National Alliance on Mental Illness

January 8, 2021

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

Re: Kentucky Department of Medicaid Services 1115 Substance Use Disorder Demonstration Proposed Amendment Continuity of Care for Incarcerated Members

Dear Secretary Azar:

NAMI, the National Alliance on Mental Illness, appreciates the opportunity to submit comments on Kentucky's demonstration waiver amendment, Substance Use Disorder Demonstration Proposed Amendment Continuity of Care for Incarcerated Members. NAMI is the nation's largest grassroots mental health organization dedicated to building better lives for people affected by mental illness. We support the state's waiver amendment seeking to provide Medicaid coverage for substance use disorder (SUD) services for certain justice-involved individuals and urge its approval by the Centers for Medicare and Medicaid (CMS).

The Important Role Medicaid Plays for Beneficiaries Who are Justice-Involved

Throughout our 40-year history, NAMI has fought for dignity, fairness, and equity for people with mental health conditions. We have a unique understanding of the important role that Medicaid plays in the lives of people with mental illness, including people with mental illness who are justice-involved.

Unfortunately, federal law prohibits the use of Medicaid funds for services provided to an "inmate of a public institution," which includes people who are incarcerated in jails, detention centers or other correctional facilities. Known as the Medicaid Inmate Exclusion Policy, this payment prohibition has resulted in states terminating or suspending Medicaid eligibility for beneficiaries who become incarcerated, even if they are incarcerated for a short period of time. Since prisons, jails, and other penal institutions are required to ensure the provision of appropriate and necessary health care to individuals while incarcerated, these facilities have become America's de-facto mental health providers. However, they are often unable to provide adequate care as part of a system that is not built to provide health services.

Research show that there is a significant lack of access to adequate mental health care in incarcerated settings. About 3 in 5 people (63 percent) with a history of mental illness do not receive mental health treatment while incarcerated in state and federal prisons.[i] It is also challenging for people to remain on treatment regimens once incarcerated. In fact, more than 50 percent of those who were medicated for mental health conditions at admission did not receive pharmacotherapy once in prison.[ii]

When individuals are released from incarceration and return to the community, many do not have appropriate access to coverage and continuity of care.

Reentry is a particularly crucial period for those with mental illness because it is associated with significant stress and high risk of recidivism, relapse, or crisis. Nationally, about 80 percent of individuals released from prison in the United States each year have a SUD or chronic medical or psychiatric condition.[iii] On release, people with serious mental illness (SMI), particularly those with co-occurring substance use disorders, recidivate at higher rates than other offenders. This is frequently attributable to lack of timely access to needed services and supports for their condition.[iv] In fact, the risk of opioid-related overdose death dramatically increases in the first days and weeks after an individual with untreated opioid use disorder is released from jail or prison.[v] According to one study, former inmates' risk of a fatal drug overdose is 129 times as high as it is for the general population during the two weeks after release.[vi] These striking statistics underscore the important need for proposals like Kentucky's to improve access to care for those who are incarcerated and improve transitions to care upon release.

Kentucky's Proposal

Mental illness affects one in five Kentuckians[vii] and is closely tied with SUD.[viii] Many individuals who develop SUDs are also diagnosed with mental health conditions, and vice versa. This overlap is particularly pronounced with SMI's such as major depression, schizophrenia, and bipolar disorder. In particular, one in four individuals with an SMI also have an SUD. [ix]

Yet because of the Medicaid Inmate Exclusion Policy, many people with mental illness or SUD who are incarcerated lose their health care coverage – causing interruptions to their mental health care and resulting in their conditions getting worse. Although Kentucky suspends rather than terminates Medicaid benefits in the event of incarceration, significant delays in reinstatement and reenrollment continue to be a barrier for service access upon release. As the state rightly notes, despite the advances made through the efforts of Kentucky's Department of Corrections (DOC), a substantial population remains untreated in the state's jails and prisons. Moreover, releasing individuals who were incarcerated without connections to health care providers, medical coverage, safe and stable housing, or a support system can greatly increase their risk of relapse, overdose, and death. Once individuals re-enter their community, establishing or re-establishing health care often takes the backburner as they deal with more pressing needs like housing and food security, reconnecting with family members, and finding employment.[x]

Under the state's waiver amendment, Kentucky requests federal matching funds to cover SUD treatment within all DOC facilities for Medicaid-eligible individuals with a SUD diagnosis. This move will allow DOC to hire more staff, engage members in treatment during incarceration, and expand the ability of aftercare. It will also ensure that this high-risk population receives needed quality treatment before release and strengthens follow-up care with a Medicaid provider after release, expanding critical services to decrease relapse, recidivism, overdoses, and other health concerns.

Although the focus of this waiver amendment is on SUD services, NAMI KY appreciates the connections to mental health. Members who meet clinical criteria for SUD and SMI are also eligible to receive treatment services in an integrated treatment program to address both mental health and SUD. This will

also compliment the work of the existing Reentry Pilot Program, which provides reintegration support for individuals diagnosed with opioid use disorder.

