
Inmates & Federal Medicaid Funds

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Introductions

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Helpful Reminders

- We are here to discuss policy options
 - This is not a presentation on a predetermined policy
 - How can we set good policy with given constraints
 - Debate ideas and let everyone be heard

 - Don't blame CMS
 - Regional Staff are here to help, not change federal policy
 - Don't forget the County Eligibility Technicians
 - They will be the ones who operationalize the policy
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Agenda

- Medicaid Eligibility Overview
 - Federal Regulations
 - Eligibility vs FFP
 - Impact to SSI Clients
 - Current Practice vs SB 08-006
 - How to Implement SB 08-006?
 - Community Corrections
 - Draft Legal Argument to CMS
 - CICP Policy
 - Medicaid Billing for Incarcerated Persons
 - Next Steps
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Basics to Qualify for Medicaid

Medicaid Eligibility Overview

- Citizenship and Identity
- Income and Resources
- Category of Eligibility



Citizenship and Identity

- Resident: applicant must currently be in Colorado and intend to stay
- Citizenship: legal immigrants must provide documentation of their immigrant status and U.S. Citizens must provide documentation of their citizenship under the DRA
- Identity: DRA requires individuals applying for Medicaid provide documentation verifying their identity in order to be considered for eligibility



Income and Resources

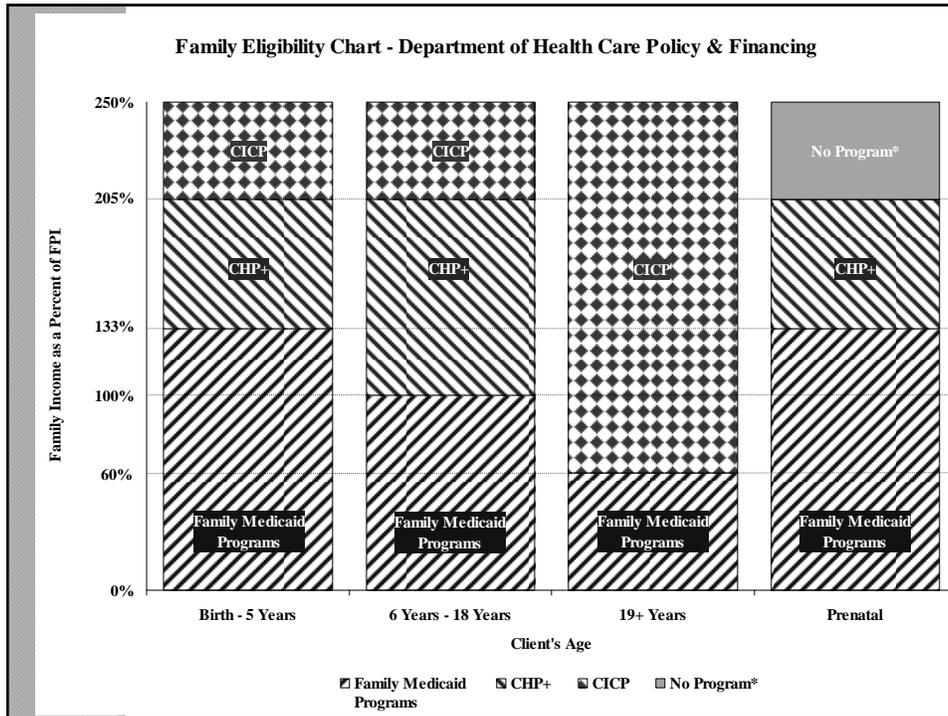
- Clients must meet income guidelines for the category of assistance for which they are applying
- Anything a person receives during a given month which can be used to meet their needs for food, clothing, and shelter
- *Family Medicaid categories do not count resources*
- Adult Medicaid categories examples of countable resources:
 - checking/savings accounts, stocks, bonds, IRA's, 401k's, some vehicles, secondary property



Category of Eligibility

- Family Medicaid (& CHP+)
- Eligibility is dependent upon age and household size relative to income
- Adult Medicaid
- Emergency Only Medicaid
 - Clients must meet all eligibility criteria under one of the Medicaid categories except citizenship
 - Covered for the Emergency Event only





