THE AFFORDABLE CARE ACT AND COUNTY JAILS:

A Practical Guide to Strategies and Steps for Implementation

The Affordable Care Act (ACA) is expected to help lower county jail healthcare costs, reduce recidivism, and create healthier individuals, families and communities partly because of provisions for expanded Medicaid eligibility and other healthcare affordability measures available to previously uninsured populations, including the offender population in county jails. This guide is meant to help Sheriffs and County Jail Administrators consider practical strategies and suggests steps that support cost savings while producing other benefits through the implementation of healthcare enrollment protocols, education of the inmate population, enrollment assistance and facilitation of the application process upon inmate release.

Denver Sheriff Department ■ Sheriff Gary Wilson ■ Dec 2013

DENVER THE MILE HIGH CITY City and County of Denver

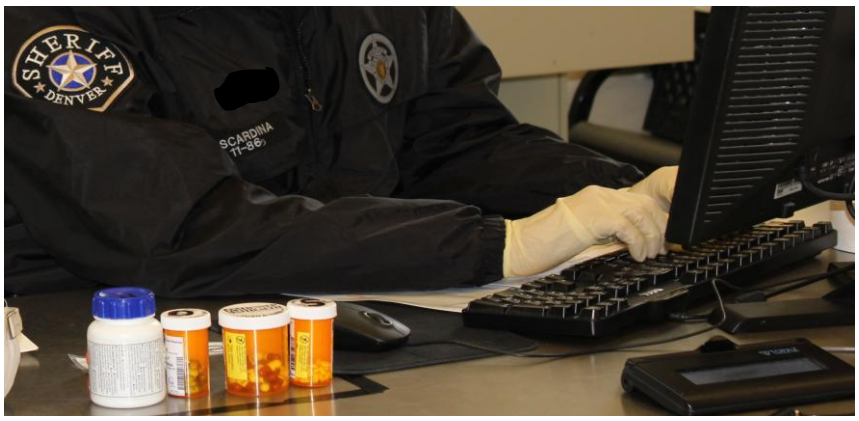
WHY IMPLEMENT A PLAN?

The Affordable Care Act is expected to reduce recidivism and result in substantial cost savings to county jails and other correctional institutions that take steps to capitalize on several of its provisions:

- The provision for expanded Medicaid coverage to most individuals under the age of 65 with incomes up to 138% FPL
- The provision for assisting other individuals in obtaining non-Medicaid affordable healthcare coverage through federal subsidies, which provides opportunity for individuals to affordably address and manage health issues and chronic conditions and addictions before becoming incarcerated
- The increased availability of mental health care services to a newly insured population via Medicaid and other affordable insurance options
- The provision that correctional facilities may bill certain insurance providers for costs of care while offenders are in custody awaiting disposition of charges, and for a qualified period of inpatient care under Medicaid coverage for Medicaid-qualified offenders, whether awaiting charge disposition or already sentenced.

The expected benefits of provisions of the Affordable Care Act to county jails and their communities include:

- A strengthening of the relationships with individual citizens and communities also vested in public health, adequate medical care, healthy living, and reduced recidivism.
- A reduction in the absolute number of incarcerated individuals
- A healthier offender population because of the availability of care while in the community; significant cost savings associated with offenders needing less care and medicine upon arrival and while incarcerated.
- Significant cost savings associated with healthcare and medications that can be billed to insurance.



"…an individual shall not be treated as a qualified individual, if at the time of enrollment, the individual is incarcerated, ***other than incarceration pending disposition of charges."***

QUICK FACT: ***Inmate direct medical services costs for Washington, D.C jails in 2012 were approximately $33 million.*** *Source: Washington, D.C. DOC*

STEP 1: ASSEMBLE THE TEAM AND LEAD FROM THE TOP

Embracing the provisions of the Affordable Care Act for your jail will require the support and engagement of staff, county agencies and community partners. Individuals will be taking their cue from Sheriffs and Jail Administrators who demonstrate through their actions that this initiative is a top priority— by investing their own time and resources, personally coordinating key players, being present at meetings, reaching out to community partners, and clearly communicating needs and progress inside and outside the agency.

