



# Medicaid Eligibility for Incarcerated Individuals in California

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Historically, Medicaid has prohibited federal payments for health care services for adults and youth who are incarcerated.<sup>1</sup> This federal law is also known as the “inmate exclusion.”<sup>i</sup> The federal law restricting Medicaid funds from paying for Medicaid services while an individual is in a carceral setting must not be confused with Medicaid eligibility itself. In the past several years, there has been federal guidance from the Centers for Medicare and Medicaid Services (CMS) to clarify eligibility rules for people who are incarcerated to ensure their re-entry back into the community is smooth and seamless. This factsheet will provide background information on the inmate exclusion, explain the federal eligibility and coverage rules that affect adults and youth who are incarcerated, and discuss how these rules have been implemented in California’s Medicaid program, Medi-Cal.

## Background on the Medicaid “Inmate Exclusion”

Medicaid prohibits states from receiving federal Medicaid funding, also known as federal financial participation (FFP), for health care expenditures for an “inmate of a public institution.”<sup>2</sup> To determine whether FFP is prohibited, it must be determined that (1) the individual is an “inmate” and (2) whether the individual resides in a “public institution.”<sup>3</sup>

“Inmate” is defined as any individual serving time for a criminal offense or involuntarily confined or detained in a penal institution.<sup>4</sup> A penal institution encompasses state and federal prisons, jails, detention facilities, alternatives to criminal prosecution institutions, and

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NHeLP strives to use inclusive and affirming language to accurately reflect the scope of incarcerated individuals and how it may affect their Medicaid coverage. However, federal and state statutes, regulations, and policies often use various terms to describe incarcerated individuals impacted by Medicaid exclusionary rules, including dehumanizing terms such as “inmate” or “juvenile.” Because this factsheet seeks to provide a detailed overview of Medicaid policies that affect individuals who are incarcerated, it includes direct language from federal and state statutes, regulations, and policies, which may use such terms.

individuals pending arraignment, trial or sentencing.<sup>5</sup> An individual is not considered an inmate if the person is in a public educational or vocational training institution.<sup>6</sup> In addition, an inmate is not a person who is in a public institution for a temporary period pending other arrangements appropriate to their needs.<sup>7</sup>

A “public institution” is defined as an institution controlled by a governmental agency or over which a governmental unit exercises administrative authority, which includes correctional institutions.<sup>8</sup> An individual of any age can be incarcerated if the individual is in custody and held involuntarily through operation of law enforcement authorities.<sup>9</sup> Medical institutions (like a hospital) are excluded from the definition of a public institution, and thus the exclusion does not apply to individuals receiving inpatient treatment in a medical facility.<sup>10</sup>

The exclusion **does apply** to individuals:

- in correctional institutions, such any federal, state, local, or tribal institutions;<sup>11</sup>
- in a residential treatment facility for mental health or substance use disorder (if the individual is residing there involuntarily through operation of law enforcement);<sup>12</sup> or
- in residential reentry centers;<sup>13</sup>

The exclusion also applies to circumstances where an incarcerated individual is transported out of the correctional facility to receive outpatient services, but is not admitted to the other facility.<sup>14</sup> Outpatient services include, but are not limited to, services provided in a local hospital emergency department, an urgent care center, a clinic, or a Federally Qualified Health Center or Rural Health Clinic.<sup>15</sup> If an incarcerated individual receives health services in those facilities, then FFP will not be available and the correctional facility will be required to cover any additional costs.<sup>16</sup>

The exclusion **does not apply** to individuals:<sup>17</sup>

- in a medical institution receiving inpatient services;<sup>18</sup>
- in an intermediate care facility;<sup>19</sup>
- in a publicly operated community residence;
- in a child-care institution;
- on parole or probation;
- on home confinement; or
- voluntarily and temporarily residing in a public institution.

CMS recognizes that depending on the federal, state, or local authority, there may be various custody arrangements, such as referring to individuals by different names or subjecting them to different conditions and requirements.<sup>20</sup> Because this variance can cause uncertainty about whether an individual can receive Medicaid-covered services, the best indication of

determining whether an individual is incarcerated is to observe their legal ability to exercise personal freedom.<sup>21</sup>

For example, individuals residing in halfway houses can receive Medicaid-covered services unless they do not have freedom of movement and association while residing at the facility. For that facility to receive FFP, they would have to ensure residents have the freedom to move, such as permitting residents to work outside of the facility or seek health care treatment outside of the facility to the same or similar extent as other Medicaid enrollees in the state.<sup>22</sup> If such freedoms are not granted, then the residents would be considered an inmate of a public institution and the inmate exclusion would apply. Although the inmate exclusion prohibits the use of FFP for Medicaid covered services for any incarcerated individual, such prohibition does not impact an incarcerated individual's Medicaid eligibility, nor terminate a person's Medicaid eligibility.

