Fee-For-Service, Two-Plan and COHS counties follow regional patterns across the state. "This arrangement will continue under health care reform, with a transition from fee-for-service to managed care for rural counties. California will implement the Medi-Cal expansion using a state-based approach under which the state would expand its existing state-administered Medi-Cal Program.

FIGURE F. MANAGED CARE COUNTIES – JULY 2011



Source: California Health Care Foundation

What Does Medi-Cal Cover?

Medi-Cal covers health care that is defined as "medically-necessary." This includes mental and behavioral health care as well as substance abuse treatment services. Services currently covered by Medi-Cal related to mental health and substance abuse treatment include:

A. Assessment and plan development;
B. Group or individual therapy and rehabilitation;
C. Collateral services (training or counseling for family members or significant others);
D. Case management (personal services coordination);
E. Medication support services;
F. Intensive day treatment and rehabilitation;
G. Crisis intervention and stabilization;
H. Residential treatment services;
I. Psychiatrist and psychologist services; and/or
J. EPSDT (Early and Periodic Screening, Diagnosis and Treatment) supplemental specialty mental health services for individuals under age 21.

Medi-Cal coverage for substance use disorders will be enhanced for both existing and newly eligible populations beginning January 1, 2014. Decisions about the scope of benefits are still being finalized, but will include residential recovery, de-toxification, and intensive outpatient treatment, among other services. Medi-Cal will continue to deliver speciality mental health and substance use disorder services through separately from the managed physical health plans, using "carve-out" programs that are administered by counties.

What is a Health Exchange?

In 2010, California was the first state in the nation to enact legislation to implement the provisions of the ACA by creating a state health exchange, **Covered California**, a state-run marketplace where qualified individuals, families and small businesses can access tax credits and purchase insurance that will be effective January 1, 2014. Eligibility determinations and applications for Medi-Cal will also be available online through Covered California.

People Serving Jail Sentences are Not Eligible: The ACA explicitly excludes people who are serving a jail sentence from eligibility for private health plans available on the exchange during the time they are incarcerated.

People Detained Pre-Trial are Eligible: The same provision states that people in jail awaiting the outcome of their charges will not be disqualified. This provision will likely allow eligible individuals in custody pending disposition of charges to enroll in a health plan offered through an exchange prior to conviction, or maintain coverage if they are already enrolled prior to arrest.

How do People in the Justice System Access Health Care Today?

Historically, most people in the criminal justice system were excluded from free or low-cost medical programs, like Medi-Cal, funded by the government. Even though most people in jails or on probation have low incomes, many did not fall into one of the specific categories covered by Medi-Cal.

Other coverage options were also usually not available to people in the justice system. For example, private health insurance obtained through an employer was often not available because the person was unemployed or was terminated due to the jail term. Buying an individual plan was too costly and maybe even impossible (especially when individuals had pre-existing conditions, like serious mental illness or a history of substance abuse).

Most of the time, people in the justice system in California access health care through their county's indigent health care programs. Under the state Constitution, California's counties are required to provide care to indigent residents who otherwise lack health coverage. Counties provide medical care, mental health services, substance abuse treatment and public health programs (e.g., communicable disease control, smoking cessation and family planning services). The state provides funds to help counties with the cost of providing indigent health services, and in return require counties to devote a specified proportion of their general fund revenues to this purpose.

There are two models within California for the delivery of indigent health care:

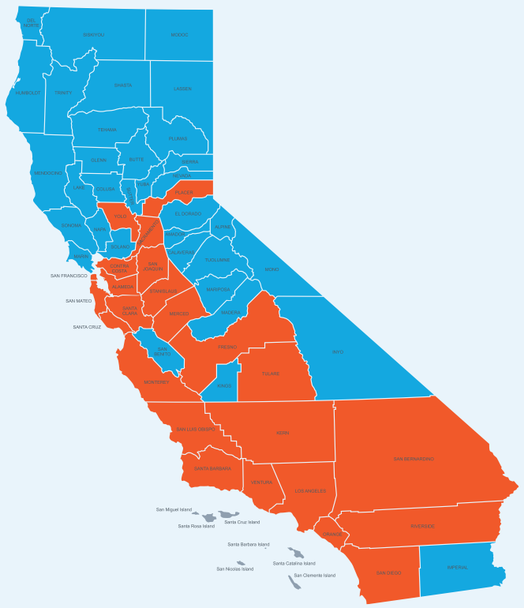
- **County Medical Services Program (CMSP):** The smaller and mostly rural counties (34 in total) banded together and contracted with the state to run their indigent care programs until 2005, when administrative responsibility was transferred to Anthem Blue Cross. CMSP coverage is similar to Medi-Cal, in terms of scope of benefits.
- **Medically Indigent Services Programs (MISPs):** Meanwhile, the 24 more populous counties administered their own programs with less state funding but total discretion in how they designed their programs. MISP counties with a public hospital-based delivery system provide some benefits to the uninsured indigent adult population, but most still fall short of offering a scope of benefits that is comparable to that of Medi-Cal.[13]

