



New York

Ensuring Timely Access to Medicaid and SSI/SSDI for People with Mental Illness Released from Prison:

I. BACKGROUND INFORMATION

In New York State Medicaid expenses are generally shared between the federal government (50%), the state (25%) and each county (25%). This is unlike the majority of other states where the federal government and the states share the costs and there is no local financial participation. Assuring uniformity in the implementation of a statewide initiative involving Medicaid, which typically requires agreement by 57 separate counties and the city of New York, is therefore an ongoing challenge. Many programs have a local option, and as such are subject to variation.

II. STRATEGIES TO ENSURE PROMPT REINSTATEMENT OF BENEFITS

A. Overview of Programs

The primary mechanism employed in New York State to connect eligible individuals with mental illnesses to federal benefits after release from prisons and jails is the Medication Grant Program (MGP). Additionally, the Central New York Psychiatric Center (CNYPC) of the New York State (NYS) Office of Mental Health (OMH) administers a formal discharge planning initiative, called “Pre-Release Coordination,” for inmates who received prison mental health services and are about to be released.

MGP was initiated under “Kendra’s Law” (1999 Laws of New York, Chapter 408), which also established involuntary outpatient commitment in New York State, and became active in September 2000. The NYS OMH, which is responsible for providing mental health care within all NYS correctional facilities, monitors its functioning. The program is grant-funded, and counties can choose not to participate. Since its inception the MGP program has enrolled 9,600 individuals. As of March 2004, close to 1,800 enrollees were active in the program.

MGP seeks to connect people to Medicaid and other benefits such as food stamps and cash assistance as well as to provide access to psychiatric medications in the community. To be eligible for the program the offender must have a serious mental illness, be currently taking prescribed psychiatric medications, and appear to be eligible for Medicaid after release (though ultimate Medicaid eligibility can only be decided by the local department of social services). To be enrolled in MGP an individual must file an application for Medicaid benefits; the individual can then participate in MGP while his or her Medicaid application is being processed and until an eligibility determination is made on that application.

Under the MGP, an application for Medicaid benefits can be submitted up to 45 days prior to release from incarceration or within seven days after release. In discussions between OMH, the NYS Office of Temporary Disability Assistance (OTDA), and the NYS Department of Health (DOH) it was decided that a combined Medicaid/Cash Assistance/Food Stamp application would be used as it offers access to additional services (e.g., food stamps, public assistance), for which the participant may potentially be qualified. However, because each of these additional benefits programs require the applicant to submit distinct supporting information, submitting the joint application alone is typically insufficient for the individual to gain access to those benefits. Applying for Social Security Disability Insurance (SSDI) benefits or Supplemental Security Income (SSI) is not required as part of the MGP but may be required (depending on the county) as part of the Medicaid application process. Most counties participating in the MGP file and process applications for Medicaid only.

An implementation manual was developed as part of the MGP program. It contains administrative directives from DOH and OTDA and model agreements between the

county mental health and the county social service offices that manage the Medicaid, Food Stamps, and Cash Assistance programs locally. Medications are provided as part of the program through an OMH contract with a “benefits manager.” This benefits manager (First Health) sub-contracts with a network of 3,700 pharmacies statewide. MGP participants receive MGP cards, which can be used like insurance cards to pay for medication at any pharmacy in the network. Once Medicaid eligibility is established for a participant, OMH retroactively bills Medicaid for the medications dispensed while the person was in the community. The statewide average of MGP enrollees who are found to be Medicaid-eligible is 69 percent.

Under MGP if a participant is found ineligible for Medicaid benefits, his or her eligibility for MGP ends and the locality is expected to assist that person to obtain medications under some other auspice (e.g., drug company indigent programs, local mental health funds, etc.). Funds expended for medications and services for participants later found ineligible for Medicaid come from an ongoing legislative appropriation that is allocated by OMH on a county to county basis.

Some county administrators see inherent dangers in implementing a program that may not be re-appropriated in subsequent state budgets. Some counties which did not participate in MGP, such as Dutchess and Orange, came up with their own programs in which they were permitted to utilize their county allocation of MGP funds. Jefferson County worked out an arrangement with their county social service office to have social service staff go into the county jail and complete Medicaid applications for offenders with mental illnesses about to re-enter the community.