## Medicaid Eligibility & Enrollment

A person's custody status does not impact their Medicaid eligibility. As described in detail above, the statutory inmate exclusion is a payment exclusion only, which means incarcerated individuals who are eligible for or are enrolled in Medicaid do not lose their eligibility due to their incarcerated status alone.<sup>23</sup> In circumstances where a person is admitted into a public institution and is not enrolled in Medicaid, the state Medicaid agency must accept their application.<sup>24</sup> If the individual meets all applicable Medicaid eligibility requirements, the state must enroll the individual and such eligibility will become effective immediately at any point during their incarceration.<sup>25</sup> CMS encourages state Medicaid agencies, in collaboration with correctional facilities, to prepare and assist individuals with the application process prior to release.<sup>26</sup> CMS has issued guidance instructing states on how to maintain Medicaid eligibility for incarcerated individuals without violating the Medicaid inmate exclusion provision.<sup>27</sup> Recent federal law has also made clear this expectation.<sup>28</sup>

## Medicaid Suspension v. Medicaid Termination for Incarcerated Individuals

Congress enacted the Consolidated Appropriations Act of 2024 (CAA 2024), which requires states to suspend Medicaid coverage during the duration of an adult's incarceration. This provision will be effective January 1, 2026.<sup>29</sup> This legal requirement for states to suspend Medicaid was already required for juveniles who are incarcerated pursuant to the 2018 Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (the SUPPORT Act)—amended section 1902(a) of the Social Security Act.<sup>30</sup> Prior to the enactment of CAA 2024, states could implement a few different types of policies for non-juveniles to comply with the Medicaid inmate exclusion: *Medicaid suspension*

*of eligibility or benefits, or Medicaid termination.* Although states were given the choice, CMS guidance encouraged states to implement a suspension policy, rather than a termination policy.<sup>31</sup>

Suspension of Medicaid benefits maintains Medicaid coverage for individuals who become incarcerated while still complying with the inmate exclusion. Suspension pauses the enrollee's Medicaid benefits without impacting the incarcerated individual's eligibility status.<sup>32</sup> The pause is lifted once the individual is released from the correctional facility.<sup>33</sup> Suspension is the preferred policy because it promotes early detection of medical conditions, continuity of care, and reduction of medical crises and mortality. The suspension of Medicaid benefits allows states to more easily obtain federal Medicaid funding if the incarcerated person needs to receive inpatient services prior to their release.<sup>34</sup> Suspension is also supposed to provide a seamless transition to reactivate Medicaid coverage once an incarcerated person is released from jail or prison and ensure that individuals released from incarceration have ready access to Medicaid covered services and health care supports as they transition into the community. Conversely, termination of Medicaid eligibility creates an additional barrier for an individual leaving a carceral setting because this policy requires a formerly incarcerated person to reapply for Medicaid, which could take up to 45 days (or 90 days, in the case for an individual with a disability) to be approved.<sup>35</sup> A termination policy causes an abrupt discontinuation of coverage for an incarcerated individual that could inhibit or delay access to life-saving health services.

Currently, most states maintain an incarcerated individual's Medicaid eligibility status by suspending, rather than terminating, coverage.<sup>36</sup> With the implementation of CAA 2024, by 2026, all states must implement a suspension policy for all Medicaid individuals who are incarcerated.<sup>37</sup> Not only does a suspension policy expedite state access to federal Medicaid funds to cover Medicaid services for individuals released from prison or jail, it also ensures that a state can receive FFP to cover the health costs of enrollees who receive inpatient hospital care while incarcerated.<sup>38</sup> Prior to the enactment of the new federal Medicaid suspension law, California state law already required a Medicaid suspension policy for individuals (both adults and juveniles) who are incarcerated so as to maintain their Medicaid eligibility.<sup>39</sup>

