



2021 LEGISLATIVE SESSION

# Medicaid in Jails



Washington state suspends, rather than terminates, an individual's Medicaid benefits when confined in county jail. This is done to avoid violating the federal inmate exclusion policy. However, suspension does not resolve the problem that many who are incarcerated pretrial, and have not yet been found guilty of a crime, are stripped of their ability to access their Medicaid benefits. Further, suspending Medicaid benefits hinders successful reentry for those releasing from jail as it delays reinstatement of Medicaid benefits upon release which impedes access to physical and behavioral health appointments and prescription medications upon release. HB 1348 seeks to resolve these issues by seeking a waiver from the Federal Department of Health and Human Services to allow for those incarcerated for fewer than 30 days to maintain their Medicaid benefits rather than suspending them. This bill would not only allow individuals to have more consistent access to greater health benefits, it would also save cities and counties money by allowing them to bill Medicaid for emergency services rendered outside of the jail.



**We ask that the state pass HB 1348 to seek a waiver from the federal government to expand eligibility or available benefits.**

## 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.

**50%**

of those in jail have serious chronic health conditions.

**65%**

of those in jail 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.

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

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