



# Assisting Incarcerated and Recently Released Consumers



*January 2024*

*The information provided in this document is intended only to be a general informal summary of technical legal standards. It is not intended to take the place of the statutes, regulations, or formal policy guidance that it is based upon. This document summarizes current policy and operations as of the date it was presented. We encourage readers to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information. This communication was produced and disseminated at U.S. taxpayer expense.*

CSG-202401

# Overview

- Incarceration and Health Coverage Overview
- Marketplace Coverage
  - Understanding a Consumer's Incarceration Status
  - Marketplace Coverage and Household Members of Incarcerated Consumers
- Medicaid Coverage
- Medicare Coverage
- Aiding the Transition of Recently Incarcerated Consumers
- Scenario
- Additional Resources



# Introduction

- The Affordable Care Act (ACA) expanded access to coverage and services that consumers released from incarceration may need.
- This presentation will help you better assist incarcerated or recently released consumers and their families.



**Note: It's important to know that the rules related to coverage of incarcerated consumers through the Health Insurance Marketplace® are different from the rules that apply to Medicaid, the Children's Health Insurance Program (CHIP), or Medicare, and it's key that assisters understand these differences.**

\*Health Insurance Marketplace® is a registered service mark of the U.S. Department of Health & Human Services.

# Marketplace Coverage Eligibility and Incarceration

- The type of contact consumers have with the criminal justice system determines the type of health coverage consumers are eligible to receive.
- ACA states that consumers are not eligible to enroll in a qualified health plan (QHP) through the Health Insurance Marketplaces if they are incarcerated, unless they are pending disposition of charges.



# Understanding a Consumer's Incarceration Status



For the purpose of determining eligibility, it is important to note the Marketplace's definition of incarceration. Consumers are **not** considered incarcerated and are still eligible to enroll or continue existing enrollment in Marketplace coverage, if otherwise eligible, if they fall under these categories:

- Pre-conviction
- Probation or parole
- Post-conviction – under limited supervision or confinement

# Marketplace Considers Not Incarcerated: Pre-conviction

Category	Health Insurance Marketplace® Eligibility
<p><b>Pre-conviction</b></p> <ul style="list-style-type: none"><li>▪ Consumers who are arrested but <u>not</u> convicted of a crime.</li><li>▪ Consumers who are convicted of a crime pending disposition of charges (i.e., awaiting sentencing), whether confined to a correctional institution or released on bail, bond, or other conditional release.</li></ul>	<ul style="list-style-type: none"><li>▪ Consumers pending disposition of charges can enroll or continue existing enrollment in a QHP through a Marketplace, if otherwise eligible.</li><li>▪ However, if convicted and incarcerated, consumers are no longer eligible for Marketplace coverage and should end their existing coverage through a Marketplace.</li></ul>



# Marketplace Considers Not Incarcerated: Probation or Parole

Category	Health Insurance Marketplace® Eligibility
<p><b>Probation or Parole</b></p> <p>Consumers who are on probation or parole are <u>not</u> considered incarcerated for purposes of eligibility for Marketplace coverage.</p>	<ul style="list-style-type: none"><li>▪ They may be eligible to enroll or continue existing enrollment in a QHP through a Marketplace, if otherwise eligible.</li><li>▪ If a consumer's probation or parole is revoked and they become incarcerated, they are no longer eligible to enroll in a QHP through a Marketplace, and if already enrolled, they should end their existing coverage through a Marketplace.</li></ul>



# Marketplace Considers Not Incarcerated: Post-conviction – Under Limited Supervision or Confinement

Category	Health Insurance Marketplace® Eligibility
<p><b>Post-conviction – under limited supervision or confinement</b></p> <p>Consumers who have been convicted of a crime and are sentenced to a partial, limited, or alternative form of confinement are <u>not</u> considered incarcerated.</p>	<ul style="list-style-type: none"><li>▪ They may be eligible to enroll in a QHP through a Marketplace, if otherwise eligible.</li><li>▪ Examples of what the Marketplaces considers limited supervision or confinement include:<ul style="list-style-type: none"><li>▪ Serving a sentence but allowed work release.</li><li>▪ Under house arrest or home confinement.</li><li>▪ Residing in a halfway house or other similar type of residential community supervision as a result of a conviction.</li></ul></li></ul>