The MGP also separately funds “transition management” positions in correctional facilities. Staff hired with these funds assist in the Medicaid application process, register eligible persons with First Health via fax and dispense MGP cards to the person when he or she is released to the community. According to participating state agencies these positions have been critical to the success of the MGP program. In jails these positions (approximately 80 statewide) are generally referred to as “transition managers” or “discharge planners,” while in prison they are called “pre-release coordinators” and administered as part of OMH’s previously-established Pre-Release Coordination program.

Pre-Release Coordination was established in 1995 by the New York State Office of Mental Health, which provides mental health services for persons in New York State prisons via its Central New York Psychiatric Center (CNYPC) and its satellite/mental health units located in state

correctional facilities. Through the Pre-Release Coordination program, CNYPC and its satellite/mental health units supervise a network of pre-release coordinators in prisons. These coordinators assist with filing benefit applications and make referrals to service providers for those inmates who received prison mental health services and are about to be released. In 2003, CNYPC provided community referrals and service linkages for 1,600 inmates with mental illnesses being released from prison to the community. More information on pre-release coordination can be found at: <http://www.omh.state.ny.us/omhweb/forensic/manual/html/chapter4.htm>.

B. Medicaid

With the implementation of the Medication Grant Program CNYPC received seven additional pre-release coordinators, raising the total number of coordinators to 24 across the prison system. Since the MGP program is considered a county-based program, the prison pre-release coordinators complete the combined Medicaid/Public Assistance/Food Stamp for eligible inmates and forward these applications to the local MGP Coordinator. The local MGP Co-ordinator logs in the application and forwards it to the county social services agency for eligibility determination. Pre-release coordinators experience certain challenges related to the inconsistent implementation of the programs in certain counties. Once the Medicaid application is completed, the pre-release coordinator faxes a MGP enrollment form to First Health and issues a MGP card to the inmate upon release.

C. SSI and SSDI

As mentioned above, the MGP does not include processes for the reinstatement of SSI/SSDI benefits. To address this issue, the New York State Division of Parole and the Social Security Administration (SSA) have entered into a memorandum of understanding (MOU) regarding procedures for submitting pre-release application for SSI and SSDI benefits. The MOU provides that OMH (CNYPC) staff will submit the applications on behalf of offenders with mental illnesses, while parole officers will submit them on behalf of offenders with other disabilities.

In order to identify individuals with mental illnesses who may require transition planning prior to release from prison, OMH (CNYPC) staff receive corrections and parole data regarding inmates anticipating release and matches this data with the OMH active caseload.

The Division of Parole has prison-based staff who generally meet with the inmate three months before his

or her scheduled release. At that time the OMH (CNYPC) pre-release coordinator submits applications for SSI and SSDI to the Social Security office closest to the prison on behalf of the individual, if he or she may be eligible. Both parole and OMH staff try to submit the application and medical evidence of disability as one package as authorized by the revised MOU with SSA (August 2003). The OMH (CNYPC) pre-release coordinators try to submit the applications three months prior to the inmate's expected release.

In New York State the Office of Temporary and Disability Assistance (OTDA) reviews and rules on the medical evidence of disability that is submitted to support the claim of disability through its Division of Disability Determinations (DDD). This division handles all disability eligibility determinations for persons applying to Social Security benefit programs whether they are in the community, in hospitals, or in correctional facilities. Applications for disability from persons in New York State prisons are therefore within a much larger pool of applications being considered by OTDA's medical examiners. Two recent developments represent an attempt at improving the response to this population. New York State has established a transitional correctional unit for persons with mental illnesses, and OTDA agreed to channel all applications from this unit to a previously determined group of only five medical examiners. These changes have resulted in increased communication and problem identification, as well as some successful eligibility determinations prior to release from prison.

While coordination between OTDA's DDD and local SSA offices has not been consistent or uniform, to date 500 of the 1,600 persons receiving OMH (CNYPC) pre-release coordination services in 2003 received assistance filing SSI and/or SSDI applications.

Multiple factors affect the ability of OMH-CNYPC to assist inmates to file SSA benefit applications within the three-month window as recommended in the pre-release policies and procedures. Situations involving unexpected releases by the parole board and persons returning to prison on a parole violation or after extended jail stays create some specific challenge areas. Also, people who have not been identified as having a mental illness during their incarceration are often identified by parole staff during the development of a post-release supervision plan. This results in insufficient notice to OMH about an inmate's transition planning needs. When this occurs the priority for OMH is to find the individual housing in the community, to enroll him or her in the MGP program for medications, and to identify a provider for mental health services. As

such, a disability application may not be completed before release.

