The ACA and the Criminal Justice Reentry Population: Opportunities & Challenges

Overview

An estimated 6.89 million individuals were under the supervision of adult correctional systems in 2013, 4.75 million under community supervision, 1.57 million in prison, and roughly 731,000 housed in local jails on any given day.[i] With millions more passing through local jails every year, people flowing through the criminal justice system are less likely to have health coverage and often have significant healthcare needs.[ii] Yet while the criminal justice system accounts for only a small percentage of the U.S. population, an estimated 14% of residents with HIV, 33% of those with Hepatitis-C, and 40% of those with tuberculosis pass through correctional facilities, while 40% of men and nearly 60% of women in jail have at least one chronic health condition.[iii] According to numerous studies, healthcare disruptions when these individuals reenter the community have been found to lead to increased rates or re-incarceration, worse healthcare outcomes, and more costly care.[iv]

The Affordable Care Act (ACA) offers several avenues to improve health coverage and outcomes for the reentry population, including those on community supervision. This coverage promises to reduce justice and health system costs by providing healthcare access to a high-need population and ultimately improving outcomes. But these new opportunities alone are insufficient if the justice system does not leverage them to reduce costs and help close the criminal justice system's "revolving door." This paper outlines opportunities for improving healthcare coverage for the reentry population under the ACA and presents areas for future research and exploration.

ACA Coverage Provisions

Under the ACA, individuals reentering the community from correctional institutions have new opportunities to obtain health insurance through Medicaid or the state health insurance marketplace. The reentry population has the same opportunities to obtain health insurance under the ACA as any other adult, regardless of community corrections status. Individuals with incomes from 100% to 400% of the federal poverty level (FPL) may obtain federal subsidies to support the cost of marketplace-purchased insurance, while individuals with incomes up to 138% FPL may enroll in Medicaid, if their state chooses to participate in the ACA's eligibility expansion. ACA-compliant health insurance will cover 10 categories of essential health benefits, including substance use and mental health disorder treatment services. These plans will also cover health services that are mandated by the criminal justice system. If properly utilized, improved access to health and behavioral health services may enable justice-involved individuals to more easily reintegrate into the community by addressing their basic needs, fostering self-reliance, and promoting recovery.

Leveraging ACA Opportunities for Reentry Populations

The criminal justice system must overcome numerous barriers to create an infrastructure that maximizes the ACA's opportunities and creates synergy within disparate systems and organizations. Most notably, state and local health and justice agencies often fail to coordinate regarding policy and

practice and frequently fail to share data or maintain open lines of communication. This state of affairs may be partially fueled by a failure to recognize the value of the ACA in connecting reentry populations to affordable healthcare coverage. However, systemic issues present real barriers even for leaders who are well aware of the potential opportunities.

To streamline health plan enrollment and support subsequent healthcare utilization, criminal justice officials at federal, state, and local levels must develop and enhance relationships with state officials in the entities responsible for Medicaid, insurance, and human services. Justice officials must recognize and understand how to help individuals throughout the system—from arrest to community supervision—and how to determine eligibility for healthcare services. This requires a coordinated approach across numerous agencies at all levels of government, and a primary determiner of success will be the successful proliferation of information and strategies within and between government organizations.

Pre-Release Reentry Strategies

While each individual's reentry experience is different, the strategy for these individuals need not be. The criminal justice system should (1) determine eligibility status as early as possible, (2) adopt policies to avoid terminating eligibility, (3) educate incarcerated individuals about the ACA's opportunities, (4) help enroll individuals in coverage as early as possible, and (5) work with community resources (including but not limited to community corrections officers) to ensure that coverage is obtained and healthcare linkages are made. As part of this coordinated approach, justice officials can promote much needed access to healthcare services by facilitating aspects of the enrollment process at each point in the process.

For the reentry population community corrections officers often play an integral role, but the process of preparing individuals for successful reentry can and should begin during incarceration. Institutional staff are in a unique position to prepare soon-to-be-released individuals through screening, education, and one-on-one assistance. By teaching inmates about ACA opportunities and linking them with navigators while they are still in custody, justice officials can help increase the likelihood of successful engagement within the community. This process can allow an individual to "hit the ground running" upon release, armed with information about how the system works, how he or she fits in, and a substantially completed application.