## **CALIFORNIA – Medi-Cal's Suspension Policy for Justice-Involved Individuals**

Medi-Cal, which is California's Medicaid program, currently implements a suspension policy of Medi-Cal benefits for the entire duration of the individual's incarceration, for both juveniles and adults.<sup>40</sup> But prior 2022, California state law only required counties to suspend Medi-Cal benefits, for up to 1 year, for both juveniles and adults who were Medi-Cal beneficiaries at the

time they became “inmates of a public institution,” rather than terminate Medi-Cal eligibility.<sup>41</sup> California enacted a new state law in 2022, which amended the Welfare & Institution Code § 14011.10(e), removing the 1 year limitation by requiring the County Welfare Departments (CWDs) to suspend Medi-Cal benefits for all “inmates of a public institution” for the entire duration of their incarceration—both juveniles and adults.<sup>42</sup> This new law, which went into effect in 2023, also requires CWDs to reactivate suspended Medi-Cal benefits upon release from the public institution without requiring a new application.<sup>43</sup>

### **California Advancing and Innovating Medi-Cal (CalAIM) Justice-Involved Initiative: Mandatory Pre-Release Medi-Cal Application**

In 2021, California established the California Advancing and Innovating Medi-Cal (CalAIM).<sup>44</sup> CalAIM is a long-term commitment to transform and strengthen Medi-Cal by offering an equitable and person-centered approach to health care. CalAIM’s Justice-Involved Initiative includes several policies to improve access to, and quality of, health care for the justice-involved populations, such as the implementation of mandatory pre-release Medi-Cal application processes.<sup>45</sup>

As of January 1, 2023, CalAIM mandates every county to implement a mandatory pre-release Medi-Cal application process to ensure all individuals in county jails and youth correctional facilities are enrolled into Medi-Cal to receive timely access to Medi-Cal services, if otherwise eligible.<sup>46</sup> This law is intended to ensure incarcerated individuals who are eligible for, but not enrolled in, Medi-Cal obtain coverage prior to their release date. Regardless of an individual’s length of stay in the facility, the CWDs must accept Medi-Cal applications at any time during their incarceration.<sup>47</sup> The CWDs must follow standard Medi-Cal application policies when processing and determining eligibility for pre-release applicants.<sup>48</sup> Once eligibility is determined and the individual remains incarcerated, then the CWD must suspend benefits, complying with the suspension process.<sup>49</sup> The state’s Medi-Cal agency, the Department of Health Care Services (DHCS), recommends that the pre-release application process be implemented during the initial intake, upon the individual’s entry into the correctional facility.<sup>50</sup> At minimum, the application process should be initiated within 135 days of the incarcerated individual’s release, if not 135 days, then at least 90 days before the individual’s release.<sup>51</sup>

The mandatory pre-release Medi-Cal application process will require collaboration between CWDs and all the correctional facilities within the state.<sup>52</sup> Although each county may design the process to adjust to their unique needs, DHCS published [\*\*Strategies for Conducting Pre-Release Medi-Cal Enrollment in County Jails\*\*](#) to provide support to CWDs and correctional facilities as they develop and improve their pre-release Medi-Cal application

processes.<sup>53</sup> This process is key to ensuring that Medi-Cal enrollees who are incarcerated have access to health care services when re-entering into the community.

CWDs and correctional facilities should continue to improve their pre-release Medi-Cal application processes because, as of October 1, 2024, California launched the first approved Medicaid Section 1115 Reentry Demonstration waiver (“reentry waiver”) that allows individuals who are incarcerated to receive a limited set of Medi-Cal services prior to their release.<sup>54</sup> It is important that Medicaid-eligible individuals get enrolled while they are incarcerated because they will be able to access pre-release Medi-Cal services 90-days prior to their release.<sup>55</sup> Pre-release Medi-Cal services are essential health care services needed to ensure that formerly incarcerated individuals are able to smoothly transition and access the care they need upon reentry into their communities. To learn more about California’s reentry waiver and pre-release Medi-Cal services, please read [Medi-Cal Services & Supports for Californians Transitioning Out of Incarceration](#).

### **Medi-Cal Suspension and Medi-Cal Reactivation Process**

Once it is determined upon entry into the jail or prison that the individual is already enrolled in Medi-Cal, or the individual gets enrolled into Medi-Cal through the mandatory pre-release Medi-Cal application process, then the suspension process of Medi-Cal benefits will be activated.<sup>56</sup> Medi-Cal suspension starts on the date of incarceration and ends on either the date the individual is no longer incarcerated, until the person is no longer eligible for Medi-Cal, or upon the death of the individual.<sup>57</sup> Effective upon release, Medi-Cal benefits must be reactivated without having the individual submit a new application.<sup>58</sup> Typically, the incarcerated adult or juvenile will not need to complete a new eligibility determination or redetermination if one was completed within the last 12 months.<sup>59</sup> A notice of action (NOA) must be sent to the Medi-Cal enrollee explaining the suspension and another NOA must be sent reactivating Medi-Cal benefits.<sup>60</sup> If the enrollee is no longer eligible, a NOA must be sent explaining their Medi-Cal ineligibility.<sup>61</sup> There are special circumstances that may affect an individual’s Medi-Cal suspension and activation process, such as the individual’s duration in the correctional facility, any immediate needs for the individual, and county residency changes, as discussed below.

