An Update on Recent Developments Regarding Health Care Reform that Affect the Criminal Justice System

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Background:

- Health reform provides an opportunity to create new connections between correctional health care and community health care.

- Extension of universal eligibility for health care to all people living below 133% of federal poverty level would include most childless adults involved in local corrections system.

- Access to Medicaid coverage would greatly improve continuity of care for this population by creating medical homes. Particularly important in Medicaid coverage is the inclusion of services for treating substance abuse.

- Some low-income individuals and families will qualify for Medicaid, while others with income above 133% of federal poverty level will qualify for state-operated health care exchanges. It may be common for those in the corrections population to have income fluctuations which will put them back and forth between these two benefit categories.

- The Patient Protection and Affordable Care Act (PPACA) of 2010 specifies that persons in custody “pending disposition of charges” are qualified to enroll in state-operated health care exchanges and in Medicaid.

Updates

- For those who are considered “pending disposition,” it is not clear whether they will have coverage of services under Medicaid during this time. There are some indications that this will be the case.

- CMS may have the authority to extend “pending disposition” language to the Medicaid expansion population.
Scenarios:

These scenarios are being presented “to illustrate a few ways in which coverage to Medicaid for the jail population pending disposition could make a critical difference in the way health care was provided or withheld, as well as the resulting outcome on personal lives and on overall expenditures.”

(Rosenberg)

Scenario 1

A heroin addict has been stabilized on buprenorphine for several years, but is arrested on shoplifting charges. Prior to his arrest, he was employed and participating in the state-operated exchange. Under current circumstances, while incarcerated pending disposition he typically would be offered a “kick kit” in the jail to moderate withdrawal symptoms. Even though his withdrawal symptoms from buprenorphine would be mild, he may soon begin craving heroin. Upon release, he might have access to Medicaid due to his drop in income, but there would likely be a waiting period before he could access buprenorphine again. Or he might even be barred from using opioid replacement therapy as terms of probation.

Experience shows that a typical outcome in this scenario would be a relapse to heroin use and the criminality that typically accompanies heroin addiction. Moreover, he would increase his risk of contracting HIV, which would complicate his already existing Hepatitis C infection. It would also cost the public a great deal of money to provide him with HIV medication. Finally, he might even find access to heroin in the jail, in which case this process of decompensation would accelerate.

But, what if: When the individual is arrested, he could be enrolled directly in Medicaid. If he lives in a state where Medicaid pays for buprenorphine, he could resume buprenorphine maintenance in the jail and be released—already enrolled in Medicaid—to resume buprenorphine treatment at a community health center (CHC). In some jurisdictions, this transition would be facilitated by a health information exchange (HIE) operating between the jail and the community health center, and he could obtain a prescription for bridge medications prior to leaving the jail, which he would then be able to fill at a local pharmacy.

Scenario 2

A family is enrolled in a health plan through the state-operated health care exchange, “State Care”, which contracts with a local community health center. The family has a son with sickle cell anemia who is in juvenile detention pending disposition on the 29th of the month. On the 30th of the month, the father is arrested for assaulting a co-worker and does not have the funds to post bail, so he is also held in custody pending disposition. The family income drops below 133% of FPL, and the family now
qualifies for Medicaid. If the father is not enrolled in Medicaid in the jail on the first of the month, the insurance status of the son in juvenile detention shifts to uninsured. If he develops a sickle cell crisis while in juvenile detention, his lack of insurance may require hospitalization and enrollment in Medicaid at the point of hospital admission. Corrections staff would be required to accompany the son throughout the hospitalization.

However, if the father is enrolled in Medicaid on the first of the month while in jail, then the son, who is in juvenile detention pending disposition, would be covered by Medicaid while in juvenile detention, and his sickle cell crisis might be managed without hospitalization.

Scenario 3

A woman is found to have Chlamydia while in jail, but she is released by the court before the lab report reaches the medical service staff in the jail. Several months later, she is admitted to the hospital through the emergency room with pelvic inflammatory disease and completes a four-day course of IV antibiotics. Contrast this scenario with one in which the woman is enrolled in a community health center that participates in a regional health information exchange. The lab report from the jail is shared with the CHC, which initiates treatment for Chlamydia with oral antibiotics before the woman develops PID. The woman’s partner also receives oral antibiotics, and the cost is greatly reduced. Other cases of Chlamydia may also be prevented in the community by treating these two people.

Scenario 4

A construction worker is undergoing treatment for Hepatitis C with interferon and Ribavirin at a community health center. He contracted Hepatitis C as an adolescent experimenting with heroin, but never became “hooked.” However, he would drink a six-pack of beer most nights until he showed early signs of cirrhosis. He is arrested for DUI and is unable to post bail. Under currently prevailing circumstances, the treatment for Hepatitis C would usually cease while in custody pending disposition. All the costs and benefit of the treatment prior to arrest would be lost, and he would have to restart interferon and Ribavirin at a later date. Contrast this scenario with what might happen under health care reform and the man were enrolled and covered by Medicaid upon entry into the jail. If the jail and CHC share access to an HIE, he could continue interferon and Ribavirin while in custody pending disposition. The cost of treatment would not be borne by the county, and it could improve the medical outcome for the construction worker and his family.

Please feel free to propose other scenarios that illustrate concrete circumstances encountered in your county, state, or institutions. Send them to (srosenberg@cochs.org) and they will be posted to the COCHS website. http://www.cochs.org/

Works Cited:


See also: URL: http://burgess.house.gov/UploadedFiles/hr3590_health_care_law_2010.pdf