TABLE 1. ESTIMATING THE COST OF HEALTH INSURANCE PURCHASED THROUGH COVERED CALIFORNIA

Household Size	Annual Income	Yearly Cost of Health Insurance (Without Government Subsidy)	Yearly Federal Government Subsidy	New Yearly Cost of Health Insurance
4	$31,900	$12,300	$11,100	$1200 ($100/ month)
4	$88,800	$12,300	$3900	$8400 ($700/month
1	$27,000	$4,548	$2460	$2100 ($175/month)

Source: Covered California

FIGURE G. INDIGENT HEALTH CARE MODELS BY COUNTY



Source: http://www.cmspcounties.org/about/participating_counties.html

After the Medi-Cal expansion, counties will still be constitutionally required to provide indigent health care. There will be individuals and communities that remain uninsured despite health care reform, whether due to unaffordability, immigration status or other factors. In certain counties, these people are likely to continue seeking care through safety net providers, such as county health centers and community health clinics. Decisions being made by the state legislature this year will impact the degree to which indigent health care providers will be able to tap into Medi-Cal funds – and what level of state funding they will receive.

What is a Low Income Health Program (LIHP) and Who is Eligible?

To prepare for the expansion of Medi-Cal in 2014, California received a Medicaid waiver from the federal government that allows counties to establish and operate Low Income Health Plans (LIHPs). LIHPs offer health coverage based on income eligibility thresholds rather than categories. Under the waiver, up to half a million uninsured adults – drawn from the population that will become eligible for Medi-Cal in 2014 – will enroll in coverage through the LIHPs and will transition to Medi-Cal once it is expanded.

Single adults with income up to 138 percent of the Federal Poverty Level (currently $1,284 per month) are eligible for almost all county LIHPs.

The most recently available figures from the U.S. Bureau of Justice Statistics indicate that the average jail inmate's (pre-arrest) personal income is less than $1,000 per month. Currently, the Federal Poverty Level for a single adult is $931 per month.[14]

Additionally, the Substance Abuse and Mental Health Services Administration reports that on average 63 percent of people on probation are unemployed or not in the labor force, meaning they are also likely to have very low income.

Therefore, LIHPs create high rates of eligibility for people in the justice system in participating counties and an opportunity for those counties to begin immediately to draw down federal funds to pay for health care costs the county would previously have shouldered itself.

In addition to general medical care and treatment for chronic illnesses, LIHPs cover a range of inpatient and outpatient mental health services that would benefit many people in the justice system. At a minimum, that list includes:

- Up to 10 days per year of acute inpatient hospitalization in an acute care hospital, psychiatric hospital or psychiatric health facility;
- Up to 12 outpatient encounters per year (including individual or group therapy, crisis intervention, medication support and assessment);
- Psychiatric pharmaceuticals;
- Additional optional services such as case management, crisis stabilization, transitional residential and day rehab; and/or
- An option for the plan to expand services when a medically necessary reason for extended treatment exists.

At least 16 California counties currently offer additional mental health services in their LIHP plans that include case management, crisis stabilization, substance abuse treatment and residential rehabilitation. Those counties are: Alameda, Contra Costa, Kern, Los Angeles, Monterey, Orange, Placer, Riverside, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz and Ventura.

As part of the Medi-Cal expansion, individuals enrolled in LIHPs will be transitioned onto the Medi-Cal program. LIHP enrollment processes vary by county. For more information see page 23.

Which Populations in the Justice System are Eligible for What Coverage?