# Who the Marketplace Considers Incarcerated

Category	Health Insurance Marketplace® Eligibility
<p><b>Post-conviction</b> – Serving Sentence in Jail or Prison</p> <p>Consumers are considered incarcerated once they are in the custody of a penal authority and confined to a correctional facility, such as a jail, prison, or a mental health institution as a result of a conviction of criminal offense.</p>	<ul style="list-style-type: none"><li>▪ Incarcerated consumers are not eligible to enroll or continue enrollment through a Marketplace.</li><li>▪ If the incarcerated consumer is already enrolled, they should end their existing Marketplace coverage.</li><li>▪ For instructions for ending Marketplace coverage visit <a href="https://www.healthcare.gov/how-to-cancel-a-marketplace-plan">HealthCare.gov/how-to-cancel-a-marketplace-plan</a>.</li></ul>





# American Rescue Plan Updates

- Under the ACA as originally passed, premium tax credits (PTCs) were available to taxpayers with household income between 100 percent and 400 percent of the federal poverty level (FPL) and who met other non-income-related eligibility requirements.
  - Under the ACA, taxpayers with household incomes greater than 400 percent of the FPL were previously not eligible for PTCs.
- For Plan Years 2021 and 2022, the American Rescue Plan Act of 2021 (ARP) made the PTC available to taxpayers with household income above 400 percent of the FPL and caps how much of a family's household income the family will pay towards the premiums for a benchmark plan before the PTC becomes available at 8.5 percent.
- The Inflation Reduction Act (IRA), signed into law on August 16, 2022, extended through Plan Year (PY) 2025 the enhanced premium tax credits initiated under the ARP.



# ARP Provides Enhanced PTC Benefits at All Household Income Levels

ARP reduces the percentage of household income consumers at all income levels are expected to contribute to their monthly premiums for a benchmark plan before PTCs become available:

- Consumers with household incomes between 100-150 percent of the FPL may be eligible for coverage options with \$0 premiums after advance payments of the premium tax credit (APTC).
- Four out of five enrollees will be able find a plan for \$10 or less after APTC.
- Over 50 percent will be able to find a Silver plan for \$10 or less after APTC.



# Tips for Assisting Consumers

- Assisters can help consumers released from incarceration update a Marketplace application in two ways:
  - Online: Consumers can log in to their Marketplace account, select an existing application, choose “Report a life change” from the menu on the left, and select the **Report a life change** button.
  - By phone: Consumers can contact the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325).
- Assisters can also help consumers released from incarceration that will be applying for the first time and need assistance creating an account and submitting a new application.



# Tips for Assisting Consumers (Cont.)

- Please note that if a formerly incarcerated consumer joins their family's plan, they may need authorization from the family member who created the Marketplace account to make changes.
- Detailed instructions on reporting a change are available at [HealthCare.gov/reporting-changes/how-to-report-changes](https://www.healthcare.gov/reporting-changes/how-to-report-changes).



# Marketplace Coverage and Household Members of Incarcerated Consumers

## Should household members include an incarcerated consumer on a Marketplace application?

- Consumers who have an incarcerated consumer in their household must determine whether to include the incarcerated consumer on Marketplace applications as a non-applicant:

### Yes, as a non-applicant

- If an incarcerated consumer expects to be included in a household's tax return for the year a member of the household is applying for coverage, include them as a non-applicant.
- The rest of the family can continue to enroll in coverage, if eligible.

### No, do not include

- If an incarcerated consumer does not expect to be included in a household's tax return for the year a member of the household is applying for coverage, do not include them.

- For more information on whom consumers should include in their household on a Marketplace application, visit [HealthCare.gov/income-and-household-information/household-size](https://www.healthcare.gov/income-and-household-information/household-size).

# Marketplace Coverage and Household Members of Incarcerated Consumers (Cont.)

- After a person becomes incarcerated, a member of the incarcerated person's household should terminate any existing Marketplace coverage for the incarcerated consumer as soon as possible, but no later than **within 30 days**, other than incarceration pending disposition of charges (i.e., pre-conviction).
- Please note:
  - Consumers should report the change even if more than 30 days have passed.
  - The household does **not** need to report when a member is incarcerated pending disposition of charges because that household member does not lose eligibility for Marketplace coverage based on that type of incarceration.
  - A Marketplace does **not** terminate coverage for incarcerated consumers automatically, so they are responsible for monthly premiums until their Marketplace coverage is terminated.



