Kentucky Department of Medicaid Services
1115 SUD Demonstration Proposed Amendment
Continuity of Care for Incarcerated Members
November 24, 2020

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Section I – Program Description

Objective & Rationale

Kentucky is requesting approval from the Centers for Medicare and Medicaid Services (CMS) for an amendment to its Medicaid KY Health 1115 Demonstration to authorize federal Medicaid matching funds for the provision of substance use disorder (SUD) treatment to eligible incarcerated members. Coverage for these services is requested for persons incarcerated in state and county facilities.

Addiction, particularly opioid use disorder (OUD), remains one of the most critical public health and safety issues facing the Commonwealth of Kentucky. Over the past decade, the number of Kentuckians who die from drug overdoses has steadily climbed to a peak of more than 1,400 in 2017[1], exacting a devastating toll on families, communities, social services and economic growth. Despite observing the first decrease in overdose deaths in 2018, drug overdose fatalities remain above the national average, with Kentucky ranking 9th highest in the United States*1*.

Kentucky is among the states that have been most impacted by the opioid epidemic. To combat the opioid epidemic, Kentucky has made far-reaching executive, legislative, and judicial policy changes to address the opioid epidemic. Over the previous 15 years, many of these reforms have focused on criminal justice initiatives. As will be discussed later, Kentucky utilizes drug courts, "rocket dockets", alternative social worker sentencing programs, and other diversion mechanisms to redirect as many justice-involved members as possible away from longer sentences of incarceration. Furthermore, Kentucky has made substantial steps in recent years to offer a full continuum of SUD treatment within the Medicaid program. Without Medicaid funding, a dedicated staff at Kentucky's Department of Corrections (DOC) has managed to increase SUD treatment slots from 300 to almost 3,000. However, despite the advances that have been made, a substantial population of members remain untreated in Kentucky's jails and prisons. Kentucky is proposing with this amendment that current in-prison initiatives are enhanced and that additional treatment capacity is created and funded.

Research shows that of the 2.3 million people in American prisons and jails, more than 65% meet the criteria for addiction.[2] The relapse rate for substance use disorders is estimated to be between 40% and 60%. This rate is similar to rates of relapse for other chronic diseases such as hypertension or asthma. Releasing members who were incarcerated without connections to healthcare providers, medical coverage, safe and stable housing, or a support system can greatly increase their risk of relapse, overdose, and death. It has been estimated that members returning to the community after

[1] https://odcp.ky.gov/Reports/2018%20Kentucky%20Overdose%20Fatality%20Report%20.pdf

[2] Sack, D. (2014). We can't afford to ignore drug addiction in prison. *The Washington Post*.

incarceration are 12.9 times more likely to die from an overdose than the general population.[3]

Drug treatment studies for in-prison populations find that when programs are well-designed, carefully implemented, and utilize effective practices they:

- reduce relapse
- reduce criminality
- reduce recidivism
- reduce inmate misconduct
- increase the level of the individual's stake in societal norms
- increase levels of education and employment upon return to the community
- improve health and mental health symptoms and conditions
- improve relationships2

Currently in Kentucky, approximately 23,071 men and women are incarcerated under the authority of DOC. Treatment allotment for SUD is approximately 2650. The Medicaid recipient incarceration total, as of June 22, 2020, is 6,217. The approval of this amendment will allow DOC to increase the allotment for SUD treatment within all facilities. Also, with the approval, DOC will be able to hire more staff, engage members in treatment during incarceration and expand the ability of aftercare.

The amendment will have two (2) general objectives. First, Kentucky proposes to provide SUD treatment to eligible incarcerated members in order to ensure this high risk population receives needed quality treatment before release, and to strengthen follow up care with a Medicaid provider after release by paying for SUD treatment while incarcerated. Second, this amendment proposes to transition the incarcerated member to their chosen MCO an average of thirty (30) days prior to their release date in order to coordinate referrals and assessments to their community treatment providers. The Medicaid funding allowed by this proposal will allow for expansion of critical services to decrease relapse, recidivism, overdoses and other health concerns.

Legislative Background

The passage of HB 352 during the 2020 Regular Session requires Kentucky Department for Medicaid Services (DMS) to prepare and request a waiver from the federal government to provide some services, including peer support and SUD treatment and care navigation, to Medicaid eligible incarcerated members. In addition, DMS is operating under a general directive from HB 124 of the 2018 Regular Session**.** HB 124 required the Cabinet for Health and Family Services to complete a

[3] Binswanger, I.A., Stern, M.F., Deyo, R.A., Heagerty, P.J., Cheadle, A., Elmore, J.G., & Koepsell, T.D. (2007). Release from prison – A high risk of death for former inmates. *New England Journal of Medicine, 356*(2), 157-165.

comprehensive review of quality standards for substance use disorder treatment and recovery services and programs; specify that licensure and quality standards be based on nationally recognized and evidence-based standards, standardized outcome measures, a reporting process, and conditions for reimbursement and required the cabinet to promulgate administrative regulations to implement the licensure and quality standards.

The legislative impetus is complemented by a longstanding interest of DMS in this matter. DMS has been evaluating the possibility for a waiver or waiver amendment prior to the passage of HB 352. 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.

Overview of Kentucky efforts that support the DOC population

Substance use disorder treatment for justice involved members is a priority in Kentucky. As such, many programs and initiatives are carried out in collaboration between the Justice and Public Safety Cabinet and the Cabinet for Health and Family Services in which DMS is located with the purpose of strengthening the relationship between the care provided during incarceration and the care offered by Medicaid providers upon release.

Key to this linkage is prompt enrollment and activation of Medicaid benefits upon release from incarceration. Access to services is especially important for members with SUD, given the elevated risk of return to use and overdose death following release from incarceration[4]. 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. Between 2014 and 2018, there were 30,327 incidents where members were incarcerated. The mean number of days from release to the reinstatement of benefits was 77 days and the mean number of days from release to reenrollment was 138 days. This delay is compounded by high utilization in the 30 days following release as demonstrated in calendar year 2019, when 25% of beneficiaries had an SUD-related claim, 20% had a primary care claim, and 12% were seen in the emergency room.

For the improvement of access to Medicaid following release from incarceration, the Commonwealth of Technology (COT), on behalf of the Executive Branch, has entered into a contract with DOC's software vendor, APPRISS, to link incarceration data with Medicaid and other administrative datasets. The linkage and alert systems, which is set to be operational by the end of 2020, will enable the automatic suspension and activation of Medicaid following release from incarceration through Medicaid's Integrated Eligibility and Enrollment System (IEES). This data sharing infrastructure will also facilitate tracking recovery outcomes on members released, such as employment, education and non-emergent utilization of healthcare.

[4] Binswanger, I.A., Stern, M.F., Deyo, R.A., Heagerty, P.J., Cheadle, A., Elmore, J.G., & Koepsell, T.D. (2007). Release from prison – A high risk of death for former inmates. *New England Journal of Medicine, 356*(2), 157-165.

Kentucky is also piloting efforts to improve reentry with the following goals: 1) improve outcomes for people with SUD and severe mental illness (SMI), 2) decrease recidivism; 3) overcome barriers to information exchange between Medicaid partner's including DOC and MCOs, and 4) clarifying the actions MCO personnel can undertake, especially in working with the newly established four domain teams. The Reentry Pilot Program began in February 2018 with collaboration from the National Governor's Association (NGA). The intervention is a four member team coordinating care for those reentering the community from the Kentucky State Reformatory (KSR) and the Kentucky Correctional Institute for Women (KCIW). The team composition includes DOC staff specifically involved in reentry services, specialized parole officers (trained to better support needs related to SMI or SUD; and having smaller caseloads), MCO reentry coordinators, and personnel affiliated with community mental health centers who are funded outside of Medicaid to assist in developing and implementing care during incarceration.

