

Juvenile Medicaid and CHIP Reform Webinar



September 26, 2024 – 3pm Eastern

Introduction

- **Megan Noland – Major County Sheriffs of America, Executive Director**

Presenters

- **David Ryan, Senior Director of Criminal Justice Initiatives, Health and Reentry Project (HARP)**
- **Carrie Hill, Executive Director, Massachusetts Sheriffs' Association**
 - Chief Jail Advisor, NSA
 - Chair, NSA Legal Affairs Committee
- **Assistant Sheriff Jeff Puckett, Orange County Sheriff's Department, CA**
- **Q&A**

HARP

THE HEALTH AND REENTRY PROJECT

Making New Youth Continuity of Care Requirements a Reality

Major County Sheriffs of America

September 26, 2024

The Health and Reentry Project (HARP)

- HARP was established to improve the **health and safety of people and communities**
- Through education and analysis, HARP **strengthens policies to expand access to health care** for people directly impacted by the justice system
- HARP **advances implementation** to help new policies become a reality that improves peoples' lives
- HARP **brings together diverse stakeholders** across health care and criminal justice, including people who are directly impacted

New National Medicaid and CHIP Policies for Youth and Young Adults Who are Incarcerated

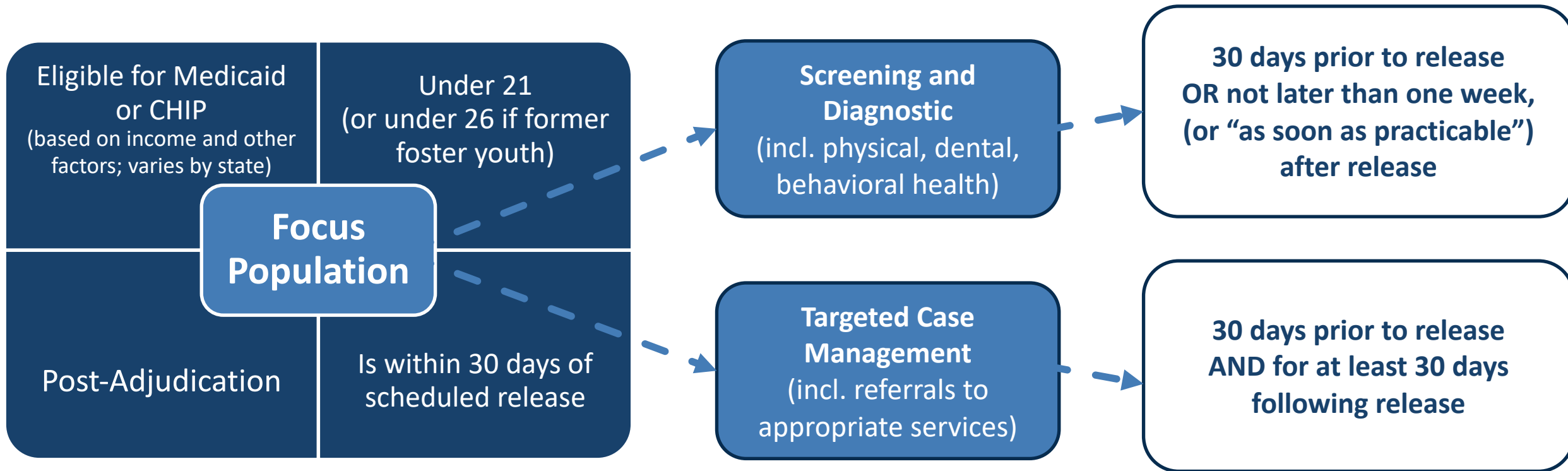
- Starting in **January 2025**, states are required to use Medicaid and the Children's Health Insurance Program (CHIP) to cover limited services for incarcerated youth who are soon to be released
- **This applies to all Medicaid beneficiaries in custody following adjudication who:**
 - Are under age 21 or former foster youth under age 26
- **The policy requires all states:**
 - **To provide screenings and diagnoses and service referrals for youth in 30 days before OR shortly after release**
 - **To provide case management in the 30 days before AND at least 30 days following release**
- This applies to all state, local, and tribal facilities where youth are incarcerated post-adjudication (prisons, jails, juvenile justice, and youth corrections)
- Additional **state option** to use Medicaid to cover comprehensive services for youth pending disposition of charges
- Policies cannot delay release or increase justice involvement

