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The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
House of Representatives

The Honorable Joseph Pitts
Chairman
Subcommittee on Health
Committee on Energy and Commerce
House of Representatives

Medicaid: Information on Inmate Eligibility and Federal Costs for Allowable Services

Medicaid, a joint federal and state health care program, covered health care services for more than 72 million individuals at a cost to the federal government of \$262 billion in 2013.¹ In 2014, Medicaid is expected to cover as many as 7 million more individuals as a result of the Patient Protection and Affordable Care Act (PPACA),² most of whom will be low-income adults, a population that may include inmates in state prisons and local jails.³ Federal law prohibits states from obtaining federal Medicaid matching funds for health care services provided to inmates with the exception of when inmates are patients in medical institutions.⁴ Under this exception, inmates who are eligible for Medicaid are admitted to hospitals or other qualifying facilities for at least 24 hours. In these cases, inpatient services qualify for federal Medicaid matching funds and are therefore allowable (hereafter referred to as allowable services). The intent of the federal prohibition is to ensure that federal Medicaid funds are not used to finance care that is the responsibility of state and local authorities.⁵

¹The federal government matches state Medicaid service expenditures based on a statutory formula known as the Federal Medical Assistance Percentage (FMAP). The FMAP depends on each state's per capita income and may range from 50 to 83 percent.

²Pub. L. No. 111-148, 124 Stat 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010 (HCERA), Pub. L. No. 111-152, 124 Stat. 1029 (2010). For purposes of this report, references to PPACA include the amendments made by HCERA.

³For purposes of this report, we define inmates as individuals incarcerated in state prisons, local jails, or facilities under contract with states or local authorities, such as counties. Inmates in state prisons are typically individuals sentenced for more than one year. Inmates in local jails are typically individuals with a sentence of less than one year or awaiting adjudication. We did not include federal prisoners in the scope of our work, because officials from the Federal Bureau of Prisons, which oversees federal prisons, told us that the Bureau is not enrolling prisoners in Medicaid for purposes of obtaining federal Medicaid funds for inpatient services that qualify for such funds.

⁴42 U.S.C. § 1396d(a)(29)(A).

⁵The U.S. Supreme Court has determined that state and local correctional facilities are required to provide health care services to inmates in accordance with the Eighth Amendment of the Constitution. See, e.g., *Estelle, et al. v. Gamble*, 429 U.S. 97 (1976), *Brown, et al. v. Plata, et al.*, 131 S. Ct. 1910 (2011).

Historically, Medicaid eligibility for adults has been limited to certain categories of low-income individuals—such as pregnant women and those who are aged or disabled.⁶ Beyond these categories, some states have opted to extend coverage to certain low-income childless adults. Within this limited Medicaid eligibility for adults, some states were enrolling eligible inmates in Medicaid and obtaining federal funds for allowable services prior to 2014. While PPACA does not change the prohibition on obtaining federal Medicaid funds for inmate care outside of when inmates are patients of medical institutions, it provides for a significant expansion of Medicaid eligibility for adults by giving states the option of covering non-pregnant, non-elderly individuals with incomes up to 133 percent of the federal poverty level (FPL) beginning in January 2014.⁷ PPACA also provides enhanced federal matching funds for states that choose to expand Medicaid, with the federal government financing 100 percent of care for newly eligible individuals in the first 3 years.⁸ As of June 2014, 27 states had opted to expand Medicaid, and in these states the number of inmates eligible for Medicaid likely increased.⁹

Financing health care for inmates can be a significant portion of state correctional spending for some states with health care costs ranging from an estimated 6 percent to 33 percent of institutional corrections spending in 2008, the most recent estimate available.¹⁰ The combination of expanded Medicaid eligibility and enhanced funding for those newly eligible as allowed under PPACA gives states additional incentives to enroll inmates in Medicaid and obtain federal matching funds, and increases the federal responsibility for financing allowable services for inmates. Questions exist about the potential costs to the federal government, because little is known about how many inmates are eligible for Medicaid or the extent to which states are obtaining federal matching funds for allowable services.

You requested that we examine information on enrollment and federal Medicaid costs for inmates. In this report, we provide information on the proportion of inmates eligible for Medicaid, and state efforts to enroll inmates in Medicaid and obtain federal matching funds for allowable services.