# Marketplace Coverage and Household Members of Incarcerated Consumers (Cont.)

- If the incarcerated consumer has difficulty contacting the Marketplace Call Center or visiting [HealthCare.gov](https://www.healthcare.gov), the following people can also report changes through the Call Center:
  - An adult age 18 or over who is on the incarcerated consumer's application and applied for Marketplace coverage; or
  - An adult age 18 or over listed as a tax filer on the incarcerated consumer's application for Marketplace coverage, even if the tax filer didn't apply for coverage.
- If neither the incarcerated consumer nor any adult on the application is able to contact the Marketplace to report a change and end enrollment through the Marketplace, then an individual authorized to contact the Marketplace on the incarcerated consumer's behalf can call the Marketplace Call Center.
- **Note: In addition, individuals can seek help with the process of reporting a change in eligibility from a Navigator, a certified application counselor (CAC), an agent or broker registered with a Marketplace, or a correctional facility representative. Visit Find Local Help at [Localhelp.healthcare.gov/#](https://localhelp.healthcare.gov/#) to locate an agent, broker, or assister.**
- **It's also important to remember that incarcerated consumers may continue their enrollment in private health insurance coverage outside the Marketplaces through the individual, or non-group, market.**

# Medicaid and CHIP Coverage and Eligibility

- Individuals who are incarcerated can be eligible to enroll, or continue enrollment, in Medicaid, but may only receive Medicaid-covered services under limited circumstances.
- For purposes of Medicaid and CHIP, an “inmate” is an individual of any age who is in custody and held involuntarily through operation of law enforcement authorities in a public institution other than a childcare institution, publicly operated community residence that serves no more than 16 residents, or a public educational or vocational training institution for purposes of securing educational or vocational training.
- A public institution can include a correctional institution operated by, or under contract with, the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe for the confinement or rehabilitation of persons charged with or convicted of a criminal offense.
- The “inmate exclusion” is a coverage and reimbursement exclusion, meaning that federal financial participation is not available for Medicaid services provided to the individual who is incarcerated unless the individual is admitted to a medical institution as an inpatient. This is called the “exception” to the inmate exclusion.



# Medicaid and CHIP Coverage and Eligibility (Cont.)

- The following are examples of individuals who are no longer considered “inmates of a public institution”:
  - Individuals who are on parole, probation, or have been released to the community pending trial (including those under pre-trial supervision).
  - Individuals on home confinement.
  - Individuals who are voluntarily residing in a correctional institution for a temporary period of time after their case is adjudicated while arrangements are being made for transfer to a community residence.
  - Individuals residing in a supervised “halfway house,” provided they have freedom of movement and association, including the ability to work outside the facility, use community resources, and seek health care in the community to the same or similar extent as other Medicaid beneficiaries.
- Incarcerated youth or pregnant women are not eligible for CHIP.
- For additional guidance, refer to the 2016 State Health Official letter on facilitating successful re-entry for individuals transitioning from incarceration to their communities, Q&A 3, at [Medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/sho16007.pdf](https://www.Medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/sho16007.pdf).

# Using Medicaid While Incarcerated

- Medicaid and CHIP eligibility rules vary by state and by the circumstances of the individual and the individual's household.
- Individuals who are incarcerated who are eligible for but aren't enrolled in Medicaid generally can secure retroactive Medicaid coverage under the exception to the inmate payment exclusion as long as they apply within three months of receiving treatment.



# Applying for Medicaid or CHIP While Incarcerated or When Recently Released

- An individual's Medicaid or CHIP eligibility depends on:
  - Their state of residence, and
  - Individual circumstances like household income and citizenship or immigration status.
- Individuals can apply for Medicaid coverage at any time before, during, or after incarceration.
- Individuals can receive a positive determination of eligibility for CHIP only after release from incarceration, since inmates of a public institution are not eligible for CHIP.
- Applications may be submitted through:
  - HealthCare.gov or their state's Marketplace online, by phone (i.e., using the Marketplace Call Center-1-800-318-2596), or by mailing a paper application (i.e., [CMS.gov/marketplace/applications-and-forms/marketplace-application-for-family.pdf](https://www.cms.gov/marketplace/applications-and-forms/marketplace-application-for-family.pdf)).
  - Their state Medicaid or CHIP agency in-person, online, by phone, or by mailing a paper application. Visit state Medicaid agencies available at [HealthCare.gov/medicaid-chip/getting-medicaid-chip](https://www.healthcare.gov/medicaid-chip/getting-medicaid-chip).

