

VIA ELECTRONIC TRANSMISSION

March 7, 2024

The Honorable Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Re: Bridges to Success: Keystones of Health for Pennsylvania

Dear Secretary Becerra,

The Center for Law and Social Policy (CLASP) is a national, nonpartisan nonprofit advancing anti-poverty policy solutions that disrupt structural and systemic racism and sexism and remove barriers blocking people from economic security and opportunity. We work at the federal and state levels, supporting policy and practice that makes a difference in the lives of people living in conditions of poverty. CLASP works to develop and implement federal, state, and local policies (in legislation, regulation, and implementation) that reduce poverty, improve the lives of people with low incomes, and create pathways to economic security for everyone. That includes directly addressing the barriers people face because of race, ethnicity, gender, disability, and immigration status. Through high-quality analysis grounded in data and on-the-ground experience, effective advocacy, a strong public voice, and hands-on technical assistance, CLASP develops and promotes new ideas, mobilizes others, and provides guidance to government leaders and advocates to help them implement strategies that improve the lives of people across America. CLASP works to amplify the voices of directly impacted workers and families and help public officials design and implement effective programs.

CLASP wishes to lend our specific insights and expertise in support of the following proposals:

- Reentry supports for incarcerated individuals;
- Housing supports for homeless individuals with serious mental illness, substance use disorder, chronic health conditions, and people reentering society from correctional institutions;
- Food and nutrition supports to provide medically tailored meals and address food insecurity impacting pregnancy;
- Multi-year continuous coverage for children under 6 years of age.

Focus Area 1: Reentry Services

CLASP’s vision for re-entry requires the prioritization of community repair and an active disinvestment from community supervision.¹ In the context of Medicaid policy, that means ensuring that re-entry demonstration programs connect the largest population of Medicaid-eligible incarcerated people to as broad of set of benefits as possible. Additionally, new funding opportunities should strengthen community-based services and peer provider networks while avoiding becoming another outlet for carceral expansion. There is an abundance of studies that find that trauma-informed re-entry programs focused on holistic wellbeing and social support are key to positive reentry outcomes for formerly incarcerated individuals.²

CLASP supports Pennsylvania’s stated goal of improving transitions back to the community to reduce overdose deaths, improve health outcomes, and reduce recidivism. However, we believe that more should be done to address racialized health inequities, prioritize person-centered and trauma-informed approaches in program design, and target workforce investments to community-based providers instead of providers based in the carceral setting. CLASP has some concerns regarding Pennsylvania’s proposed benefits package and implementation plan that we would like CMS to consider before approving the Commonwealth’s waiver request.

Eligibility and Benefits

CLASP appreciates Pennsylvania’s broad definition of qualifying conditions to include chronic illnesses and to maximize the impact of the demonstration by proposing to adopt the full 90-day pre-release window allowable by CMS. However, Pennsylvania’s proposed demonstration over-emphasizes documented, diagnosed conditions and does not do enough to address the unmet health needs of individuals preparing to leave carceral facilities. **CLASP encourages CMS to ensure Pennsylvania include health screenings and coverage of durable medical devices in the benefits package for pre-release individuals.**

The unmet health needs of individuals incarcerated in jails and prisons have long been documented. Not only are the rates of many chronic illnesses higher in prisons than among the general population, but inadequate health screenings before and during prison suggest that the rates of undiagnosed chronic illnesses are likely higher as well.³ Philadelphia Department of Prison (PDP) data shows that 80 percent

¹ Clarence Okoh and Isabel Coronado, “Relocating Reentry: Divesting from Community Supervision, Investing in ‘Community Repair’,” September 2022, <https://www.clasp.org/publications/report/brief/relocating-reentry-divesting-from-community-supervision-investing-in-community-repair/>.

² Ebony N. Russ et al., “Prison And Jail Reentry And Health” Health Affairs, October 2021, <https://www.healthaffairs.org/doi/10.1377/hpb20210928.343531/>.

