



Affordable Care Act: Health Coverage for Criminal Justice Populations

Colorado Consumer Health Initiative

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**Colorado Center on Law and Policy
Colorado Criminal Justice Reform Coalition**

Who we are



CCJRC and CCLP have partnered to help Colorado seize this historic opportunity to connect criminal justice populations with needed health care coverage and services. We coordinate stakeholder group specifically on this population and ACA.



Advances the health, economic security and wellbeing of low-income Coloradans through research, education, advocacy and litigation.



Advocates for criminal justice reforms and serves as a resource for people involved in the criminal justice system.

ACA is a Game Changer



- People involved in the criminal justice system have substantially higher rates of medical, psychiatric, and addiction problems as compared to the general public.
- Majority of criminal justice involved population – **70 to 90 percent** – do not have private or public health insurance.

ACA expands coverage to nearly everyone.

New Coverage Options



The ACA **requires** everyone to have health insurance or be subject to a tax penalty.

Medicaid

- ✓ Expanded to cover all Coloradans up to **133% FPL**, including single adults.
- ✓ Estimated 2/3 of criminal justice involved population will be eligible for Medicaid.

Marketplace

- ✓ Private insurance, including tax subsidies to those up to **400% FPL**.
- ✓ Estimated 1/3 of criminal justice involved population will be eligible for premium subsidies.

By the numbers



On any given day in Colorado, there are over 100,000 people who are involved in the criminal justice system in some form. The majority will be eligible for Medicaid.

Probation – almost 76,000 adults in 2013

Department of Corrections – approximately 18,000 adults in prison, 2,000 in community corrections and 8,500 in-state parolees. Approximately 10,000 people a year are released from DOC (850/month)

Community corrections (“halfway house”) - approximately 5,000 clients

DOC transition clients - still considered “inmates”

Diversion clients – sentenced to community corrections by court

Other – could include condition of probation and condition of parole placements

County jails – ????? Tens of thousands of people are released annually from jail after serving a sentence or being released on bond



Eligibility and Enrollment of Criminal Justice Populations

Eligibility Depends on CJ Status



Eligibility to enroll in health coverage through Connect for Health Colorado or Medicaid differs depends on the person's involvement in the criminal justice system.

Most are eligible for coverage, some are not.

Clients are **NOT** eligible for coverage if **BOTH**:

- they are an inmate of a public institution (i.e., under the control of state, county, federal government or municipality), **AND**
- they can be charged criminally with escape if they leave the institution without authorization.

Eligibility during Pretrial Phase



Pretrial Status	Eligible for Medicaid ?	Marketplace	
		Eligible for Coverage?	Eligible for Tax Credits?
- On bond or diversion pending disposition	Yes	Yes	Yes
- In jail pending disposition	No*	Yes**	Yes

* The jail or prison facility is responsible for all health care services provided in-house. Medicaid can reimburse for medical care provided to an incarcerated person admitted as an inpatient in a hospital for at least 24 hours. Medicaid enrollment for this purpose can occur at any point during the hospitalization up to 90 days after release from the hospital.

** Private insurance may pay for inpatient or outpatient services received while someone is in jail pretrial as long as the person continues to pay premiums and receives treatment in-network.

Eligibility while serving a sentence

Serving Sentence	Eligible for Medicaid?	Marketplace**	
		Eligible for Coverage?	Eligible for Tax Credits?
In Jail	No*	No	No
In Prison	No*	No	No
Probation	Yes	Yes	Yes
Parole	Yes	Yes	Yes

* The jail or prison facility is responsible for all health care services provided in-house. Medicaid can reimburse for medical care provided to an incarcerated person admitted as an inpatient in a hospital for at least 24 hours.

**Marketplace enrollment must be discontinued within 30 days of being sentenced to a period of incarceration.

Eligibility in Community Corrections/ Half-Way Houses



Community Corrections	Eligible for Medicaid?	Marketplace	
		Eligible for Coverage?	Eligible for Tax Credits?
- - Residential diversion clients	No	Yes	Yes
- - Residential transition clients	No	Yes	Yes
- - Non-residential diversion clients	Yes	Yes	Yes
- - Non-residential transition clients	Yes	Yes	Yes
- - Condition of probation*	Yes	Yes	Yes
- - Condition of parole	No	?	?
- - SB 252 beds (parole revoked)	No	No	No

* As a condition of probation, the court can order a defendant convicted of a drug offense to complete treatment in a residential treatment program provided in a community corrections facility (CRS 18-1.3-204(2.2)). These people are not subject to prosecution for escape if they leave the facility (CRS 18-8-208(11)). Therefore, they are Medicaid eligible while residing in the community corrections facility.