To provide information on the proportion of inmates eligible for Medicaid, and state efforts to enroll inmates and obtain federal matching funds for allowable services, we collected information from six states. We selected states that were geographically diverse; expanded Medicaid as allowed under PPACA (California, Colorado, New York, and Washington) and did not expand Medicaid eligibility (North Carolina and Pennsylvania); and accounted for at least 20 percent of Medicaid beneficiaries, Medicaid spending, and state prison populations

⁶Under federal law, states are required to cover certain populations, such as pregnant women with incomes up to 133 percent of the federal poverty level (FPL) and have the option to cover additional populations, such as pregnant women with income between 133 and 185 percent FPL. FPL is a measure of income level that is set annually by the Department of Health and Human Services and used to determine eligibility for certain programs, including Medicaid.

⁷PPACA also provides for a 5 percent disregard when calculating income for determining Medicaid eligibility for this population, which effectively increases this income level to 138 percent FPL. In 2014, 138 percent FPL for a family of four was \$32,913.

⁸States receive enhanced federal matching funds with the government covering all Medicaid costs through 2016, with an incremental decrease to 90 percent by 2020. For individuals who are not newly eligible for Medicaid under this new category established by PPACA, states will continue to receive their regular matching rate for services provided.

⁹For purposes of this report, we define states as the 50 states and the District of Columbia. Some of these states chose to expand Medicaid eligibility to cover some of these low-income individuals prior to 2014.

¹⁰Corrections institutions include facilities, such as prisons and detention centers, and programs, such as education and training for inmates. See The PEW Charitable Trusts, *Managing Prison Health Care Spending* (Philadelphia, Pa.: Revised January 2014).

nationwide. (See enclosure I for more information on our selected states.) We interviewed Medicaid and corrections officials from the selected states to collect information and documents on inmate eligibility for Medicaid and state and local policies and practices for enrolling prison and jail inmates and obtaining federal matching funds. Additionally, when available from the selected states, we collected and analyzed estimates on the proportion of prison inmates eligible for Medicaid as of 2014 and data on the number of inmate inpatient stays, number of inpatient stays for inmates eligible for Medicaid, and federal matching funds obtained for allowable services in 2013, the most recent complete year of available data.¹¹ As part of our data collection efforts, we obtained information on data sources and limitations, and based on officials' responses, we determined that the data were sufficiently reliable for our purposes. We also reviewed relevant documents and data from the Centers for Medicare & Medicaid Services (CMS)—the federal agency responsible for overseeing the Medicaid program—on Medicaid eligibility for inmates and federal Medicaid expenditures for inpatient stays for federal fiscal year 2013. Additionally, we interviewed officials from CMS, national organizations including associations that represent state Medicaid directors and corrections officials, and other stakeholders to collect information on factors that affect inmates' eligibility for Medicaid.

We conducted this performance audit from March 2014 through September 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

According to CMS guidance issued in 1997, inmates in a correctional facility may be eligible for Medicaid, but federal law prohibits states from obtaining federal matching funds for health care services provided to inmates, except when they are patients of a medical institution.¹² For a service to qualify for federal matching funds, an inmate must be admitted as a patient in a medical facility, such as a hospital, for 24 hours or more, and the admitting facility must meet criteria for being a non-correctional medical facility. Inpatient services provided in, for example, prison hospitals or jail infirmaries do not qualify for federal matching funds. Further, outpatient services provided to inmates by non-corrections medical facilities do not qualify for federal matching funds.¹³

State Medicaid agencies regularly submit Medicaid enrollment and expenditure data to CMS, but the agency does not require that these data identify enrollees as inmates or services provided to inmates. In addition, state Medicaid agencies are not required to track inmates enrolled in Medicaid or Medicaid expenditures for allowable services. As a result, state Medicaid agencies may not be able to identify enrollees who are incarcerated or claims for allowable

¹¹Because jails are generally not operated by state corrections departments, we did not request data or estimates on local jail inmates from the selected states.

¹²Once an individual is released from prison, the prohibition on obtaining federal matching funds no longer applies. If an individual is eligible for and enrolled in Medicaid, states may obtain federal matching funds for any covered service regardless of whether the individual had prior incarcerations or ongoing involvement with the correctional system, such as parole or probation.

¹³CMS officials reported that, as of July 2014, the agency was working on additional guidance to clarify the definition of inmates, the exception of federal matching funds being allowed for inpatient services for inmates, and the requirements for inpatient hospitals providing such services to inmates.

services provided to inmates. In addition, corrections departments' processes for obtaining Medicaid funds for allowable services can affect data they may collect on Medicaid financing for such care.

