



# Ryan White HIV/AIDS Program (RWHAP) Enrollment Assistance Considerations for Individuals Leaving Incarceration

## Find answers to these questions:

- What RWHAP services are available to people leaving incarceration?
- What types of health care coverage are available for people leaving incarceration?
- How can RWHAP staff, including frontline staff, support people leaving incarceration?

## ➤ I. Challenges for People with HIV Leaving Incarceration

The rate of HIV among individuals in jails and prisons is [triple that of the national population](#). Federal law requires jails and prisons to provide access to medical treatment during incarceration<sup>1</sup>. However, as people with HIV (PWH) leave incarceration and return to their community, there is potential for significant disruptions to treatment regimens. People with HIV leaving incarceration often do so without public or private health care coverage and without a supply of antiretroviral (ARV) medications<sup>2</sup>. Unless they quickly apply for and enroll in coverage, there could be a gap in medication adherence, with negative consequences for both individual and public health. In addition, individuals leaving incarceration may need to secure housing and employment while also following their release or parole conditions.



### Reentry Services

Reentry services provide support for individuals reintegrating into the community following time spent in jail or prison. Specific services include navigation, linkage, case management, and insurance eligibility and application support.



## II. Coverage Options when People with HIV Leave Incarceration

Health care coverage programs, including Medicaid, Medicare, and the RWHAP, can provide HIV care, treatment and support for eligible people as they transition from incarceration.



### RWHAP Services Available to People Leaving Incarceration

RWHAP may provide transitional services related to HIV-care needs of the individual leaving jail or prison (federal or local), including reentry services like HIV linkage and referral services as well as public and private insurance coverage application and enrollment assistance.

For local jails and other correctional settings that are not federal or state prisons, RWHAP may also provide short-term services for individuals who are incarcerated as long as the jail is not providing those services, including medications.

**RWHAP:** While the RWHAP is not a substitute for the comprehensive public and private health care coverage options listed below, RWHAP recipients and subrecipients [play an important role](#) as people with HIV leave jail or prison. RWHAP funds may not duplicate medical services provided by jails or prisons, however the [RWHAP is able to provide transitional and short-term services](#) to people who are incarcerated or who are leaving incarceration and meet RWHAP eligibility requirements. While transitional services can be provided for individuals leaving any carceral setting, short-term services cannot be

provided to people in state or federal prison and are generally limited to individuals in jails or other limited correctional settings.

**Medicaid:** Federal law prohibits the use of federal funds to provide Medicaid benefits to individuals in jails or prisons (with some narrow exceptions). However, state Medicaid programs have the option to suspend (instead of terminate) Medicaid enrollment while an enrollee is incarcerated. This allows someone to more easily have their Medicaid coverage reinstated when they leave jail or prison instead of going through an entirely new application process. Beginning in 2026, the [Consolidated Appropriations Act of 2024](#) will require every state Medicaid program to suspend, rather than terminate, coverage for incarcerated adults.

In addition, as of August 2023, the Centers for Medicare and Medicaid Services (CMS) announced a new opportunity that allows states to provide Medicaid services to people who are incarcerated to support their transition back into their community. States may implement this flexibility by applying for an [1115 waiver](#), which allows states to waive certain federal Medicaid requirements to test new ways to deliver or pay for care. In this case, states are waiving the long-standing exclusion for use of Medicaid to provide services to incarcerated individuals and providing Medicaid services both before release and after release. As of February 2025, [19 states had approved waivers](#), including several states that are tailoring their waivers to support reentry for people with HIV.



### Recent Medicare Changes

Recently, Medicare changed its definition of “custody” to include only individuals who are physically detained in a carceral setting. As of January 1, 2025, individuals who are released pending trial, on parole, on probation, under home detention, or in halfway houses are no longer considered in custody, and are not prohibited from having Medicare pay for services for which they qualify.

See the [fact sheet](#) from the Centers for Medicare and Medicaid services for more information.

**Medicare:** Similar to Medicaid, federal law also prohibits incarcerated individuals or those in custody under a penal authority from receiving Medicare coverage. However, there is a [Special Enrollment Period \(SEP\)](#) available for formerly incarcerated individuals who failed to enroll in Medicare Premium Part A or Part B because they were incarcerated. The SEP also applies to people who were confined to residency in a halfway house. An individual leaving incarceration has 12 months from the day they are released from prison to use the SEP. Using this SEP also means that late enrollment penalties for Medicare Part A and B will not be applied.

**Marketplace:** People who are incarcerated cannot purchase a Marketplace plan. However, similar to Medicare, there is a [SEP](#) for individuals who have been released from jail or prison. People leaving incarceration have 60 days to enroll into Marketplace coverage.

<sup>1</sup> “Estelle V. Gamble, 429 US. 97 (1976).

<sup>2</sup> Baillargeon J, Giordano TP, Rich JD, et al. Accessing Antiretroviral Therapy Following Release From Prison. JAMA. 2009;301(8):848–857. doi:10.1001/jama.2009.202

### III. How the RWHAP Can Support People with HIV Leaving Incarceration

RWHAP recipients and subrecipients play an important role in supporting individuals with HIV who are leaving incarceration. RWHAP assisters can help people reentering the community to quickly enroll in appropriate coverage and minimize interruptions in treatment. RWHAP recipients and subrecipients should consider the following:

#### HOW THE RWHAP CAN SUPPORT PEOPLE WITH HIV LEAVING INCARCERATION



**Understand your state's AIDS Drug Assistance Program (ADAP) and RWHAP services** for incarcerated people with HIV, including whether RWHAP provides transitional or short-term services for people who are incarcerated or leaving incarceration



**Know your state's Medicaid policy** for Medicaid termination or suspension of benefits when someone is incarcerated (note: starting in January 2026, every state must suspend, instead of terminate, Medicaid benefits for incarcerated individuals).



**Partner with prisons and jails**

in your community to ensure that people with HIV receive appropriate pre-release counseling that includes linkage and referral to public and private insurance coverage.



**Develop jurisdiction specific resources for assisters** to inform individuals leaving incarceration about their coverage options. Information should also include referral to ADAP and local RWHAP services to provide HIV care and treatment while people apply for public and private insurance coverage.

### Resources

The following resources provide helpful information for RWHAP recipients and subrecipients as they develop programs and services for incarcerated individuals with HIV:

- [HRSA/HAB PCN 18-02](#), The Use of Ryan White HIV/AIDS Program Funds for Core Medical Services and Support Services for People with HIV Who Are Incarcerated and Justice Involved
- CMS, [Reentry Section 1115 Demonstration Opportunity](#) (including list of states with approved waivers)
- NASTAD, [Ryan White HIV/AIDS Program Part B and ADAP Coverage of Treatment & Services for Justice-Involved People with HIV](#)



The Access, Care, and Engagement TA Center (ACE) Technical Assistance (TA) Center builds the capacity of the RWHAP community to navigate the changing health care landscape and help people with HIV to access and use their health care coverage to improve health outcomes.



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