Alongside reducing structural barriers to care, Kentucky has developed and enhanced licensure and quality standards for SUD treatment and recovery. Most importantly, Kentucky implemented the American Society of Addiction Medicine (ASAM) criteria within all behavioral health and SUD Medicaid regulations. All ASAM levels of care are now available via Kentucky Medicaid as a result of this update to the regulations. The ASAM criteria is the most widely used and comprehensive set of guidelines for placement, continued stay and transfer/discharge of patients with addiction and co-occurring disorders[5]. DMS has also worked with sister agencies to restructure the Alcohol and Other Drug Entities (AODE) licensure to incorporate DOC and the treatment of SUD while incarcerated.

Kentucky DOC and DMS also leverage a partnership with the Kentucky Department for Behavioral Health, Developmental, and Intellectual Disabilities (DBHDID), called the Kentucky Opioid Response Effort (KORE). Awarded by the Substance Abuse and Mental Health Services Administration (SAMHSA), the purpose of KORE is to decrease overdose deaths and increase access to high quality, evidence based prevention, treatment, and recovery support services. The following projects serve justice involved members and are being implemented by various agencies throughout Kentucky state government.

Building from the lessons learned from the Reentry Pilot Program, a Community Reentry Coordination pilot program has been established by KORE to identify members diagnosed with an OUD 180 days prior to release from Kentucky state prisons and provides in reach and reentry support critical to the reintegration process. Seven in reach Coordinators, employed by community mental health centers, provide reintegration services including in reach into select prisons, collaboration with DOC reentry staff, assessment and service planning, targeted case management, connection to peer services, supported housing and employment, and coordination with a MCO reentry coordinator who ensures that insurance is activated and preauthorization's are managed.

[5] https://www.asam.org/quality=practice/guidelines-and-consesus-docuemnts/the-asam-criteria

Given the importance of continued access to Medication Assisted Treatment (MAT) following incarcerations, KORE has established a pharmacy based care delivery model for the administration of Vivitrol injections by community pharmacists. Partnerships between treatment providers, the DOC, and pharmacists are being established to provide Vivitrol injections, as well as naloxone and training on overdose prevention. In addition, Kentucky has also added methadone coverage for the treatment of SUD via the state plan.

Recognizing that employment decreases the likelihood of reincarceration and is often a key component of long term recovery, in partnership with the DOC, KORE has funded ten (10) Reentry Employment Program Administrators throughout the state to provide employment supports to members in recovery that are reentering their communities from correctional settings. Employment Administrators are placed at probation and parole offices to support employment and work closely with local businesses to identify safe and stable opportunities for employment.

Transportation is also a critical barrier to many justice involved members that can lead to failure to meet the terms of probation or parole and restrict access to treatment and recovery support. Recognizing this, in 2019 the DOC entered into a contract with Medicaid Non-Emergent Medical Transportation (NEMT) providers to provide transportation to SUD treatment to our probationers and parolees. The program is funded by a grant from the Kentucky Office of Drug Control Policy and is another example of Kentucky's efforts to remove barriers and help our people succeed in treatment and recovery.

In addition to policy enhancement and improving the quality of SUD treatment services, Kentucky is engaged in state and university partnerships to bring innovative science and leverage the capacity of nationally-recognized experts in SUD treatment. Two (2) significant research grants were awarded in 2019 to address Kentucky's opioid crisis by enhancing the system of care for members who are at high risk for opioid related overdose death. In the largest research grant ever received by the University of Kentucky (UK), researchers in partnership with the Governor's office and Cabinet for Health and Family Services and Justice Cabinet launched a four year project through the National Institute of Health (NIH)'s HEALing (Helping End Addiction Long Term) Communities Study aimed at reducing opioid overdose deaths by 40 percent. The Women's Justice Community Opioid Innovation Network (WJCOIN) was awarded to UK, in partnership with the Justice Cabinet and Cabinet for Health and Family Services, to enhance access to opioid use disorder treatment for women as they transition from jail back to the community.

Over the previous decade, Kentucky has taken serious steps to improve and enhance the delivery of medical and behavioral health services via telehealth. A landmark piece of telehealth legislation passed as SB 118 during the 2018 Regular Session. That legislation required coverage of most synchronous and many asynchronous types of telehealth within the commercial insurance market and within the Medicaid program. As a result of implementing this legislation over the previous 2 years, Kentucky now has

one of the broader Medicaid telehealth benefits in the country. The COVID-19 pandemic has further encouraged provider and member adoption of telehealth. DMS has also further innovated and allowed for broader use of telehealth by residential SUD providers during the current pandemic.

This telehealth adoption by Kentucky's SUD providers creates an avenue by which many important, Medicaid quality services are now available via telehealth. Within Kentucky, many of these services would not have been available virtually from a technological or regulatory standpoint five years ago. Significantly, this opens up a major new population of members with a SUD to appropriate and effective evidence-based treatment.

Overview of DOC and SUD Treatment Services

The Kentucky DOC Division of Addiction Services provides substance abuse treatment services across the state through the Substance Abuse Program (SAP; see Figure 1). As part of the amendment to the 1115 Waiver, DMS is proposing that the evidence-based treatment efforts conducted through SAP be funded and expanded.

Figure 1. Location of Kentucky's Corrections-based Substance Abuse Treatment Programs (2019)

The University of Kentucky's Center on Drug and Alcohol Research (CDAR) monitors and evaluates the jail- and prison-based SAPs through the Criminal Justice Kentucky Treatment Outcome Study (CJKTOS). Between 6/1/19 and 6/1/20, 4,639 CJKTOS treatment intakes were completed for prison and jail SAP programs. Of these, 2,665 have been discharged through the CJKTOS Client Information System. Therefore, a daily current population can be estimated at **1,974** (though this is a point-in-time estimate of members who have completed a CJKTOS treatment intake, not an average). Stimulant, cannabis and opioid use disorders represent the most prevalent SUD diagnoses among SAP clients at intake (see Table 1.)

For individuals discharged between 6/1/19 and 6/1/20 from the CJKOTS Client Information System *(*N=4,362*),* the graduation rate for jail and prison based SAP programs was 64.4%

Table 1. Prevalence of SUDs in Jails and Prisons, 9/18/2019 – 6/1/2020 (*N*=3,225)

	DSM-V SUD Diagnosis			
	Mild	Moderate	Severe	Total
Stimulant	2.8%	3.4%	56.0%	62.2%
Cannabis	7.8%	7.1%	30.2%	45.1%
Opioid	1.9%	2.2%	40.5%	44.6%
Alcohol	4.0%	3.5%	22.6%	30.1%
Sedative	1.5%	1.5%	13.0%	16.0%
Hallucinogen	0.9%	0.5%	2.2%	3.6%
Inhalant	0.2%	0.2%	0.8%	1.2%
Begin date of 9/18/19 is based on the date CDAR began assessing SUD using the DSM-V criteria.[6] DSM-V (Diagnostic and Statistical Manual of Mental Disorders)				

The DOC's Division of Addiction Services has made significant strides in expanding treatment options for members under DOC supervision over the last ten years. This expansion has included an increase of treatment slots and expansion to allow for different levels of care consistent with ASAM.

The treatment approach had been described in earlier reports and is grounded in the key components of therapeutic community modalities (De Leon, 2000).[7] All of the SAP's use a modified therapeutic community, cognitive behavior therapy, motivational interviewing, the trans-theoretical model of change, 12 step facilitation, Marlatt's model of relapse prevention and milieu therapy. In addition, the Division of Addiction Services utilizes an evidence based curriculum, New Direction, in all of their SUD treatment services. The curriculum, developed by Hazelden Betty Ford, was selected based on its evidence of effectiveness and specialized focus on SUD and criminal justice involvement. Research shows New Directions reduces all three recidivism measures including rearrests, reconviction, and reincarceration. In addition, it received the highest rating for reducing recidivism from the Council of State Governments. Comprised of seven workbooks including introduction to treatment, criminal and addictive thinking, alcohol and other drug education, socialization, co-occurring disorders, relapse prevention and preparing for release, the curriculum allows participants to identify, challenge and replace distorted thinking to change criminal and addictive behavior. The Addiction Services' staff participated in a three (3) day training in 2019 with the trainers from Hazelden Betty Ford Foundation to become certified facilitators and support the implementation of the intervention with fidelity.