Churn: Changes in Eligibility

This is a VERY fluid population and their criminal justice status can change quickly and frequently which can affect their eligibility for Medicaid. They may “churn” in and out of Medicaid (or Exchange) eligibility as they go in and out of incarceration.

For example, someone on Medicaid is arrested and put in jail (not Medicaid eligible). S/he is released on bond (Medicaid eligible). Convicted and sentenced to 60 days in jail (Medicaid ineligible) but then placed on probation (Medicaid eligible).

HCPF is still developing policies that will outline under what circumstances Medicaid eligibility will be suspended, redetermined, or terminated due to change in incarceration status.



Medicaid Structure: Accessing Physical & Behavioral Health Care

Medicaid Coverage of SUD Treatment



- Court ordered treatment is **NOT** the same as medical necessity.
- Behavioral health treatment services, including Substance Use Disorder (SUD) treatment, are covered by Medicaid if:
 - (1) The client has a diagnosis covered by the BHO, as determined by a **licensed professional**;
 - (2) Covered services are provided through an **approved treatment provider**; and
 - (3) Services are **medically necessary** as defined by the authorized treatment provider.



Questions

Criminal Justice Terms – Glossary



ON BOND

When people are first arrested for an offense, they may be released from jail on bond awaiting trial or other disposition of the criminal case. People on bond are living in the community and they have not been convicted (or yet sentenced) for a criminal offense.

ON PROBATION

Probation is a sentence option for people convicted of either misdemeanor or felony offenses where the person is living in the community and under supervision of a probation officer with court oversight.

IN COMMUNITY CORRECTIONS

A community corrections program is commonly referred to as a “halfway-house”. This refers to the role these programs play in housing people that are “halfway-in” or “halfway-out” of prison. There are two phases of community corrections, a residential phase where people live in the halfway house and a non-residential phase where they are supervised in the community and are living at home and working but are still under some level of supervision.

Criminal Justice Terms – Glossary



COMMUNITY CORRECTIONS (cont'd)

Diversion client - People who are sentenced directly to community corrections as the result of a felony conviction. After completing the residential phase, a person is supervised on non-residential status

Transition client – Approximately 1/3 of people leaving prison will transition through a community corrections program. They are called transition clients and are classified as “inmates” of DOC until they are placed on parole.

Condition of probation client- The court may also require someone to complete a community corrections program as a condition of probation. Generally these are people who have been convicted of a felony offense but in some limited circumstances, someone convicted of a misdemeanor drug offense may be placed in a community corrections program to receive residential treatment.

Condition of parole client – People sentenced to prison are also required to serve a period of parole after release. The Parole Board may require that a parolee complete a community corrections facility as a condition of parole. These people are on parole status, not inmate status.

SB 252 beds-revoked parolees- Some parolees who are revoked are eligible to be placed in a community corrections program rather than being returned to prison. They are considered to be back on “inmate” status.

Criminal Justice Terms – Glossary



IN JAIL

Jails are operated by the local county, generally the county Sheriff's Department. People can be in jail for a number of different reasons. It is a very fluid population and people may not be in jail for a very long time.

Pre-trial detainees-refers to people that are in jail who have not been convicted of a criminal offense and have not (yet) made bond.

Convicted – serving jail sentence – refers to people who have been convicted and sentenced to serve a period of time in jail. Usually this is for a misdemeanor conviction but people can also be sentenced for a felony and required to do some jail time as a condition of probation. Some jails have a work-release program or weekender program that allows people to leave jail to go to work, school, treatment, and then return to jail either at night or over the weekend.

Immigration hold/detainer- Some people can be in jail because Immigration Control Enforcement (ICE) has placed a hold or detainer pending a deportation investigation/hearing.

Other law enforcement/court detainer/hold –A person can be in jail when another law enforcement agency or court has filed a detainer/hold because of pending criminal action in another jurisdiction.

Criminal Justice Terms – Glossary



IN JAIL (cont)

Pending probation revocation - If a person is on probation and is noncompliant, a probation officer can ask the court to revoke a person's probation sentence for violation of a condition or supervision (or for committing a new crime). In this circumstance, an individual may be held in jail until the court holds a revocation hearing.

Pending community corrections revocation- If a person is sentenced to community corrections and is noncompliant, a probation officer can ask the court to revoke the community corrections sentence. In this circumstance, an individual may be held in jail until the court holds a revocation hearing. Being in jail is usually temporary as the court will impose a new sentence, most often a prison sentence.

Pending parole revocation- If a parolee is non-compliant, a parole officer can file a complaint requesting that the Parole Board revoke parole. The parolee may be taken to jail awaiting the parole revocation hearing.