- ***Short-Stays or Unknown Release Dates***

If the Medi-Cal enrollee is incarcerated for a short stay, which would be considered 28 days or less, then the suspension policy will not apply.<sup>62</sup> However, once it is known that the individual will be incarcerated for 28 days or more (including the 10-day noticing window), then Medi-Cal benefits must be suspended.<sup>63</sup> If it is unknown, the CWD must report the incarceration date

after the 28th day.<sup>64</sup> If the release date falls after the 28th day and within the 10 day notice window, then the CWD should not suspend benefits since the enrollee will be released before the suspension will take effect.<sup>65</sup>

- ***Immediate Need Process***

The process for suspension, complying with proper notice requirements, and reactivating Medi-Cal benefits may take time and cause delays, affecting coverage upon release for individuals incarcerated for a short period of time. If such delay occurs and there is an immediate need for Medi-Cal services, the CWD must follow the standard *Immediate Need process*.<sup>66</sup> The standard Immediate Need process requires the CWD to utilize both the online EW15 and EW32 transactions.<sup>67</sup> EW15 transaction allows for the immediate issuance of benefits when a Medi-Cal Eligibility Data System (MEDS) record indicates an individual's incarceration.<sup>68</sup> EW32 transaction is a real-time Medi-Cal transaction that can suspend an incarcerated individual's eligibility once notified and can be used to report the incarceration start date, release date, and correct previously reported suspension and release dates.<sup>69</sup> To have eligibility reflected for the rest of the month, the EW32 transaction must be submitted on the same day as the EW15 to ensure the individual receives immediate access to Medi-Cal benefits.<sup>70</sup>

- ***Intercounty Transfers (ICT)***

Intercounty transfers (ICT) allow a Medi-Cal enrollee's eligibility to be transferred from one county to another without needing to reapply for Medi-Cal.<sup>71</sup> If an individual has active or has suspended Medi-Cal in a different county from where they are incarcerated, the CWD of that county must provide a courtesy notice, including the incarceration date, to the other CWD (where the individual's Medi-Cal is activated) that the individual is incarcerated and benefits must be suspended.<sup>72</sup> If the incarceration date is unknown, the CWD must provide the date they learned of the individual's incarceration.<sup>73</sup> If an individual's Medi-Cal was already suspended, then no action needs to be taken between the two CWDs.<sup>74</sup> If an individual is going to be released from jail or prison and the release date is known, the CWD must communicate the information to the other CWD to determine whether ICT applies, and if applicable, the other CWD must follow ICT policies.<sup>75</sup>

### **Medi-Cal Suspension & Redeterminations: Annual Renewals and Change in Circumstance**

A state or county is not required to conduct regular annual renewal determinations for adults and juveniles during their incarceration with suspended Medi-Cal benefits.<sup>76</sup> Once the individual is released, the CWD should continue with annual renewal determinations.<sup>77</sup>



However, suspension of Medi-Cal does not prevent redetermination. Incarcerated individuals are not precluded from the CWD's obligation to promptly conduct a redetermination of a Medi-Cal enrollee's eligibility whenever the CWD receives information about changes in an enrollee's circumstances that may affect eligibility for Medi-Cal benefits – regardless of suspension.<sup>78</sup> Additionally, Medi-Cal suspension of benefits does not prevent a redetermination into a different Medi-Cal program while under suspension, such as the Medi-Cal Suspension & County and State Medi-Cal Inmate Eligibility Program (MCIEP).<sup>79</sup> While in suspension, the enrollee's eligibility determination should be updated in MEDS if there are eligibility changes during incarceration.<sup>80</sup> The incarceration status of an Medi-Cal enrollee will not be considered a change in circumstance that would require a redetermination because incarceration and suspension of Medi-Cal benefits are not considered changes that would affect Medi-Cal eligibility.<sup>81</sup> Therefore, if the basis for the Medi-Cal enrollee's eligibility changes during the individual's incarceration for any other reason, a change in circumstance redetermination must be processed.<sup>82</sup>

