



## 90/10 Funding

### to Promote Health Information Sharing between Correctional Agencies and Community-Based Providers

*This brief is for public safety leaders, state Medicaid agency personnel, and policymakers who work on issues related to criminal justice and behavioral health. It discusses the intersection between information technology, record sharing, the criminal justice system, and Medicaid. Specifically, it provides information about how federal 90/10 funding can be leveraged to strengthen connectivity between jails and prisons and the healthcare provider community.*

#### What is 90/10 funding?

The federal Medicaid reimbursement rate varies depending on a number of circumstances and variables. Federal matching funds made available to states through the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009 are referred to as “90/10 funds.”

HITECH authorized federal matching funds for activities to promote adoption of a health information exchange (HIE), a system facilitating shared access to electronic health records. In February 2016, the federal Centers for Medicare & Medicaid Services (CMS) issued further guidance on HITECH funding, expanding the scope of activities and entities eligible to make use of such funds. The letter states:

*Subject to CMS prior approval, States may thus be able to claim 90 percent HITECH match for expenditures related to connecting Eligible Providers to other Medicaid providers, including behavioral health providers, substance abuse treatment providers, long-term care providers (including nursing facilities), home health providers, pharmacies, laboratories, correctional health providers, emergency medical service providers, public health providers, and other Medicaid providers, including community-based Medicaid providers.<sup>1</sup>*

#### What does this mean for the justice system?

States can draw down federal funding for activities that relate to the connectivity between correctional facilities and providers of community-based primary care and mental health and substance use treatment.

Correctional facilities are mandated to provide adequate care to persons in custody.<sup>3</sup> Most detained individuals receive a physical and behavioral health screen, and if needed, are provided with care by correctional health workers. However, once individuals are released, such care is often outside the jurisdiction of correctional agencies. Methods to systematize connections to care at this juncture can bolster efforts to stabilize individuals. With the support of federal 90/10 funding, states can work to connect community providers with individuals’ institutional medical records, facilitating continuity of care during the transition.

#### Case Study: Kentucky

In Lexington, Kentucky, the Fayette County Detention Center is connected to the state’s health information exchange (HIE). The medical records of incarcerated individuals are shared with the HIE, and treating providers are able to access the records, which makes for a smoother release transition process for individuals with mental health and substance use conditions. Individuals consent to include their information in the HIE using a universal consent form.<sup>2</sup>

## How does it work?

To access 90/10 funding, states must identify HITECH-related expenditures that can be used to serve as a match. Using an advanced planning document (APD), they can propose a plan centered around their HIE or other information exchange system that focuses on: 1) determining how to achieve shared medical record access for both the jail or prison healthcare providers and community-based providers, and/or 2) facilitating the community-based providers' use of electronic health records. CMS approval opens access to 90/10 funding to implement the plan.<sup>4</sup>



**For more information**, see the COCHS issue paper entitled “New HIE Funding Opportunities for Corrections: Health Information Technology’s Role in Reducing Mass Incarceration.”<sup>5</sup>

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### About the Center for Health and Justice at TASC

TASC, Inc. (Treatment Alternatives for Safe Communities) provides evidence-based services to reduce rearrest and facilitate recovery for people with substance use and mental health issues. Nationally and internationally, TASC’s Center for Health and Justice offers consultation, training, and public policy solutions that save money, support public safety, and improve community health.

**TASC’s Medicaid Policy Series** is designed to help leaders maximize the opportunities of Medicaid expansion in order to more swiftly and effectively connect justice populations to healthcare services in the community. The lead author of the series is TASC Administrator of Medicaid Policy and Program Development Sherie Arriazola.

For further information, or to find out about TASC’s consulting services, contact:

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## Endnotes

- <sup>1</sup> Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services. (2016). *RE: Availability of HITECH administrative matching funds to help professional and hospitals eligible for Medicaid EHR incentive payments to connect to other Medicaid providers*. Retrieved from <https://www.medicare.gov/federal-policy-guidance/downloads/SMD16003.pdf>.
- <sup>2</sup> Kentucky Health Information Exchange. (2014). *Kentucky behavioral health training manual*. Retrieved from <http://khie.ky.gov/nr/Documents/KHIE%20Behavioral%20Health%20Training%20Manual%20with%20Appendix%20-%2010-6-14.pdf>.
- <sup>3</sup> Estelle v. Gamble, 429 U.S. 97 (1976).
- <sup>4</sup> Submission of advance planning documents, 45 CFR § 95.610 (2010).
- <sup>5</sup> Butler, B. (2016) New HIE funding opportunities for corrections: *Health information technology’s role in reducing mass incarceration*. Retrieved from <http://www.cochs.org/files/CMS/New-HIE-Funding-Opportunities.pdf>.