COMIO

Council on Mentally Ill Offenders

Building bridges between criminal justice & behavioral health to prevent incarceration

COUNCIL MEMBERS

16th Annual Legislative Report

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY

Since 2001, California, through the Council on Mentally Ill Offenders (COMIO), has recognized that individuals living with mental illness are at risk of becoming criminally involved without access to support and needed services. As a 12-member Council chaired by the Secretary of the Department of Corrections and Rehabilitation (CDCR), COMIO is charged with *investigating*, *identifying*, and *promoting* cost-effective strategies that will:

- Prevent adults and juveniles with mental health needs from becoming offenders
- Improve services for adults and juveniles with mental health needs who have a history of offending
- Identify incentives to encourage state and local criminal justice, juvenile justice, and mental health programs to adopt such approaches

2017 PRIORITIES

This year was overshadowed by proposals that would considerably impact California's ability to serve the mental health and substance use treatment needs of individuals at risk of involvement in the justice system. Through the Affordable Care Act (ACA), substantial opportunities, such as Medicaid expansion to low income adults and the inclusion of mental health and substance use treatment as essential health benefits, have allowed California to prevent incarceration and pursue a reduction in recidivism through investments in behavioral health services. The negative consequences that would occur if the ACA was repealed or critical elements dismantled compelled the Council to focus efforts on documenting the need for, and impact of, services provided under Medicaid (Medi-Cal in California). In addition, the Council sought to understand how the administration and delivery of Medi-Cal programs can be improved in the most cost-effective manner.

With incredible assistance from state and county partners who are in the trenches doing the difficult work of building and improving service delivery, the Council has developed the following recommendations:

1. Recommendation: Preserve and protect California's expansion of Medi-Cal and mental health and substance use disorder treatment as essential health benefits. The success of public safety realignment and criminal justice reforms in California is significantly reliant on expanded Medi-Cal eligibility and services, especially behavioral health services. Protecting this expansion is paramount to addressing overcrowded jails and prisons, but more importantly, to serve people with behavioral health needs in the community before they are in crisis or at-risk of incarceration.

2. Recommendation: Mental Health Plans (MHP) and Medi-Cal Managed Care Plans (MCP) are required to provide easy to understand information about benefits and how to access services. Leverage such efforts by assessing for accessibility to various justice partners, providers and service users. Offer recommendations for improvements if needed. Raise awareness about such resources and use dissemination channels that include making the information available on COMIO's website as well as the websites of other justice partners.

3. Recommendation: Support the use of universal screening with reliable and validated tools for mental illness, substance use and/or co-occurring disorders, and criminogenic risk at jail intake and identify strategies to resource such efforts. Doing so will provide valuable information to support diversion, needed services, and improved connections to necessary care.

"Even though the Mental Health Services Act provides great opportunities, Medi-Cal is really the backbone and sustainability is really the key to solving this. The more that people are covered, the more services we can provide."

- County Administrator

4. Recommendation: Support the screening of eligibility for health care coverage and other benefits at intake in jails and prison. Identify strategies to resource such screening, either among custody or in partnership or under contract with health and social services staff. Efforts should be consistent with local eligibility screening and determination processes and protocols.

5. Recommendation: Remove the one-year limitation on California's Medi-Cal suspension policy and instead support indefinite suspension so that benefits can be activated immediately upon release to achieve continuity of care. There have been recent legislative proposals regarding this that have yet to be successful. This is likely due to possible costs to the state general fund or concerns about federal approval. Follow-up to determine what the barriers have been and if there are possible resolutions or alternatives. Support policies that are more likely to sustain health care coverage, including the development of a simplified annual redetermination process for those in jail or prison.

6. Recommendation: If capacity within correctional settings for enrollment efforts is limited, priority should go to people with health problems—physical and behavioral. This is another reason it is so important to conduct an effective behavioral health assessment along with assessment of criminogenic risk to ensure those with the greatest needs returning to the community are the most likely to receive health coverage and other benefits.

7. Recommendation: Research what other states are doing through technology to expedite Medicaid eligibility and enrollment such as ease of imposing and lifting suspension status, use of peer educators to support managed care plan selection, and other strategies to expedite access to reimbursable services.