Criminal Justice Terms – Glossary



IN PRISON

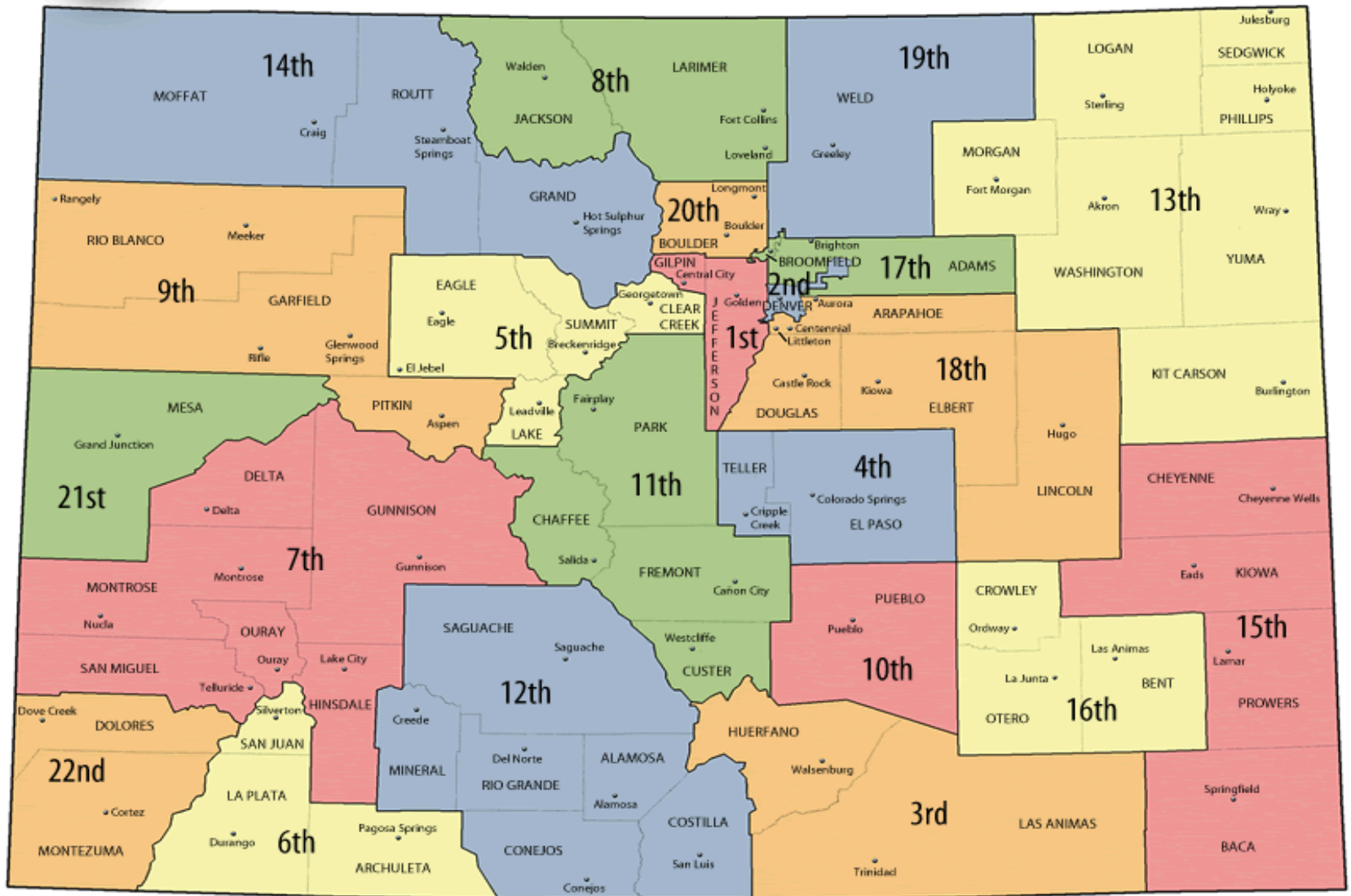
Prisons are operated or under contract with the state Department of Corrections or federal Bureau of Prisons. People in prison have been convicted of a felony and sentenced to serve a period of time in prison.

ON PAROLE

Parole is a period of supervision following release from prison. People on parole are still under the jurisdiction of the Department of Corrections and supervised by a parole officer and are considered parolees – not inmates.



COLORADO JUDICIAL DISTRICTS





Contacts

Elisabeth Arenales, Esq.-Director of Health Program
Colorado Center on Law & Policy
earenales@cclponline.org, 303-573-5669 x 302

Christie Donner, Executive Director
Colorado Criminal Justice Reform Coalition
christie@ccjrc.org, 303-825-0122