NATIONAL JUVENILE JUSTICE NETWORK

TIME FOR A CHECK-UP:
HOW ADVOCATES CAN HELP YOUTH IN THE JUVENILE JUSTICE SYSTEM GET THE MENTAL HEALTH SERVICES THEY NEED

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The mental health care system is undergoing a major transformation. For youth in the juvenile justice system, access to mental health care is being affected by changes on the federal level that have downstream impacts on financing streams and service delivery. In particular, expansions to Medicaid and a shift in the delivery of mental health services to primary care settings requires advocates to determine what these changes mean for youth in trouble with the law. The John D. and Catherine T. MacArthur Foundation's December 2011 Models for Change Knowledge Brief, "Mental Health Services in Juvenile Justice: Who pays? What gets paid for? And who gets to decide?" offers a summary of the shifting landscape of mental health care and the issues such changes raise for those involved in mental health care delivery to justice-involved youth.[1] While the issues are complex, this policy update teases out some of the major changes on the horizon and provides recommendations for advocates.

Obtaining Mental Health Services for Youth in Trouble with the Law Means Working with Medicaid and CHIP

Mental health services for youth in the juvenile justice system have traditionally been supported by two funding streams: block and formula grants—distributed through juvenile justice or mental

[1]The information in this document is drawn from multiple sources; most significantly from the Models for Change Knowledge Brief, "Mental Health Services in Juvenile Justice: Who pays? What gets paid for? And who gets to decide?" (John D. and Catherine T. MacArthur Foundation Models for Change initiative, December 2011), accessed September 11, 2013 at http://bit.ly/14yO6ml, and referred to hereafter as "Models for Change Brief."

health agencies—as well as broad-based public insurance programs, like Medicaid and, more recently, the Children's Health Insurance Program (CHIP). However, since 2000, funding for block and formula grant programs has significantly declined or remained flat, with the largest increase in funding for youth mental health services coming from the expansion of Medicaid and introduction of CHIP.

Beginning January 1, 2014, the Patient Protection and Affordable Care Act (ACA) of 2010[2] allows states to provide Medicaid coverage for children ages six to 18 with incomes at or below 133 percent of federal poverty level guidelines and also generally makes children currently or formerly in foster care eligible for Medicaid until they turn 26.[3] With Medicaid emerging as a major funder for mental health services, advocates must address already existing issues with Medicaid coverage to ensure quality mental health care for youth in the juvenile justice system.

Encourage Enrollment

More than half of uninsured children are eligible for Medicaid or CHIP but are not enrolled.[4] Under the new health care law there will be even more people eligible in many states—as well as more families able to afford private health insurance through the health insurance exchange—so it's vital to encourage enrollment. For those youth already in the juvenile justice system, policies like "presumptive eligibility" can help these youth get enrolled more quickly by granting juvenile justice agency staff the authority to secure temporary eligibility for youth, pending a final Medicaid determination.[5] "Expedited Medicaid enrollment" allows juvenile justice agency staff to prepare Medicaid applications for youth leaving custody, which are then expedited once the youth are released.[6]

Ensure Continuous Medicaid Coverage

Advocates should help ensure that Medicaid is set up to provide continuous care for justice-involved youth, who may experience frequent changes in placement, including unexpected moves between detention and the community, and who are often abruptly disenrolled from Medicaid when they enter a juvenile justice facility since federal law prohibits Medicaid funding

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[2] Pub.L. No. 111–148, 124 Stat. 119 (2010), amended by the Health Care and Education Reconciliation Act of 2010, Pub.L. No. 111–152, 124 Stat. 1029 (2010).

[3] Diane Pilkey, et al., "The Affordable Care Act and Adolescents," U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation (August 2013), accessed November 21, 2013 at http://1.usa.gov/1cEDkfh.

[4] Models for Change Brief, 4.

[5] For example, New Mexico allows juvenile justice agency staff to make presumptive eligibility determinations for youth in their care. Sarabeth Zemel, Kimm Mooney, and Diane Justice, National Academy for State Health Policy, "Facilitating Health Care Coverage for Juvenile Justice-Involved Youth" (John D. and Catherine T. MacArthur Foundation Models for Change initiative, December 12, 2013), 2, n.6, accessed December 18, 2013 at http://bit.ly/1hA09BY.