New Medicaid and CHIP Policies for Youth Who Are Incarcerated: Required in All States, January 2025

Who

What

When



Where to Start: Information Gathering

Review facility data on how many sentenced individuals will qualify for Medicaid-covered services

Understand how your facility tracks and communicates expected release dates

Identify what Medicaid eligibility & enrollment processes exist in your facility currently

Understand what medical, behavioral health, and dental screening and diagnostic processes are taking place now in your facility

Determine how case management services are currently being provided in your facility

Explore methods for tracking performance metrics post-release

Identify what technological infrastructure/staffing will be required for the delivery of services

For more information visit us at
HealthandReentryProject.org

Omnibus Consolidated Appropriations Act (CAA) “What Sheriffs Need to Know and Ask”

2024

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I May Want To, But I Can't 😊 Give Legal Advice

The information contained herein is to be used solely for training purposes and **shall not be construed as legal advice.** Users of these materials should consult legal counsel to determine how the law of their individual jurisdiction affect the application of these materials to their individual circumstances. Legal requirements may vary in individual jurisdictions and may be modified by new rulings.

MEDICAID: Youth JANUARY 1, 2025

- In the *Omnibus Consolidated Appropriations Act of 2023*, Congress enacted the first nationwide change to the inmate exclusion by authorizing Medicaid and CHIP to cover some services for *incarcerated* youth who are scheduled to be released following adjudication (§5121)
- Policies take effect in **January 2025**, additional guidance from **Definition of Youth:**
 - All people under 21
 - All former foster youth under age 26
- **The policy requires all states:**
 - **To provide screenings and diagnoses and service referrals for youth in 30 days before OR shortly after release**
 - **To provide case management in the 30 days before AND at least 30 days following release**
- Optional: States can also use Medicaid to cover services provided to youth pending disposition of charges.

MEDICAID CAA RESOURCES: Youth JANUARY 1, 2025

- **July 23rd, 2024**, CMS issued guidance on CAA
 - <https://www.medicaid.gov/federal-policy-guidance/downloads/sho24004.pdf>
- **August 5, 2024**, the National Association of Medicaid Directors (NAMD) issued their analysis of CMS' guidance
 - [CMS releases guidance on new required services for incarcerated young people - National Association of Medicaid Directors](#)

Additional CAA Guidance from CMS: August 9, 2024

- CMS will release section 5121 SPA templates for states to attest that they have an operational plan in place and will provide mandatory services as required under section 5121.
- Per CMS guidance during a NAMD call on August 9, 2024, states must attest to one of the following options:
 - **Fully Ready:** All 5121 requirements are in place (i.e., systems, facilities, all youth populations are ready for January 1, 2025).
 - **Partially Ready:** State Medicaid is prepared to operationalize 5121; however, only some facilities are ready to participate, or services are being delivered but not claimed, or carceral providers are not ready/services are not being provided.
 - **Not Ready:** State Medicaid is not prepared, and services are not being provided. □
- **CMS intends to meet** with all states in the fall to discuss readiness (starting with states that have a section 1115 demonstration).
- **States must submit** their SPAs by no later than March 31, 2025 (with a retroactive effective date of January 1, 2025).

MEDICAID CAA RESOURCES: CMS Slides from August Webinar

- <https://www.shvs.org/resource/new-cms-guidance-caa-requirements-for-provision-of-medicaid-and-chip-services-to-incarcerated-youth/>
- Slides: https://www.shvs.org/wp-content/uploads/2024/08/SHVS-Webinar-Provision-of-Medicaid-and-CHIP-Services-to-Incarcerated-Youth_Final.pdf