# Applying for Medicaid or CHIP While Incarcerated or When Recently Released (Cont.)

- **Note: Some states facilitate the Medicaid application process for individuals who are incarcerated prior to release. Other states facilitate Medicaid enrollment while an individual is an inmate of a public institution and then suspend coverage while the individual is incarcerated. States must suspend (they may not terminate) the Medicaid coverage of certain youth who become incarcerated. Check the rules in your state.**
  - For guidance on the suspension of coverage for incarcerated youth, visit [Medicaid.gov/Federal-Policy-Guidance/Downloads/smd21002.pdf](https://www.Medicaid.gov/Federal-Policy-Guidance/Downloads/smd21002.pdf).
- The incarceration of one household member may impact the Medicaid and CHIP eligibility of other household members, depending on the household's tax filing status.
- There are no special rules or exceptions to the modified adjusted gross income (MAGI) methodology in Medicaid and CHIP for individuals who are incarcerated or for their household members.



# Medicaid Eligibility and Incarceration in Another State

- If an individual is incarcerated in an out-of-state facility, the individual's home state remains their state of residence for purposes of Medicaid eligibility.
- If an individual who is incarcerated intends to reside in a different state after release, the individual can use an address from that state when applying for Medicaid.
- Medicaid does not require individuals who are incarcerated to have a fixed or home address; however, they must list an address through which they can be contacted after release.
- Individuals applying for Medicaid before, during, or after incarceration may use the address of a probation or parole office or community residential facility for this purpose.
- For further guidance on Medicaid eligibility and enrollment for former and current inmates policy, visit [Medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf](https://www.Medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf).

# Medicare Coverage

How does Medicare determine if someone is incarcerated?

- CMS relies on data from Social Security Administration (SSA) for Medicare enrollment and eligibility.
- Upon release, the Medicare eligible individual should contact SSA at 1-800-772-1213 (TTY users can call 1-800-325-0778) to inquire about enrolling.



# Maintaining Medicare When Incarcerated

- Although Medicare generally does not pay for health care costs while in jail, incarcerated consumers who have Medicare Part A and Part B coverage should consider maintaining it to ensure their coverage will be effective upon their release.
- For most consumers, Part A (hospital) coverage is free, and they do not have to pay a monthly premium to maintain coverage.



# Maintaining Medicare When Incarcerated (Cont.)

- To maintain Part B (outpatient) coverage, consumers will have to pay the monthly Part B premium. If they do not pay the monthly premium, they will be unenrolled and lose Part B coverage.
  - If consumers lose their Part B coverage, they have to wait until the General Enrollment Period (January 1 -March 31) to re-enroll and wait until July 1 for Part B coverage to start again.
  - Consumers released from incarceration may face a coverage gap if they are released after the General Enrollment Period.
  - They can also face premium penalties for late or delayed enrollment in Part B while they are eligible, which can make their Medicare coverage more expensive in future years.
- For more information on Medicare coverage of items and services furnished to beneficiaries in custody under a penal authority, visit [CMS.gov/files/document/mln908084-patients-custody-under-penal-authority.pdf](https://www.cms.gov/files/document/mln908084-patients-custody-under-penal-authority.pdf).

# Applying for Medicare When Incarcerated

- Consumers who become eligible for Medicare while incarcerated should actively enroll in Original Medicare Part A and Part B coverage to ensure that Medicare will pay for health care services upon their release.
  - All consumers have a seven-month initial enrollment period (IEP) that consists of the three months prior to turning 65, the month of their 65th birthday, and the three months after turning 65.
- Incarcerated consumers who anticipate being released from incarceration should actively enroll in Medicare since they will not be automatically enrolled in coverage.
  - If eligible, they should enroll in Part A and Part B coverage while in prison to ensure that Medicare will pay for health care services upon their release from prison.
  - If consumers do not enroll in Medicare during their IEP, they may have to pay a late enrollment penalty when they sign up.

# Aiding the Transition of Recently Released Consumers

- Consumers who receive health coverage after being released from incarceration may need additional information about how health coverage works and how to navigate the health care delivery system.
- Assistors can aid in the transition of recently released consumers by:
  - Explaining the basics of health insurance, including the costs associated with health care services under different plans (i.e., premiums, out-of-pocket costs, deductibles, and coinsurance).
  - Helping consumers learn about community health centers or other health care providers that might have experience caring for recently released consumers.
  - Advising consumers to obtain coverage and schedule an appointment with a physician as soon as possible following their release.

