Vermont's Medicaid Reentry Initiative

January 24, 2024

Key Demographic Characteristics of DOC Population

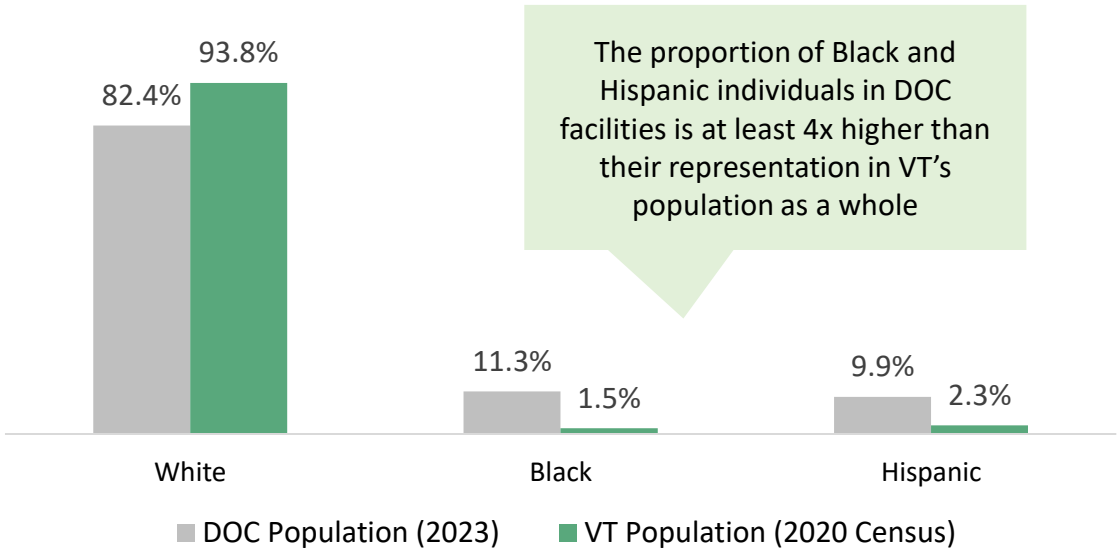
At least three-quarters of people in DOC facilities have mental health or substance use-related needs. People of color are substantially overrepresented in DOC facilities as compared to the VT population as a whole.

Health Status and Utilization

In SFY 2022 in DOC facilities:

- **76%** of avg. daily incarcerated population was on the **mental health caseload**
- **59%** of avg. daily incarcerated population received **medication-assisted treatment**
- **4%** of avg. monthly total incarcerated population had a **serious functional impairment**

Racial and Ethnic Breakdown of VT DOC Population as Compared to VT Population as a Whole*



*Select racial/ethnic groups displayed. No other racial group had >10 members in a DOC facility

FY24BudgetPerformanceMeasures.pdf (vermont.gov), U.S. Census Bureau QuickFacts: Vermont, RaceReport_09-30-2023.pdf (vermont.gov)

New 1115 waiver opportunity will allow Medicaid funding within Correctional Settings for the first time.

June 2021

In its **Global Commitment renewal** application, VT requested authority to obtain Medicaid reimbursement for services delivered to justice-involved individuals in the 90 days pre-release from a correctional facility

June 2022

CMS renewed the Global Commitment demonstration, but **pended VT's justice-involved request**

January 2023

CMS **approved CA's 1115 request** to cover services 90-days pre-release for justice-involved individuals

April 2023

CMS released a State Medicaid Director Letter **(SMDL)** providing guidance on parameters under which it would approve "Reentry Section 1115 Demonstrations" authorizing **federal reimbursement for a targeted set of Medicaid services for justice-involved individuals**

AHS is Targeting January 2026 Implementation

January - December 2024

Obtain Approval of Reentry Initiative via Global Commitment Demonstration

VT already submitted an application to CMS, but must conduct design work prior to initiating negotiations in late winter/early spring. AHS is targeting approval of a Global Commitment amendment by end of 2024.

March 2024 – Spring 2025

Develop and Obtain Approval for Protocols

States must develop and obtain approval for an Implementation Plan and Reinvestment Plan; these documents will likely be due 6-9 months post-Demonstration approval. VT must conduct additional design work to inform protocols.