³ Leah Wang, “Chronic Punishment: The unmet health needs of people in state prisons,” Prison Policy Initiative, June 2022, <https://www.prisonpolicy.org/reports/chronicpunishment.html>.

of incarcerated Philadelphians at the county jail came from medically underserved home communities.⁴ Given the realities of the chronic medical neglect faced by many incarcerated individuals, the exclusion of routine medical care or medical assessments represents a massive oversight in meeting the health needs of this vulnerable population. As currently proposed, only an incarcerated individual with an existing diagnosis or documentation of a substance use disorder (SUD), a serious mental illness (SMI), one or more chronic health conditions, autism spectrum disorder (ASD), or a qualifying documented pregnancy would be eligible for this demonstration. Furthermore, the treatment of chronic health conditions must also include durable medical equipment (e.g., eyeglasses, hearing aids, wheelchairs). Chronic health conditions when left untreated can be disabling, and treatments beyond medication must also be made available to individuals upon their release from incarceration. For an individual with progressive hearing loss, hearing aids can mean the difference between social isolation and a higher risk of dementia, or the ability to get a job and engage more easily within the community. For someone with a painful musculoskeletal condition, mobility aids could mean the difference between dependence on painkillers to get through the day or the ability to move about freely with minimal pain.

CLASP urges CMS to request Pennsylvania include the full Medicaid benefits package and any additional targeted substance use, mental health, or reentry-specific services in its implementation plan, including but not limited to physical and behavioral health clinical assessments and consultation services, and durable medical equipment (DME) to be provided immediately upon release (not merely a prescription for DME). To truly and effectively smooth an incarcerated individual's transition back into the community, Medicaid coverage should prioritize the health care needs of the individual, regardless of diagnosis.

Implementation

CLASP's support for this proposal also assumes an implementation plan that prioritizes the rights and privacy of systems-involved populations and does not expand the reach and influence of the criminal legal system into the lives of those transitioning back into the community. Below, we will outline some potential concerns regarding the Commonwealth's proposed implementation plan and address the following recommendations:

- Use of capacity-building funds to prioritize community-based care over funding for carceral facilities;
- Ensure Medicaid implementation is separate from any law enforcement, correctional, or community supervision operations;
- Protect sensitive data for systems-impacted individuals;
- Outline and track how Medicaid demonstration will divert enrollees from entering or re-entering the criminal legal system;
- Meaningfully and continuously engage community advocates, providers, and justice-involved individuals at all levels of the program's design and implementation.

⁴ Drexel University Dornsife School of Public Health, "Addressing the Unmet Needs of Formerly Incarcerated Individuals," September 2022, <https://drexel.edu/dornsife/students/student-stories/addressing-unmet-needs-of-individuals-incarcerated/>.

Pennsylvania’s proposed amendment states that the Department of Corrections (DOC) will help identify key providers responsible for delivering services. CLASP urges CMS to ensure that no Medicaid spending is permitted to directly fund or subsidize law enforcement or correctional agencies in the Commonwealth, or private entities that perform similar functions. Any workforce or capacity building of facility-based providers and care coordinators should be in partnership with community-based provider organizations and not associated with the DOC. Further, we urge CMS and Pennsylvania policymakers to ensure that case management services associated with Medicaid and other wraparound supports are also separated from any law enforcement, correctional, or community supervision agency. For example, probation and parole officers should not be involved in connecting transitioning individuals with health services or have a say in their access to other wraparound services associated with this proposal. As previously noted, many incarcerated Pennsylvanians come from medical underserved areas. To successfully bridge an individual’s transition back into the community, Pennsylvania must also ensure that there is a continuity of trusted care that incarcerated individuals can continue to engage with after they are released.

Second, Pennsylvania should outline the steps it will take to protect sensitive data for systems-impacted individuals. We urge CMS to seek clarity from Pennsylvania on how personal data used for Medicaid enrollment will be used. Specifically, Pennsylvania should outline affirmative steps to ensure that sensitive data are not shared with or otherwise accessible to law enforcement, correctional agencies, or commercial third parties.