# Scenario

- Samantha is 26 years old. Her mother, Jean, is currently incarcerated but scheduled to be released in four months. Samantha wants help getting Medicaid coverage for her mother.
- Samantha is uncertain whether her mother can submit an application and start receiving coverage while still incarcerated.



What advice would you give Samantha to help Jean apply for Medicaid and start using her coverage?

# Scenario (Cont.)

Tell Samantha her mother can apply for Medicaid while she is incarcerated.

- The Marketplace or her state Medicaid agency will determine whether Jean is eligible for Medicaid based on her household size, income, and other eligibility criteria.
- Federal Medicaid payments will be limited to certain inpatient services in a medical institution while she is incarcerated, if Jean is determined eligible.
- However, if Jean submits an application while incarcerated and is found eligible, she may have timely access to the full array of Medicaid-covered services upon release, since enrollment has been activated before her release.
- If Jean is found not eligible for Medicaid, she will have a 60-day SEP, active upon her release, to enroll in Marketplace coverage, if otherwise eligible. Jean may also have non-Marketplace coverage options available to her, so be sure to gather information about other possible coverage options, like employer coverage or Medicare.



# Resources

- Assisting Incarcerated and Recently Released Consumers job aid: [CMS.gov/marketplace/technical-assistance-resources/incarcerated-and-recently-released-consumers.pdf](https://www.cms.gov/marketplace/technical-assistance-resources/incarcerated-and-recently-released-consumers.pdf)
- Understanding the Health Insurance Marketplace If You're Incarcerated
  - English: [CMS.gov/marketplace/outreach-and-education/understanding-the-marketplace-if-incarcerated.pdf](https://www.cms.gov/marketplace/outreach-and-education/understanding-the-marketplace-if-incarcerated.pdf)
  - Spanish: [CMS.gov/marketplace/outreach-and-education/understanding-the-marketplace-if-incarcerated-spanish.pdf](https://www.cms.gov/marketplace/outreach-and-education/understanding-the-marketplace-if-incarcerated-spanish.pdf)
- HealthCare.gov: Health coverage for incarcerated people: [HealthCare.gov/incarcerated-people](https://www.healthcare.gov/incarcerated-people)
- Instructions for ending Marketplace coverage: [HealthCare.gov/how-to-cancel-a-marketplace-plan](https://www.healthcare.gov/how-to-cancel-a-marketplace-plan)
- Exemptions and Catastrophic Coverage: [HealthCare.gov/health-coverage-exemptions/exemptions-catastrophic-coverage](https://www.healthcare.gov/health-coverage-exemptions/exemptions-catastrophic-coverage)
- Qualification for an SEP following release from incarceration: [HealthCare.gov/screener](https://www.healthcare.gov/screener)
- Reporting a change: [HealthCare.gov/reporting-changes/how-to-report-changes](https://www.healthcare.gov/reporting-changes/how-to-report-changes)

# Resources (Cont.)

- Whom consumers should include in their household on a Marketplace application: [HealthCare.gov/income-and-household-information/household-size](https://www.healthcare.gov/income-and-household-information/household-size)
- Medicaid Eligibility and Enrollment for Justice-involved Populations: [Medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/justice-involved-populations.pdf](https://www.Medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/justice-involved-populations.pdf)
- Facilitating access to covered Medicaid services for eligible individuals prior to and after a stay in a correctional institution: [Medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf](https://www.Medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf)
- Implementation of At-Risk Youth Medicaid Protections for Inmates of Public Institutions (Section 1001 of the SUPPORT Act): [Medicaid.gov/Federal-Policy-Guidance/Downloads/smd21002.pdf](https://www.Medicaid.gov/Federal-Policy-Guidance/Downloads/smd21002.pdf)
- Medicare coverage of items and services furnished to beneficiaries in custody under a penal authority: [CMS.gov/files/document/mln908084-patients-custody-under-penal-authority.pdf](https://www.CMS.gov/files/document/mln908084-patients-custody-under-penal-authority.pdf)
- What Assisters Need to Know about the American Rescue Plan Act of 2021: [CMS.gov/marketplace/technical-assistance-resources/american-rescue-plan.pdf](https://www.CMS.gov/marketplace/technical-assistance-resources/american-rescue-plan.pdf)
- Unemployment Compensation Webinar: [CMS.gov/marketplace/assister-webinars/uc-aptc-arp-webinar.pdf](https://www.CMS.gov/marketplace/assister-webinars/uc-aptc-arp-webinar.pdf)