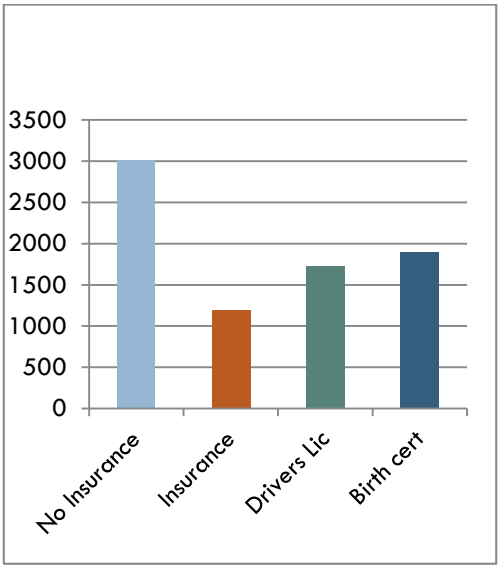
When assembling your team, consider what resources you have and will need inside and outside of your agency. Some important partners may include:

- Human Services
- Medical provider(s)
- State Medicaid Administrator
- State Exchange Plan Administrator
- Division leaders
- Legal Department
- Inmate Programs
- Finance (Estimating projected savings short term/long term, expenditures, budget issues)
- Technology Unit (How will we capture needed data and report results?)
- Human Resources (Are additional personnel needed to support implementation?)

STEP 2: DETERMINE OFFENDER NEEDS/SCOPE

To gain a better understanding of your current offender population and what will be needed to assist offenders in the enrollment process, consider conducting a simple survey during intake. A Denver Sheriff Department survey of approximately 4,000 offenders from Intake, Work Release and Community Corrections over a three month period revealed that 71.7% of those surveyed had no health insurance coverage at all, and of those who did have health insurance coverage, almost half cited Medicaid as their provider. The survey also suggests offenders may benefit from assistance in obtaining identification documents that may be required for healthcare enrollment, with nearly half of offenders without their birth certificate, and almost 60% without a driver's license or State ID.

Number of inmates without Health Insurance	No Insurance	**3020**	**71.72%**
Number of inmates with Health Insurance	Insurance	**1191**	**28.28%**
Number of inmates with Driver's License	Driver's Lic	**1725**	**40.96%**
Number of inmates with Birth Certificate	Birth cert	**1899**	**45.10%**
Number of inmates that refused to answer		**76**	**1.80%**
Number of inmates surveyed 7/1 - 10/1/2013	**Total**	**4211**	



STEP 3: DEVELOP A SCREENING PROCESS AND RELATED FORMS

Establishing a thorough screening process at intake will allow for the ready identification of healthcare enrollment status, eligibility, opportunities, and offender needs.

■ Creating and using paper forms permits staff to obtain needed information and permission for the offender's later enrollment in Medicaid (i.e., in the case of hospitalization longer than 24 hours or enrollment upon jail release).

■ Jails may also be able to bill certain State Health Plan/Qualified Health Plan carriers for healthcare costs. If, upon incarceration, an individual is already covered under a SHP/QHP or enrolls in such a plan while awaiting disposition of charges, for example, there is nothing in ACA law that precludes the carrier from continuing to cover that individual while incarcerated and awaiting charge disposition. (Also check with your State Plan Administrator to determine if monthly payments for SHPs/QHPs can be made by the County while the covered individual is incarcerated.)

Incarcerated participants in SHP/QHPs may be required to notify their plan administrator of their incarceration and status (pre/post disposition of charges).

STEP 4: LIMITED DURABLE POWER OF ATTORNEY

Sheriffs and Jail Administrators might consider creating a Limited Durable Power of Attorney form, which, when signed by the offender and notarized, will permit the agency to do what is necessary on the offender's behalf to seek reimbursement / obtain Medicaid or other insurance benefits. This form can prove invaluable when seeking reimbursement from insurance carriers should the offender become incapacitated or is released from your agency's custody before the claim for reimbursement is made. It is recommended this form be completed during the intake process or soon thereafter. Note that the Limited Durable Power of Attorney does not permit the agent/agency to make healthcare decisions for the offender.

