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**NEW YORK STATE**

# NY drops plan to enroll inmates in Medicaid care

Proponents were dismayed to learn that the state has dropped a Medicaid-sponsored plan to boost health care for New York inmates.

By **Raga Justin**

Jan 13, 2024

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Inmates frequently struggle with addiction or mental health issues, which the correctional system in New York can be ill-equipped to provide assistance. A Medicaid-funded federal program could offer states the opportunity to reshape health care coverage for those in

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ALBANY — Despite a months-long process that New York has undertaken to enroll inmates in health care coverage — a move that proponents say could drastically improve their health and enhance public safety — the state’s momentum in securing federal approval has lapsed.



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And in a blow to proponents of the effort, Gov. Kathy Hochul omitted any mention of the initiative from her State of the State address in which she highlighted a recent Medicaid expansion.

In June, the Times Union reported that the state Department of Health had been working to enroll in the new federal program that allows states to expand Medicaid coverage to people in correctional facilities for up to three months before their release, with the promise of a 90 percent match in federal funds.

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Proponents have noted that the program can offer sweeping advantages for states, helping them reduce recidivism and the negative health outcomes that inmates often face after their release from a correctional facility, especially if they struggle with substance use disorders and would benefit from post-incarceration treatment.

The program has been hailed as one that could reshape the way New York deals with “frequent flyers” in its criminal justice system – who often struggle with addiction, mental health issues, or both – by giving them access to a suite of health care services immediately upon their release from a

correctional facility. Those individuals have been a major focus for state officials as they seek to counter narratives that public safety in New York is declining.

Last year, Department of Health officials said they were actively working to enroll New York in the program as part of a wider expansion of Medicaid benefits under a highly technical federal funding mechanism known as “Section 1115.”

While a longstanding exclusion prohibits Medicaid payments for most services for people held at a state or county correctional facility, states can submit certain waivers through Section 1115 to test out novel health care initiatives. The waiver allowing inmates to receive health care coverage while incarcerated is known as “Medicaid Reentry.”

But earlier this week, hours before Hochul’s State of the State address, her press office sent out a release on the “groundbreaking” Medicaid expansion that the federal Center for Medicaid & Medicare Services had just approved. The statement made no mention of health care coverage for inmates.

Policymakers and advocates were baffled.

“It’s frustrating because New York could have been — should have been — the first,” said Tracie M. Gardner, a senior vice president with the Legal Action Center. “For it to not even have one of these waivers in the hopper, it

really defies explanation.”

Danielle De Souza, spokeswoman for the Department of Health, said in response to questions that New York had included the provision of services to incarcerated individuals as part of its federal application for an overall Medicaid expansion – but that the initiative had not been approved by the federal Medicaid agency.

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“When granting the waiver, CMS decided to hold this component for further discussion and negotiation to align with recent federal guidance,” said Danielle De Souza, a Department of Health spokeswoman.

De Souza pointed to an April directive from the Centers for Medicare &

Medicaid Services that outlined the new program — the same federal guidance that the department referenced in June, when it said the effort to get New York enrolled in the program was well underway.

Gardner and others have cited a “very powerful impetus” for New York to enroll in the waiver, including the fact that it provides a large pool of money for states looking to participate. The program represents the first time Medicaid will offer health care coverage for inmates, following California’s own successful petition last year.

Nationally — and in New York — roughly 80 percent of people released from prison each year have a substance use disorder or chronic medical condition, including mental health issues. And once they leave, their health care needs can spike. Visits to emergency rooms, inpatient hospital stays and psychiatric admissions occur at high rates in the weeks immediately after a person is released. Voluntary medical care is less likely, according to a 2022 petition from New York to the Centers for Medicare & Medicaid Services.

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Gardner noted that much of the rhetoric during the governor's recent State of the State address invoked health inequities as well as shortfalls in the mental health sector, with Hochul specifically tying criminal behavior to "troubled individuals" who are "discharged from the hospital without receiving the care they need."

U.S. Rep. Paul Tonko, D-Amsterdam, is a longtime supporter of the policy who has lobbied for federal legislation securing mental health and addiction services for inmates. He said in a statement he was "disappointed" that New York had failed to enroll in the program.

"I'm disappointed that New York state has not yet taken this action," Tonko said. "Every day counts for those struggling with addiction and seeking a path to recovery. I am hopeful that the state moves forward swiftly to implement this policy and provide hope to those who need it most."



Both the Division of Criminal Justice Services and the Department of Corrections and Community Supervision, which oversee programming for inmates, referred comment on the delay to the Department of Health. Hochul's office also declined to comment and referred questions to the Health Department.

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By **Raga Justin**



Raga Justin is an investigative reporter covering politics and policy with the Capitol Bureau, where she was previously a Hearst fellow. She is a native Texan and University of Texas at Austin graduate and has worked for the Hearst Connecticut Media Group, the Dallas Morning News in Washington, D.C., and the Texas Tribune. Send tips, feedback or rants to [raga.justin@hearst.com](mailto:raga.justin@hearst.com).

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