Addiction Services has been offering MAT in the form of Vivitrol since 2016 for members that meet the clinical and medical protocol. In 2019, Addiction Services received funding through KORE to allow administration of Buprenorphine formularies

[6] https://cdar.uky.edu/cjktos/Downloads/CJKTOS_FY2019_REPORT_FINAL.pdf

[7] De Leon, G. (2000). *The therapeutic community: Theory, model, and method*. New York: Springer Publishing Company.

(i.e., Suboxone, Sublocade) at three piloted locations; KCIW, Northpoint Training Center (NTC), and Blackburn Correctional Complex (BCC).

Addiction Services recognizes the importance of continuity of care. In 2018, a SAP aftercare specialized dorm was created for SAP graduates who were not granted parole. This dorm allows continued curriculum facilitation and additional reentry programs to prepare for release. There are plans to expand this model of treatment. In addition, all SAP participants complete an individualized aftercare plan. Once released from custody, SAP graduates are referred to Addiction Services' community staff, social services clinicians to allow for local community referrals for appropriate aftercare and recovery based supports.

Roederer Correctional Complex (RCC) is the largest institutional SAP in the state with a total client capacity of 200. In January 2016, DOC initiated family engagement sessions with the families of SAP clients at RCC who were preparing to complete the program. A collaboration of the Institution, SAP and reentry, these sessions were designed to bring the client's support system into the facility and to have a joint information session with the client and their family. These sessions are held in the evening to accommodate a greater number of schedules and allow more families to attend. During the sessions, staff from both SAP and reentry present information for the families that includes a look at what happens in SAP, information about SUD, recovery resources for supportive family members, and what to expect on supervision with probation and parole. The families can share a meal during the session and are free to ask questions throughout the evening. Each session receives a participant evaluation and recently a survey was sent out to help identify the barriers of those families that choose not to participate.

With the success of the program at RCC, DOC plans to replicate this initiative at all of the institutions that have a SAP program in 2020. In an effort to achieve standardization, the same information will be presented and provided during all of the sessions across the state. An official start date has not been set due to the constraints of the COVID-19 pandemic and the pause of visitation at the institutions.

In concert with the family engagement sessions at RCC, some of the other institutions have initiated family visitation days where the whole family, including the client's children are allowed to visit for an extended period of time. These visits have occurred at NTC with SAP clients and graduates and non-SAP clients at KCIW. KCIW has future plans to incorporate SAP clients into the family visitation days. During these extended visits, families engage in arts and crafts activities and share a meal together in a much more relaxed environment than exists during standard visitation opportunities. DOC plans to review these programs and determine if all of the SAP institutions could accommodate a family visitation day for the SAP participants. If replication is possible, DOC will provide the same information to all of the families that participate.

As a part of the continuum of care, DOC staff have implemented community engagement sessions that specifically target SAP graduates, their families and their additional support system. These sessions again focus on the recovery needs of SAP

graduates as they reenter but also addresses the basic living needs like food, shelter, childcare and job programs. The community engagement sessions are a joint effort between the Division of Addiction Services, the Division of Reentry Services and the Division of Probation and Parole. The collaboration also calls upon the community resources to attend and be a part of information sharing to make the client's transition more effective and remove as many barriers as possible.

DOC's commitment to reducing incarceration

The Kentucky legislature passed legislation that required DMS to prepare and request a waiver from the federal government to provide some services, including peer support and SUD treatment and care navigation, to Medicaid eligible incarcerated members.

In addition to expanding services and supports to improve access to high quality, evidence-based treatment for SUD, the Commonwealth has prioritized efforts aimed at diversion from incarceration with the goal of decreasing the number of members involved in the criminal justice system.

In 2011, the Kentucky General Assembly passed HB463, the first of several justice reform initiatives with the goal of decreasing overall incarceration. HB 463 contained several measures to reduce the number of persons with a SUD from receiving a felony conviction for possession offenses. KRS 218A.1451 instructs the court that a deferred prosecution in combination with treatment is the preferred response to a first offense possession charge. KRS 218A.275 allows the court to set aside a possession offense and void the conviction if the defendant successfully completes a substance abuse treatment program.

The progress from 2011's HB 463 was advanced by landmark legislation from 2015's SB 192, referred to as the heroin bill. This bill enhanced several aspects of Kentucky's response to the opioid crisis, including a strengthened emphasis on treatment over incarceration. Additional reforms included providing expanded access to naloxone and granting priority access to substance use treatment for pregnant women. In addition, this bill implemented and funded two new programs, Rocket Docket and Alternative Sentencing Worker, with the goal of reducing felony convictions for persons with SUD.

The Rocket Docket program places felony prosecutors at the district court level to rapidly assess individuals with low level felonies and place them in programs and services. The Alternative Sentencing Worker Program, operated by the Department for Public Advocacy, pairs criminal defense attorneys with Master's level social workers, who develop individualized treatment service plans or Alternative Sentencing Plans to present to the court in lieu of incarceration. This program allows individuals to be placed on supervised release and participate in community based treatment avoiding costs associated with incarceration in the criminal justice system.

For about a decade, Kentucky has been attempting to expand the Pretrial Substance Abuse Program (PSAP). This specific type of program could be broadly expanded if

limited Medicaid eligibility was granted to those incarcerated members with a SUD. This program offers SUD treatment to those members who are incarcerated in the pretrial stage. This program allows needed treatment for members who cannot pay for bail or who have other circumstances that keep them incarcerated before trial.

PSAP is available to all 120 counties in Kentucky but accessed by less than 10% and in fewer than 10 counties. The Division of Addiction Services has focused on educating more court officials to expand the availability of PSAP to many more jurisdictions. By expanding the availability of PSAP, DOC can treat the clients in the most critical need and avoid paying for clients on a long-term basis then if they were sentenced to serve their time for the original charges.

Section II – Demonstration Eligibility

Expansion Population		
Eligibility Group Name	Social Security Act and CFR Citations	Income Level
Incarcerated Members	N/A	0 - 138% of the FPL

Enrollment to Medicaid:

Reentry staff with the Department of Corrections (DOC) along with the kynectors that are part of a collaborative effort between healthcare providers, local organizations, and the Commonwealth of Kentucky to provide outreach and assistance to those in need of healthcare. Kynectors assigned to the facility assists with applying/enrollment of Medicaid for members who qualify for the program and not currently enrolled and suspended. If a member meets program eligibility and was Medicaid eligible prior to incarceration, DOC will assist with getting suspension status changed to eligible.

For this amendment, the definition of an incarcerated member is an individual who is confined in a jail or prison, pretrial or conviction. Individuals will be Medicaid eligible incarcerated members who have a primary diagnosis of SUD. Members can be newly incarcerated or have been incarcerated for some time. Members entering a facility with a drug charge are encouraged to participate in voluntary SUD treatment while incarcerated. Currently, there are 2650 inmates participating in SUD treatment, with a waitlist of 2464. The number of inmates recommended to participate in SUD treatment but have not yet applied is 3840. The waiting list and recommended numbers are fluid and change on a daily basis.

Eligibility Criteria for convicted Incarcerated Individuals:

- Adults ages 18 and over.
- U.S citizen or lawfully residing immigrant,
- Resident of Kentucky,
- Uninsured or Medicaid eligible or Suspended Medicaid,
- Meet SUD criteria through assessment completed by DOC staff.

All SUD treatment within DOC is voluntary. Applicants that apply for treatment must meet clinical treatment requirements including the DSM V clinical criteria for a SUD and the ASAM criteria for level of care needed. Members must also meet policy specific criteria for admission including being within 36 months of parole eligibility or minimum expiration date and no disciplinary violations that would cause disruption to the therapeutic community.

Members who meet the DSM V 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. Two of the prisons, offer co-occurring treatment to men and women utilizing gender specific evidence based curriculum through Hazelden Betty Ford. In addition participants receive mental health services and any needed medication.