After release from incarceration, redetermination is only required if one was not completed within 12 months prior to the person's release.<sup>83</sup> Once it has been determined that there is no change in circumstance that would affect the eligibility of the individual, then their benefits can be immediately reactivated.<sup>84</sup> The individual does not need to resubmit a new application and an *ex parte* review must be conducted, so that the individual will only be asked to provide documentation if the *ex parte* review cannot confirm ongoing eligibility.<sup>85</sup>

### **Medi-Cal Suspension & County and State Medi-Cal Inmate Eligibility Program (MCIEP)**

As mentioned earlier in the factsheet, federal law prohibits state Medicaid programs from claiming federal funds for health care services provided to incarcerated individuals in a correctional facility, except when the incarcerated individual receives inpatient medical services at a medical facility outside of the correctional institution. In California, MCIEP is a program within Medi-Cal that covers the cost of an incarcerated individual's inpatient services.<sup>86</sup> An individual is deemed eligible to receive this coverage if they are determined to be eligible for Medi-Cal.<sup>87</sup> Inpatient hospital services include emergency services, psychiatric care, and physician services provided outside of a correctional facility as covered Medi-Cal services.<sup>88</sup> MCIEP benefits are not subjected to the suspension policy and follows the existing standard Medi-Cal eligibility rules and requirements.<sup>89</sup> However, upon the individual's release, if the individual is on County MCIEP, the CWD must terminate the MCIEP and reactivate their Medi-Cal benefits.<sup>90</sup>



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## **Medi-Cal Suspension & California Department of Corrections and Rehabilitation (CDCR) Reentry Programs**

If an individual is incarcerated in a California Department of Corrections and Rehabilitation (CDCR) reentry program, their suspension will end on the date they enter Phase 3 of the reentry program.<sup>91</sup> Typically, participants in CDCR reentry programs go through four phases. Phase 3 of the reentry program is considered released for Medi-Cal purposes and the individual is no longer considered to be an “inmate of a public institution,” since participants in Phase 3 will have more freedom to engage in community activities outside of the facility.<sup>92</sup>

### **Conclusion**

An individual’s custody status alone does not preclude individuals from being eligible for Medicaid. Although Medicaid’s “inmate exclusion” has prohibited federal Medicaid payments for health care services for adults and juveniles who are incarcerated, it does not require states to terminate or disenroll incarcerated individuals from Medicaid, and starting in January 2026, all states will be prohibited from terminating any individual’s Medicaid once the person is incarcerated. Medicaid suspension is a better alternative than termination since it does not cause an abruptness in access to care. California has implemented a robust Medi-Cal suspension policy, in compliance with federal law and CMS guidance. For more detail on this policy, please review the Medi-Cal policy that governs eligibility for this population.<sup>93</sup>

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**ENDNOTES**

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<sup>1</sup> 42 U.S.C § 1396d(a)(32)(A); 42 C.F.R. §§ 441.13(a)(1), 435.1009(a)(1), 435.1010. *See* CMS, Dear State Health Official Letter (Apr. 28, 2016) (SHO #16-007), <https://www.medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf> [*hereinafter*, CMS SHO #16-007].

<sup>2</sup> 42 U.S.C § 1396d(a)(32)(A); 42 C.F.R. §§ 441.13(a)(1), 435.1009(a)(1), 435.1010.

<sup>3</sup> *Id.*

<sup>4</sup> 42 U.S.C § 1396d(a)(32)(A); 42 C.F.R § 435.1010.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> CMS SHO #16-007, *supra* note 1 at 3 (this excludes a child care institution, publicly operated community residence that services no more than 16 residents, or a publicly educational or vocational training institution for purposes of securing educational or vocational training).

<sup>10</sup> 42 C.F.R. §§ 435.1009 (FFP is available for individuals under 21 receiving services in a psychiatric hospital, a psychiatric unit of a general hospital, or a psychiatric residential treatment facility); 435.1010 (definition of “medical institution” and “inpatient”). *See also* CMS SHO #16-007, *supra* note 1 at 13 (qualifying inpatient stays include hospitals, nursing homes, psychiatric residential treatment facilities, or other medical institutions for an expected duration of 24 hours or more, in which there is an admission of the individual to the facility as an inpatient).

<sup>11</sup> 42 C.F.R § 435.1010. *See* CMS SHO #16-007, *supra* note 1 at 3 (includes detention facilities and other penal settings).