According to state officials it is difficult to determine the outcome of applications filed prior to release (i.e., whether the application was approved and the applicant received benefits) because there is no effective way to follow up with people post-release. Although in theory a pre-release eligibility determination (Notice of Medical Allowance) from OTDA-DDD can be obtained and the applicants can begin receiving benefits immediately post-release, in reality applicants seldom have a determination on their SSI/SSDI application before they are released. Some former inmates can go up to a year without a final determination on their application. A variety of reasons for this are noted including: incomplete applications, lack of treatment information from prior providers, and/or lack of follow-up by the applicant and/or the current mental health provider.

To begin to address the timelines issue, the MOU with SSA has been modified to allow applications to be filed up to six months prior to release. The inherent problem with this approach is that there is a six-month limit on completion of the application process. When an application remains incomplete due to insufficient medical evidence, inability to secure past medical records or documents such as birth certificates, an inmate's use of an alias and/or multiple Social Security numbers, it is denied and the applicant must start the process anew.

Some prisons in the state are testing new approaches to expedite the process. For example, Arthurkill prison's pre-release staff are working with local SSA staff to complete and file SSI/SSDI applications. Staff from the local SSA office meet personally with inmates previously identified as potentially eligible for SSI/SSDI at CNYPC's Arthurkill Mental Health Unit. The SSA staff explain the program rules and help the inmates complete their applications for SSI/SSDI. With the consent of the applicant, the pre-release coordinator provides the medical evidence from the OMH record and, when necessary, obtains information from the Department of Correctional Services Health Services records as part of this process. This is the only CNYPC unit to have such an arrangement.

III. ISSUES REQUIRING FOLLOW-UP

A. Medicaid

Some of the problems with MGP relate to co-ordination of the various different agencies involved (prison, parole, prison mental health, local mental health, local social

services and a benefits manager). State officials have attributed these coordination issues to “growing pains” and expect the program to become “institutionalized” and operate smoothly. However, several obstacles persist:

Achieving uniform working relationships in the 43 participating counties is an ongoing challenge for OMH, DOH, and OTDA. While the MGP program is voluntary, counties agreeing to implement the program are expected to follow the basic model. On the local level there are still some variances under review by the state agencies involved. For example, while some participating counties require social service staff to go into the county jails to meet with potential participants and complete Medicaid applications, other counties wait for an individual’s release before filing an application.

Some issue is taken with instruction in a letter from Secretary of Health and Human Services Tommy Thompson which stated that Medicaid need not be terminated during incarceration and in all cases should be immediately available to individuals released from a correctional facility. The concept of suspension of Medicaid status is seen as running counter to federal regulations requiring annual re-certifications and updates of social service records when a person’s status changes. Also, reinstating Medicaid immediately upon release presumes that the person is still otherwise eligible, even though the person’s residential or other supports that may affect his or her Medicaid eligibility may have changed. DOH has requested specific direction from the regional office of the Center for Medicaid Services regarding implementation of Mr. Thompson’s letter. Pending such direction, DOH does not feel it can impose the letter’s suggestions on county departments of social services in New York State.

B. SSI/SSDI

The issue of determining what is appropriate medical evidence to support SSI/SSDI applications vexes both the CNYPC Pre-Release Coordinators and prison medical staff. A simplified booklet describing appropriate medical evidence of disability and information on the SSA criteria would be helpful.

OMH would like to replicate in all other prisons the joint SSI/SSDI application process in place at Arthurkill Correctional Facility and expand the process to include cross-training for SSA disability examiners and OMH prison staff.

Several people interviewed would like to see a reciprocal information-sharing process between SSA and the pre-release coordination services. In such an arrangement, SSA would provide OMH with names of people identified as receiving SSI/SSDI upon admission to jail and/or prison. This information is already being collected by SSA via a data match from county jails and state prisons for use in suspending or terminating benefits. Providing this information to OMH would enable OMH staff to identify inmates with mental illnesses in need of pre-release services, who otherwise might not be identified.

It is universally reported that, except in the most extreme cases, all initial applications by persons who are in prison for SSI/SSDI based on mental illness disability are denied and, if appealed, are subsequently approved. Appeals of denials of eligibility can take months and even years. As such, efforts by prison staff towards smooth transition to the community are often frustrated by the complexities of the appeals process.

There is no single mental health database of persons receiving mental health services in the community. As such, OMH (CNYPC) must rely on notification by prison mental health services of a person’s need for mental health services; inmates who refuse treatment in prison may not be identified by prison mental health services staff.