Members in pretrial can be eligible for SUD services. At the initial incarceration period, the jail pre-trial officer may alert the judge that the detained member admits to having a substance use problem and has preliminarily agreed to participate in treatment. If the judge agrees, they will request the Division of Addiction Services to conduct a clinical assessment to determine eligibility.

Eligibility Criteria for Pretrial Incarcerated Individuals:

- Adults ages 18 and over,
- U.S citizen or lawfully residing immigrant,
- Resident of Kentucky,
- Uninsured or Medicaid eligible or Suspended Medicaid,
- Meet SUD criteria through assessment completed by DOC staff,
- Having a confirmed SUD diagnosis,
- Being in custody in a county jail for pending charges,
- Having no felony convictions (in any state) within the past 10 years,
- Not currently being on probation or parole, must not be charged with a Class A or B felony, or a sexual offense under KRS 17.500, and
- Currently charged with an offense under KRS 218A or another offense and has a record of recent/relevant substance use.

Pursuant to 2009's SB 4, upon an agreement between the judge, the commonwealth attorney, the client in question, and their attorney, successful completion of a jail based treatment program may serve as an alternative to a felony conviction. DMS and DOC do not have the authority to grant pretrial diversion. DOC and DMS are committed to community based treatment, and frequently accommodate and facilitate community treatment as part of pretrial diversion and whenever possible in all incarcerated settings. If an individual is released to receive community based treatment, Medicaid would cover those services as long as it was determined medically necessary by a behavioral health professional based on ASAM criteria regardless of whether it is court-ordered.

Section III – Demonstration Benefits and Cost Sharing Requirements

Benefit Package Chart	
Eligibility Group	Benefit Package
Incarcerated Members	Demonstration only Benefit Package

Benefit Chart		
Benefit	Description of Amount, Duration and Scope	Reference
SUD Treatment Services – SAP	Substance abuse services provided to members with a SUD diagnosis and meets the ASAM level of care for treatment. These services use an evidence based criteria, are ten hours of clinical treatment services and last for six months.	
SUD Recovery Services – SOAR	Members who complete SAP, based on availability can receive continued treatment with recovery services that are a minimum of seven hours a week and cover up to 30 months.	
Medication Management	Members who meet qualifications for MAT will have the option to receive medications prescribed by a qualified physician and administered as prescribed until release.	
MCO Selection	An average of 30 days prior to anticipated release of incarceration.	

The following services are being requested:

A. Two new bundled service codes would need to be created.

   1. SAP weekly bundle to include: the initial assessment, member therapy, group therapy, family therapy, peer support services and service planning.

   2. SOAR weekly bundle after the completion of SAP to include the above listed services.

B. Medication management services would be outside of the bundle along with the medication used for MAT. The medications used are Vivitrol, Buprenorphine 2/5, Buprenorphine and Sublocade and, if available, their generic forms.

The Substance Abuse Medication Assisted Treatment (SAMAT) Program Administrator will compile a list of SAMAT eligible candidates on a monthly basis. This eligibility list will be distributed to SAP Program Administrators at each institution and county jail. Upon receipt of this list, SAP clinical staff will further screen candidates for eligibility and agreement for participation. If an eligible candidate is considered clinically appropriate for SAMAT, a referral will be made to the Institutional Health Services

Administrator or Jail Medical Authority. The medical department will continue screening per the SAMAT Protocol and determine if the candidate is medically appropriate. When an eligible candidate has agreed to participate and is found to be both clinically and medically appropriate for SAMAT, the onsite medical provider will order medication (Buprenorphine, Sublocade, and Vivitrol) directly through DOC's contracted pharmacy. Monthly, the Health Services Administrator or designee will notify DOC's contracted pharmacy for members that were prescribed medication for SAMAT.

DMS proposes delivery services to this population as follows:

A member will receive a bio-psychosocial assessment at the time of incarceration. Different treatment options would then be offered. Treatment options include: member, family and group therapy, peer support services and MAT of their choice that is determined clinically and medically appropriate. In addition to treatment, members can be involved with service planning and case management.

Members will be covered by Fee-For-Service (FFS) Medicaid during incarceration, then enrolled with an MCO an average of thirty (30) days prior to release. The member with the assistance of the Reentry Coordinator and/or kynector, will choose the MCO that would best suit their needs. The MCO will then work with the member to set up continued treatment after release.

A kynector or reentry coordinator will contact DCBS with the member's choice of MCO and the system would then switch the member from fee for service to the MCO. The MCO care coordinator would then meet with the member and reentry coordinator to complete an assessment of what the member needs to go back into the community successfully. No additional capitation rate would be given to the MCO. The goal of this process would be a seamless transition from incarceration release to community based treatment and an alert from APPRISS to the Medicaid system that the member has been released from incarceration to permit immediate activation of the member's benefits.

The released member would have a detailed discharge plan outlined below:

- The MCO will conduct care coordination services by working closely with the member. Care coordination would include an assessment to determine the needs of the member after release. An integrated discharge plan that will identify the medical, behavioral health and social needs to support the member's return to the community. Also include assessing risks, such as medication compliance; and assessing needs and providing recommendation for access for specialized supports including but not limited to: medication support, housing, employment, physical health needs, behavioral health and SUD treatment needs by assisting with selection of available community treatment providers.
- Determine what referrals need to be made.
- Schedule appointments with physical and behavioral health providers.
- Provide referrals to other services.

Section IV – Delivery System and Payment Rates for Services

Delivery System Chart		
Eligibility Group	Delivery System	Authority
Incarcerated Members	Fee-for-service	1115

DMS is proposing to cover 5300 slots in the first year for the SAP program. We propose a weekly bundle payment for 10 clinical treatment services a week. For the SOAR program we propose to cover 270 slots in the first year and a weekly bundled payment for seven clinical treatment services a week.

For the demonstration, the following slot allocations will be covered in the SAP program.

Year 1	5300
Year 2	5400
Year 3	5500
Year 4	5600
Year 5	5700

The following slot allocations will be covered in the SOAR program.

Year 1	270
Year 2	320
Year 3	370
Year 4	420
Year 5	470

Rate Development:

As stated above, we are proposing a weekly bundle for billing once a week. The rate being proposed was developed based on the 10 hours of service a week, the level of practitioner performing the service and consulting our current rate for services. For the SAP program the proposal is a weekly bundle payment of $112.00/week. For the SOAR program the proposal is a weekly bundle payment of $90.00/week. These bundled services will be billed by DOC on a weekly basis.

Medication:

DMS Pharmacy has recognized that there is operational viability to providing pharmacy benefits to incarcerated members with an SUD enrolled in Medicaid. The DOC contracts with the pharmacy to provide prescription drugs to incarcerated members. After enrolling in Kentucky Medicaid's FFS program, these members will be identified by the DOC as exempt from their normal prescription drug services. DOC will work with its contracted pharmacy to provide a member file containing Medicaid enrollment data. DOC's contracted pharmacy and the physicians treating the incarcerated Medicaid population will need to enroll with the Kentucky Medicaid program. DOC's contracted pharmacy will be responsible for billing Kentucky Medicaid's FFS program for

reimbursement of the prescription products under the waiver. Billing will only apply to medications for MAT. Once members are enrolled in Medicaid FFS, their pharmacy benefit will align with the preferred drug list and utilization criteria established by DMS. These are subject to change as we review the pharmacy benefit on a continual basis and coverage determinations are realigned.

Section V – Implementation of Demonstration

Upon approval of the SUD Continuity of Care for Incarcerated Members amendment application, DMS will create within our provider enrollment branch a new provider type specific for the DOC. DMS along with DOC partners, Office of Inspector General (OIG) and the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) are working to develop a specific definition of programming provided for incarcerated members within the existing Alcohol and Other Drug Entity (AODE) license. This licensure will be required in order to enroll as a Medicaid provider.

When incarcerated members qualify for the SAP and/or SOAR program, reentry staff with DOC will assist with applying/enrollment of Medicaid. If a member meets program eligibility and was Medicaid eligible prior to incarceration, DOC will assist with getting suspension status changed to eligible.