Inmates & Federal Medicaid Funds

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Adult Medicaid

- All Adult Medicaid Clients Must
 - Meet SSI disability criteria
 - Disability means inability to engage in any substantial gainful activity due to a physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for 12 months or longer

OR

- Over the age of 65
 - No longer need to apply for disability



Adult Medicaid

- **SSI/Disabled/OAP Category**
 - SSI Income Level (\$674/Month)
 - Slightly higher Income Limit Over 60 & Qualify for Colorado’s Old Age Pension Grant Standard (\$699/Month)
 - The asset limit for an individual is \$2,000 and \$3,000 for a couple

- **Long Term Care Services**
 - Individuals must also meet the Level of Care for Nursing Facility Placement (Home and Community Based Services)
 - Income Limit: 300%ers - Persons whose income is up to three times the SSI payment limit
 - This optional eligibility category is eligible for Medicaid by virtue of their need for long term care services
 - Home and Community Based Services (HCBS) is an alternative choice for medical care services



Who isn’t Covered Under Medicaid

- **No Category of Eligibility**
 - Lack of income or resources doesn’t matter
 - Homeless
 - Single Adults & Childless Couples
 - State Only AND recipients

- **Over Income**
 - Doesn’t matter if he or she has no insurance or how high the medical bills
 - No Medically Needy Option



Other Department Programs

- Old Age Pension (OAP) Health and Medical Care Program
 - Colorado Indigent Care Program (CICP)
 - Provider Grant Programs
 - Future Expansion Programs
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OAP Health and Medical Care Program

- Provides Medical Benefits to clients Aged 60+ Receiving the State's Old Age Pension that do not Qualify for Medicaid
 - Reasons why these individuals may not qualify for Medicaid:
 - Citizenship – a legal resident that has not been in the country for 5 years
 - Age 60 through 64 without a proven disability determined by SSA
 - Over resources for Medicaid due to countable life insurance cash value
 - Constitutional and Statutory Spending Limits
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CICP Overview

- Partially reimburse providers for services rendered to the State's Medically Indigent residents
 - Clients only receive CICP discount at contracted providers
 - Acute Care Hospitals and Community Health Care Clinics
 - Program administered at the provider level
 - Benefits vary by provider
 - Emergency Care at Hospitals
 - Additional medical services may include
 - pharmaceutical services - limited
 - inpatient psychiatric care (30 days per year)
 - provider is responsible for setting a policy on what other services will be covered
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CICP Overview

- Client Eligibility
 - Providers Accept Applications for Discounted Services
 - Serves as an alternative to their charity care program
 - No central CICP client registry or database (CBMS)
 - Below 250% of Federal Poverty Level
 - Resident Of Colorado
 - Lawful presence requirements (1023)
 - Applicants cannot be eligible for Medicaid or CHP+
 - Applicants can have other insurance
 - Not Insurance
 - Not an Entitlement Program
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CICP Client Cost Sharing

CICP Rating	Inpatient Hospital Copayment	Physician Copayment	Outpatient Clinic Copayment	Hospital Emergency Room and Specialty Outpatient Clinic	Prescription and Lab Copayment
N	\$15	\$7	\$7	\$15	\$5
A	\$65	\$35	\$15	\$25	\$10
B	\$105	\$55	\$15	\$25	\$10
C	\$155	\$80	\$20	\$30	\$15
D	\$220	\$110	\$20	\$30	\$15
E	\$300	\$150	\$25	\$35	\$20
F	\$390	\$195	\$25	\$35	\$20
G	\$535	\$270	\$35	\$45	\$30
H	\$600	\$300	\$35	\$45	\$30
I	\$630	\$315	\$40	\$50	\$35
Z	\$0	\$0	\$0	\$0	\$0



CICP Statistics

- 194,710 Unique Individuals Served
 - 90.8% of the CICP Clients Age 18+
- FY 2007-08 Provider Payments
 - CICP Clinics were reimbursed at 92.3% of indigent care costs, while CICP Hospitals stood at 40.3%
 - \$194,794,500 paid to providers
 - State Funds accounted for only 16.7% of payments
 - Remainder of payments consisted of federal funds through Supplemental Medicaid Payments and Disproportionate Share Hospital (DSH) Payments
 - All State Funds are considered a “Medicaid” payment covered under the State Plan



