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CABINET FOR HEALTH  
AND FAMILY SERVICES

## **Kentucky Department for Medicaid Services**

### **Section 1115 Reentry Demonstration Response to Public Comment**

**December 22, 2023**

## **Public Notice**

Prior to submitting the Proposed Reentry Demonstration request to CMS, DMS followed all guidelines and procedures according to 42 CFR § 431.408 regarding collection, review of, and response to, public comments.

### **KENTUCKY MEDICAID PROGRAM PUBLIC NOTICE**

#### **Kentucky Medicaid Section 1115 Demonstration: TEAMKY (formally known as Kentucky Helping to Engage and Achieve Long Term Health (KY HEALTH))**

In accordance with 42 CFR 431.408, the Cabinet for Health and Family Services (CHFS), Department for Medicaid Services (DMS) announces its intention to file a Section 1115(a) Demonstration application with the Centers for Medicare and Medicaid Services (CMS), to request Medicaid coverage for certain transitional services to identified individuals who are soon-to-be former inmates of designated public institution.

The goal of the Demonstration is to improve transitions by leveraging the Commonwealth's existing reentry efforts and expanding services to create greater continuity of care. Under the Demonstration, eligible members will receive case management pre and post release to address physical health, behavioral health, and health related social needs; medication assisted treatment (MAT) for SUD as clinically appropriate for up to 60 days pre-release; and a 30-day supply of all clinically required prescription medications and, if applicable, a prescription/written order for durable medical equipment (DME) immediately upon release. DMS is also requesting authorization to provide Recovery Residence Support Services (RRSS) for eligible adults diagnosed with an SUD who are soon-to-be former inmates of designated public institution, as well as individuals with SUD participating in the Kentucky Behavioral Health Conditional Dismissal Program, for up to 90 days post-release. Upon approval, provision of these services will strengthen coordination of care, enhance health outcomes for this population, and reduce recidivism rates.

## **Response to Public Comments**

As noted above, DMS conducted two virtual public forums in accordance with 42 CFR § 431.408(3) to inform the public of the Commonwealth's intent to request approval for the Proposed Reentry Demonstration, the application contents, and the public comment process itself. The first public forum, conducted Monday, November 27, 2023 from 10:30 a.m. to 12:00 p.m. EST via Microsoft Teams, had a total of 99 attendees. The second public forum, conducted Friday, December 1, 2023 from 2:00 p.m. to 3:30 p.m. EST via Microsoft Teams, had a total of 76 attendees. Forum presentations and recordings are available via the [DMS Webpage](#).

The following summarizes all comments received during the public comment period from November 9, 2023 through December 9, 2023, and provides direct responses to each question. A total of 14 comments were received, all of which were supportive. No substantive changes have been made to the application as a result of the comments received.

### ***Summary of Comments Received***

- Four comments provided recommendations regarding the inclusion of jails.
- Five comments had recommendations regarding inclusion of additional services including vocational support, hepatitis C screening and treatment, 12-month continuous coverage, and community-based services.
- Two comments cited concerns regarding incarceration rates including comments expressing concerns that the amendment may increase incarceration rates.

### ***Direct Responses to Comments***

**Summary of Comment:** DMS received a comment from an individual noting concerns regarding lack of providers in the reentry space, specifically DJJ and DOC systems. The commenter asked if DMS has plans to address this workforce shortage.

**Response:** DMS will continue to collaborate with key stakeholders including, but not limited to, DJJ and DOC, throughout the implementation period to plan for and ensure sufficient capacity and capabilities exist to provide the services outlined in the waiver.

**Summary of Comment:** DMS received a comment from an individual asking if the 1115 waiver will only apply to those housed in state prisons and exclude those in county jail facilities.

**Response:** The waiver request is currently limited to individuals housed in state prisons or YDCs to facilitate timely implementation and ensure long-term success. Once the waiver has been established, Kentucky will evaluate opportunities to expand access to other carceral settings, such as county jails.

**Summary of Comment:** DMS received a comment from an MCO with several questions regarding implementation of the waiver (e.g., claims and rate setting, case management protocols, if services will be voluntary, and involvement of stakeholders).

**Response:** DMS acknowledges there will be many decisions to be made during the implementation period. For this reason, the waiver implementation timeline is designed to allow for continued consultation and collaboration among stakeholders to carefully consider all necessary decisions, including those identified by the commenter.

**Summary of Comment:** DMS received two comments from individuals offering general support for the waiver.

**Response:** DMS appreciates your support for this waiver and thanks you for your comment.

**Summary of Comment:** DMS received a comment from an individual offering support for the waiver and voicing concern that existing services may be cut or become more difficult to obtain.

**Response:** DMS appreciates your support for this waiver and thanks you for your comment. This waiver seeks to expand access to critical services for incarcerated individuals, and DMS has no intention of reducing services currently available to the populations of interest.

**Summary of Comment:** DMS received a comment from an advocacy organization offering support for the waiver.

**Response:** DMS appreciates your support for this waiver and thanks you for your comment.

**Summary of Comment:** DMS received a comment from an advocacy organization offering broad support for the waiver, as well as the decision to exclude pretrial detainees (i.e., a change from the Commonwealth's prior incarceration waiver request). The commenter also expressed concern about excluding individuals housed in county jails and suggested inclusion of this population in the waiver request.

**Response:** DMS appreciates your support for this waiver and thanks you for your comment. The waiver request is currently limited to individuals housed in state prisons or YDCs to facilitate timely implementation and ensure long-term success. Once the waiver has been established, Kentucky will evaluate opportunities to expand access to other carceral settings, such as county jails.