Third, while the Commonwealth is requesting authority to cover services delivered while individuals are in confinement, the Commonwealth should also explain how Medicaid is or will be used to support efforts to divert Medicaid enrollees from entering or re-entering the justice system.

Finally, we urge CMS to ensure meaningful engagement with community advocates, providers, and a diverse cohort of justice-involved individuals at all stages of designing and implementing this proposal to ensure it is maximally effective and does not produce unintended harms for those it seeks to serve. The demonstration proposal noted that “DHS also held an engagement session with individuals who have lived experience in reentry from correctional facilities.” A single listening session is insufficient; for maximal demonstration success, community advocates and justice-involved should have a seat at the table for all stages of implementation and program design. For more information, please see our report on how state community supervision systems can impede or support economic opportunity, and our recommendations for how states can implement a “community repair” policy approach instead.⁵

⁵ Clarence Okoh and Isabel Coronado, 2022.

Focus Area 2: Housing Services

CLASP supports Pennsylvania's request to provide housing assistance to Medicaid beneficiaries for whom housing stability will improve access to recommended and/or preventive care. Homelessness is a dire racial equity issue. As just one example, Black Pennsylvanians—especially women and children—are vastly overrepresented among the homeless populations in Philadelphia and Montgomery County.⁶ We are especially supportive of the proposed rental assistance and one-time transition start-up service assistance. CLASP has three comments for CMS to consider in their deliberation of this waiver request.

CLASP urges CMS to request that Pennsylvania adopt the most inclusive definition of homelessness available in its HSRN assessment. Ideally, the definition of homelessness would include situations where an individual is staying with others (i.e., “doubled-up”), living in motels and hotels due to the lack of alternative adequate accommodations, or leave their home due to domestic violence. Unstable and crowded housing conditions have been associated with higher rates of mental illness and distress.⁷ Eligibility should be based on self-attestation and require the least documentation possible to minimize the administrative burden of the HSRN assessment on eligible Medicaid enrollees. Individuals experiencing homelessness often struggle to obtain or upload documentation, and requirements for verification will make the program inaccessible for this vulnerable target population.

Additionally, CLASP urges CMS to ensure Pennsylvania the maximum coverage possible for housing services. The Pennsylvania proposal caps rental subsidies at up to six months. The CMS guidance on the coverage of HSRN services states that short-term pre-procedure and/or post-hospitalization housing with room and board can be provided through an 1115 waiver for up to 6 months **once per year**.⁸ According to the American Hospital Association, housing instability is associated with chronic health conditions like asthma among children.⁹ We believe that the housing subsidy benefit should be available to eligible enrollees up to 6 months on an annual basis when applicable. Finally, CLASP encourages CMS to track the impact of receipt of housing services on long-term housing stability as part of Pennsylvania's waiver demonstration evaluation. As an organization that engages in Medicaid and housing advocacy, we are especially interested in where participants are going after receiving housing services.

⁶ Jeff Olivet, Lunise Joseph, and Maya Beit-Arie, “Racial Equity and Homelessness in Montgomery County, Pennsylvania: Initial Findings,” Your Way Home Montgomery County, February 2019, <https://static1.squarespace.com/static/59e4bd08d7bdce1e8a5b15bb/t/5c77eced6e9a7f75cd22af5e/1551363312965/Your+Way+Home+Racial+Equity+Evaluation+Phase+I+Report.pdf>;

Joanne Jung, J.J. Cutuli, and Joe Willard, "Childhood Homelessness in Pennsylvania," Nemours Children's Health System, October 2022, <https://www.phila.gov/media/20221117095314/Childhood-Homelessness-in-Pennsylvania.pdf>.

⁷ Gary W. Evans, “The built environment and mental health,” *Journal of Urban Health*, December 2003, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3456225/>.