[6] Zemel, Mooney, and Justice, 2.

for "an inmate of a public institution."[7] Advocates should push agencies to "suspend" enrollment when youth are placed in confinement rather than cancel or terminate it, so that it is easier for youth to resume Medicaid coverage upon release.[8] If a youth's Medicaid enrollment is terminated, however, the policies discussed above—presumptive eligibility and expedited enrollment—could enable quicker re-enrollment.

Encourage System Collaboration

Juvenile justice agencies, mental health policymakers, community-based agencies, and other services must coordinate with Medicaid—as well as collaborate with each other—in order to maximize sustainability and efficiency of mental health care delivery to youth in the juvenile justice system. Advocates should encourage and support the creation of formal or informal collaborations between these agencies to improve the understanding of Medicaid eligibility for juvenile justice-involved youth and the financing and delivery of mental health services to these youth.[9]

Inform State Medicaid Policy

Since state Medicaid agencies are responsible for key decisions about coverage, reimbursement, and contracting—which have a significant impact on where and when youth can access care, as well as dosage and type of care—it is critical for advocates to have a voice in the conversations about these issues. Coverage varies by state and can include diverse services, ranging from targeted case management for mental health to Multisystemic Therapy. Advocates might also look to the federal mandate that requires state child welfare agencies to coordinate with Medicaid as a guide to collaboration.[10]

Look for Ways to Expand CHIP Coverage

States are permitted to use CHIP to cover children in families that are above the Medicaid income-eligibility levels, though not all states do. The Affordable Care Act extended the CHIP program for two years, with funding through September 30, 2015.[11] Advocates should work with

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[7] Social Security Act §1905 (a)(29)(A), 42 U.S.C.A. §1396d (a)(29)(A) (2013). The law makes an exception for patients in medical institutions. Additionally, another provision of the Social Security Act provides that individuals under 21 receiving "inpatient psychiatric hospital services" can get Medicaid coverage. 42 U.S.C.A. §1396d (a)(16 (2013).

[8] Zemel, Mooney, and Justice, 1; Alison Evans Cuellar, "New Directions for Behavioral Health Funding and Implications for Youth Involved in the Juvenile Justice System" (Washington, D.C.: Technical Assistance Partnership for Child and Family Mental Health, January 2012), 5, accessed July 17, 2013 at http://bit.ly/IIpJIX.

[9] Models for Change Brief, 4; Carrie Hanlon, Jennifer May, and Neva Kaye, "A Multi-Agency Approach to Using Medicaid to Meet the Health Needs of Juvenile Justice-Involved Youth" (Washington, D.C.: National Academy for State Health Policy and Models for Change), 16-17, accessed October 21, 2013 at http://bit.ly/k8MGcg.

[10] State child welfare agencies are required by federal law to work with Medicaid to improve the delivery of health care services to foster care children (Models for Change Brief, 4).

[11] Bryn Martyna, "Health Care Reform's Impact on Low-Income Youth," *Youth Law News*, Vol. XXXI No. 1 (Jan. – March, 2012), accessed Nov. 20, 2013 at http://bit.ly/Lxnpyy.

state officials or consumer health advocacy groups to expand CHIP coverage for justice-involved youth.

Improving the Delivery of Mental Health Care to Youth in the Juvenile Justice System under the New Health Care Law

The ACA is also likely to further the movement already underway to provide more mental health care in primary care settings. In order to reach families whose income level is too high to receive Medicaid but too low to purchase private health care, in 2014 the ACA will make federally subsidized health coverage available to families with incomes as high as 400 percent of the federal poverty level.[12] As a result, more justice-involved youth may have access to primary care physicians through private health insurance. In addition, the ACA requires private health insurance plans to cover ten essential benefits, one category of which is mental health and substance use disorder services.[13] Primary care physicians can often coordinate care with specialists so that they can better manage a patient's medical and psychiatric conditions—a benefit for justice-involved youth, who often have many medical needs beyond mental health.[14] Advocates can capitalize on these—and other provisions in the ACA discussed below—to improve the delivery of mental health care to youth in the juvenile justice system.

