

Due Process Continuity of Care Act
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Background

The Medicaid Inmate Exclusion Policy (MIEP) denies Medicaid to incarcerated individuals. This exclusion not only applies to convicted individuals in prison, but also to those detained while awaiting trial, which comprises approximately two-thirds of people held in local jails. This exclusionary policy conflicts with these pretrial detainees' due process rights because they lose their Medicaid coverage even though they are still presumed innocent.

The exclusion policy also punishes economically disadvantaged individuals because Medicaid continues to pay for adults who can secure pretrial release but not for those who remain incarcerated awaiting trial. Since an inability to pay bond is the primary reason people remain incarcerated during the pretrial phase, this policy disproportionately hurts low-income individuals.

Pretrial detainees also have substantially higher rates of mental health conditions and substance use disorders than the general population. Since many mental health issues and all substance use disorders are chronic conditions, a sudden absence of stabilizing treatment exacerbates pretrial detainees' health problems and requires more intensive and costly care later on, which also frequently contributes to re-arrest and increased recidivism. Therefore, ensuring continued access to federal health benefits will improve public safety by breaking the cycle of recidivism caused by untreated mental illness and substance use disorder.

The denial of Medicaid without due process also shifts the full financial burden of pretrial detainees' health care onto local jails and taxpayers. Nationwide, local governments spend approximately \$22.2 billion on jail costs, and the MIEP limits these counties and sheriffs from using Medicaid funds for inmate healthcare. This burden severely strains local jail budgets and results in unmet care needs of pretrial detainees. Further, research has shown that every dollar spent on substance use disorder treatment yields a return of \$7 in criminal justice costs, such as reduced drug-related crime, theft, and law enforcement resources. As such, ensuring continued access to federal health benefits would allow for improved coordination of care while simultaneously decreasing short-term costs to local taxpayers and long-term costs to the federal government.

The Due Process Continuity of Care Act:

- Amends the MIEP to allow for Medicaid coverage of health care services for pre-trial detainees; and
- Provides \$50 million in planning grants to states for implementation of this act.

Endorsed by: American Parole and Probation Association, American Psychological Association, Anti-Recidivism Coalition, Black and Jewish Unity Coalition, CorJus, Dream.Org, International Community Corrections Association, Major County Chiefs Association, Major County Sheriffs, National Alliance on Mental Illness, National Criminal Justice Association, National Association of Counties, National Sheriffs Association, R St Institute, Successful Reentry