⁸ Centers for Medicare and Medicaid Services, “Coverage of Health-Related Social Needs (HRSN) Services in Medicaid and the Children’s Health Insurance Program (CHIP),” November 2023, <https://www.medicaid.gov/sites/default/files/2023-11/hrsn-coverage-table.pdf>.

⁹ American Hospital Association, “Housing and Health: A Roadmap for the Future,” March 2021, <https://www.aha.org/system/files/media/file/2021/03/housing-and-health-roadmap.pdf>.

Focus Area 3: Food and Nutrition Benefits

CLASP supports Pennsylvania's request to provide food assistance to Medicaid beneficiaries who are pregnant or have poorly controlled diet-sensitive health conditions. CLASP has two comments for CMS to consider in their deliberation of this waiver request.

CLASP encourages CMS to ensure Pennsylvania provides culturally appropriate food through the waiver's nutrition supports. Oftentimes Eurocentric foods are used as the standard for determining a healthy balanced diet. As a result, a plethora of cultural foods for communities of color are not considered or even stereotyped as "unhealthy." Eurocentric foods are not necessarily healthier than other cultures.¹⁰ CLASP encourages CMS to consider how Medicaid beneficiaries receiving nutrition supports can identify culturally appropriate food for their households that will help manage their chronic diseases or provide appropriate nutrition for pregnancy and postpartum periods. Ensuring people receive culturally appropriate food as part of this program will help them maintain positive dietary challenges after the six months of nutrition assistance.

CLASP recognizes that Pennsylvania intends to help Medicaid beneficiaries receiving nutrition support to enroll in the Supplemental Nutrition Assistance Program (SNAP) and the Women Infants Children (WIC) program. CLASP fully supports this plan but also recognizes this process may not always go smoothly or not everyone may be eligible for SNAP or WIC. In that context, we offer the following comments:

- We encourage CMS to ensure that people who receive nutrition supports through this waiver are not limited to six months total for the assistance. If someone receives six months of nutrition assistance but is unable to be enrolled in SNAP or WIC CLASP encourages CMS to allow them to receive an additional six months of nutrition support or until they are enrolled in SNAP and/or WIC.
- Because Medicaid and SNAP define households differently, CLASP encourages CMS to consider the needs of Medicaid recipients who may qualify for the nutrition services provided through the Medicaid waiver but are ineligible for SNAP benefits. For example, a pregnant teenager or new mother within the 60-day postpartum window may not meet SNAP's household criteria. Similarly, an adult covered by Medicaid may qualify for nutrition assistance through the waiver but not be eligible for SNAP after the three-month time limit for Able-Bodied Adults Without Dependents (ABAWDs) without a documented disability or child in the household. In these cases, where individuals enrolled in Medicaid qualify for nutrition assistance but cannot access SNAP due to program ineligibility, we request that CMS consider allowing multiple six-month periods for nutrition assistance through the waiver and collaborate with Food and Nutrition Services (FNS) and USDA on longer-term solutions.

¹⁰ Alice Aluoch, Maryann Broxton, Yolanda Gordon, Barbie Izquierdo, Tamika Moore, et. al., *A Community-Driven Anti-Racist Vision for SNAP*, CLASP, 2022, https://www.clasp.org/wp-content/uploads/2022/09/2022.9.28_A-Community-Driven-Anti-Racist-Vision-for-SNAP.pdf.

- Lastly, CLASP encourages CMS to think through how people churning on and off SNAP will potentially affect Medicaid beneficiaries. In order to maximize the positive effect of SNAP enrollment on health outcomes, continuous enrollment (while eligible) is critical to ensuring people do not have disruptions in SNAP benefits that create times of higher food insecurity. CLASP encourages CMS to engage in discussion with Pennsylvania and FNS to identify ways to limit churn in SNAP for Medicaid beneficiaries.

