



Home and Community-Based Services for the Justice Population

This brief is for public safety leaders, state Medicaid agency personnel, and policymakers who work on issues related to criminal justice and behavioral health. The federal Medicaid program permits states to create a tailored set of services for populations at risk of institutionalization through Home and Community-Based Services (HCBS) waivers. Other than minimal baseline requirements, the development of waiver design is left largely to individual states. This document explains how HCBS waivers designed to cover care for individuals leaving correctional institutions can help states that are seeking to reduce prison populations and increase pathways to community treatment.

What is a Home and Community-Based Services (HCBS) waiver?

A Home and Community-Based Services (HCBS) waiver—also known as a Section 1915(c) waiver—is an option in the federal Medicaid program that enables states to promote community-based alternatives to institutionalization.¹ Populations covered under this type of waiver gain special access to an array of medical and non-medical services (called “long-term services and supports” or “LTSS”) that are provided in the home or community, outside of more costly institutional settings. Such services include but are not limited to: case management, personal care services, in-home services, adult day care, transportation, and respite care. States can develop a particular set of services that meet the needs of the designated population.

What is the opportunity for the justice population?

Traditionally, HCBS waiver populations have included persons with conditions requiring long-term care, such as those with developmental disabilities and those with conditions such as HIV/AIDS or traumatic brain injury. Recently, the U.S. Department of Health & Human Services (HHS) has encouraged states to focus on people with substance use disorders² and highlighted the importance of Medicaid coverage for individuals involved in the justice system,³ which can be simultaneously addressed by states through pursuit of an HCBS waiver.

This type of waiver requires that states articulate a set of criteria designed to meet the needs of an identified population. To focus on the justice-involved population, for example, states can articulate a specific set of qualifying diagnoses and leverage correctional classification systems to identify individuals who have one or more of them. Or they can require assessments of persons being released from correctional settings. (The latter may be more feasible in prisons, where release dates are often known in advance, than in fast-paced, less predictable jail environments.) States also have the option to target HCBS waivers to certain geographic areas, facilitating focus on certain large county jails or state prisons.

In the context of HCBS waivers, correctional institutions are comparable to healthcare institutions. While residing inside, individuals receive healthcare services. Transition planning is necessary to

support continuity of care as and after individuals are released into the community. By applying for an HCBS waiver focused on the justice population, states can ensure that individuals can access the services necessary to achieve stability and remain in the community.



For more information about HCBS waivers, visit CMS' website at <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/home-and-community-based-services-1915-c.html>.

About the Center for Health and Justice at TASC

TASC, Inc. (Treatment Alternatives for Safe Communities) provides evidence-based services to reduce rearrest and facilitate recovery for people with substance use and mental health issues. Nationally and internationally, TASC's Center for Health and Justice offers consultation, training, and public policy solutions that save money, support public safety, and improve community health.

TASC's Medicaid Policy Series is designed to help leaders maximize the opportunities of Medicaid expansion in order to more swiftly and effectively connect justice populations to healthcare services in the community. The lead author of the series is TASC Administrator of Medicaid Policy and Program Development Sherie Arriazola.

For further information, or to find out about TASC's consulting services, contact:

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Endnotes

- ¹ LeBlanc, A. J., Tonner, M. C., & Harrington, C. (2000). Medicaid 1915(c) home and community-based services waivers across the states. *Health Care Financing Review*, 22(2), 159–174. Retrieved from <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/HealthCareFinancingReview/downloads/00winterpg159.pdf>.
- ² Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services. (2015). *Re: new service delivery opportunities for individuals with a substance use disorder* [Letter]. Retrieved from <https://www.medicaid.gov/federal-policy-guidance/downloads/SMD15003.pdf>.
- ³ Howard, J., Solan, M., Neptune, J., Mellgren, L., Dubenitz, J., & Avery, K. (2016). *The importance of Medicaid coverage for criminal justice involved individuals reentering their communities*. Baltimore: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Retrieved from <https://aspe.hhs.gov/pdf-report/importance-medicaid-coverage-criminal-justice-involved-individuals-reentering-their-communities>.