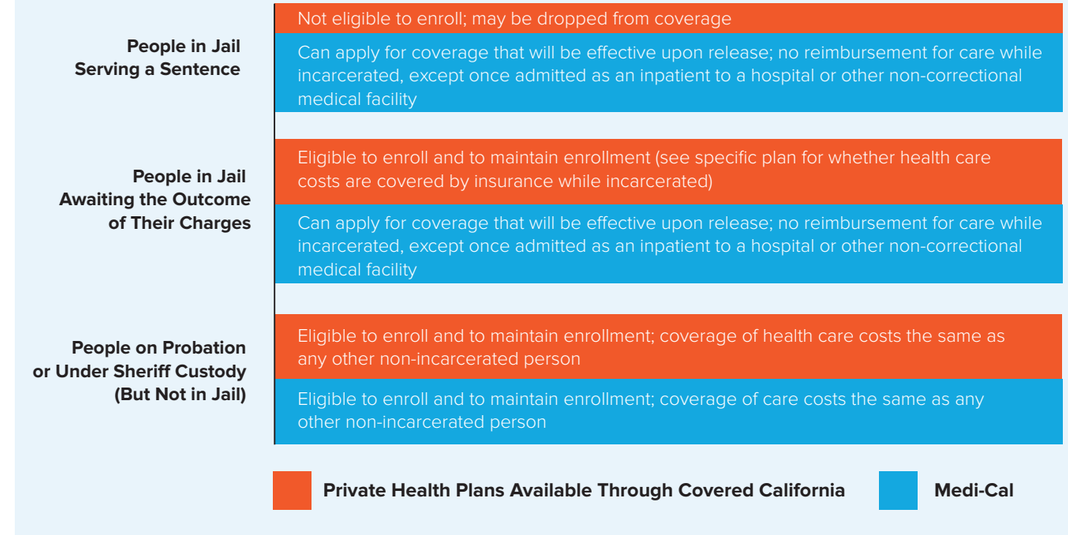
In the past, the opportunity for health care enrollment to help justice system populations was limited. First, most people in the justice system were not eligible for coverage in a government health program. Second, with respect to jails, a federal law referred to as the "inmate exception" prohibits a federal contribution to health services delivered while a person is involuntarily confined in a jail or prison.

The ACA does not change the inmate exception. However, there is an *exception to the exception* that states and counties have not widely taken advantage of: **Inpatient care of inmates** ***at hospitals*** **or certain other non-correctional health facilities is reimbursable by Medicaid.** Federal funding for inpatient health care takes on greater significance now that a much broader segment of the jail population will become eligible for Medi-Cal.

> Noting that federal money was being left on the table by the state prison system, the California legislature in 2010 passed a bill authorizing state prisons to seek to enroll inmates in Medi-Cal or a LIHP when they received inpatient treatment at a hospital.[15]

Counties can also reap savings by enrolling people in jail in Medi-Cal or LIHP and seeking reimbursement for inpatient health expenses. And if someone is supervised by the county — but not incarcerated in the jail (i.e., participating in electronic monitoring, day reporting or another non-jail-based program) — their outpatient care would be potentially reimbursable by Medi-Cal as well.

FIGURE H. 2014 HEALTH CARE ELIGIBILITY AND COVERAGE FOR PEOPLE IN THE JUSTICE SYSTEM



Possible Changes to Coverage in 2014

Under the ACA, all health plans offered on the California state exchange, including the expanded version of Medi-Cal, will have to cover "essential health benefits" (EHBs), which includes mental and behavioral health treatment and substance use disorder services – and provides a floor of minimum services.

Each state has some flexibility to interpret the EHBs and can design plans that augment the minimum benefits of the "benchmark plan." In California, the state legislature has selected the Kaiser Foundation Small Group HMO 30 plan as our state's benchmark plan. To comply with the ACA, plans must also provide benefits for mental illness and substance use disorders in no more restrictive way than all other medical and surgical procedures covered by the plan.

For more information about California's EHB benchmark plan, see page 23.

POST-REALIGNMENT CALIFORNIA: WHY INCREASING HEALTH ACCESS IS MORE IMPORTANT THAN EVER BEFORE

California's justice system is changing. For the first time in a generation, California's county jail and probation populations are growing faster than its state prison population.