Summer 2025 – January 2026

Implementation Planning

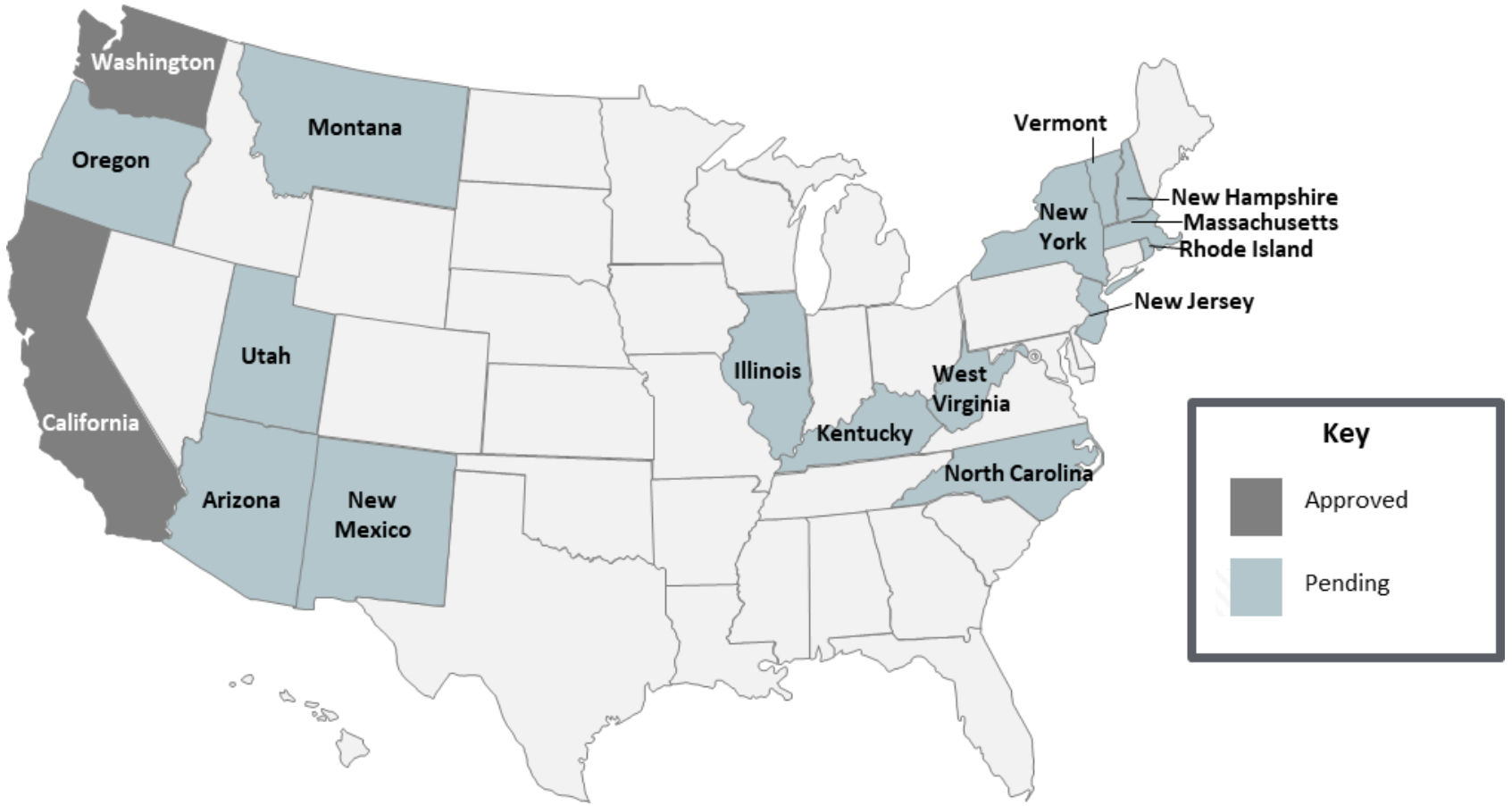
Implementation planning will include developing changes to eligibility and enrollment processes; establishing new case management processes; and ensuring cross-system collaboration across Medicaid, DOC facilities, community-based providers/ organizations, and probation and parole offices.

January 2026

Implement Reentry Initiative

Other States are Also Pursuing Reentry Initiatives

To date, 17 states have submitted to CMS 1115 demonstration requests for reentry initiatives, with two states receiving approval.