Focus Area 4: Multi-year Continuous Coverage for Children under 6 Years of Age

CLASP strongly supports Pennsylvania’s amendment to provide continuous enrollment to children under six years of age. The request for continuous enrollment aligns with Pennsylvania’s goal of providing a stronger foundation for a healthy start to early childhood and long-term economic opportunity. Furthermore, continuous enrollment provisions will decrease administrative casework for the Commonwealth’s Medicaid agency. *CLASP urges CMS to approve this part of Pennsylvania’s waiver request.*

Continuous enrollment can help mitigate the disproportionate impact of churn and uninsurance on children. Pennsylvania, like many other states, is seeing high levels of procedural disenrollment during the Medicaid unwinding process.¹¹ As of September 2023, an estimated 125,000 Pennsylvanian children have been disenrolled from Medicaid. Providing continuous coverage will reduce churn by eliminating the burden of reporting information during a certification period and other burdensome administrative practices and reducing the likelihood of caseworker error. CLASP has long advocated for the elimination of administrative burdens within public benefit programs.¹² However, the administrative strain of the Medicaid unwinding process on state Medicaid agencies only highlights problems that have long existed within the program.

The types of administrative burdens eliminated by continuous enrollment tend to fall disproportionately on people of color, who are more likely to rely on Medicaid for health insurance. This disproportionality is particularly true among children. Although Hispanic/Latino and Black children only made up 26% and 14% of all children, respectively, they collectively represent almost 55% of children insured by Medicaid or CHIP in 2020.¹³

¹¹ KFF, “Medicaid Enrollment and Unwinding Tracker,” Updated March 4, 2024, Accessed at <https://www.kff.org/report-section/medicaid-enrollment-and-unwinding-tracker-state-enrollment-and-unwinding-data/?state=Pennsylvania>.

¹² Suzanne Wikle, “Administrative Burdens Exacerbate Inequities and Must Be Reduced,” August 2021, <https://www.clasp.org/blog/administrative-burdens-exacerbate-inequities-and-must-be-reduced/>.

¹³ Centers for Medicare & Medicaid Services (CMS), “Race and ethnicity of the national Medicaid and CHIP population in 2020,” July 2023, <https://www.medicaid.gov/sites/default/files/2023-08/2020-race-etnctity-data-brf.pdf>.

Continuous enrollment is especially important for the healthy development of young children in low-income households. Children with unaddressed conditions such as asthma, vision, hearing impairment, nutritional deficiencies, and mental health challenges have greater barriers to thriving in kindergarten and beyond.¹⁴ To catch early warning signs of these problems, the American Academy of Pediatrics recommends that young children receive at least 15 well-child visits in their first six years of life.¹⁵ Ensuring that children under six have stable coverage would improve access to the necessary preventive care and developmental screenings that occur during these visits and set the stage for better long-term outcomes.¹⁶ Pennsylvania’s continuous coverage proposals are exactly the type of policy experimentation for which section 1115 waivers are intended. CLASP believes there is much to be learned from Pennsylvania’s proposal to better understand how continuous coverage over a large range of incomes can impact children’s lives and alleviate health inequities over the long term.

Thank you for the opportunity to comment on this important issue. If you have further questions, please contact Juliana Zhou at jzhou@clasp.org.

Sincerely,

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¹⁴ Delaney Gracy et al., “Health Barriers to Learning: The Prevalence and Educational Consequences in Disadvantaged Children, A Review of the Literature,” January 2017, <https://learningportal.iiep.unesco.org/en/library/health-barriers-to-learning-the-prevalence-and-educational-consequences-in-disadvantaged>.

¹⁵ American Academy of Pediatrics, “Recommendations for Preventive Pediatric Health Care,” Updated April 2023, https://downloads.aap.org/AAP/PDF/periodicity_schedule.pdf.

¹⁶ Elisabeth Wright Burak, “Promoting Young Children’s Healthy Development in Medicaid and CHIP,” Georgetown University Center for Children and Families, <https://ccf.georgetown.edu/2018/10/17/promoting-young-childrens-healthy-development-in-medicaid-and-the-childrens-health-insurance-program-chip/>.