<sup>12</sup> *See* CMS SHO #16-007, *supra* note 1 at 5-6. A residential treatment facility can be operated by law enforcement authorities or can be operated by a contractual private entity. In addition, a residential treatment facility may be an Institution for Mental Diseases (IMD), which would require a separate analysis. A residential treatment facility and IMD are not mutually exclusive categories. An IMD is “a hospital, nursing facility, or other institution of more than sixteen beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.” *See* 42 U.S.C. § 1396d(i).

<sup>13</sup> CMS SHO #16-007, *supra* note 1 at 4–5. The Department of Justice’s Bureau of Prisons is responsible for payment of health care services rendered to individuals in Residential Re-Entry Centers. For residents previously enrolled in their state Medicaid program, their Medicaid benefits will be suspended. For residents not enrolled in their state Medicaid program, they can apply for eligibility determination while incarcerated and if qualified, their benefits will be suspended.

<sup>14</sup> *Id.* at 12.

<sup>15</sup> *Id.*

<sup>16</sup> CMS SHO #16-007, *supra* note 1 at 12. State governments are traditionally responsible for the medical care of individuals who are incarcerated. *See Estelle v. Gamble*, 429 U.S. 97, 103 (1976); *see also Brown v. Plata*, 563 U.S. 493, 510–11 (2011).

<sup>17</sup> *Id.* at 3–5.

<sup>18</sup> 42 U.S.C. § 1396d(a)(32)(A); 42 C.F.R. § 441.13(b). *See* CMS SHO #16-007, *supra* note 1 at 11. Inpatient services that are coverable when they are covered under the state’s Medicaid Plan, delivered in a prescribed setting (consistent with the Plan’s terms), and provided by a certified or enrolled provider.

<sup>19</sup> CMS SHO #16-007, *supra* note 1 at 13.

<sup>20</sup> *Id.* at 3.

<sup>21</sup> CMS SHO #16-007, *supra* note 1 at 3.

<sup>22</sup> *Id.* at 4.

<sup>23</sup> 42 U.S.C. § 1396d(a)(32)(A); 42 C.F.R. §§ 441.13(a)(1), 435.1009(a)(1), 435.1010. *See* CMS SHO #16-007, *supra* note 1 at 6–7.

<sup>24</sup> 42 C.F.R. § 435.907(a)-(b).

<sup>25</sup> 42 C.F.R. § 435.911(c); 435.912; 435.915(a)-(c). *See* CMS SHO #16-007, *supra* note 1 at 6.

<sup>26</sup> CMS SHO #16-007, *supra* note 1 at 7.

<sup>27</sup> *See* CMS SHO #16-007, *supra* note 1. *See also* CMS, Dear State Health Official Letter (Jul. 23, 2024) (SHO #24-004), <https://www.medicaid.gov/federal-policy-guidance/downloads/sho24004.pdf> [*hereinafter* CMS SHO #24-004].

<sup>28</sup> First, the SUPPORT Act of 2018 required states to suspend, not terminate, Medicaid eligibility for “eligible juveniles” who become “inmates of public institutions.” *See* 42 U.S.C. § 1396a(a)(84)(A). Juveniles are defined as youth under the age of 21 or former foster youth up to the age of 26 while incarcerated. *See* 42 U.S.C. § 1396a(nn); *see also* CMS, State Medicaid Director Letter (Jan. 19, 2021) (SMD#21- 002), <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd21002.pdf> (provided guidance on implementation of new Medicaid requirements related to suspension, redetermination and timely processing of applications for youth who are incarcerated). Then, effective January 1, 2025, the Consolidated Appropriations Act of 2023, § 5121 and 5122, made improvements to the continuity of coverage and services for youth, by requiring states to provide certain services and screenings to youth 30 days prior to the release, and by creating a state option to allow states to provide Medicaid-funded services to juveniles pre-trial, respectively. *See* Consolidated Appropriations Act of 2023 §§ 5121, 5122, Pub. L. No. 117-328 (Dec. 29, 2022). Lastly, the Consolidated Appropriations Act of 2024 § 205(a) amended 42 U.S.C. 1396a(a)(84)(A) to require states to suspend Medicaid covered services for adults residing in correctional facilities, instead of terminating eligibility, effective January 1, 2026. *See* Consolidated Appropriations Act of 2024 § 205(a), Pub. L. No. 118-42 (Mar. 9, 2024).

<sup>29</sup> Consolidated Appropriations Act of 2024, *supra* note 28.

<sup>30</sup> 42 U.S.C. § 1396a(a)(84)(A).

<sup>31</sup> CMS SHO #16-007, *supra* note 1 at 7–8.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> 42 C.F.R. § 435.912; CMS SHO #16-007, *supra* note 1 at 7–8.