Eligible beneficiaries would fall under FFS while receiving SUD treatment during incarceration and then transition to the beneficiary's MCO of their choice to include care management and coordination to develop a release care plan, referrals made to and appointments scheduled for physical and behavioral health providers and linkages to other critical social services and peer supports. There will be no cost sharing requirements for members who are incarcerated receiving SUD treatment per this demonstration.

Evaluation

Hypothesis 1: With the approval and implementation of this amendment, recidivism will be reduced among Medicaid beneficiaries who receive Medicaid matched SUD treatment.

Question	Example of Measures	Data Source
Was there a decrease in re-incarceration rates among those who receive Medicaid matched SUD treatment?	Number and percent of members who receive Medicaid matched treatment with a re-incarceration.	DOC

Hypothesis 2: With the approval and implementation of this amendment, the provision of Medicaid-matched SUD treatment will increase the likelihood of enrollment and enrollment continuity following release.

Question	Example of Measures	Data Source
What is the likelihood of enrollment continuity for those who receive Medicaid-matched SUD treatment compared to other members with SUD who do not receive Medicaid-matched SUD treatment during incarceration? What is the median length of time prior to Medicaid activation following release?	Number and percent using SUD community-based treatment services before and after this amendment.	Medicaid Management Information System (MMIS)

Hypothesis 3: With the approval and implementation of this amendment, the provision of Medicaid-matched SUD treatment will improve health outcomes following release.

Question	Example of Measures	Data Source
Are re-incarceration rates among beneficiaries who receive Medicaid-matched SUD treatment during incarceration lower than members with SUD who do not receive treatment?	Number and percent of Medicaid beneficiaries with a re-incarceration before and after this amendment.	DOC
Is utilization of SUD treatment post incarceration increased among beneficiaries who receive Medicaid-matched SUD treatment during incarceration compared to those members with SUD who do not receive treatment? Others?	Number and percent using SUD community-based treatment services before and after this amendment.	MMIS

Section VI – Demonstration Financing and Budget Neutrality

In order to finance coverage, Kentucky is proposing to determine budget neutrality by looking at per member per month cost of SUD residential treatment. DMS is looking at incarcerated member's treatment as an inpatient/residential treatment service. As stated earlier we are proposing coverage of treatment for incarcerated members based on slots. The below chart shows our total cost for each of the two programs, the programs combined and our comparison of SUD residential treatment costs.

SAP	Slots	Rate/week	PMPM	Yearly Costs
Year 1	5,300	$ 112.00	$ 485.33	$ 30,867,200.00

Year 2	5,400	$ 112.00	$ 485.33	$ 31,449,600.00
Year 3	5,500	$ 112.00	$ 485.33	$ 32,032,000.00
Year 4	5,600	$ 112.00	$ 485.33	$ 32,614,400.00
Year 5	5,700	$ 112.00	$ 485.33	$ 33,196,800.00

SOAR	**Slots**	**Rate/week**	**PMPM**	**Yearly Costs**
Year 1	270	$ 90.00	$ 390.00	$ 1,263,600.00
Year 2	320	$ 90.00	$ 390.00	$ 1,497,600.00
Year 3	370	$ 90.00	$ 390.00	$ 1,731,600.00
Year 4	420	$ 90.00	$ 390.00	$ 1,965,600.00
Year 5	470	$ 90.00	$ 390.00	$ 2,199,600.00

TOTAL	**Slots**	**Rate/week**	**PMPM**	**Yearly Costs**
Year 1	5,570	$ 110.93	$ 480.71	$ 32,130,800.00
Year 2	5,720	$ 110.77	$ 480.00	$ 32,947,200.00
Year 3	5,870	$ 110.61	$ 479.32	$ 33,763,600.00
Year 4	6,020	$ 110.47	$ 478.68	$ 34,580,000.00
Year 5	6,170	$ 110.32	$ 478.07	$ 35,396,400.00

Current	**Unduplicated Members**	**Rate/week**	**PMPM**	**Yearly Costs**
MCO	14,501	$ 113.06	$ 489.92	$ 85,251,196.09
FFS	126	$ 61.32	$ 265.71	$ 401,753.44
	14,627	$ 112.61	$ 487.98	$ 85,652,949.53

Section VII – List of Proposed Waivers and Expenditure Authorities

The state seeks waiver authority to receive federal matching on costs not otherwise matched for services rendered to members who are incarcerated.

Section VIII – Tribal Notice & Public Notice

Tribal Notice

Kentucky does not have any tribal units.

Public Notice

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 an 1115 Amendment Application with the Centers for Medicare and Medicaid Services (CMS) no later than November 1, 2020, requesting Medicaid coverage for SUD services to incarcerated individuals. The changes outlined below will become effective upon CMS approval.

Kentucky is requesting approval from the Centers for Medicare and Medicaid Services (CMS) for an amendment to its Medicaid Substance Abuse Disorder (SUD) 1115 waiver to authorize federal Medicaid matching funds for the provision of SUD treatment to eligible incarcerated individuals. Coverage for these services is requested for persons incarcerated in state and county facilities. Currently, the Department of Corrections provides Substance Abuse Program (SAP) services that are offered to incarcerated individuals. Kentucky wants to enhance and expand these services offered to incarcerated individuals.

The objective of the amendment will be twofold: First, to provide SUD treatment to eligible incarcerated individuals in order to ensure this high risk population receives needed treatment before release, and to strengthen follow up care with a Medicaid provider after release by paying for SUD treatment while incarcerated; and to require the recipient's chosen MCO to coordinate aftercare with a Medicaid provider 30 days before release.

Copies of this notice are available on the DMS website:
https://chfs.ky.gov/agencies/dms/Pages/default.aspx

Notices are available in the following news publications: Louisville Courier-Journal, Lexington Herald-Leader and the Cincinnati Enquirer.

In addition, DMS will hold 2 Virtual Town hall Meetings on the following dates: October 12, 2020 at 10:00 AM EST & October 26, 2020 at 2:00 PM EST.

Join Zoom Meeting: https://zoom.us/j/95486102544
Join by Phone +1 929 436 2866 US
Meeting ID: 954 8610 2544

One tap mobile +13126266799, 95486102544# US

Additional information regarding these proposed actions is available upon request at the address cited below. A copy of this notice is available for public review at the Department for Medicaid Services at the address listed below. Any public review will be subject to public health COVID-19 restrictions and requirements, and staff availability due to the COVID-19 public health pandemic.

Comments or inquiries should be submitted via email received on or before October 30, 2020 to: DMS.ISSUES@ky.gov. Written comments must be postmarked by October 30, 2020 and sent to the address below:

SUD Incarceration Amendment Comment
c/o DMS Commissioner's Office
275 E. Main St. 6W-A
Frankfort, KY 40621

1115 SUD Amendment Town Hall #1 – Recording
1115 SUD Amendment Town Hall #1 – Presentation

1115 SUD Amendment Town Hall #2 – Recording
1115 SUD Amendment Town Hall #2 – Presentation

Public Comments

The attached document states questions, with responses from DMS, received from the public comment period of September 30, 2020 – November 6, 2020. DMS took a great deal of consideration with all comments received. Section II of the application was reworded to better explain the PSAP program.