Deep Dive: CMS Guidance on Reentry Initiatives

- Until now, due to a provision of federal Medicaid law known as the "inmate exclusion," inpatient hospital care was the only service that could be covered by Medicaid for individuals considered "inmates of a public institution."[1]
- CMS published a SMDL that outlines the **opportunity for states to waive the inmate exclusion** and receive federal Medicaid match for expenditures for certain pre-release healthcare services provided to individuals who are incarcerated and otherwise eligible for Medicaid, prior to their release.
- **Together, CMS' SMDL and California and Washington's STCs** provide parameters and areas of flexibility for states seeking to submit Reentry Demonstration requests.
- CMS has communicated to states with pending demonstrations that in order to ensure approval, states should seek to **align** with California and Washington's approved demonstration, to the maximum extent possible. However, states will have **flexibility** with how they operationalize their program during the implementation phase of the demonstration.

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop: S2-26-12
Baltimore, Maryland 21244-1850

CMS
CENTER FOR MEDICAID & CHIP SERVICES

SMD# 23-003

RE: Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated

April 17, 2023

Dear State Medicaid Director:

The Centers for Medicare & Medicaid Services (CMS) is issuing the following guidance for designing demonstration projects under section 1115 of the Social Security Act (the Act) (42 U.S.C. § 1315) to improve care transitions for certain individuals who are soon-to-be former inmates of a public institution (hereinafter referred to as incarcerated individuals, except when quoting from statute) and who are otherwise eligible for Medicaid. This letter also provides guidance to interested states about development and submission of the associated section 1115 demonstration application.

This guidance continues to implement section 5032 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) (Pub. L. No. 115-271), Promoting State Innovations to Ease Transitions Integration to the Community for Certain Individuals. As mandated in section 5032, the Department of Health and Human Services (HHS) convened a stakeholder group to develop best practices for states to ease health care-related transitions for incarcerated individuals to the community and to develop a Report to Congress (RTC). On December 1, 2022, HHS transmitted the RTC to Congress.[1] Additionally, section 5032 directs the Secretary of HHS, through the Administrator of CMS, to issue this State Medicaid Director Letter (SMDL) regarding opportunities to design demonstration projects under section 1115 of the Act to improve care transitions for incarcerated individuals exiting a public institution and who are otherwise eligible for Medicaid, and to base this guidance on best practices identified in the RTC.

As provided in section 1115 of the Act, the Secretary of HHS may waive certain provisions of section 1902 of the Act and/or provide authority for federal matching of expenditures that otherwise would not be eligible for federal financial participation (FFP) under section 1903 of the Act, where the Secretary determines that the demonstration project is *likely to assist in promoting the objectives of Medicaid.* While CMS reviews every section 1115 demonstration

[1] https://aspe.hhs.gov/sites/default/files/documents/d48e8a9fdd49902542ffa30aa78b8d1/health-care-reentry-transitions.pdf

Source: CMS, (1) Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who are Incarcerated

CMS Guidance on Goals of Reentry Initiatives

Goals of Reentry Initiatives

- Increase coverage, continuity of coverage, and appropriate service uptake of Medicaid.
- Improve access to services prior to release and thereby improve transitions and continuity of care into the community upon release.
- Improve coordination and communication between correctional systems, Medicaid systems, managed care plans, and community-based providers.
- Increase additional investments in healthcare and related services aimed at improving the quality of care for enrollees in carceral settings and in the community to maximize successful reentry post-release.
- Improve connections between carceral settings and community services upon release to address physical health, behavioral health, and health-related social needs (HRSNs).
- Reduce all-cause deaths in the near-term post-release.
- Reduce the number of emergency department (ED) visits and inpatient hospitalizations among recently incarcerated Medicaid enrollees through increased receipt of preventive and routine physical and behavioral healthcare.