<sup>36</sup> See Kaiser Fam. Found., States Reporting Corrections-Related Medicaid Enrollment Policies In Place for Prisons and Jails (2019), <https://www.kff.org/medicaid/state-indicator/states-reporting-corrections-related-medicaid-enrollment-policies-in-place-for-prisons-or-jails/> (last visited Oct. 20, 2024) (this report counts states that reported that they suspend rather than terminate Medicaid coverage for enrollees who become incarcerated in jail or prison; and states that continue Medicaid eligibility for incarcerated individuals but limit covered benefits to inpatient hospitalization are also included in the count of states that suspend eligibility).

<sup>37</sup> Consolidated Appropriations Act of 2024, *supra* note 28.

<sup>38</sup> 42 U.S.C. § 1396d(a)(32)(A).

<sup>39</sup> CAL. WELF. & INST. CODE § 14011.10(e).

<sup>40</sup> *Id.*; Cal. Dep’t Health Care Servs., All County Welfare Directors Letter No. 24-04 at 32 (Feb. 29, 2024), <https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/24-04.pdf> [hereinafter, ACWDL #24-04].

<sup>41</sup> ACWDL #24-04, *supra* note 40 at 30–32. See California Senate Bill 1147 (Sept. 28, 2008); California Assembly Bill 720 (Oct. 8, 2013).

<sup>42</sup> CAL. WELF. & INST. CODE § 14011.10(e). See ACWDL #24-04, *supra* note 40 at 30–32. See also California Senate Bill 184 (June 30, 2022).

<sup>43</sup> ACWDL #24-04, *supra* note 40 at 30–32 (unless there are significant changes in the individual’s Medi-Cal eligibility upon release, which should be checked by the correctional facility prior to release).

<sup>44</sup> CAL. WELF. & INST. CODE § 14184.402.

<sup>45</sup> Cal. Dep’t Health Care Servs., Justice-Involved Reentry Initiative, <https://www.dhcs.ca.gov/CalAIM/Justice-Involved-Initiative/Pages/home.aspx> (last visited Oct. 20, 2024).

<sup>46</sup> CAL. PENAL CODE § 4011.11(a) & (f)(1); ACWDL #24-04, *supra* note 40 at 45–69. DHCS required that all CWDs and correctional facilities be in full compliance with the mandate as of June 30, 2023. Although mandated for county participation, an incarcerated individual’s participation in this process is voluntary. If the individual declined to participate, then there is no obligation by the county to follow up. See ACWDL # 24-04, *supra* note 40 at 47–49.

<sup>47</sup> ACWDL #24-04, *supra* note 40 at 49.

<sup>48</sup> *Id.* (CWDs are required to complete determination of eligibility within 45 days of receipt or 90 days for individuals determined to be eligible based on a disability).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 50.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 46–48; 50–51. For individuals who are incarcerated in state prisons, the CDCR TCMP Benefit Workers are the designated entity to assist with submitting the Medi-Cal application. For individuals in county jails or county youth correctional facilities, the county and correctional facilities are required to collaborate to implement this process.

<sup>53</sup> Cal. Dep't Health Care Servs., *Strategies for Conducting Pre-Release Medi-Cal Enrollment in County Jails* (Feb. 14, 2022), [https://cheac.org/wp-content/uploads/2022/02/Issue-Brief\\_Strategies-for-Conducting-Pre-Release-Medi-Cal-Enrollment-in-County-Jails-and-YCF-2.14.22\\_Final.pdf](https://cheac.org/wp-content/uploads/2022/02/Issue-Brief_Strategies-for-Conducting-Pre-Release-Medi-Cal-Enrollment-in-County-Jails-and-YCF-2.14.22_Final.pdf).

<sup>54</sup> CAL. WELF. & INST. CODE § 14184.402. See CMS, Approval Letter for California Advancing and Innovating Medi-Cal (CalAIM) Reentry Demonstration Initiative Amendment (Jan. 26, 2023), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ca-calaim-ca1.pdf>.

<sup>55</sup> *Id.* This reentry waiver will create a temporary and limited carve-out to the “inmate exclusion.” Pursuant to California’s reentry waiver’s Special Terms and Conditions, California may use federal Medicaid matching funds for a targeted set of “reentry services” for juveniles and adults in correctional facilities for up to 90 days prior to release. Benefits include access to case management, physical and behavioral health clinical consultation services, Medication-Assisted Treatment (MAT), Community Health Worker services, and other important services. See Cal. Dep't Health Care Servs., *Policy and Operational Guide for Planning and Implementing the CalAIM Justice-Involved Initiative* (Oct. 2023), <https://www.dhcs.ca.gov/provgovpart/pharmacy/Documents/CalAIM-JI-Policy-and-Operations-Guide-FINAL-October-2023-updated.pdf>.