Section IX – Demonstration Administration

Name: Leslie H. Hoffmann
Title: Chief Behavioral Health Officer
Agency: Department for Medicaid Services
Address: 275 East Main Street
City/State/Zip: Frankfort, Kentucky 40601
Telephone Number: 502-564-4321 extension 2883
Email Address: leslie.hoffmann@ky.gov

1115 SUD Amendment
Public Comment Questions

1. Clear language that treatment in jails and prisons should not replace community treatment and more Kentuckians should receive access to these community resources.
   Submitted By: ACLU-KY, Shameka Parrish-Wright; The Bail Project, Adrienne Bush; Homeless and Housing Coalition of KY (HHCK), Steve Shannon; KARP, Emily Beauregard; KY Voices for Health, Kentucky Center for Economic Policy
   Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

2. A revision that does not arbitrarily exclude Kentuckians based on the point in time or otherwise ranking of diagnoses. If an individual had a substance use disorder, they should be eligible to participate in the recovery paths provided by this demonstration project.
   Submitted By: ACLU-KY
   Response: This waiver focuses on the incarcerated population with a substance use disorder (SUD) diagnosis. **Anyone within DOC with an SUD diagnosis who meets admission criteria is eligible to participate in SUD treatment.**

3. Outline the providers, services and treatment options available more clearly for those individuals who have co-occurring SUD and SMI.
   Submitted By: ACLU-KY, Cara Stewart; KY Voices for Health
   Response: **Currently, DOC Addiction Services and DOC Mental Health have an integrated program for individuals with SUD and SMI. While incarcerated, Medicaid will only cover SUD services but DOC will continue to cover mental health services and medications. Upon release, Medicaid will cover medically necessary SUD and SMI services and medications through managed care. As this program is further negotiated with CMS, covered services, operational considerations, and enrolled provider types will be fully described according to the federal 1115 waiver process.**

4. We advocate for the collection of data and transparency pertaining to individuals who receive SUD treatment while incarcerated and individuals who are awarded the opportunity to receive treatment the community.
   Submitted By: ACLU-KY
   Response: **The University of Kentucky's Center for Drug and Alcohol Research already collects this data and prepares reports. The Criminal Justice Kentucky Treatment Outcome Study reports are available to the public on the DOC website at:**

https://corrections.ky.gov/Divisions/ask/Pages/SAMAT.aspx. In addition to the DOC reports, there will also be an evaluation of the 1115 Continuity of Care for Incarcerated Members demonstration.

5. Modification to the amendment would be to strike the words "jail based" on page 12 to reflect that a community based 6 month treatment program may serve as an alternate to a felony conviction. If the intent of this portion of the demonstration was residential 6 month treatment program, adding the word "residential" would still allow for a community based treatment and not the clear preference for incarceration.
   Submitted By: Cara Stewart; KY Voices for Health
   Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria. We will clarify the language.**

6. To further prevent that unintended consequence, DOC and AOC should provide regular reports on lengths of incarceration for our fellow Kentuckians participating in this project, as well as the number of individuals who are incarcerated with a self-reported or diagnosed SUD.
   Submitted By: Cara Stewart; KY Voices for Health
   Response: **The University of Kentucky's Center for Drug and Alcohol Research already collects this data and prepares reports. The reports, the Criminal Justice Kentucky Treatment Outcome Study, are available to the public on the DOC website at: https://corrections.ky.gov/Divisions/ask/Pages/SAMAT.aspx. In addition to the DOC reports, there will also be an evaluation of the 1115 Continuity of Care for Incarcerated Members demonstration.**

7. We ask that clear guidance that Medicaid can be a payer for medically appropriate and billable healthcare that also fulfills court orders.
   Submitted By: Cara Stewart; KY Voices for Health
   Response: **SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria. We will clarify the language.**

8. We suggest clear communication and requirements from all appropriate state agencies (DMS, DOI, MCOs) and ongoing education from our MCOs. We also suggest ongoing communication with judicial training to educate judges about requiring evaluations and medically appropriate treatment only to further prevent the conflict.
   Submitted By: Cara Stewart; KY Voices for Health, Marcia Timmerman; MHA KY

Response: **CHFS has and will continue to partner to provide training to all stakeholders, including those in Medicaid and the judicial system.**

9. KVH recommends that DMS work with AOC to adjust diversion and sentencing forms to include acknowledgment of the availability of community based treatment for SUD.
   Submitted By: Cara Stewart; KY Voices for Health, Mary Savage; KY Coalition Against Domestic Violence (KCADV), Marcia Timmerman, MHA KY
   Response: **CHFS has and will continue to partner to provide information to all stakeholders, including those in Medicaid and the judicial system.**

10. Remove the requirement for a primary diagnosis of SUD.
    Submitted By: Cara Stewart; KY Voices for Health, Sarah Kidder; Advocacy Coordinator NAMI Kentucky, Adrienne Bush; Homeless and Housing Coalition of KY, Mary Savage; KY Coalition Against Domestic Violence, Marcia Timmerman, MHA KY, Steve Shannon; KARP, Emily Beauregard; KY Voices for Health, Kentucky Center for Economic Policy
    Response: **This proposal is a modification of the existing 1115 SUD waiver that specifically expands access to SUD treatment services. Co-occurring SUD and mental health conditions are eligible.**

11. KVH strongly supports the inclusion of coordinated enrollment pre-release. Pre-release Medicaid and MCO enrollment are a necessary foundation for successful case management and care delivery. Research is clear that poor health and healthcare needs make it harder for formerly incarcerated people to successfully reintegrate into their communities.
    Submitted By: Cara Stewart; KY Voices for Health
    Response: **Thank you for your comment.**

12. We suggest clarifying that same patient centered commitment and improved likelihood by replacing the word allow with the word required.
    Submitted By: Cara Stewart; KY Voices for Health
    Response: **Clarifying language has been added to the waiver.**

13. Kentucky's increased SUD treatment in jails should not increase pretrial detention. Kentucky should not detain people pretrial for the purposes of treatment. Instead, it should consider alternatives at the time of arrest, including, for example, law enforcement to provider referrals for community based treatment instead of charging people with a crime. In addition, decision making on the setting of bail should be limited to only those instances where prosecutors have affirmatively demonstrated a risk to public safety or willful flight.
    Submitted By: Shameka Parrish-Wright; The Bail Project
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically**

necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.

14. Medicaid plays an important role for beneficiaries who are justice involved.
    Submitted By: Sarah Kidder; Advocacy Coordinator NAMI Kentucky
    Response: **Thank you for your comment.**

15. We urge DMS to specifically include the provision of targeted case management without prior authorization requirements, which have been a serious barrier to people with SUD/SMI diagnoses in the past. We recommend that this policy be continued and be integrated into this demonstration program.
    Submitted by: Adrienne Bush; Homeless and Housing Coalition of KY
    Response: **Thank you for your comment.**

16. Please clarify how and when MCOs will be notified of individuals' MCO selection.
    Submitted by: Rebecca Randall; Wellcare
    Response: **DOC and/or DMS will notify the MCOs. The exact process has not been determined and will be created when the waiver amendment is approved. The process will be similar to how the Reentry Program is currently working. As this program is further negotiated with CMS, covered services, operational considerations, and enrolled provider types will be fully described according to the federal 1115 waiver process.**

17. Must all meetings between the incarcerated individual and the MCO staff occur on-site or will there be an option for MCO staff to interact with individuals virtually, including telephonically?
    Submitted by: Rebecca Randall; Wellcare
    Response: **Virtual communication may occur between MCO staff and the incarcerated individual. In most instances, DOC reentry staff will be present as well.**

18. Can DMS provide reassurances regarding the planned testing of APPRISS with the Medicaid eligibility system so that we can in turn share with providers to reassure them during our efforts to solicit provider participation in this initiative?
    Submitted by: Rebecca Randall; Wellcare
    Response: **The implementation of APPRISS is occurring outside of this demonstration.**

19. We recommend a seamless, current and accurate eligibility process, with advance notification of MCO choice to avoid any provider participation barriers.
    Submitted by: Rebecca Randall; Wellcare
    Response: **Thank you for the comment.**

20. To safeguard against members running out of MAT medication after release, we emphasize that they be dispensed an ample supply of MAT medication upon release.
    Submitted by: Rebecca Randall; Wellcare
    Response: **DOC uses long acting injectable MAT as close to the time of release as possible (within the last few days) to allow close to a month before additional medication is needed. A key feature of this waiver is continuity and coordination of care by the MCOs to ensure that adequate follow-up and access to medications is in place post release.**

21. We ask DMS to confirm that methadone will not be used as a MAT medication for incarcerated individuals.
    Submitted by: Rebecca Randall; Wellcare
    Response: **As this demonstration is currently proposed, Methadone is not an available MAT medication.**