8. Recommendation: The Department of Health Care Services (DHCS), CDCR, and county stakeholders such as behavioral health, social services, probation, and the sheriffs' department can consider the feasibility of a state plan amendment that would establish short-term presumptive eligibility (PE) for those exiting incarceration whose eligibility cannot be determined at the point of release, particularly if they are in need of medical and behavioral health services upon release. The goal is to devise a reasonable strategy where Medi-Cal can support an individual's transition from incarceration to community.

9. Recommendation: Address gaps that exist between eligibility, enrollment, and service access due to an additional process of selecting a local Medi-Cal MCP and completing additional paperwork. Explore strategies where plan selection could be completed simultaneously with eligibility and enrollment processes, for example in small and rural counties that might only have one plan option. Prior to release, individuals can receive support to choose a specific provider within the network of the plan selected.

10. Recommendation: Public safety entities and county MHPs should collaborate to identify optimal strategies to engage individuals who are being released from jail or prison into appropriate health or behavioral health care. This may include pre-release discharge planning and/or transition to community-based services. To support these efforts, counties should maximize the identification and use of available federal funding as allowed (e.g., Medi-Cal Administrative Activities, Medi-Cal medical assistance).

11. Recommendation: Over 85 percent of parolees are exiting incarceration as Medi-Cal beneficiaries. Identify mechanisms to ensure that parolees who are Medi-Cal beneficiaries have access to the services they are entitled to either through the Specialty Mental Health System or a Medi-Cal MCP. Such work provides an excellent opportunity to strengthen collaboration between state and local partners.

12. Recommendation: DHCS, in consultation with behavioral health and criminal justice stakeholders, should clarify and provide guidance to counties on when and to what extent Medi-Cal and Mental Health Services Act (MHSA) funds can be used for the justice-involved, including parolees who are now Medi-Cal beneficiaries.

13. Recommendation: Maximizing federal reimbursement for parolee mental health care will aid in supplying the resources needed to better address physical and behavioral health needs. The benefits and challenges regarding how to do so most effectively should be thoroughly examined in preparation for 2020 Medi-Cal waiver renewal.

14. Recommendation: Ensure that jails, state prisons, and state hospitals have specific policies in place for enhanced pre-release and discharge planning for individuals who screen and assess at-risk due to serious mental illness (SMI), substance use disorder (SUD), co-occurring disorder (COD), and/or criminogenic needs. Assess how extensively Medi-Cal is being used to support these efforts compared to other funding sources like the MHSA, Realignment, or categorical grant programs. Consider strategies that connect individuals with their service provider prior to release, even if from a state institution. Pre-release and discharge strategies that include individuals with previous incarceration experience have demonstrated effectiveness.

15. Recommendation: Explore the feasibility and mechanics of piloting in jails and/or prisons promising practices to improve continuity of care, including:
    a. Use of community health workers (CHW) and peers for both jail/prison in-reach and community-based service support and system navigation.
    b. Engagement and communication between community supervision (probation and parole) entities and behavioral health service providers to break down myths and misperceptions of roles and responsibilities.
    c. Data-sharing that allows the sharing of health information between criminal justice and behavioral and health partners.
    d. Incentives (including enhanced funding or training and technical assistance) for providers who can specialize in populations who are high-risk and require a specialized skill set to tackle complex conditions (e.g. homelessness, SMI, SUD, COD, criminogenic risks).

16. Recommendation: Considering the risk and crisis in homelessness among the justice-involved population with serious behavioral health needs upon reentry, all efforts to address homelessness and the housing crisis in California should take into consideration the unique needs of this population. Moreover, for the justice-involved population with behavioral health challenges, housing must be linked to services and vice versa.

    a. Maximize the use of Medi-Cal funds for the justice-involved (therefore expanding federal financial participation) including for housing services so that resources saved can be directed towards a variety of housing needs for the reentry population especially for immediate short-term and transitional housing.
    b. Support practices that provide equal opportunities for housing for those being released from institutions such as jails, prisons, juvenile detention, state hospitals, and even parole, such as the *No Place Like Home Initiative,* which will include as part of their target population individuals who are at-risk of chronic homelessness,
    c. Strengthen state-level efforts to combat *Not in My Backyard* (NIMBY) community responses to housing for individuals with behavioral health needs and/or individuals who have been formerly incarcerated. Explore if and how the *Housing Accountability Act* will aid in enforcing the development of appropriate housing for special needs populations who may be experiencing discrimination.