POWER OF ATTORNEY: MEDICAID AND HEALTH INSURANCE ONLY

a. AGENT

I, _____, being of sound mind, name the following person as my agent for Medicaid and Health Insurance matters:

Name of agent:_____

Agent's address:_____

Agent's telephone number:_____

b. SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of successor agent: _____

Successor agent's address: _____

Successor agent's telephone number: _____

c. AUTHORITY

I give my agent full power and authority to act for me, and to do all things necessary to obtain insurance benefits and/or reimbursement, from, but not limited to, *Medicaid*, state and other qualified health plans and carriers, and *Connect with Colorado*.

This power and authority includes the ability to sign medical insurance forms, including but not limited to applications, claim forms, and other medical, hospital or health insurance forms as may be requested or required.

I also authorize my agent to: 1) obtain information about my physical and mental health, including medical and hospital records; 2) sign releases or other documents that may be required in order to obtain information; and, 3) consent to disclosure of information.

My agent's powers and authority shall be effective even if I am or become unable to act for myself due to physical or mental incapacity, disability, illness, detention, or incarceration. However, this does not give my agent the power to make health care decisions for me.

_____
Signature

The foregoing was subscribed and sworn to before me in the City and County of Denver, State of Colorado, by _____.

Dated: _____

Witness my hand and official seal.

My commission expires: _____

_____
Notary Public

SAMPLE

A Limited Durable Power of Attorney permits the agency to act on behalf of the offender to obtain benefits/reimbursement from insurance providers.

STEP5: HIRE ENROLLMENT SPECIALISTS

Enrollment Specialists (funded from your agency's existing budget for inmate care) will be integral to the implementation of your plan. These individuals are tasked with initial screening and eligibility determination, and will also assist by billing insurance and providing enrollment assistance to offenders in the event of hospitalization (offenders with inpatient care longer than 24 hours) or at the time of their release from jail.

Inpatient healthcare for hospital stays longer than 24 hours should be billed to insurance for Medicaid enrollees. If a Medicaid-eligible offender is sent to the hospital during their incarceration, Enrollment Specialists should immediately enroll the offender in Medicaid. Medications should also be filled upon release from hospitalization and prior to return to the jail to facilitate Medicaid insurance billing/reimbursement. Offenders should be dis-enrolled (or coverage suspended) from Medicaid at hospital discharge and need to re-enroll for any subsequent return to the hospital during incarceration.

While it is recommended Sheriffs or county officials reduce their existing inmate care budgets to fund these Enrollment Specialist positions, associated costs are recouped through Medicaid and other insurance billing for offender inpatient care/hospital stays and medications. Agencies that enroll qualified offenders in Medicaid at release should also not pay for any of the offender's prescriptions at release, but instead, permit Medicaid to pay those costs. Inpatient costs incurred for qualifying hospitalizations of Medicaid-eligible and enrolled offenders should also be picked up by Medicaid.

ENROLLMENT REMINDERS:

- *Pertinent offender enrollment information should be captured in paper format during the Enrollment Specialist's initial screening/eligibility determination, and later entered into the system (when the offender has a qualifying hospitalization or at release from jail).*
- *Medicaid eligible offenders sign the form upon release or at the time of a qualifying hospitalization, which allows the agency to complete the online application for enrollment in the State's system. (If an otherwise qualified offender is incapacitated at the time of qualifying hospitalization or release, the use of the signed Limited Durable Power of Attorney should permit the agency to enroll the offender and seek insurance benefits or reimbursement.)*
- *Each time a Medicaid-eligible offender returns to the hospital for a qualifying inpatient stay during his/her period of incarceration, he/she must be re-enrolled. At time of hospital discharge, the offender must be dis-enrolled or Medicaid coverage suspended.*
- *Consider asking Enrollment Specialists or other designated staff to assist offenders in securing needed documentation for healthcare enrollment prior to their release when practical (birth certificates, social security cards, etc.)*

QUICK FACT: *Colorado is operating a State-based Marketplace, known as Connect for Health Colorado. It is estimated over 160,000 newly eligible Coloradans could enroll in expanded Medicaid. About 16,000 individuals had already applied for this expanded Medicaid coverage through the site as of October 24th.*

STEP6: EDUCATE OFFENDERS

Most people in our communities enroll for healthcare coverage through employers, state and federal agencies (Medicare and Medicaid), or through an application process (individual health plans). But despite outreach efforts by county agencies to educate the public and encourage enrollment, many offenders with medical or mental illness and/or substance abuse issues are unlikely to be educated as to healthcare plan availability or to have enrolled.