CMS Guidance on Parameters of Reentry Initiatives

Parameter	CMS Requirements	Vermont Reentry Initiative – *Proposed Request*
Pre-release timeframe	▪ State flexibility to provide coverage of pre-release services for up to 90 days before the incarcerated individual's expected date of release.	Cover services 90 days pre-release
Eligible individuals	▪ States can choose to provide reentry services to all eligible incarcerated individuals in the 90 days prior to release or may define their population of focus (e.g., individuals with serious mental illness and substance use disorders).	Provide reentry services to all eligible incarcerated individuals
Eligible facilities	▪ States may implement their reentry initiatives in some or all correctional facilities; states cannot obtain federal Medicaid match for reentry services delivered in federal prisons.	Implement reentry initiative in all DOC facilities
Scope of covered services	▪ States **required** to cover: Case management, medication assisted treatment, and 30-day supply of all prescription medications in-hand upon release as clinically appropriate. ▪ State **flexibility** to cover other physical and behavioral health services (e.g., labs and radiology, durable medical equipment, family planning services, treatment for Hepatitis C, and rehabilitative or preventive services	Cover all required services; optional services to be determined*
Capacity Building Funds	▪ CMS will consider state requests for time-limited financing for certain new expenditures that support implementation such as: ○ Development of new business and operational practices related to health information technology (IT) systems ○ Hiring and training of staff to assist with implementing the initiative ○ Outreach, education, and stakeholder convening to advance collaboration	Capacity building funds to be requested; details to be determined

*VT's DOC facilities already cover: MAT and a 30-day supply of all prescription medications and provides a more limited set of case management. AHS is evaluating which optional services to propose.

Reinvestment Requirement

CMS is requiring states to reinvest the total amount of federal matching funds received through the demonstration.

States will need to submit a reinvestment plan that **describes how funds that replace currently expended state or local dollars will be reinvested**.

Reinvestments that are focused on **improving community-based physical and behavioral health services, health information technology and data sharing, and community-based provider capacity** are all allowable.

The amount a state pays to cover new, enhanced, or expanded pre-release services authorized under the demonstration **may also count toward the state's reinvestment obligation**.

Vermont Specific Considerations

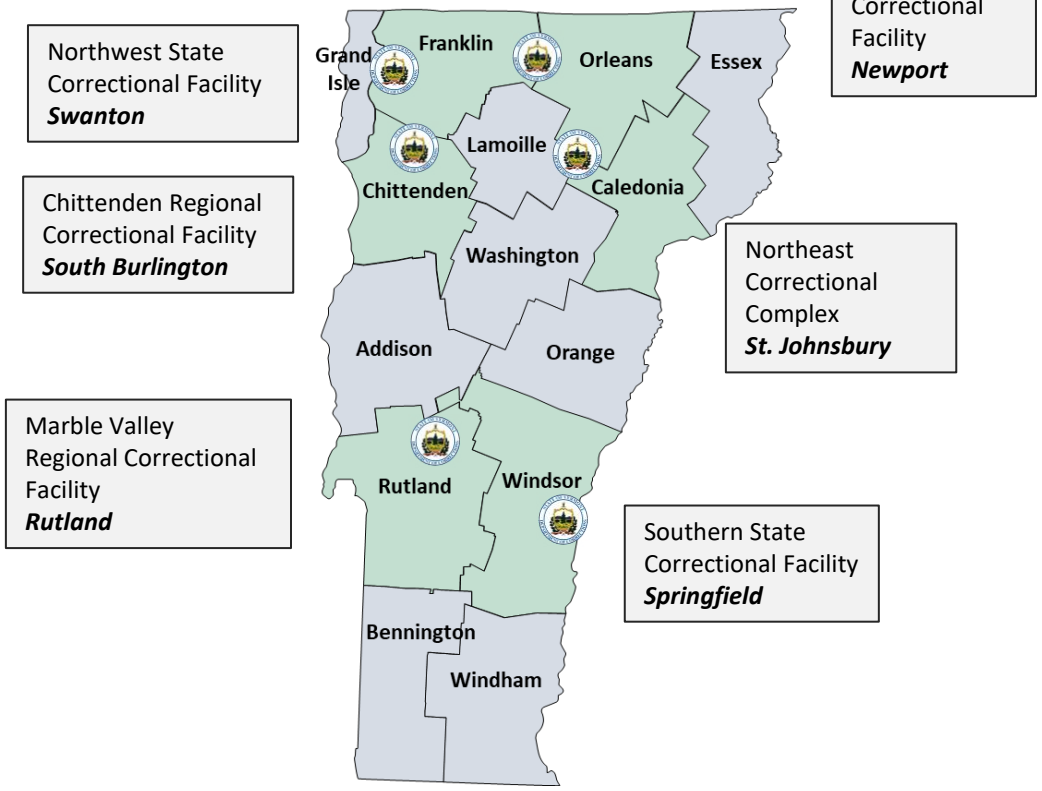
- The State will need to conduct a math exercise to evaluate whether the amount of dollars the state is paying on new services (e.g., care management and any other additional services) and capacity building funds exceeds the amount of dollars the state will be paying for MAT and the 30-day supply of medications.