Increased Local Responsibility

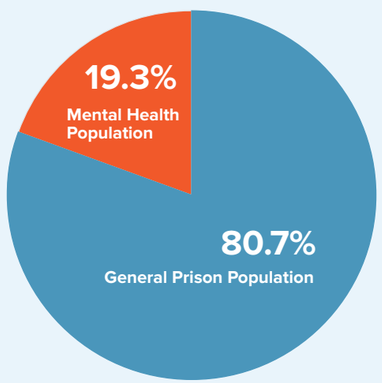
By shifting the management of individuals convicted of nonviolent, non-sex, non-serious offenses from the state to counties, Realignment has increased the number of people in local justice systems. Many of these individuals have chronic health problems and no insurance, thereby increasing justice system costs and contributing to recidivism.

Some of the realigned individuals also have acute mental illness and require significant supervision and treatment. For example, nearly 20 percent of those released from state prison to "Post-Release Community Supervision" at county probation departments were designated as having a diagnosed mental disorder when they were under the custody of the California Department of Corrections and Rehabilitation.

Increased Jail Pressures

The size of the realigned population varies widely across counties, as does the capacity of existing programs to accommodate them. These factors impact jail populations in different ways. Some counties are experiencing increased jail pressures as a result of Realignment, particularly certain counties that were already experiencing jail overcrowding or that had aging jail infrastructure.

FIGURE I. JUNE 2012 "POST-RELEASE COMMUNITY SUPERVISION" RELEASES FROM STATE PRISON



Source: Statewide Mental Health PRCS Program Dashboard, California Correctional Health Care Services, June 2012.

Partly as a result of Realignment, **34 counties have expanded, are currently expanding or are planning to expand their jail capacity.** Jail expansion is expensive; not just in construction but also with long-term operating and maintenance costs.

As one way to reduce jail populations and costs, some counties are utilizing state-funded Realignment dollars to increase health treatment. For example, Contra Costa County has added more behavioral health and psychiatric positions in the county health department to work with realigned people and reduce their risk of re-offense.

Increased Funding Flexibility at the Local Level

The passage of Proposition 30 in November 2012 guarantees funding for public safety services realigned from the state prison system to county governments. State law allows local governments to utilize these funds in the best way each county sees fit.

This flexibility in funding can make Realignment dollars stretch farther. For example, such funds can be leveraged along with existing justice system dollars and new federally funded benefits to assist in enrolling people in health care. Together, these new funding streams can be directed to better address the health-related drivers of crime.

Several counties are seizing this new opportunity:

- **San Diego County Probation** has expanded its partnership with the county health department to provide substance abuse services and mental and behavioral health treatment for the realigned population at six regional recovery centers.
- **San Bernardino County Probation** assigned four probation officers to the county jail to assess the individuals who are serving split jail/probation sentences and secure treatment for those who will need it upon release. Because the San Bernardino Probation Department provides mental health and substance abuse services,they are getting a number of their Day Reporting Centers certified to accept Medi-Cal.

Lessons from Other States

California can also learn lessons from other states:

- **Washington State** achieved reduced crime, recidivism and jail costs when they **extended chemical dependency treatment similar to what may be covered by Medi-Cal and LIHP to low-income adults** – many of whom were in the justice system. Research shows that very low-income individuals who received treatment were arrested at rates 17- to 33-percent lower than individuals who needed but did not receive treatment.[17] Strikingly, the reduction held regardless of whether the individual successfully completed the treatment program.[18]
- **Cook County, Illinois**, provided intensive, **community-based mental health services** to people with mental illness in their justice system. A study showed that the annual savings associated with reductions in jail days for just 30 participants (calculated at $70/day) amounted to almost $160,000 – an average savings of more than $5,000 per participant per year.[19]
- **Massachusetts** established a state-based health insurance exchange, much like exchanges being developed under the ACA, in 2006. Middlesex County Sheriff Peter Koutoujian implemented a policy of **enrolling sentenced inmates onto a health plan to save the jail money** on health care costs and so that individuals will have health insurance coverage on the date of their departure. This practice saved the jail over $145,000 in direct costs in 2011 alone.[20]
- In **Minnesota**, jail inmates who spend a year or less in jail and who were previously enrolled in public health coverage (including Medicaid) can fill out a **request for re-enrollment that is much shorter than the full application.** Those who were not previously enrolled or who served a longer sentence receive assistance from correctional case managers in applying for coverage, and the state sends the enrollment card to the jail before the applicant is released.