Provider Grant Programs

- Grants to health care providers to expand primary and preventative (clinic based) services
 - Primary Care Fund
 - 19% of funds from Amendment 35 increase on tobacco taxes
 - Distribution of \$30 Million annually to 32+ providers with an average case mix of 71% Medicaid, CHP+ or medically indigent clients
 - Comprehensive Primary and Preventive Care (CPPC) Grant Program
 - Since April 2001, more than \$26.9 million has been disbursed
 - Funding has succeeded in providing medical, dental, mental health, and pharmaceutical services to at least 122,750 clients
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Future Expansion Programs

- Colorado Health Care Affordability Act
 - Spring 2010
 - Medicaid eligibility for parents up to 100% FPL
 - CHP+ eligibility for children and pregnant women up to 250% FPL
 - Summer 2011
 - Medicaid Buy-In program for people with a disability up to 450% FPL
 - Early 2012
 - Medical care option for adults without dependent children up to 100% FPL
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Federal Regulations

42 CFR 435.1008 Institutionalized individuals

- FFP is not available in expenditures for services provided to Individuals who are inmates of public institutions
 - *Inmate of a public institution* means a person who is living in a public institution
 - *Public institution* means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control
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Federal Guidance

May 2004 CMS Letter

- States should not terminate eligibility for individuals who are inmates of public institutions or residents of IMDs based solely on their status as inmates or residents
- Instead, states should establish a process under which an eligible inmate or resident is placed in a suspended status so that the state does not claim FFP for services the individual receives, but the person remains on the state's rolls as being eligible for Medicaid (assuming the person continues to meet all applicable eligibility requirements)
- Once discharge from the facility is anticipated, the state should take whatever steps are necessary to ensure that an eligible individual is placed in payment status so that he or she can begin receiving Medicaid-covered services immediately upon leaving the facility



Clients Receiving SSI

- “1634 State”
 - SSA is the only authority to determine disability
 - Information for SSI eligibility is transmitted directly to CBMS from BENDEX (SSA interface)
 - State does not perform disability determinations
 - State has no authority to override SSA determination or information received
 - Eligibility is handled automatically – no county case worker – no separate Medicaid application to complete
- SSA Policies
 - Eligibility is made retroactively, including Medicaid
 - Informs state when benefits are Received, Suspended, and/or Terminated



Clients Receiving SSI

42 CFR 435.120

13. Aged, Blind and Disabled Individuals Receiving Cash Assistance

—X a. Individuals receiving SSI.

This includes beneficiaries' eligible spouses and persons receiving SSI benefits pending a final determination of blindness or disability or pending disposal of excess resources under an agreement with the Social Security Administration; and beginning January 1, 1981 persons receiving SSI under section 1619(a) of the Act or considered to be receiving SSI under section 1619(b) of the Act.

- X Aged
- X Blind
- X Disabled

- No Medicaid Eligibility when SSI Benefits are Suspended or Terminated



SSI and Inmates

- **In jail less than one calendar month:** Inmate remains SSI eligible and should receive full SSI benefits
- **In jail throughout a calendar month:** Inmate will have SSI payments suspended but not terminated
- **In jail for 12 consecutive calendar months:** Inmate's SSI eligibility is terminated
- After termination, client must reapply for SSI benefits



Current Practice

- Terminate Medicaid eligibility for inmates when federal financial participation is no longer available
 - 25.5-5-101 ...Subject to the *availability of federal financial participation*, the following are the individuals or groups that are mandated under federal law to receive benefits under this article and articles 4 and 6 of this title...
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SB 08-006

- 25.5-4-205.5 Confined persons - suspension of benefits
...Notwithstanding any other provision of law, a person who, immediately prior to becoming a confined person, was a recipient of medical assistance pursuant to this article or article 5 or 6 of this title shall remain eligible for medical assistance while a confined person; except that no medical assistance shall be furnished pursuant to this article or article 5 or 6 of this title while the person is a confined person unless federal financial participation is available for the cost of the assistance...
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How to Implement SB 08-006? December 2008 CMS Letter

- Question: If one member of the household becomes incarcerated, does that action alone trigger a “change in circumstance” under 42 CFR § 435.916?
- CMS Response: Yes, this would be a change in circumstance that must be reported and for which eligibility must be re-determined pursuant to 42 CFR 435.916 (change in household composition and change in residency for member of the household).
 - State must re-determine eligibility and remove incarcerated individual from household application because individual is no longer living in the same household. This could have an impact on the eligibility of other household members.