Furthermore, state policymakers can take steps to ease this process through their Medicaid offices. An individual's Medicaid status upon admission can be a significant factor in streamlining eligibility upon his or her release. While the practice differs by states, when a Medicaid enrollee is incarcerated, some states suspend Medicaid rather than terminating it. In addition to affecting a limited number of services during incarceration,[1] Medicaid suspension can significantly ease the reenrollment process upon

[1] While Medicaid cannot cover most services for incarcerated individuals, it can cover services for incarcerated individuals who are admitted to a non-corrections inpatient facility for at least 24 hours. Medicaid Administrative Claiming is also being considered in states such as Illinois, California, and Massachusetts to cover the costs of outreach to new ACA-eligibles, processing benefit applications, and administrative tasks surrounding care coordination.

release. Of course, implementation or modification of this policy requires significant cross-agency collaboration and strong leadership.

Ultimately, in facilitating the pre-release planning stage, institutional staff can serve as the bridge from jail/prison to community care and should play an active role in ensuring a connection to a navigator. Cooperation must improve at the agency level to reach the community reentry population at every possible opportunity and steer individuals toward the appropriate coverage options. For many reentering individuals, the prospect of navigating a new and complex system may only appear surmountable if the system actively supports that transition while they are incarcerated. This, in turn, can alleviate some of the educational demands on community workers, allowing them to focus on helping individuals in the community enroll in and properly utilize high quality care.

Changing the Role of Community Corrections

If justice officials succeed in transferring significant portions of the healthcare enrollment process to institutional staff, community corrections officers can work with better-informed individuals and focus on finalizing/maintaining coverage and utilizing that coverage once it is achieved. Of course, the 4.75 million individuals already under community supervision cannot benefit from newly enacted enrollment procedures within prisons and jails. While individuals already on parole may still require additional assistance, community corrections officers can help newly released individuals finalize coverage and quickly obtain needed services. Though considerable attention is deservedly paid to ensuring "access," covered individuals must seek out and receive services in order to effect change. By emphasizing preparation and education while individuals are still incarcerated, community corrections officers may be able to refocus efforts on the other key to successful outcomes: linkage and utilization.

Jail Admission: A Screening Opportunity

Beyond strategies that help prepare longer-term inmates for their release, jails are well positioned to function as healthcare "screening points" for the criminal justice system, particularly at the point of admission. About 11.7 million people are admitted to local jails annually.[v] While the daily census for local jails is relatively low, jails see a huge number of justice-involved individuals for short periods of time, returning most to the community shortly after admission. Furthermore, this population tends to be lower come, has higher rates of health problems (including behavioral health conditions as well as chronic and infectious diseases), and has lower rates of insurance coverage.[vi]

Placing a healthcare navigator at the admission point for local jails—or training existing staff to perform a similar function—can help ensure that millions of people passing through jails are screened to determine their health insurance status and their potential eligibility for Medicaid or marketplace coverage. Though incarcerated individuals are generally not considered eligible for enrollment, that provision does not apply to individuals in custody pending disposition.[vii] These people "passing through" local jails constituted 61% of jail inmates in 2011 and can actually apply for coverage *during* a jail stay, with the help of corrections staff.[viii] In addition, screening at local jails offers an opportunity to highlight the benefits of health coverage for inmates who already have coverage but remain unaware of the richness of their benefit packages or how to obtain services. For many of jail inmates, the pre-release strategies discussed earlier may not effectively reach them during a short jail stay. An admissions-based

approach at local jails can help ensure that one of the most vulnerable populations fully capitalizes on the ACA.

Areas for Exploration

Many states and localities are already employing successful and innovative approaches to help reentry populations obtain, maintain, and utilize healthcare coverage through the ACA. Perhaps most notably, with assistance from BJA, the Illinois' Department of Corrections has undertaken a massive (and model) effort to ensure coverage for its corrections population.[ix] Ohio is also employing a collaborative effort between corrections and Medicaid leaders to expedite Medicaid enrollment for prisoners upon release.[x] The present task should be to determine the scope of current approaches, assess their effectiveness, and disseminate that knowledge throughout the justice system. Areas for further exploration include:

- Survey prisons and jails for innovative approaches to enrolling the reentry population in ACA coverage:
    - Finding systemic state-level approaches like those in Illinois and Ohio
    - Identifying exemplary local-level efforts
    - Examining funding sources, including determining whether corrections departments have successfully used marketplace grants or other healthcare funding (e.g. to train corrections officers within or outside institutions)
    - Examining variation across states with federal vs. state-based marketplaces
    - Exploring innovative Medicaid strategies, particularly in expansion states
- Analyze that information in light of state- and county-level differences which may affect strategy
- Provide extensive education and technical assistance catered to specific agencies at specific levels of government (e.g. "how to coordinate with you state Medicaid office" "how to integrate healthcare navigators at admission in local jails")

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