22. We ask DMS to confirm if NEMT to SUD treatment, including to pharmacies to pick up MAT medication prescriptions, will be covered for individuals post release. If transportation will not be covered, we fear this will create a substantial barrier to treatment and to the program's success.
    Submitted by: Rebecca Randall; Wellcare
    Response: **NEMT is available to any Medicaid recipient who meets all of the qualifications for the service**. **A key feature of this waiver is continuity and coordination of care by the MCOs including a case management function to ensure access to medications post release.**

23. KCADV recommends the waiver amendment should never be used to justify incarceration, initial or ongoing.
    Submitted by: Mary Savage; KY Coalition Against Domestic Violence
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

24. It is not clear in the waiver whether enough Peer Support Specialists are currently employed or will be hired, if there is adequate oversight of their well-being and recovery while serving in this intense role, and if they will have lived experience with incarceration. We are also concerned about the relatively low percentage of families who are expected to be engaged in the recovery of their loved one. We'd like to see additional information on these aspects included in the waiver, or made available to advocates like ourselves who are charged with ensuring improvement, and not sent back, with all stakeholders in the mental health system in Kentucky.
    Submitted by: Marcia Timmerman, MHA KY
    Response: **Peer Support Specialists would be an additional service to existing treatment services. The specifics would be determined if this waiver is approved. DOC Addiction Services is committed to family and community involvement in the treatment process and offer family and community engagement as well as a user-friendly website that offers several sub-pages with useful information under the Addiction Services Division at: https://corrections.ky.gov/Divisions/ask/pages/default.aspx**

25. We are concerned that all medication options are not being made available in this current version of the amendment. Long-acting injectable medications for SMI, long-acting MAT options, and medication other than Vivitrol should be widely available for use in treatment of these incarcerated individuals as medically necessary.
    Submitted by: Marcia Timmerman, MHA KY
    Response: **The waiver is specific to SUD treatment services. Currently all SUD programs offer Vivitrol to individuals who meet clinical and medical criteria. Suboxone and Subloclade are currently offered in some programs. Medicaid reimbursement will assist with the funding necessary to expand MAT options to the incarcerated population. In addition, any other medically necessary medications and services will be covered post release.**

26. Section II & III. It is suggested that language be added to these 2 sections which permits DOC to either provide identified services directly or contract with a community based provider to provide the services within either a DOC facility or a local jail.
    Submitted by: Steve Shannon; KARP
    Response: **The waiver does not change how DOC provides and contracts services.**

27. Section II. It is recommended that the community based provider which will be supporting the individuals served as they return to the community be permitted to assist with and be reimbursed for any transition services provided. Specific services may include assisting with housing, employment and scheduling necessary physical and behavioral health appointments. This will result in a warm hand-off from DOC services and supports to community services and supports resulting in a greater likelihood of a successful return to the community. This strategy has been used effectively in some DOC facilities in partnership with the appropriate regional CMHC. The sooner the linkage is established between the individuals and a local provider in the community to which the individual is returning the better outcome.
    Submitted by: Steve Shannon; KARP
    Response: **The DOC Division of Addiction Services has clinicians located in all P&P offices across the state who are responsible for assisting individuals with SUD treatment and recovery services upon release of custody and providing case management of those services. The DOC also has a reentry division that works with individuals to provide resources and remove barriers. They assist with education, job training, employment, housing, Medicaid enrollment, and referral to other community-based agencies as needed. DOC will work with MCOs on a transition of care.**

28. It will be imperative to increase the screening time for a person who enters incarceration until they are able to be diverted to treatment; hopefully outside the walls of incarceration. Faster screening times can relieve the jails of the difficult task of keeping a close eye on one person, when they have many others to watch.
    Submitted by: Courtney Hamm, KY Citizen and Social Worker with Aetna
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the**

community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.

29. SAP programs have waiting lists inside KY jails and prisons; these lists can take months and because they are inside a jail and everyone incarcerated is dealing with legal issues, you can't predict how long you will be on the list. This is because many persons in SAP programs inside jails are there pre-trial and waiting on the outcome of their legal case.
    Submitted by: Courtney Hamm, KY Citizen and Social Worker with Aetna
    Response: **If approved, the waiver amendment will allow DOC to increase existing treatment opportunities and reduce the wait for SUD treatment for the incarcerated population.**

30. Will the Parole Board as well as Circuit Court Judges rationalize that if Medicaid is paying for "in-prison" and "in- jail" SAP programs, the risk is too great to refer these same individuals to community-based programs (as they are now). Their thinking may be that if residents are incarcerated and in a substance abuse treatment program paid for Medicaid then why they would send those residents to a community-based program where they may be more likely to reoffend.
    Submitted by: Heather Gibson; The Healing Place
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

31. Individuals with substance use disorder who would normally be eligible for pretrial diversion (community-based treatment programs) may instead be sent to incarcerated programs that are paid for by Medicaid. This could result in more incarceration and longer stays since Medicaid would be paying for these programs as opposed to DOC.
    Submitted by: Heather Gibson; The Healing Place
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the**

community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.

32. An in-prison or in-jail substance abuse program funded by Medicaid should be for those inmates who are at the greatest risk for reoffending. The Parole Board or the Circuit Courts determine that the offender can benefit from substance abuse treatment in prison- but because of their perceived risk to the community, they should remain incarcerated.
    Submitted by: Heather Gibson; The Healing Place
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

33. According to the proposal MCOs will be responsible for determining the next level of care and services 30 days prior to incarceration. Are MCOs prepared to provide these services and how will they assure that clients are not given inappropriate levels of care or referrals as a cost saving mechanism to the MCO?
    Submitted by: Heather Gibson; The Healing Place
    Response: **DOC and/or DMS will notify the MCOs. The exact process has not been determined and will be created when the waiver amendment is approved. The process will be similar to how the Reentry Program is currently working. MCOs will adhere to ASAM criteria to determine the appropriate level of care.**

34. Why create a new system to build out community supports when it already exists in the community? If the perceived goal of Kentucky Department of Corrections and the Governor is to move state inmates out of institutions and into community-based treatment would it not be more cost efficient to build a more effective system to network with already existing services?
    Submitted by: Heather Gibson; The Healing Place
    Response: **The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. The waiver proposes a complement to the existing system to decrease gaps in coverage.**

35. This proposal asserts that clinical treatment services will be expanded within institutions. There is a current scarcity of certified and licensed alcohol and drug counselors in Kentucky. How will these SUD programs within institutions be staffed? Will the institutional programs have the same requirements and criteria for the professionals who provide the services? Will Medicaid requirements qualifications be waived in these programs? If the requirements are the same, how will this impact community-based treatment programs? If Medicaid has different requirements for institutional staffing how will this effect the quality of those services?
    Submitted by: Heather Gibson; The Healing Place
    Response: **All of the DOC incarcerated treatment program hold an active AODE license and meet staffing requirements. The waiver will not change the way DOC provides or contracts services.**

36. Does this proposal open the door for Medicaid to pay costs (cancer treatment, surgeries, treatment of other chronic illnesses) that Kentucky Department of Corrections are currently required to pay for?
    Submitted by: Heather Gibson; The Healing Place
    Response: **This waiver is specific to SUD treatment.**

37. Is there a reason that successful completion of a 6 month program in the community couldn't count as an alternative to a felony conviction?
    Submitted by: Emily Beauregard; KY Voices for Health
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

38. It is unclear what BH treatment will be provided to individuals with dual diagnosis. What Medicaid billable BH providers, services and medications will be covered under this demonstration?
    Submitted by: Emily Beauregard; KY Voices for Health
    Response: **Currently, DOC Addiction Services and DOC Mental Health have an integrated program for individuals with SUD and SMI. While incarcerated, Medicaid will only cover SUD services but DOC will continue to cover mental health services and medications. Upon**

release, Medicaid will cover medically necessary SUD and SMI services and medications through managed care.

