



2021 LEGISLATIVE SESSION

# Medicaid in Jails



## The federal policy position known as the Medicaid Inmate Exclusion Policy (MIEP):

- 1 Denies federal benefits to individuals who are pending disposition and still presumed innocent under the Due Process and Equal Protection clauses of the 5th and 14th Amendments of the U.S. Constitution, respectively;
- 2 Creates a double standard because individuals who are released back into the community pending disposition remain eligible for federal benefits such as Medicaid, Medicare, CHIP, and VA benefits;
- 3 Results in higher rates of recidivism, treatment disruptions, health care costs, and overall poorer outcomes for individuals suffering from mental health, substance abuse and/or chronic health illnesses; and
- 4 Shifts the full cost of health care services for pretrial, incarcerated individuals to local taxpayers rather than the traditional federal-state-local government partnership for safety-net services.

**The Social Security Act, Sec. 1905(a)(A)** prohibits the use of federal funds and services, such as Child Health Insurance Program (CHIP), Medicare and Medicaid, for medical care provided to “inmates of a public institution.” While this language was intended to prevent state governments from shifting the health care costs of convicted inmates to federal health and disability programs, it has an unintended impact on local jail inmates who are in a pretrial status and pending disposition. This has been in place since its enactment in 1965.

80% of those in jail are in pretrial status and awaiting resolution of their case. The average length of stay is 25 days.



**We ask that the state seek a waiver from the federal government to expand eligibility or available benefits.**

**Secondary problem:** In order to avoid violating the statutory inmate exclusion, Washington state suspends, rather than terminates, an individual’s Medicaid benefits. However, the mechanism to reactivate an individual’s benefits is not fast enough upon release. The best case scenario would be to allow for Medicaid benefits to be restored 30 days prior to release so as to allow individuals to have access to services in the communities upon release.

### 50%

of those in jail have serious chronic health conditions.

### 65%

of those in jail have have major mental health illness.

### 53%

of those in jail have substance use issues.

### 49%

of those in jail have co-existing mental health and substance use conditions.