



# Presumptive Eligibility

## for Individuals Involved in the Justice System

*This brief is for public safety leaders, state Medicaid agency personnel, and policymakers who work on issues related to criminal justice and behavioral health. Individuals who are released from jail or prison can rapidly be enrolled into Medicaid so that coverage begins immediately upon release. This document explains the process for this—presumptive eligibility—and provides guidance for implementation.*

### What is presumptive eligibility?

Presumptive eligibility (PE) is an expedited Medicaid application process that allows for an immediate determination of Medicaid eligibility. Individuals are asked only a few questions about their income and household size. If they meet initial requirements, they are presumed eligible for Medicaid and granted immediate coverage for a temporary period, until they can complete a full application and the state makes a final determination of eligibility. Individuals have 30-60 days to complete a full application, until the last day of the month after the month in which they applied.<sup>1</sup>

### What is the opportunity for the justice system?

People released from jail and prison face increased risk of hospitalization<sup>2</sup> and overdose death<sup>3,4</sup> in the period immediately following release. Until recently, a lack of health insurance due to limited income and ineligibility for Medicaid resulted in high incidence of emergency department visits and returns to jail. Through the Affordable Care Act's (ACA) expansion of Medicaid, a majority of people involved in the criminal justice system are now eligible for Medicaid. Granting them immediate health insurance coverage helps ensure they can get connected to aftercare in the community during a time when they are most at risk for relapse, thus reducing the risk of overdose, hospitalizations, and death, along with the chances of further offending and contact with the justice system.

### How does it work?

States must designate certain organizations as qualified entities to determine PE. These organizations may be called PE “providers” or “determiners;” terminology varies among states. Most states already utilize PE for pregnant women, children, and—post-ACA—those who appear at the hospital uninsured. For these populations, there are likely already PE processes and procedures in place that can be modified for use by justice agencies. In order for individuals involved in the justice system to be included among PE populations, state Medicaid agencies must add public safety agencies as Medicaid presumptive eligibility (MPE) providers, and the federal Centers for Medicare & Medicaid Services (CMS) must approve. After doing so, public safety agencies may follow the same or similar processes that other existing PE providers use.

#### Case Study: New Mexico

New Mexico includes correctional staff as a qualifying entity to determine presumptive eligibility.<sup>5</sup>



**For more information about presumptive eligibility,** visit CMS' website at <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/outreach-and-enrollment/presumptive-eligibility.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.

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### Endnotes

- <sup>1</sup> Presumptive Eligibility for Children, 42 C.F.R. § 436 (2011).
- <sup>2</sup> Wang, E. A., Wang, Y. F., & Krumholz, H. M. (2013). A high risk of hospitalization following release from correctional facilities in Medicare beneficiaries: A retrospective matched cohort study, 2002 to 2010. *JAMA Internal Medicine*. 173(17), 1621-1628. DOI:10.1001/jamainternmed.2013.9008.
- <sup>3</sup> Lim, S., Seligson, A. L., Parvez, F. M., Luther, C. W., Mavinkurve, M. P., Binswanger, I. A., & Kerker, B. D. (2012). Risks of drug-related death, suicide, and homicide during the immediate post-release period among people released from New York City jails, 2001-2005. *American Journal of Epidemiology*, 15;175(6).
- <sup>4</sup> Binswanger, I. A., Stern, M. F., Deyo, R. A., Heagerty, P. J., Cheadle, A., Elmore, J. G., & Koepsell, T. D. (2007). Release from prison—a high risk of death for former inmates, *The New England Journal of Medicine*, 356(2), 157–165.
- <sup>5</sup> State of New Mexico, Department of Human Services. (2014). *Presumptive eligibility (PE) and presumptive eligibility plus (PE+) training manual*. Retrieved from <http://www.nashp.org/wp-content/uploads/2015/11/NM%20-%202.pdf>.