39. We recognize that there aren't even evidence based SUD treatment programs with available beds in the community for all of the justice involved individuals who need treatment. What is DMS doing to ensure MCOs are meeting network adequacy and parity rules?
    Submitted by: Emily Beauregard; KY Voices for Health, Kentucky Center for Economic Policy, Mary Savage; KCADV
    Response: **DMS has been assured that there are ample amounts of treatment beds available. MCOs are required to provide network adequacy and parity pursuant to their contracts and state and federal law. In addition, the waiver affords an opportunity for a better transition of care from incarceration to the community by involving the MCOs before release.**

40. We are especially concerned that requiring the judge and attorney to agree that receiving SUD treatment during pre-trail can serve as an alternative to a felony conviction could create an unintended incentive for people to remain incarcerated, rather than treated in the community.
    Submitted by: Emily Beauregard; KY Voices for Health
    Response: **Pretrial Substance Abuse Program (PSAP) is authorized by SB4 from the 2009 Session. The statutory language requires an agreement from the judge, attorneys and client. This law would need to be amended to create that change. DOC is operating as required by statute. The ultimate goal is to provide community based treatment to individuals. This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

41. We are concerned that the current proposal could lead to an increase in incarceration by incentivizing the criminal legal system to incarcerate. All Kentuckians who are incarcerated need quality medical care including SUD treatment. Being connected to a MCO 30 days pre-release would be a major benefit because it would enable a warm handoff to health care providers, community services and family and friend support networks, which can reduce the likelihood of recidivism.
    Submitted by: Kentucky Center for Economic Policy
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current**

programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.

42. Reforms should emphasize broader access to treatment and community based alternatives that don't involve incarceration.
    Submitted by: Kentucky Center for Economic Policy, Mary Savage; KCADV
    Response:**. This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

43. Without significant guardrails, emphasizing SUD treatment in jails and prisons could increase incarceration, especially pretrial. If we want to increase the number of pretrial defendants with SUD who receive treatment, we should be connecting them to services in the community. Example: Bexar County, Texas where individuals can receive Personal Recognizance (PR) bonds for mental health and other reasons. After a person is arrested, a judge, nurse or detention officer can make a mental health screening request to determine eligibility for Mental Health PR bond. The person in question can then be scheduled for a screening with a RN or referred immediately to a crisis care center or psychiatric hospital. If the person is eligible for MH PR bond, they are released without financial conditions and transported to the least restrictive ad most clinically appropriate treatment setting.
    Submitted by: Kentucky Center for Economic Policy
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into**

community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.

44. What is the rationale for requiring treatment be completed in jail rather than in a community setting whenever possible?
    Submitted by: Mary Savage; KCADV
    Response: **This waiver cannot change the way laws are enforced or prosecuted, or who has releasing authority. DOC is not the releasing authority. The waiver does not prolong or encourage incarceration in order to receive treatment. The waiver will utilize current programs to increase treatment to charged or convicted incarcerated individuals within DOC. It will explicitly transition more individuals out of the incarcerated setting and into community-based treatment. It will also provide continuity and coordination of care as well as other supports to improve health outcomes and ensure a successful re-entry into the community. While this waiver covers services as part of the DOC SAP or PSAP programs, nothing in this waiver precludes an agreement for community-based treatment for a person released by a court. However, court-ordered SUD treatment does not mean it is medically necessary. SUD treatment, including residential treatment, is only Medicaid reimbursable if it is medically necessary as determined by a behavioral health professional according to ASAM criteria.**

45. Could an individual with a primary diagnosis of mental illness and a secondary diagnosis of SUD be eligible to participate?
    Submitted by: Mary Savage; KCADV
    Response: **This waiver is requesting an amendment to the existing SUD waiver. In order to qualify for the existing SUD waiver there must be a primary diagnosis of SUD. Individuals may also have a co-occurring diagnosis. DOC does offer treatment options for individuals with a primary diagnosis of mental illness and secondary diagnosis of SUD that is not covered in this waiver.**

46. Wellcare support the 1115 Demonstration Waiver regarding the SUD treatment and care coordination for incarcerated individuals.
    Response: Thank you for your comment.

47. RECON KY, a consortium for recovery in the commonwealth, is please to share its support for DMS' proposal to expand access to SUD services for Medicaid beneficiaries in Kentucky state prisons and county jails. Thank you for your efforts to increase access to SUD treatment in Kentucky.
    Response: Thank you for your comment.

48. Tim Robinson, CEO of Addiction Recovery Care, and Ben Chandler, president/CEO of the Foundation for a Healthy Kentucky recently wrote an opinion-editorial applauding this proposal and highlighting the need to connect those in our criminal justice system with the treatment and support services they need to return to meaningful, productive lives.
Response: Thank you for your comment.

49. Kentucky Voices for Health received individual responses but also responses to questions about the 1115 waiver SUD amendment and would like to submit all of those responses as comments on the proposal as well:
• 96.3% support allowing Kentucky Medicaid to pay for Substance Use Disorder treatment and Behavioral Health services provided to eligible individuals during incarceration.
• 100% support making sure individuals are actively enrolled with an MCO when they are released from incarceration to ensure they can continue to receive care in the community
• 96.3% support offering family engagements sessions to individual during incarceration • 100% support requiring an individual's MCO to provide access to an SUD treatment program in the community as an alternative option for the judge's consideration.
Response: Thank you for your comments.
    a. Boyle County has made considerable strides in diversion and re-entry programs. The support of Medicaid can greatly enhance those efforts.
    b. If it weren't for Medicaid I wouldn't be sober for 5.5 years. The counseling I received after I stopped drinking was critical. Stop treating addiction like a crime and start treating it like a disease!!
    c. The community would benefit. Because those that aren't working or have insurance.
    d. If we can deal with an individual's substance abuse while incarcerated, their likelihood of using when released could be diminished. Their need for money to support their habit is eliminated, and crime can be reduced. This seems like a no-brainer to me.
    e. NASW-KY is absolutely supportive of these proposed changes! They are critical to the public health of our vulnerable citizens experiencing incarceration as it relates both to treatment within prison and preventative resources for re-entry into society.
    f. The proposed changes have the opportunity to continue to solidify what we already know access to healthcare reduces incarceration, increases recovery, and saves lives. The ability for a person to walk out of incarceration into the first or tenth stages of recovery with the ability to walk into a doctor's office is the one major way that we can help that person re-enter their community with dignity and respect.
    g. Expedite this implementation.
    h. I'm glad this initiative is being considered. Too many Kentuckians are being incarcerated, and jails are NOT designed to help people improve their lives. It's time to make some changes.
    i. This would be a waste of tax dollars. The only clear way to combat the opiate crisis is to love these people back to life, outside of incarceration.
    Response: Thank you for your comments.

50. KY Medicaid is to be commended for this innovative amendment to the Medicaid KY Health 1115 Demonstration to authorize federal Medicaid matching funds for the provision of SUD treatment to eligible incarcerated members. We appreciate the DOCs commitment to reducing

incarcerations. We believe this waiver will be an effective approach to reducing recidivism and incarceration through PSAP. In addition, due to the robust array of SUD services and supports available at the CMHCs individuals will not need to remain incarcerated solely to complete their SUD services and supports. The waiver amendment will increase collaboration between DOC and CMHCs which allows for earlier release dates with established linkages in the community to continue treatment and recovery.
Submitted by: Steve Shannon; KARP
Response: Thank you for your comment.

51. There are elements of this application that are truly ground breaking , especially the inclusion of Medicaid Fee-For-Service care provision before the end of the incarcerated person's sentence. Thank you for recognizing the need for substance use disorder and mental health treatment of incarcerated individuals. We have been heartened to see Peer Support Specialists and family engagement programs included in the service provisions. We've come a long way as a state and it shows in this regard. Ultimately, we support the intent of this 1115 SUD Medicaid Waiver Amendment.
    Submitted by: Marcie Timmerman; MHA KY
    Response: Thank you for your comment.

52. We applaud DMS for its work to address the SUD treatment needs of people who are incarcerated.
    Submitted by: Adrienne Bush; HHCK
    Response: Thank you for your comment.

53. We support the waiver amendment seeking to provide Medicaid coverage for SUD services for certain justice involved individuals and urge Kentucky to submit it to the federal CMS.
    Submitted by: Sarah Kidder; Advocacy Coordinator NAMI KY
    Response: Thank you for your comment.