"We need to make it so someone doesn't lose their benefits in jail because we are spending our money on services in jail rather than for reentry and in the community, that does not make any sense"

-Peer Provider

17. Recommendation: COMIO should continuously monitor the lessons learned emerging from counties and their partners implementing programs under these initiatives that especially target individuals with justice-involvement or for those returning home from incarceration. Through enhanced pre-release nd discharge planning in local jails, CDCR and the Department of State Hospitals (DSH) could have enhanced capacity to directly link appropriate individuals to community-based services prior to release. Disseminate lessons learned across counties and include health, behavioral health, and public safety partners to examine how similar efforts could be adopted locally. Learning from these initiatives should influence decisions about how to change or update Medi-Cal waivers in 2020.

18. Recommendation: Promote the use of peers who have former justice-involvement as an essential provider in the behavioral health workforce. All efforts to expand the use of peers in the workforce should include the formerly incarcerated. Support efforts to establish a statewide certification program equipped with competencies that are effective in meeting the complex needs of the justice-involved population.

19. Recommendation: Identify different CHW models being used in California and how they have been effective in behavioral health settings. Explore how to maximize Medi-Cal reimbursement for these services. Ensure that models implemented also consider and address the needs of the justice-involved who have behavioral health needs

20. Recommendation: COMIO should seek to better understand integrated care for co-occurring disorders and effective treatments. Explore the role of SUD counselors in treating the target population and examine how the services they deliver can be reimbursed through Medi-Cal.

21. Recommendation:

    a. Examine effective models to determine strategies for integration of SUD counselors.
    b. Improve understanding of how peers, CHWs, and SUD counselors can work to serve people with co-occurring disorders.
    c. Strengthen collaborative relationships by cross-training Peer Support Specialists, CHWs, and SUD Counselors. Foster the development of a culturally competent workforce that can effectively address the unique needs of the justice-involved population.

22. Recommendation:

    a. Short-term: Assess and document barriers to employment for individuals with justice-involvement. With support from counties, identify effective practices for addressing barriers to employment and disseminate them statewide. Encourage local governments to utilize this untapped resource to build the capacity of their behavioral health workforce.
    b. Long-term: In partnership with counties, strategize to address barriers through policy change.

23. Recommendation: COMIO is well positioned to build upon existing efforts and lead state agencies, departments, advisors, and stakeholders to:

    a. Catalogue existing state and federal efforts in prevention, diversion, and reentry, including the authority and funding provided by different entities.
    b. Identify strengths and barriers in existing efforts including opportunities to improve coordination to address gaps in prevention, diversion and reentry efforts.
    c. Develop a prioritized plan of legislative, regulatory, financial, educational, and training and technical assistance activities for statewide action.
    d. Create a reasonable structure to measure the progress and impact of such activities.

LOOKING AHEAD TO 2018

2017 also represents the final year an Annual Legislative Report will be submitted under the name COMIO. Next year the Council will become the ***Council on Criminal Justice and Behavioral Health (CCJBH)***. In September 2017, Governor Edmund J. Brown Jr. signed legislation to amend Penal Code Section 6044, which includes the following:

- Reinforces the importance of the Council's duties and its existence within the California Department of Corrections and Rehabilitation
- Removes outdated and stigmatizing language updating the Council's name and giving the Council an opportunity to inform others about Behavioral Health Services—both Mental Health and Substance-Use disorders
- Includes substance-use disorder challenges within the scope of the Council's work
- Encourages future council member appointments to be individuals who have lived experience in the criminal justice and/or behavioral-health systems

These changes are extremely valuable to the Council in conducting meaningful work that supports the dissemination and adoption of effective practices to reduce the incarceration of individuals with behavioral health issues. In particular, people who are justice-involved and have a mental illness are also more likely to suffer from a substance-use disorder. Addressing both in an integrated manner is difficult but far more effective than addressing one or the other. While it will be challenging to raise awareness of the new name and revised scope of practice, the Council is eager to work on this in 2018. Specifically, the Council intends to draw attention to the need for quality programming and policies that support effective practices for those with co-occurring mental health and substance use disorders.

To follow COMIO's work and to receive information about workshops and meetings, please visit our website at https://sites.cdcr.ca.gov/ccjbh/ and subscribe to our monthly newsletter by emailing comionews@gmail.com.

"COMIO recognizes that mental health issues are far too prevalent in California's criminal justice system. Our role is to promote early intervention for youth and adults with unmet behavioral health needs."

-Secretary Scott Kernan