- For example, a state's department of corrections may have contracts with hospitals requiring them to bill Medicaid directly for any allowable services provided to inmates, and the state's Medicaid agency may pay the state's share of the cost for services. Under this scenario, the department of corrections may know how many inpatient stays occurred, but may not have information on the amount of federal matching funds received by the state Medicaid agency.
- Alternatively, a state's department of corrections may be responsible for financing the state share of the cost of allowable service and, therefore, track data on federal matching funds obtained for allowable services.

Data suggest that around 45 percent of prison inmates are in states that expanded Medicaid. At the end of calendar year 2012, there were about 1.4 million inmates in state prisons,¹⁴ of which about 600,000 were in prisons in the 27 states that expanded Medicaid eligibility as allowed under PPACA. Similarly, about 43 percent of the 748,000 inmates in jails at the end of March 2006 (the most recent available data)¹⁵ were incarcerated in those 27 states.

While the Majority of Inmates in States with Medicaid Expansions Are Likely Eligible for Medicaid, Just a Small Proportion of Inmates Are Likely to Receive Services Eligible for Federal Medicaid Funds

In 2014, the majority of inmates in the 27 states that expanded Medicaid eligibility to low-income individuals as allowed under PPACA are likely to meet the income requirements and be eligible. For example, officials from New York and Colorado—two of our selected states that expanded Medicaid eligibility—estimated that 80 percent and 90 percent of state prison inmates, respectively, were likely eligible for Medicaid as of 2014. In a state study, California estimated that once the state expanded Medicaid in 2014, 72 percent of inmates receiving offsite services would qualify for Medicaid, and the remaining 28 percent would be ineligible based on non-financial eligibility factors related to lawful residence in the United States and provision of a valid Social Security number.¹⁶ Conversely, a small percentage of inmates are likely eligible for Medicaid in the remaining 24 states where eligibility has largely been limited to certain categories of low-income individuals, such as pregnant women and individuals who are aged or disabled. For example, correctional officials from North Carolina—where eligibility was not expanded—told us that about 2 percent of inmates in the state's prisons are eligible for Medicaid at any given time.¹⁷

¹⁴See Department of Justice, Bureau of Justice Statistics, *Prisoners in 2012 Trends in Admissions and Releases, 1991-2012*, NCJ 243920 (Washington, D.C.: December 2013).

¹⁵See Department of Justice, Bureau of Justice Statistics, *Census of Jail Facilities, 2006*, NCJ 230188 (Washington, D.C.: December 2011).

¹⁶See Legislative Analyst Office. *The 2013-2014 Budget: Obtaining Federal Funds for Inmate Medicaid Care—A Status Report*, (Sacramento, Calif.: 2013).

¹⁷Washington, which expanded Medicaid eligibility as allowed under PPACA, and Pennsylvania, which did not expand Medicaid, could not provide us with estimates of the percentage of inmates likely eligible for Medicaid.

The proportion of inmates who receive allowable services is likely small, as illustrated by data from our selected states. Data from four of our selected states—the four that were able to provide data—showed that the proportion of state prison inmates who were both eligible for Medicaid and received allowable services ranged from 1.0 percent to 2.3 percent in 2013, the most recent complete year of available data.¹⁸ In states that expanded Medicaid eligibility, the percentage of inmates who receive allowable services will likely increase in 2014. However, 2013 data from California and Washington—two of the four selected states that expanded eligibility and had data on allowable services—showed that the percentage of inmates with inpatient stays was less than 5 percent, indicating that even with increases in eligibility the percentage of inmates with allowable services may remain relatively small. (See table 1.)

Table 1: State Prison Inmates with Inpatient Stays and Medicaid-Eligible Inmates with Allowable Inpatient Stays as a Percentage of Total Inmates, Selected States, Calendar Year 2013

State	Number of inmates	Number of inmates with inpatient stays	Percentage of inmates with an inpatient stay	Number of Medicaid-eligible inmates with allowable inpatient stays	Percentage of inmates with allowable inpatient stays
California	125,462	5,691	4.5%	2,905	2.3%
Pennsylvania	51,512	N/A	N/A	904	1.8%
North Carolina	35,392	1,044	3.0%	341	1.0%
Washington	18,022	305	1.7%	178	1.0%

Source: GAO analysis of state reported data. | GAO-14-752R

Notes: Allowable inpatient stays are when Medicaid-eligible inmates are admitted to qualifying facilities, such as offsite hospitals, for 24 hours or more. These stays qualify for federal Medicaid matching funds.

N/A indicates that data were not available.