**Summary of Comment:** DMS received a comment from an individual offering support for the waiver. The commenter also recommended that, in addition to providing MAT services in the 60 days prior to release, all inmates be screened for hepatitis C, and, if positive, that treatment be initiated within sufficient time to be completed prior to release. The commenter further recommended that inmates unable to initiate treatment while incarcerated be dispensed a full course of treatment in their first encounter upon release.

**Response:** DMS appreciates your support for this waiver and thanks you for your comment. This waiver aims to address the specific concerns outlined in SMDL-23-003, and responsibility for general health concerns of incarcerated individuals remains with DOC. Should an individual be diagnosed with and begin receiving treatment for any physical or mental health disorders prior to release, all clinically appropriate medications will be provided for 30 days post-release under this waiver.

**Summary of Comment:** DMS received a comment from an advocacy organization offering general support of many components of the waiver. The commenter also recommended establishing mechanisms for correctional facilities to contract with Medicaid providers independently. The commenter further expressed concerns about excluding pre-adjudicated defendants from the waiver, citing the potential for higher conviction rates and increases in the prison population. Finally, the commenter recommended incorporating vocational training into the waiver and requested continuing engagement with stakeholders throughout the waiver implementation period.

**Response:** DMS appreciates your support for this waiver and thanks you for your comment. DMS aims to align the waiver with SMDL-23-003, which seeks to “improve care transitions for *incarcerated individuals exiting a public institution* and who are otherwise eligible for Medicaid” (emphasis added). The waiver will not change the way laws are enforced or prosecuted, and it does not prolong or encourage incarceration in order to receive treatment. Once the waiver has been established, Kentucky will evaluate opportunities to expand the service array offered to participants. Further, DMS acknowledges there will be many decisions to be made during the implementation period. For this reason, the waiver implementation timeline is designed to allow for continued consultation and collaboration among stakeholders.

**Summary of Comment:** DMS received a comment from an advocacy organization offering support for the waiver and recommending inclusion of jails and county institutions.

**Response:** DMS appreciates your support for the waiver and thanks you for your comment. The waiver request is currently limited to individuals housed in state prisons or YDCs to facilitate timely implementation and ensure long-term success. Once the waiver has been established, Kentucky will evaluate opportunities to expand access to other carceral settings, such as county jails.

**Summary of Comment:** We received a comment from an advocacy organization expressing general support for the waiver. The commenter also recommended the expansion of pre-release services to 90 days to allow for the completion of treatment for hepatitis C prior to release, the inclusion of jails, and the development of strict reporting guidelines for MCOs to document outreach and case management.

**Response:** DMS appreciates your support for the waiver and thanks you for your comment. This waiver aims to address the specific concerns outlined in SMDL-23-003, and responsibility for general health concerns of incarcerated individuals remains with DOC. The waiver request is currently limited to individuals housed in state prisons or YDCs to facilitate timely implementation and ensure long-term success. Once the waiver has been established, Kentucky will evaluate opportunities to expand access to other carceral settings, such as county jails. Finally, DMS acknowledges there will be many decisions to be made during the implementation period. For this reason, the waiver implementation timeline is designed to allow for continued consultation and collaboration among stakeholders, including MCOs, to carefully consider all necessary decisions, including those identified by the commenter.

**Summary of Comment:** DMS received a comment from an advocacy organization expressing general support for the waiver and recommending that the waiver should seek to: 1) prevent incarceration through the provision of community-based services; 2) include coordinated enrollment pre-release; 3) include case management to address physical health, behavioral health, and HRSN up to 60 days pre-release and 12 months post-release; 4) address hepatitis C in carceral settings; and 5) add 12 month continuous Medicaid coverage for all members post-release from carceral settings.

**Response:** DMS appreciates your support for the waiver and thanks you for your comment. DMS aims to align the waiver with SMDL-23-003. Once the waiver has been established, Kentucky will evaluate opportunities to expand the service array offered to participants.

**Summary of Comment:** DMS received comments from members of an advocacy organization

expressing general support for the waiver and recommending that the waiver: 1) include individuals in jails and individuals on probation or parole; 2) ensure individuals are not denied treatment due to a clean urine screen; 3) encourage collaboration between community partners and carceral facilities; 4) include additional funding for MAT and treatment of mental health; 5) expand Medicaid to cover additional populations; 6) attempt to eliminate additional barriers to relapse by providing access to employment, transportation, and housing; and 7) increase collaboration with community mental health counselors.

**Response:** DMS appreciates your support for the waiver and thanks you for your comment. DMS aims to align the waiver with SMDL-23-003. Once the waiver has been established, Kentucky will evaluate opportunities to expand the service array offered to participants, as well as opportunities to expand access to other carceral settings, such as county jails. Further, DMS acknowledges there will be many decisions to be made during the implementation period. For this reason, the waiver implementation timeline is designed to allow for continued consultation and collaboration among stakeholders to carefully consider all necessary decisions, including those identified by the commenter. Finally, expansion of Medicaid coverage for additional populations is beyond the scope of this waiver.

## **Waiver Revisions**

While no changes have been made to the waiver as a result of public comments received, DMS has incorporated additional information in the *Administrative* section, beginning on page 13, to describe the efforts undertaken by DBHDID to support the justice-involved population. This addition does not make any substantive changes to the waiver and is only intended to provide CMS with supplemental information to support its review of the waiver submission. Pursuant to direction received from CMS, DMS has also updated the *Budget Neutrality* section, beginning on page 26, to address the inclusion of Kentucky CHIP expenditures for both the general population and populations included under this waiver. This addition does not make any substantive changes to the waiver and is only intended to provide CMS with supplemental information to support its review of the waiver submission.