CMS Webinar: 9/26 at 4:30 EST TODAY

- https://links-2.govdelivery.com/CLo/https:%2F%2Fclick.icptrack.com%2Ficp%2Frelay.php%3Fr=66608592%26msgid=582932%26act=YMUY%26c=1185304%26pid=2120128%26destination=https%253A%252F%252Fcms.zoomgov.com%252Fwebinar%252Fregister%252F_WN_TnPxl18wSa2hX-I8mh-Tow%26cf=6316%26v=440cbf2b8519f5e1e5c453525e216bccd49a19eb9e58b7b3e42931ad661ebf75/1/0101019229fa1527-f24f096e-9658-40b3-98ad-230aaa4a82f3-000000/4X2cX35RZBNUCYNmBVxTX7r-Gq3-V_UV3eJdz6h8AE4=372

National Association of Medicaid Directors: Analysis of Recent CMS Guidance on §5121

- **August 5, 2024**, the National Association of Medicaid Directors (NAMD) issued their analysis of CMS' guidance
 - CMS releases guidance on new required services for incarcerated young people - National Association of Medicaid Directors

What Must States Do?

- **All states must submit a Medicaid SPA attesting “that the state has developed an internal operation plan, and in accordance with such plan, will provide coverage during the statutory pre- and post-release period of screening, diagnostic, and targeted case management services for eligible juveniles who are within 30 days of release post adjudication.”**
 - These SPAs must have an **effective date no later than January 1, 2025**, so they must be submitted no later than March 31, 2025.

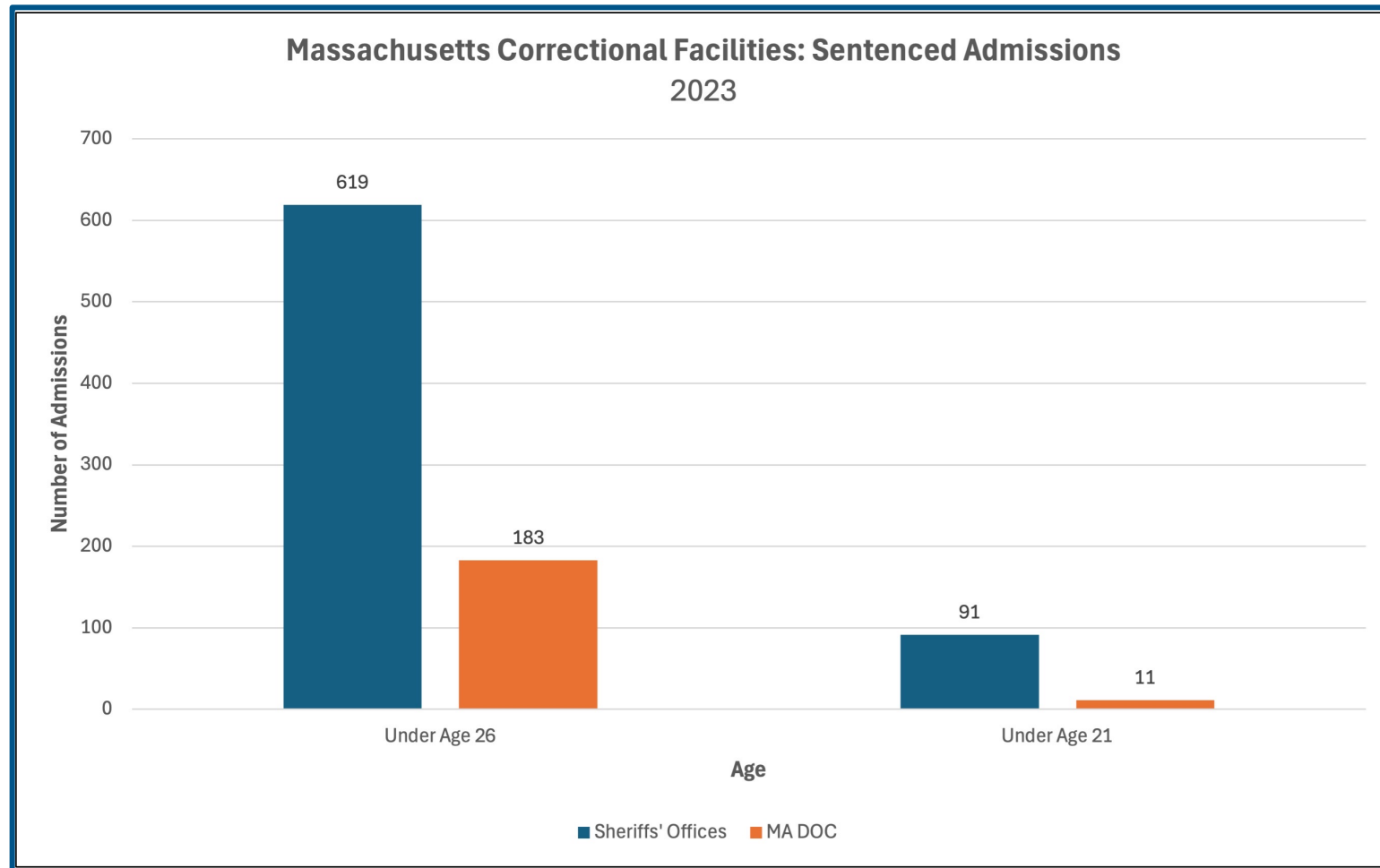
What Correctional Facilities will be Impacted by These Requirements?