CMS will not approve a reinvestment plan under which funds would be used to build prisons, jails, or other carceral facilities, or to pay for prison- or jail-related improvements other than those for direct and primary use in meeting the healthcare needs of individuals who are incarcerated.

Appendices

VT Has Six DOC Facilities Where 1300+ People are Incarcerated

VT DOC Facilities[1]



(1) Correctional Facilities | Department of Corrections (vermont.gov) (2) U.S. Census Bureau QuickFacts: Vermont, RaceReport_09-30-2023.pdf (vermont.gov)

Background: Justice-Involved Populations Have Significant Needs

Justice-involved individuals experience disproportionately higher rates of physical and behavioral health diagnoses and are at a higher risk for injury and death as a result of trauma, violence, overdose, and suicide than people who have never been incarcerated.

Of people incarcerated in state/federal prison, nationally:

- **26% have high blood pressure/hypertension**, compared to 18% of the general public
- **15% have asthma**, compared to 10% of the general public
- **65% smoke cigarettes**, compared to 21% of the general public[1]
- The mortality rate two weeks post-release from prison is **12.7 times** the normal rate, driven largely by overdoses[2]

People with mental health and substance use disorders are overrepresented in the criminal justice system.

- **51% of people in prison** and **71% of people in jail** in the U.S. have/previously had a **mental health problem**
- **58% of people in state prison and 63% of people in jail** in the U.S. meet the criteria for **drug dependence or abuse**[3]
- **Overdose deaths are >100x** more likely for justice-involved individuals two weeks post-release than the general population[4]

Focus on Vermont

Of the people in DOC Facilities in SFY 2022:[5]

- ***76%*** of average daily incarcerated population was on the mental health caseload
- ***59%*** of average daily incarcerated population received medication-assisted treatment
- ***4%*** of average monthly total incarcerated population had a serious functional impairment*

*Serious Functional Impairment (SFI) is defined as: a) A substantial disorder of thought, mood, perception, orientation, or memory, any of as diagnosed by a qualified mental health professional, which grossly substantially impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, and which substantially impairs the ability to function within the correctional setting; or b) a developmental disability, traumatic brain injury or other organic brain disorder, or various forms of dementia or other neurological disorder as diagnosed by a qualified mental health professional, which substantially impairs the ability to function in the correctional setting.

Sources: (1) Five Ways the Criminal Justice System Could Slow the Pandemic, (2) Release from Prison — A High Risk of Death for Former Inmates, (3) How Have States Addressed Behavioral Health Needs through the Justice Reinvestment Initiative?, (4) Release From Prison — A High Risk of Death for Former Inmates, (5) FY24BudgetPerformanceMeasures.pdf (vermont.gov)

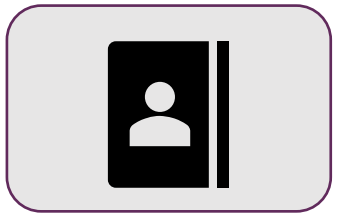
Capacity Building

Consistent with its approval of California's Reentry 1115 Demonstration, CMS will consider state requests for time-limited financing for certain new expenditures that support implementation of the Reentry 1115 Demonstration.

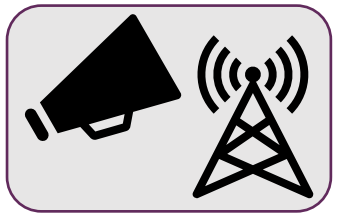
Federal Guidance

Allowable capacity building activities include, but are not limited to:

Development of new business and operational practices related to health information technology (IT) systems.



Hiring and training of staff to assist with implementing the initiative.



Outreach, education, and stakeholder convening to advance collaboration across the Medicaid agency, correctional facilities, providers, managed care plans, and community-based organizations, among others.

Capacity building funds can be directed to correctional facilities and providers to support all three activities.