Data from our selected states also indicated that federal Medicaid matching funds obtained for allowable services provided to prison inmates were small relative to total federal Medicaid expenditures for inpatient services for all Medicaid beneficiaries. Officials from all six selected states reported enrolling inmates in Medicaid and obtaining federal funds in 2014 and previous years. In the four selected states that were able to provide data for 2013,¹⁹ the amount of federal matching funds obtained ranged from \$1.3 million in Washington to \$38.5 million in

¹⁸Colorado and New York could not provide data on the number of Medicaid-eligible inmates that received allowable services in 2013. Colorado officials told us that they did not track this information in 2013. New York officials reported that in 2013, 2,810 inmates out of 54,196 (5.2 percent) had an inpatient stay, but officials had not yet determined how many of these inmates were Medicaid-eligible.

¹⁹Colorado and New York could not provide data on federal matching funds for 2013. Colorado officials told us that they were not tracking such data in 2013. New York officials told us that they are submitting claims retroactively, but they have not finished doing so for 2013. New York corrections officials told us their budget was reduced by \$14 million a year beginning in state fiscal year 2012 to account for estimated savings from obtaining federal funds for allowable services.

California.²⁰ These funds accounted for a small percentage of these states' total federal matching funds for inpatient services provided to all beneficiaries, from 0.1 percent to 1.0 percent. (See table 2.) The amount of federal matching funds obtained could increase in 2014 and beyond in the states that expanded Medicaid eligibility in 2014. For example, Colorado Medicaid officials told us that prior to 2014, there were few inmates eligible for Medicaid and therefore the federal matching funds obtained were limited; but for 2014, officials estimated they would receive \$2.5 million in federal matching funds. Similarly, Washington corrections officials told us their combined budget for state fiscal years 2014 and 2015 was reduced by a total of \$2.2 million due to projections of more inmates qualifying for Medicaid.

Table 2: Federal Medicaid Funds Obtained by Selected States for Allowable Inpatient Services for State Prison Inmates as a Percentage of Federal Funds for Inpatient Services for All Beneficiaries, Calendar Year 2013

State	Federal funds for allowable inpatient services for inmates (millions)	Federal funds for inpatient services for all beneficiaries (millions)	Percentage of federal funds for allowable inpatient services for inmates
California	\$38.5	\$4,055.4	1.0%
Pennsylvania	\$7.1	\$720.1	1.0%
Washington	\$1.3	\$418.5	0.3%
North Carolina	\$2.5	\$1,733.6	0.1%

Source: GAO analysis of state reported and Centers for Medicare & Medicaid Services data. | GAO-14-752R

Note: Allowable inpatient services are services provided to Medicaid-eligible inmates who are admitted to qualifying facilities, such as offsite hospitals, for 24 hours or more. These services qualify for federal Medicaid matching funds.

In addition to obtaining federal matching funds for prison inmates, some states may be obtaining federal funds for allowable services for jail inmates. For example, Colorado Medicaid officials told us that Denver County jails enroll inmates in Medicaid to obtain federal matching funds. However, some smaller Colorado counties do not, and Medicaid officials told us that one reason for this is that the federal matching funds obtained may be less than the administrative costs associated with enrolling inmates and claiming funds for any allowable services they receive. Washington Medicaid officials told us that as of July 2014, six county corrections systems have started applying for Medicaid on inmates' behalves and are seeking federal matching funds for allowable services.²¹

²⁰Pennsylvania officials reported that the state received \$7.1 million in federal matching funds for allowable services provided to Medicaid-eligible inmates in 2013. Additionally, state officials reported that the State Legislature passed a law, which took effect in 2011, to finance inpatient care for inmates who are not eligible for Medicaid and who are uninsured with Medicaid disproportionate share hospital payments. (Disproportionate share hospital payments—required by federal law—are payments to hospitals that serve a disproportionate share of low-income and Medicaid patients to help offset hospitals' uncompensated costs for serving these individuals.) State officials reported that the state received about \$534,000 in federal Medicaid funds in 2013 for inpatient care for inmates not eligible for Medicaid through disproportionate share hospital payments. CMS issued guidance in 2002 clarifying its policies on disproportionate share hospital payments. As explained in this guidance, because states are obligated to cover inmates' medical care in accordance with the Eighth Amendment of the Constitution, inmates are not uninsured and, therefore, states cannot make disproportionate share hospital payments to cover the cost of their care. In reference to Pennsylvania's law, CMS officials confirmed that a state cannot use disproportionate share hospital payments to finance care for inmates who are not eligible for Medicaid.

²¹There are 39 counties in Washington.