INMATE PROGRAM: HEALTHY LIVING

Implementation of the ACA in jails not only provides opportunities for correctional authorities to establish linkages with exchanges to improve access to Medicaid and individual coverage through QHPs and SHPs, it also provides an excellent opportunity to educate offenders on healthy living and the availability and benefits of enrolling in healthcare coverage. To this end, it is recommended that jails consider establishing an inmate program for Healthy Living, in which offenders learn healthy living options (nutrition, exercise, stress management), receive basic information about the Affordable Care Act and how it impacts them (and their families), and learn about coverage availability, eligibility, the application/enrollment process, availability of pre-enrollment assistance while incarcerated, and application assistance at release.

EDUCATIONAL KIOSKS

Free standing lobby kiosks are also an effective way of educating the families and visitors of offenders about ACA, low cost coverage availability, plan options, and application and enrollment.

STEP 7: TRAIN AND EDUCATE STAFF, DRAFT PROCEDURES

All agency staff should be educated in the fundamentals of ACA and how its provisions will be implemented in your jail facilities. Procedures should be drafted and revised as needed. Special training will be needed for Enrollment Specialists, healthcare partners and others inside and outside your agency who will have specialized duties or roles associated with the implementation of the ACA plan for your jail.

STEP 8: TRACK, MEASURE, REPORT (AND REFINE)

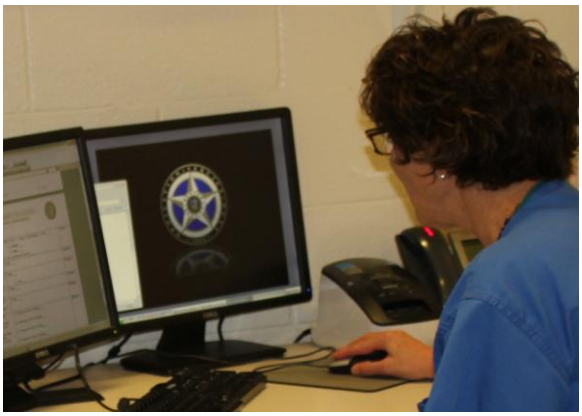
Finally, do not be discouraged if all fails to go as planned on day one. Note deficiencies and address them promptly, working with your team and partners outside your agency. Refine your procedures and methods as needed. Get ideas from, and share what works with, other agencies. Establish a system for tracking costs and savings associated with the implementation of your ACA plan so you can report it to requesting county officials and prepare future budgets.

~Gary Wilson

FACTS – THE AFFORDABLE CARE ACT

(Used with permission of Steven Rosenberg and COCHS. Information from Community Oriented Correctional Health Services [COCHS] – The Association of State Correctional Administrators Summer Meetings - August 2013)

- Qualified Health Plan (QHP) and Medicaid expansion coverage begins January 2014. Applications are currently available. Up to 32 million Americans will be newly covered.
- In Medicaid expansion states, Medicaid will be newly available to non-elderly adults with income up to 138% FPL, regardless of health status, gender or parental status.
- COCHS estimates that about 2/3 of the justice-involved population will be eligible for Medicaid under expansion; many of these individuals will have access to affordable healthcare for the first time.
- Medicaid coverage is available for prison and jail inmates who are qualified for Medicaid and who are inpatients in non-correctional medical facilities for at least 24 hours. Correctional agencies can achieve major cost savings by developing processes to enroll eligible individuals. Individuals must be dis-enrolled with hospital discharge and re-enroll for any additional qualifying hospital stays.
- Except for the above, Medicaid coverage (payment for services or meds) is not available for incarcerated individuals.
- Qualified individuals with income from 138% - 405% FPL will be able to purchase QHPs with federal subsidies through health insurance exchanges. COCHS estimates about 1/3 of the justice-involved population will be eligible for premium subsidies to buy QHPs.
- Subject to health plan requirements, individuals may be able to newly enroll or maintain existing coverage through a QHP while incarcerated pending disposition of charges.



- An individual can designate an authorized representative (A-Rep) to manage the enrollment process on his/her behalf. This requires the beneficiary's signature.
- Correctional officials can act as A-Reps for offenders.

PHOTO AND OTHER CREDITS

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