NAMI is especially pleased that this demonstration, if approved, would complement the benefits associated with the state's Medicaid expansion that began in January 2014.[xi] Medicaid expansion under the Affordable Care Act has allowed many states to connect more returning individuals with health coverage, and experiences from other states demonstrate that Medicaid expansion helps people access needed mental health treatment including screenings, medications, and therapy. Studies show that adults with SMI are 30 percent more likely to receive mental health treatment than their uninsured counterparts,[xii] and less likely to delay or forego necessary care.[xiii]

We're also pleased that the KY Department for Medicaid Services' (DMS) own study of the opportunities indicates that Medicaid-eligible services would be cost-effective for the Medicaid program long term and would improve outcomes for justice involved members. Research agrees with Kentucky's stated goals: studies in Florida and Washington reported that people with SMI and Medicaid coverage at the time of their release were more likely to access community mental health services, and had fewer detentions and stayed out of jail longer than those without coverage.[xiv]

NAMI believes that all people with mental health conditions who are incarcerated deserve access to quality mental health treatment. If approved, this demonstration would help the state of Kentucky provide uninterrupted health coverage to ensure this high-risk, high-need population receives needed care as they transition back to their communities. NAMI is thankful that Kentucky recognizes the importance of improving the standard of care for people with substance use disorder and mental illness who are justice-involved and urges its approval by CMS.

Thank you for the opportunity to provide comments on this important issue. If you have any questions or would like to discuss this issue, please do not hesitate to contact Jodi Kwarciany at jKwarciany@nami.org.

Sincerely,

/s/

Jennifer Snow
Director of Public Policy
NAMI, National Alliance on Mental Illness

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[i] U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12. June 2017. https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf.

[ii] Jennifer M. Reingle Gonzalez and Nadine M. Connell. Mental Health of Prisoners: Identifying Barriers to Mental Health Treatment and Medication Continuity. *Am J Public Health* 104, no. 12 (December 2014): 2328-2333. DOI: 10.2105/AJPH.2014.302043.

[iii] Shira Shavit et al. Transitions Clinic Network: Challenges and Lessons in Primary Care for People Released from Prison. *Health Affairs* 36, no. 6 (June 2017): 1006–15. https://doi.org/10.1377/hlthaff.2017.0089.

[iv] Glenda Wrenn, Brian McGregor, and Mark Munetz. The Fierce Urgency of Now: Improving Outcomes for Justice Involved People with Serious Mental Illness and Substance Misuse. *Psychiatric Services*, published online (April 16, 2016), https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201700420.

[v] Ingrid Binswanger, Patrick Blatchford, Shane Mueller, and Marc Stern. Mortality After Prison Release: Opioid Overdose and Other Causes of Death, Risk Factors, and Time Trends From 1999 to 2009. *Ann Intern Med* 2013 Nov 5; 159(9): 592–600. DOI: 10.7326/0003-4819-159-9-201311050-00005.

[vi] Ingrid Binswanger et al. Release from prison--a high risk of death for former inmates. *The New England Journal of Medicine* 356, no. 2 (Jan 2007): 157-65. DOI: 10.1056/NEJMsa064115.

[vii] U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health. August 2019. https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf.

[viii] National Institutes of Health, National Institute on Drug Abuse. Common Comorbidities with Substance Use Disorders Research Report. May 2020. https://www.drugabuse.gov/publications/research-reports/common-comorbidities-substance-use-disorders/part-1-connection-between-substance-use-disorders-mental-illness#:~:text=Many%20individuals%20who%20develop%20substance,use%20disorder%20and%20vice%20versa.

[ix] Ibid.

[x] Reentry from incarceration is a difficult transition, and health management is often a low priority as people grapple with more basic survival needs (e.g., food and housing), reconnecting with family members, and finding employment (Mallik-Kane 2005).

[xi] Kaiser Family Foundation, "Status of State Medicaid Expansion Decisions: Interactive Map," Published October 21, 2020, https://www.kff.org/medicaid/issue-brief/status-of-state-medicaid-expansion-decisions-interactive-map/.

[xii] Beth Han et al. Medicaid Expansion Under the Affordable Care Act: Potential Changes in Receipt of Mental Health Treatment Among Low-Income Nonelderly Adults With Serious Mental Illness. *American Journal of Public Health* 105, no. 10 (October 2015): 1982-1989. DOI: 10.2105/AJPH.2014.302521.

[xiii] Priscilla Novak, Andrew C. Anderson, and Jie Chen. Changes in Health Insurance Coverage and Barriers to Health Care Access Among Individuals with Serious Psychological Distress Following the Affordable Care Act. *Administration and Policy in Mental Health and Mental Health Services Research* 45, no. 6 (November 2018): 924-932, https://link.springer.com/article/10.1007%2Fs10488-018-0875-9.

[xiv] Joseph Morrissey et al. Medicaid Enrollment and Mental Health Service Use Following Release of Jail Detainees with Severe Mental Illness. *Psychiatric Services* 57, no. 6 (June 2006): 809-815. DOI: 10.1176/ps.2006.57.6.809, and Joseph Morrissey et al. The Role of Medicaid Enrollment and Outpatient Service Use in Jail Recidivism Among Persons with Severe Mental Illness. *Psychiatric Services* 58, no. 6 (June 2007): 794–801. DOI: 10.1176/ps.2007.58.6.794.