Two of our selected states—Colorado and New York—were implementing efforts as of July 2014 that could increase the amount of federal funds obtained for allowable services for inmates; and the four other selected states had taken similar steps to increase federal Medicaid funds, generally prior to 2014. These efforts included hiring or training staff to assist with inmate enrollment; upgrading Medicaid eligibility systems, which, for example, will allow for electronic inmate enrollment; requiring contracted hospitals to accept Medicaid rates or obtain Medicaid reimbursement for allowable services; and suspending Medicaid enrollment for inmates upon incarceration rather than terminating their enrollment. (See table 3.) For example, Colorado Medicaid officials told us that under a policy of suspending inmates’ enrollment, an inmate’s enrollment could be reactivated upon receiving allowable inpatient services rather than having to submit an application and complete a new eligibility determination.

Table 3: Selected States’ Efforts to Increase Federal Medicaid Matching Funds for Allowable Inpatient Services Provided to State Prisons Inmates, Completed or in Process as of July 2014

State	Hired or trained staff to assist in enrolling inmates	Upgraded Medicaid eligibility system	Required contracted hospitals to accept Medicaid rates and/or obtain Medicaid reimbursement for allowable services	Suspended rather than terminated Medicaid enrollment upon incarceration
California		X		X
Colorado	X	X	X	X
New York	X	X	X	X
North Carolina	X		X	X
Pennsylvania	X		X	
Washington	X	X	X	

Source: GAO analysis of state reported information. | GAO-14-752R

Note: Allowable inpatient services are services provided to Medicaid-eligible inmates who are admitted to qualifying facilities, such as offsite hospitals, for 24 hours or more. These services qualify for federal Medicaid matching funds.

Concluding Observations

With the expansion of Medicaid eligibility as allowed under PPACA, understanding the characteristics and costs of the newly eligible population will be important to future policymaking. Inmates in state prisons and local jails who meet state program requirements have long been eligible for Medicaid, and some states have previously obtained federal matching funds for allowable services. However, the proportion of inmates eligible in many states was likely small prior to PPACA when eligibility for adults was generally limited to certain populations, such as pregnant women and individuals who are aged or disabled. Estimates from officials in North Carolina—who told us that 2 percent of inmates are eligible at any given time—indicates as much. In 2014, the number of inmates eligible for Medicaid likely increased in the 27 states that expanded eligibility for low-income adults, a population that includes inmates; however, federal law continues to limit federal matching funds to specific circumstances—when inmates are patients of medical institutions. While states may have efforts underway to increase federal Medicaid funds obtained for inmate inpatient care, data from our selected states indicate that a small portion of all inmates are likely to have such inpatient stays—about 5 percent or less. As a result, increases in federal spending on inmate care due to Medicaid expansion are likely to be limited.

Agency Comments

We provided a draft of this report to the Department of Health and Human Services (HHS) for comment. HHS provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Secretary of HHS and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7114 or yocomc@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. In addition to the contact named above, Susan Barnidge, Assistant Director; Kristin Ekelund; Matthew Gever; Drew Long; and Hemi Tewarson made key contributions to this report.



Carolyn L. Yocom
Director, Health Care

Enclosures – 1

Medicaid and Inmate Information for Selected States

State	Number of Medicaid beneficiaries ^a	Percentage of national Medicaid enrollment ^a	Medicaid payments ^b (in billions)	Percentage of national Medicaid payments ^b	Number of inmates in state prisons ^c	Percentage of national state prison population ^c	Number of inmates in local jails ^d	Percentage of national jail population ^d
California	11,212,114	17%	\$34.7	10%	134,534	10%	79,193	11%
Colorado	681,802	1	3.3	1	20,462	2	14,129	2
New York	5,011,087	8	42.7	13	54,210	4	32,324	4
North Carolina	1,876,395	3	9.6	3	37,136	3	17,682	2
Pennsylvania	2,325,603	4	15.9	5	51,125	4	35,948	5
Washington	1,330,417	2	6.3	2	17,271	1	12,939	2
Total^e	22,437,418	34%	\$112.5	33%	314,738	23%	192,215	26%

Source: GAO analysis of Centers for Medicare & Medicaid Services and Bureau of Justice Statistics data. | GAO-14-752R

Notes: Data included are from the most recent year that complete data were available.

^aMedicaid beneficiaries in fiscal year 2010.

^bMedicaid payments include the federal and state share for claims that were adjudicated during fiscal year 2010.

^cNumber of state prison inmates on December 31, 2012.

^dNumber of local jail inmates on March 31, 2006.

^eNumbers may not add due to rounding.

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