- CMS says that the requirements apply to **“all types of carceral facilities where an eligible juvenile post adjudication may be confined as an inmate of a public institution,”** including state prisons, local jails, Tribal jails and prisons, and all juvenile detention and youth correctional facilities.

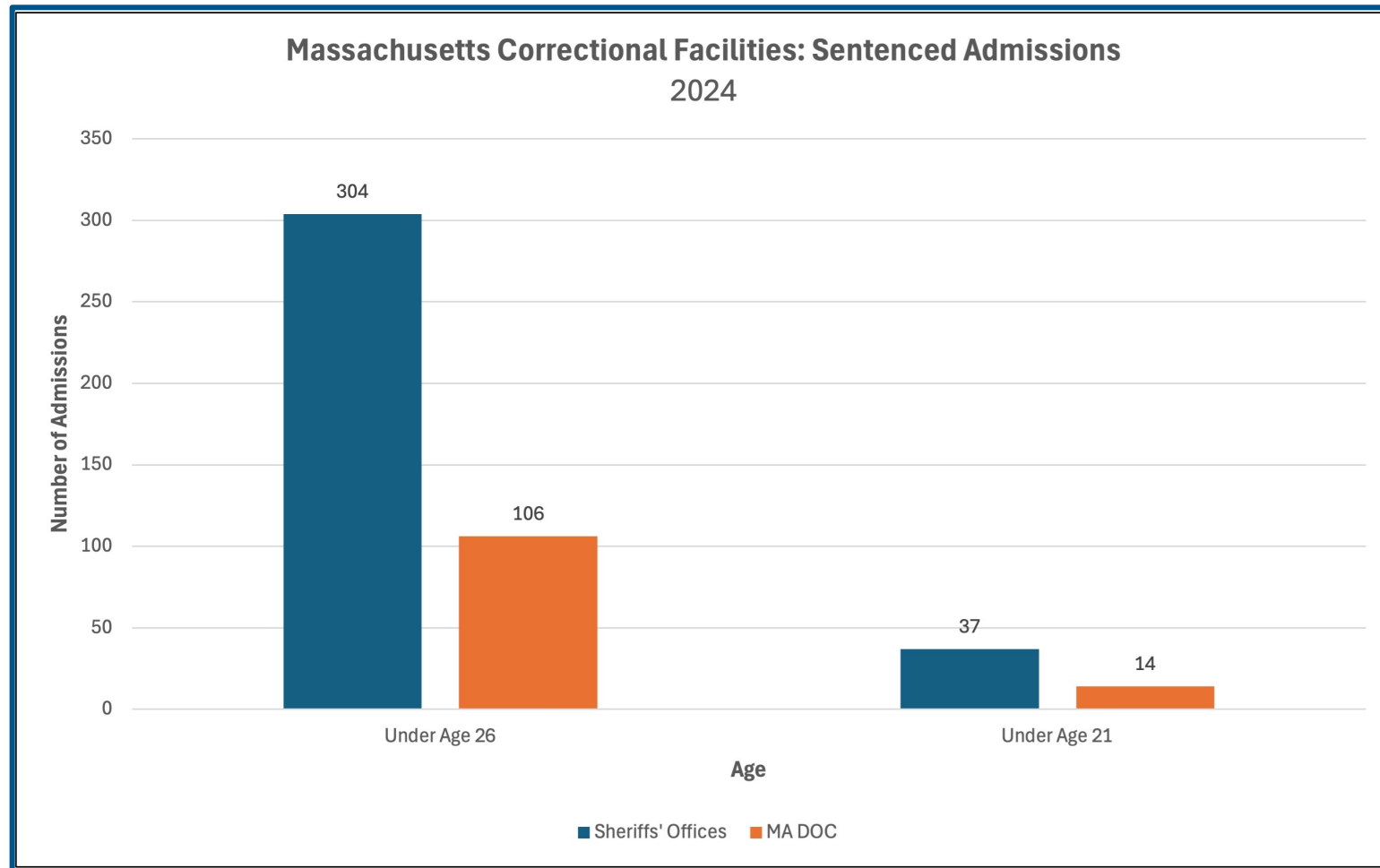
What does CMS Recommend in Terms of Implementation?