<sup>56</sup> ACWDL #24-04, *supra* note 40 at 30–38.

<sup>57</sup> CAL. WELF. & INST. CODE § 14011.10(e); ACWDL #24-04, *supra* note 40 at 32.

<sup>58</sup> ACWDL #24-04, *supra* note 40 at 34 (reactivation can be done without a new application only if the information available to the CWD is sufficient to determine that the formerly incarcerated individual is still eligible for Medi-Cal).

<sup>59</sup> *Id.*

<sup>60</sup> 42 C.F.R. § 435.912(c); CAL. CODE REGS. tit. 22, § 50179; ACWDL #24-04, *supra* note 40 at 32–33; 36–37. A 10-day notice is required for the suspension of Medi-Cal benefits for adult and juveniles who are incarcerated. 42 C.F.R. § 431.211-214; see also CAL. CODE REGS. tit. 22, § 50179.

<sup>61</sup> 42 C.F.R. § 435.912(c); CAL. CODE REGS. tit. 22, § 50179; ACWDL #24-04, *supra* note 40 at 32–33; 36–37. The NOA will not include services the individual will have access to, but only include information concerning their eligibility for full scope Medi-Cal benefits.

<sup>62</sup> ACWDL #24-04, *supra* note 40 at 33.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> ACWDL #24-04, *supra* note 40 at 43. The CWD must follow the standard Immediate Need process by utilizing the online EW15 and EW32 transaction. EW15 transaction allows immediate need benefits to be issued when a Medi-Cal Eligibility Data System (MEDS) record is indicated as incarcerated. To have eligibility reflected for the rest of the month, the EW32 transaction must be submitted on the same day as the EW15. EW15 transaction is a transaction that allows for the immediate issuance of benefit when a MEDS record indicates incarceration, whereas a EW32 transaction is a real-time Medi-Cal transaction that can suspend an incarcerated individual's eligibility once notify and can be used to report incarceration start date, release date, and correct previously reported suspension and release dates. See Cal. Dep't Health Care Servs., Medi-Cal Eligibility Division Information Letter No. I 20-05 at 1-4 (Apr. 23, 2020), <https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/I20-05.pdf> [hereinafter, MEDIL #I 20-05].

<sup>67</sup> ACWDL #24-04, *supra* note 40 at 43; MEDIL #I 20-05, *supra* note 66 at 1–4.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> CAL. WELF. & INST. CODE §§ 10003(a) & 11102. See Cal. Dep't Health Care Servs., All County Welfare Directors Letter No. 18-02 (Jan. 11, 2018), <https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/c18-02.pdf>; Cal. Dep't Health Care Servs., All County Welfare Directors Letter No. 18-02E (Feb. 23, 2021), <https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/18-02E.pdf>.

<sup>72</sup> ACWDL #24-04, *supra* note 40 at 37–38.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 69–74. See Cal. Dep't Health Care Servs., All County Welfare Directors Letter No. 22-33 at 35 (Dec. 21, 2022), <https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/22-33.pdf> [hereinafter, ACWDL #22-33].

<sup>77</sup> ACWDL #24-04, *supra* note 40 at 70.

<sup>78</sup> CAL. WELF. & INST. CODE § 14005.37; ACWDL #24-04, *supra* note 40 at 72. See also ACWDL #22-33, *supra* note 76.

<sup>79</sup> ACWDL #24-04, *supra* note 40 at 72.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 69–74.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 75.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.* at 33–34.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> ACWDL #24-04, *supra* note 40 at 33–34. A Medi-Cal member may have a suspended Medi-Cal aid code in the primary segment along with an active MCIEP aid code in the special segment, and both aid codes can run concurrently.

<sup>90</sup> *Id.* at 35.

<sup>91</sup> *Id.* at 78–82. CDCR reentry programs include Custody to Community Transitional Reentry Program (CCTRP) and Male Community Reentry Program (MCRP) facility.

<sup>92</sup> Cal. Dep’t Health Care Servs., Medi-Cal Eligibility Division Information Letter No. I 22-15 at 5–6 (Apr. 28, 2022), <https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/I22-15.pdf>.

<sup>93</sup> ACWDL #24-04, *supra* note 40.