TIPS FOR SETTING UP A HEALTH CARE ENROLLMENT PROGRAM FOR PEOPLE IN THE JUSTICE SYSTEM

Identify Sites to Enroll and the Stage at Which to Enroll

The first step in developing a health care enrollment program for individuals in local justice systems is to identify the location of enrollment, which can include:

- Shortly after arrest for diverted individuals or individuals cited out;
- At the county jail, during initial intake;
- At the county jail, post-arraignment and pre-trial;
- At the county jail, post-conviction;
- At the county jail, pre-release;
- In a pre-trial supervision program;
- In a diversion program;
- Through the probation department initial assessment;
- Through a Day Reporting Center during the period of probation; and/or
- Through a health clinic or treatment center where people receive care while on probation.

Different counties are implementing enrollment programs at different stages:

- **Alameda County** is currently operating a pilot program under a Medicaid Demonstration waiver that focuses on enrolling individuals in Medi-Cal and the county LIHP just after their release from jail to probation.
- **Marin County** has initiated an innovative reentry program with CDCR whereby the sheriff takes custody of individuals who will be on PRCS 60 days before their release. They will spend the end of their term in the county jail, where the jail's reentry coordinator and probation officers will work closely with them to prepare for their reentry into the community, including enrolling them in health benefits.

To determine the best time and location for enrollment, county justice officials can collaborate with county health officials to understand these entities' considerations and needs.

Key Considerations: Sites and Stages

- The number of people that will be reached at each stage and site, maximizing opportunities to reach as many people as possible in the most convenient sites as possible
- Initial infrastructure costs and requirements
- Proximity to – or co-location with – potential enrollees' sites of detention, release, probation appointments and reentry
- Nature of relationship between the on-site staff facilitating enrollment (i.e., public safety personnel, health care providers, county social services workers) and enrollees

Staff Smartly

Under the ACA, almost anyone or any entity can be trained and certified to enroll people in health coverage, including city and county agencies, nonprofit organizations, community clinics, tribes and labor unions.[21] Covered California is creating a process for conducting background checks of individuals who seek to assist with enrollment and may exclude those with a demonstrated history of abuse of personal information or other criminal offenses that may indicate potential propensity to abuse such information.

Staff who interact with inmates in correctional settings and know about eligibility guidelines and behavioral health options (i.e., ones covered by the county LIHP or other health plans) can act as invaluable intermediaries, encouraging inmates accustomed to self-medicating or suffering in isolation on the outside to seek services from culturally competent providers in the community upon release.

Examples of people who can staff an enrollment initiative:

- Contracted social workers
- Reentry staff
- Probation officers
- County health staff
- Staff of nonprofit social services agencies
- Trained probationers

If staffing is a concern, consider **Covered California's Assister Enrollment Entity** programs: the **Navigator Program** and the **Assisters Program**. Both provide funding to entities that have the capacity to provide outreach and assistance with applications for Covered California plans. Organizations eligible for funding include county human service agencies, nonprofits and other community entities with experience enrolling individuals into federal programs. These groups may be encouraged to participate in the program and could potentially assist with enrolling eligible individuals in jails or on probation.

It will be important to keep in mind that some serving as Assister Enrollment Entities may lack experience working with justice populations, making it critical to forge working relationships between these entities and public safety officials. County public safety agencies can also consider applying to become Assister Enrollment Entities themselves.[22]

Separate funding opportunities may also be available to help pay for Medi-Cal enrollment, which is not provided through the Navigator and Assister Programs.[23] The Assisters Program is currently identifying the types of entities that will eligible to receive funds to assist with enrollment. More information is available at http://www.healthexchange.ca.gov/Pages/OutrchandEdProg.aspx.

Finally, county probation departments might consider working with a community partner to run a vocational education program for probationers to train and certify them – the probationers – to help enroll people, and then place those probationers in jobs as "assisters" upon completion of the program.

Key Considerations: Staff

- Targeted and sufficient staff training based on sound information
- Familiarity and rapport with the people in the justice system (language barriers and trust issues can stand in the way of securing cooperation and consent)
- Location of facilitators (logistically station and equip staff at opportune points of contact to maximize jail referrals and enrollment figures)
- Utilize the Navigators and Assisters Programs through Covered California

Take Advantage of Technology

Prior to the ACA, enrollment in publicly supported health care systems was cumbersome and involved heavy paperwork. Part of the vision of the ACA was to not only expand the number of people with health care coverage but also streamline and simplify the application process.