How to Implement SB 08-006? December 2008 CMS Letter

- Question: If the Medicaid eligibility of an inmate is suspended upon incarceration, should it be "unsuspended" as a procedural matter if the inmate is transferred to an inpatient hospital setting?
- CMS Response: This is a State decision as federal law and regulations do not specify provisions on the process used to suspend Medicaid eligibility. The fact that a Medicaid eligible client becomes incarcerated does not make them ineligible for Medicaid, but FFP is not available while they are incarcerated.



How to Implement SB 08-006? December 2008 CMS Letter

- Question: If the eligibility is "unsuspended" will the inmate's household revert back to his or her household prior to incarceration?
- CMS Response: No, because they are no longer living in the household.



Potential Solution

- Every time someone is incarcerated, remove them from the household and rerun eligibility for newly incarcerated person -- if they qualify for Medicaid then suspend their Medicaid eligibly until released
- The only individuals that would be Medicaid eligible:
 - 1) pregnant females – technically they are a family size of two and the child counts as living in the household
 - 2) Children under the age of 18 – they are probably handled by Division of Youth Corrections or foster care at this point
- There is no Medicaid eligibility category for a single, adult person in Medicaid



Potential Solution

- May 2009 Letter to CMS
 - Leniency when applying the federal regulations addressing a situation where an eligibility redetermination is required because of a “change in circumstance” for an inmate
 - Follow SSI guidelines when implementing suspension of eligibility
 - Don’t remove person from household until incarcerated for 12 continuous months
 - state prison vs. county jail



Alternative to Suspension

- Change inmate to family member living outside household
 - Change eligibility code in CBMS so no provider payment is made
 - Technician will need to manually change code upon incarceration and then again upon release (assuming individual returns to household)
 - Will leave incarcerated person as a family member for an indefinite period of time



Community Correction Programs

- Draft Letter to CMS
 - Arguing that individuals in Community Correction Programs should be Medicaid eligible
 - Private vs Public
 - No Administrative Control



CICP Policy

- The following individuals are not eligible to receive discounted services under available CICP funds:
 - Individuals who are being held or confined involuntarily under governmental control in State or federal prisons, jails, detention facilities or other penal facilities. This includes those individuals residing in detention centers awaiting trial, at a wilderness camp, residing in half-way houses who have not been released on parole, and those persons in the custody of a law enforcement agency temporarily released for the sole purpose of receiving health care.
- CICP is funded through Medicaid Payments, so can't use funding for services that aren't eligible for FFP



Medicaid Billing What We Think We Know

- In Custody, but not Incarcerated
 - Okay to bill Medicaid eligibles prior to processing at the County Jail
- Okay to bill Medicaid eligibles on parole
- Okay to bill Medicaid for individuals on probation or under home arrest and living at their residence
- Okay to bill for Medicaid eligible individuals that are transferred from incarceration to the inpatient hospital setting or nursing facility (stay of 24 hours)
 - Not okay to bill for locked acute forensic medicine inpatient care unit specifically designed for those incarcerated, awaiting criminal proceedings, or awaiting penal dispositions



Medicaid Billing What We Think We Know

- Not okay to bill when SSI is suspended or terminated
 - SSI will be reinstated retroactively, then provider can bill
- Not okay to bill any medical services for Medicaid eligibles, including those receiving SSI, when the client is incarcerated or transferred from the jail/prison to a non-inpatient hospital/nursing facility setting



Medicaid Billing What We Think We Know

- What else can we add to this list?
 - Okay to bill clients receiving SSI when those clients are in Community Corrections Program?



Next Steps

- CMS Response to June 2009 Letter
- Submit Letter on Community Corrections Program to CMS
- Design Suspension Policy
 - Submit for Stakeholder Comment
 - Look at County Impact
 - Update Medicaid Regulations
 - Re-Estimate CBMS Cost and Time to Build
- Design a Community Corrections Program Policy
- Work with CICP Providers once Medicaid has a policy

