

June 16, 2020

Dear Secretary Friedlander and Commissioner Lee:

Thank you for the actions you have taken to contain COVID-19 and protect the health and well-being of Kentuckians during this pandemic. As this crisis continues, it is clear that more needs to be done to ensure Kentuckians who have been incarcerated, which are disproportionately people of color, access health care without barriers. Many of these individuals being released have chronic health conditions, mental health disorders and substance use disorders that require immediate treatment.

Shortly after Kentucky's successful Medicaid expansion, advocates and providers worked with the Cabinet to establish a new "suspension" status for incarcerated individuals as a better alternative to disenrollment. After more than five years of observing this policy in practice, however, we now believe that another solution is required.

During this time, application assisters have discovered that suspension was not producing the intended results. The process continues to be inconsistent, particularly for the primary population the suspension policy is meant to benefit - Kentuckians who are incarcerated for short periods of time. Some individuals never lose benefits at all, while others remain suspended months after their incarceration, creating confusion for everyone. Even when the timing of suspension was relatively accurate, "turning the benefits back on" often proved challenging. This remains true for individuals working with an experienced application assister.

Proving an individual is not incarcerated adds a surprising amount of administrative complexity. When the person is sitting in your office across the table from you, obviously not incarcerated, it's not always clear that benefits are not active because of the perception of incarceration by the system. Consumers are essentially required to satisfy a nonexistent Request For Information (RFI); They must upload or fax a document of release from the jail where they were incarcerated, which could mean travel to that jail, sometimes in another part of the state. Jails are not set up to respond to these types of information requests. People who answer the phone at jails often aren't sure what to provide, even when they are willing. Once an individual has adequate "proof" that they are not incarcerated, they must still wait on processing by our Department for Community Based Services (DCBS), which is sometimes the same day, and sometimes weeks. All of this creates unnecessary administrative work and delays in eligible Kentuckians using their health care coverage.

As COVID-19 continues to disproportionately burden justice-involved populations, which are also disproportionately Black and Brown Kentuckians, it is critical that we take a different approach if we want to achieve better outcomes.

The undersigned organizations urge the Kentucky Department for Medicaid Services (DMS) to remove the benefit suspension for Kentuckians in jail so there is one less barrier to healthy reentry. There is no federal prohibition on Medicaid eligibility while incarcerated, but rather utilizing Medicaid benefits outside of specific exceptions. An example is provided by MassHealth's policy, issued in an [external memo](#) on April 10th, to protect the coverage of any individual who is incarcerated with pretrial status

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and reactivate any pretrial inmate's previous community benefits without requiring the submission of a new application. Kentucky can also take discretionary action to end our suspension policy, which does not require approval from the Centers for Medicare and Medicaid Services.

Kentucky not only has the authority and discretion to end our suspension policy, but the opportunity to improve the administrative process and coverage for Kentuckians who need it most. Maintaining Medicaid enrollment for Kentuckians in jail is better for those individuals, their families, and our economy. Healthy reentry reduces recidivism by giving individuals with Medicaid immediate access to physical and mental health care that they need. It also reduces the administrative burden created when individuals unnecessarily turn on and off coverage.

We are grateful that this administration believes health care is a human right and has vowed to end racial disparities in healthcare coverage and outcomes. We believe that removing barriers to care for this population is an important step your Cabinet can take to build an anti-racist, equitable society for all Kentuckians. Thank you for your consideration of this request and for all you do to improve the health of our commonwealth.

Respectfully,

ACLU of Kentucky

Advocacy Action Network

All of Us or None Louisville

Coalition for the Homeless

Department of Public Advocacy

Family Health Centers, Inc.

Feeding Kentucky

Goodwill Industries of Kentucky

Healthy Reentry Coalition of Kentucky

Homeless and Housing Coalition of Kentucky

Kentuckians for the Commonwealth

Kentucky Association of Criminal Defense Lawyers

Kentucky Center for Economic Policy

Kentucky Coalition Against Domestic Violence

Kentucky Council of Churches

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Kentucky Criminal Justice Forum

Kentucky Equal Justice Center

Kentucky Mental Health Coalition

Kentucky Voices for Health

Lexington Rescue Mission

Louisville Family Justice Advocates

Louisville Metro Department of Correction

Louisville Metro Department of Public Health and Wellness

Louisville Recovery Community Connection

Louisville Urban League

Mental Health America of Kentucky

Metro United Way

Mission Behind Bars and Beyond (MB3)

NAACP, Kentucky State Conference

Park DuValle Community Health Center, Inc.

Pathways Inc.

Prison, Jail & Reentry Ministry, Catholic Charities

The Institute for Compassion in Justice

The Kentucky Alliance Against Racist & Political Repression

The Prisoner's Hope

Steering Committee:

Advocacy Action Network | Feeding Kentucky | Homeless and Housing Coalition of Kentucky
Kentucky Center for Economic Policy | Kentucky Council of Churches | Kentucky Equal Justice Center
Kentuckians for the Commonwealth | Kentucky Voices for Health | Mental Health America of Kentucky