California will implement a system that allows people to apply online, in person, by phone and by mail for Medi-Cal and premium credits (for coverage purchased in the state exchange), using an application that requires an average of 15-20 minutes. Jails and probation departments will have the option to assist people to apply for health plans online through Covered California and get real-time eligibility determinations, rather than sending paper applications to the county social service department (and waiting anywhere from weeks to months for a decision).

Health plans that will provide coverage beginning on January 1, 2014, will be available on the exchange by the end of 2013. Medi-Cal enrollment will also be available online through the exchange.

Justice system officials should work with county and state health officials to explore ways to use technology to streamline enrollment. Examples include:

- County jails that have already collected information needed to make eligibility determinations for a health plan can explore with the state or county health department the possibility of making that data available to automate eligibility determinations.
- County jails that have tablets and/or laptops with wireless capabilities can work with inmates to apply online even when security issues make inmate movement difficult.

In addition, developing a system to track enrollment and outcomes on a consistent basis will enable public safety officials to evaluate the success of an enrollment initiative and make improvements. Here are some examples of how enrollment tracking can occur:

- The sheriff or probation department can track who applies for coverage as part of the enrollment initiative and the outcome of each application. The sheriff or probation department can collect and analyze data on what refusal rates are, what the rate of successful applications is, how

long the process takes, and what the recidivism rates are for people who are or are not enrolled.

- Within the budget for the department, a sheriff can track how much money the department saves by billing Medi-Cal for inpatient health care.

Key Considerations: Technology

- Building IT capacity
- Relaying pertinent or required documentation to enrollment facilitators in a timely fashion
- Tracking integration into the health care system and its cumulative effect on the jail's budget and population

Facilitate Access Beyond Enrollment

As county officials know, enrollment is an essential first step to having reliable access to health care. But enrollment alone is not enough to capture all the gains in terms of reduced jail pressures and increased public safety.

Equally important is making sure people actually access health care and treatment. Many people, especially those who are newly enrolled in a health plan, may not know the health system well enough to understand how to find a doctor and obtain care. Providing basic information and referrals to enrollees can be very helpful.

Partnership between public safety and county health care systems is crucial to ensure that newly enrolled individuals access needed health treatment programs. Through long-standing working relationships and more recent phenomena like the Community Corrections Partnerships, some public safety officials already know the health officials in their county well and run programs together to support individuals in the justice system. Others are still learning and exploring how the two might work together.

Here is a list of questions that justice system officials can ask health agencies to better understand available programs in each county:

- Does the county have a Low Income Health Program? If so, what services are provided as part of the LIHP to people with serious mental illness or addiction issues? What providers offer those services as part of the LIHP?
- What are the providers in the county who accept clients in the justice system?
- How can we coordinate with community providers to ensure continuity of care when people are released from jail?
- How can public safety agencies and county health departments facilitate information sharing?
- Where should we refer people who are not eligible for Medi-Cal or enrolled in other health coverage?

Key Considerations: Facilitating Access

- Existing county programs that may provide health care for people in the justic system
- Cultural competency of area providers (i.e., their ability to speak the language and understand cultural needs of specific people)
- Capacity of local providers (i.e., if there is a wait to receive treatment – and how long)
- Certifying treatment programs provided within or in partnership with the justice system to be Medi-Cal providers

TIPS FOR ADDRESSING BARRIERS TO JAIL-BASED ENROLLMENT

Because jail-based enrollment is not a well-trod path at this point, certain barriers may need to be addressed in order to streamline and maximize participation in these programs.

Short Length of Most Jail Stays

The vast majority of people who are booked into a county jail are released within three days. The use of the new online application process will go a long way to speed the enrollment process. Also, incorporating enrollment at multiple points in the process can help ensure that populations with both long- and short-term stays participate. Sharing information about enrollment between sheriff and probation departments can also help. Those individuals who are not enrolled in jail before they are released to a pre-trial or post-sentence community supervision program may be enrolled through the probation department.

Key Considerations: Short Stays in Jail

- Potential reach of enrollment initiatives at different points in the jail stay
- Use of online application to speed enrollment process
- Coordination with probation departments and community supervision programs

Uncertainty Surrounding Likely Release Dates

Enrolling everyone by the time of their release can be a challenge when those dates are not known. One way to address this challenge is to identify and enroll eligible individuals in jail at intake or shortly thereafter. The sooner the enrollment process begins, the more likely that it will be completed and the individual will be able to access care upon release.