Educate Primary Care Providers

Mental health care is increasingly provided in primary care settings, through private insurance, out-of-pocket payment, Medicaid, and CHIP. The ACA will likely boost this trend, as it increases payment rates to primary care doctors. Primary care providers however, may be unfamiliar with the issues faced by youth in trouble with the law, and can benefit from education about their unique needs.

Explore "Medical Homes"

- Assess medical homes as a model for treatment: "Medical homes"—developed under the ACA and promoted by Medicaid and elsewhere—can be a physical or virtual network of private providers and services. The National Committee for Quality Assurance's standards for medical homes specifically include the mental health needs of children as an example of the type of need that should be addressed by a medical home team, and providers are explicitly encouraged to provide referrals to community resources,

[12] Andrea A. Bainbridge, "White Paper: The Affordable Care Act and Criminal Justice: Intersections and Implications," U.S. Department of Justice, Bureau of Justice Assistance (July 2012), 7, accessed December 13, 2013 at http://bit.ly/1hRTrtU.
[13] Pilkey, at http://1.usa.gov/1cEDkfh.
[14] Models for Change Brief, 4.

including mental health and substance use treatment. Medical homes use a payment model that allows reimbursement for services that typically fall outside ordinary coverage limits. Medical homes might be a model for the delivery of community-based mental health services to justice-involved youth.

- Be aware of the challenges: Medical homes for youth in the justice system would need to address the challenge of disruptions to Medicaid coverage that can occur when youth are placed in confinement, as well as the need for care coordination among family members and a variety of agencies. Juvenile justice advocates should collaborate with mental health advocates to define medical homes, developing criteria to measure their effectiveness and evaluate their performance.[15]

- Medicaid "health homes" present another opportunity to help justice-involved youth: Under the ACA, state Medicaid programs can also develop and pay for "health homes." These health homes are a special type of medical home within the Medicaid program designed to cover comprehensive care management for adults or children with complex chronic conditions, and the services do not have to be comparable to services normally provided to state Medicaid beneficiaries. This may be a good new option for youth with severe behavioral health disorders.[16]

Develop Good Standards

The ACA empowers newly established Accountable Care Organizations (ACOs) to collect and evaluate data on outcomes, with the overall intent to connect provider reimbursements to quality measurements and cost control. Advocates should collaborate with policymakers and ACOs to develop appropriate outcome measures for mental health care for youth in the juvenile justice system. Note, however, that there are restrictions around sharing substance use treatment data that could make data collection in this area challenging.[17]

[15] Cuellar, "New Directions," 7.
[16] Cuellar, "New Directions," 7-8.
[17] See Child Welfare Information Gateway, Administration for Children and Families, U.S. Department of Health and Human Services, "Appendix I: Confidentiality and the Release of Substance Use Disorder Treatment Information," published in *Protecting Children in Families Affected by Substance Use Disorders* (Office on Child Abuse and Neglect, Children's Bureau, ICF International: 2009), at http://1.usa.gov/19Fv7Dj; and Jennifer K Manuel, Howard Newville, Sandra E. Larios, and James L. Sorensen, "Confidentiality Protections Versus Collaborative Care in the Treatment of Substance Use Disorders," *Addiction Science and Clinical Practice* (2013), accessed Nov. 22, 2013 at http://bit.ly/IIqyl9.

How to Take the Next Step

We encourage you to get in touch with your state juvenile justice and mental health experts as well as the policymakers responsible for implementing federal mandates related to mental health coverage. Your State Advisory Group (SAG) on juvenile justice can help you to get started. Find your contact person on the Coalition for Juvenile Justice's website at: http://www.juvjustice.org/about-us/members.

To locate the director of your state's "single state agency" for substance abuse, you can download a directory from the Substance Abuse and Mental Health Services Administration (SAMHSA) at: http://www.samhsa.gov/grants/ssadirectory.pdf.

For assistance connecting with key policymakers at your state's mental health agency, reach out to the National Association of State Mental Health Program Directors, at http://www.nasmhpd.org/index.aspx. (There, you can also find contact information for each state's mental health agency.)

For more assistance with the intersection of mental health and juvenile justice issues, visit the Mental Health and Juvenile Justice Collaborative for Change, one of four new Resource Centers supported by the Models for Change Resource Center Partnership.