

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/the-potential-impact-of-the-affordable-care-act-on-the-criminal-justice-system>

Public Facing Advocacy Writing

Starting in 2014, the Affordable Care Act (ACA) will dramatically expand Medicaid eligibility to include all individuals with income at or below 133% of the federal poverty level. For the first time, eligibility will be based solely on income, and no longer take into account factors such as age, gender, being a parent, and having a disability. This expansion of Medicaid is an option to states, and those that chose to participate will close the coverage gap for many of their low-income adults. For example, a study of California's 58 counties estimates that about 70 percent of young adults age 18 to 24 may now be eligible for Medicaid. In addition to expanded Medicaid coverage, the ACA requires health plans to cover substance use and mental health benefits as part of a package of essential benefits. Moreover, the law mandates parity between behavioral health and other medical benefits, which means the range of coverage for psychiatric care and drug treatment must be equivalent to care for other conditions.

The implications of this expansion for both the criminal justice system and those involved in it are far-reaching. Given that a high percentage of justice-involved individuals are low-income, many people in pre-trial proceedings and on probation and parole supervision will now be eligible for Medicaid. For example, estimates indicate that more than one-third of the individuals released annually from prison will now be eligible for Medicaid coverage. Based on the number of prison releases in 2011, this figure is estimated to be more than 230,000 people. For some jurisdictions, the increase in share of population that will now be eligible for Medicaid may be even higher.

As a result, individuals will have greater access to services such as mental health and substance use counseling and treatment, thereby increasing the likelihood of a person successfully completing probation or parole supervision terms and reducing his or her chances of re-offending. For others, the access to mental health and substance abuse services in the community will decrease their likelihood of ever coming into contact with the system in the first place. Judges may also be more willing to rely on community corrections instead of prison sentences, knowing that an individual's treatment and/or counseling needs could be addressed in the community. The implications, therefore, on the criminal justice system, could be increased public safety, reduction in incarceration and recidivism rates, and improved health outcomes.

That's the good news.

The challenge lies in implementation, according to Steven Rosenberg, the president of Community Oriented Correctional Health Services (COCHS), a nonprofit organization that works to improve the sharing of health care information between jails and community health systems. How will newly-eligible individuals be identified? Once identified, how will they be enrolled? Once enrolled, how will they be connected with the services that they now have access to? And, will enough services be available in the community to address the needs of this population?

At an address at the Vera Institute of Justice on December 5, 2013, Rosenberg offered some thoughts on how to address these issues. He highlighted the unique position corrections and court personnel could play in identifying eligible individuals and assisting them with the enrollment process. For example, state prison systems in New Jersey and Oregon as well as the Cook County, Illinois jail have already hired dedicated staff, trained current staff, or contracted with community providers to enroll inmates upon their release. They are ahead of the curve. Rosenberg acknowledged that we are still in the early stages of figuring this all out but he did make one thing very clear: it is essential that the systems affected by this change, including but not limited to the criminal justice, mental health, substance use, and public health systems, work together and break down the silos in order for this to be as successful in practice as it is appealing in theory. Only then can we expect to realize the full potential impact of this policy.

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