- CMS notes that it may be difficult to identify former foster care youth who are eligible for Medicaid, as corrections staff generally do not collect data on former foster care status. CMS states that “identifying this population may require individual surveys of young people” and that **“Medicaid agencies will need to determine a mechanism to identify former foster care youth, and then assess their Medicaid coverage status, notifying the adult facility of their eligibility as applicable.”**
- To ensure access to services for potentially eligible individuals, CMS states **that Medicaid agencies “should work with their correctional facility partners to establish procedures to start the application process, and assist incarcerated youth who are not already enrolled in Medicaid with applying for Medicaid upon incarceration and during the period of incarceration, with a goal of application submission no later than 90 days before the individual’s expected date of release to allow for application processing time.”** CMS notes that, although state laws vary on who may sign a document on a minor’s behalf, “42 C.F.R. § 435.907(a) allows someone ‘acting responsibly’ to sign and submit an application on behalf of a minor who is incarcerated.”
- **CMS recommends that state Medicaid and CHIP agencies engage justice system entities to establish data sharing agreements.**
- **CMS encourages states to expand the availability and utilization of peer support services for youth who are reentering from incarceration.**
- **States must ensure compliance with Medicaid and CHIP requirements on accessibility for individuals with limited English proficiency and/or disabilities.**

Sentenced Admissions 2023



Sentenced Admissions 2024



How do Data Sharing Laws Apply?

- CMS notes that **multiple laws and regulations may impact data sharing across health care and correctional systems**, including “section 1902(a)(7) of the Act, discussed in further detail below; 42 C.F.R. Part 431, Subpart F; 42 C.F.R § 457.1110; 42 C.F.R. Part 2;63F 64 and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy, Security, Breach Notification, and Enforcement Rules (the HIPAA Rules) as well as state-level regulatory requirements.”
- 42 C.F.R. part 431, subpart F requires that Medicaid agencies provide safeguards around Medicaid member and applicant data, including obtaining permission before making a data disclosure to an outside source. **CMS clarifies that an entity “such as [an] enrolled carceral health care provider who is contracted to assist the agency in a purpose directly connected to the administration of the Medicaid or CHIP state plan, such as providing services to beneficiaries, would not be considered an outside source” for the purposes of 42 C.F.R. part 431.**

Questions as the Sheriff to Ask:

- Is your Governor's Office aware of the requirements of CAA?
 - If so, what direction and guidance has been or can be given to the Sheriff's Offices?

Questions As the Sheriff to Ask:

- **For your State Medicaid Director (i.e. MassHealth in MA)**
 - **Does this individual qualify for benefits under the CAA?**
 - Your State Medicaid Office and your Division of Families and Children (Foster Care Entity) should be determining eligibility, not the Sheriff's Office.
 - Foster Care information in most if not all jurisdictions is heavily protected.
- **Does your Sheriff's Office currently provide the screenings, diagnostic services and case management as required for these qualified individuals?**
- **Are Probation and Parole Looped in to understand their role?**
- **What if any data sharing agreements will be required?**

Contact Information

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Questions?

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