

RESEARCH MEMO

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Authors:

Nick Shankar
Pre-Doctoral Fellow

The Medicaid Inmate Exclusion

Established in the Social Security Amendments of 1965 that created the Medicaid program, the Medicaid Inmate Exclusion Policy (MIEP) prohibits federal Medicaid dollars from covering “care or services for any individual who is an inmate of a public institution,” except when they are hospitalized in a non-correctional medical institution for longer than 24 hours.

The MIEP was established by Congress in an attempt to prevent cost-shifting from state and local governments to the federal government. The MIEP also built upon the Social Security Act of 1935, which prohibits the payment of Social Security benefits to individuals during the period in which they are incarcerated. While the MIEP does not restrict the ability of state Medicaid programs to provide Medicaid for inmates exclusively using state funding, in practice the lack of federal Medicaid funds for inmates has resulted in most healthcare provided in jails and prisons being financed by corrections agencies rather than state Medicaid programs.

The MIEP does not change whether an individual is eligible for Medicaid and does not require termination of

Medicaid enrollment during incarceration. Indeed, the Centers for Medicare and Medicaid Services (CMS) encourages states to keep incarcerated individuals in their Medicaid systems during the period of incarceration, so that Medicaid can be billed for the limited number of healthcare services that are permitted to be reimbursed and so that inmates can more easily access Medicaid services upon release.

Many states, however, have historically terminated rather than suspended the Medicaid enrollment of individuals upon incarceration, either due to misinterpretation of the exclusion’s requirement or information technology limitations. Termination of individuals’ Medicaid enrollment upon incarceration is disruptive for their care and can leave individuals uninsured upon release, even if their stay in jail or prison is short. Such a policy also results in individuals who can post bail retaining their federal health benefits, whereas pre-trial detainees can have their Medicaid benefits terminated during their period of incarceration even if they have not been convicted of any crime.

Encouragingly, an increasing number of states have shifted from terminating to suspending the Medicaid enrollment of inmates, with 43 states having implemented suspension policies for some prisons and 42 states for some jails as of 2019. Despite these changes, however, the MIEP continues to affect funding of inmate care, which may be higher if federal Medicaid funds were available, and the standardization of care, which is currently inconsistent across states and localities.

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