Key Considerations: Uncertain Release Dates

- Improving data integrity and accuracy of release dates information in the system
- Researching when counties, the state or the Social Security Administration will accept an application prior to release date
- Starting the enrollment process as early as possible

Lack of Required Documentation

Some people in jail may not have available all of the documentation needed for enrollment. For example, they may not have government-issued identification or might not have had their identification on them at the time of arrest. To help address this issue, county public safety officials may be able to work with county health departments to develop a streamlined application for incarcerated individuals that uses alternate means to verify eligibility.

The ACA will help address this issue as well. Because the online application process (available through Covered California) will have access to electronic data from the IRS, Social Security Administration and Department of Homeland Security in real time to determine eligibility, lack of documents may pose less of a challenge. People who may still need to produce documents are those applying for Medicaid on the basis of disability, rather than income, and those who supply information through the online application that does not match the data obtained from government databases.

Key Considerations: Lack of Required Documentation

- Enrolling people online through Covered California will minimize the need for paper documentation
- Working with county health departments

Difficulty Obtaining Consent

Some people in the justice system may be reluctant to enroll in health coverage, for various reasons. At booking, the person may feel that enrollment might undermine their effort to keep a low profile due to delinquent child-support payments or prior gang involvement.[24] If enrollment is attempted post-release at the jail, the individual may not be prepared to stay the extra time it would take to complete the paperwork. Probation departments may have difficulty enrolling the subset of people who abscond. Some individuals who are not citizens may be concerned that application for benefits could reveal or impact their immigration status.

To address difficulties in obtaining consent, it is important to track the rates of consent for different enrollment tactics and sites, and to uncover the underlying reasons individuals are reluctant to enroll. Some of these reasons can be addressed by giving the individual accurate information about the enrollment process. Others might be addressed by making an attempt at a different stage in the individual's path through the justice system.

Shortage of Staff to Conduct Screening, Enrollment

Certain jail or probation staff may be able to incorporate enrollment activities into their existing responsibilities, especially if they are already focused on health care services or reentry programs. When designing an enrollment initiative, it may be a good idea to start by examining existing jail intake, pre-trial screening, discharge and supervision processes to identify the places that it would be simplest to incorporate health plan enrollment.

Still, after conducting this analysis, you may not feel your staff has the capacity to enroll eligible individuals in health plans. Agency leaders should research funding opportunities such as Coverage California's Navigator or Assisters Programs to get help paying for staffing.

Key Considerations: Shortage of Staff

- Research funding opportunities for health care enrollment
- Consider setting up a program that trains people in jail or on probation to enroll others in health coverage
- Partner with community organizations or other enrollment entities

CONCLUSION

This toolkit describes how public safety officials can increase access to health care, including mental health and addiction treatment, to increase public safety and decrease jail costs and population pressures in the immediate term and into the future.

California's county justice systems are facing new challenges, but changes in state policy and the new health care environment present opportunities for counties to tap into federal funding streams to offset costs and partner with county health programs to reduce recidivism. Seizing those opportunities, in partnership with county health officials, will reduce costs and increase public safety in our communities.

> "With approximately 85 percent of our sentenced population struggling with addiction and/or mental illness…leaving the jail with health care coverage and a health care provider can mean the difference between maintaining a healthy path of rehabilitation or reoffending due to a lack of mental health treatment."
>
> **– SHERIFF KOUTOUJIAN OF MASSACHUSETTS**

Additional Resources

- For more information about California's benchmark plan (the Kaiser Foundation Small Group HMO 30 plan), visit: http://cciio.cms.gov/resources/EHBBenchmark/california-ehb-benchmark-plan.pdf
- For local Low Income Health Plan contacts, visit: http://www.dhcs.ca.gov/provgovpart/Documents/LIHP/Local%20LIHP%20Contacts%20for%20Consumers.pdf
- For county LIHP listings with links on how to enroll, visit: http://www.health-access.org/item.asp?id=221
- To see what other public assistance benefit options are available in your county, visit: https://www.benefitscalwin.org/CountySelection.aspx
- For Medi-Cal, CMSP, CalFresh and CalWORKs applications specific to your county, visit: http://benefitscal.org/

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