



DRAFT POLICY INFORMATION NOTICE

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DOCUMENT NAME: DRAFT Health Center Program Policy Guidance Regarding Services to Support Transitions in Care for Justice-Involved Individuals Reentering the Community

TO: Health Centers (Awardees and Look-Alikes)
Primary Care Associations
National Health Center Training and Technical Assistance Partners

The purpose of this draft Policy Information Notice (PIN) is to propose program policy guidance for health centers under section 330 of the Public Health Service Act, 42 U.S.C. § 254b (including funding recipients, subrecipients, and look-alikes), to clarify the circumstances under which they may provide certain health services as part of the Health Center Program scope of project to incarcerated/detained individuals who are expected to be or scheduled for release from a carceral setting within 90 days.

If you would like to submit any comment to HRSA about this draft PIN, refer to the BPHC Contact form and select “Comment on Draft Policy” for instructions on submitting comments. The deadline to submit comments is by June 14, 2024 (by 11:59 p.m. Eastern Time.) If you have any questions or require further information on the current process for making changes to your health center’s scope of project, please consult the [Health Center Program Scope of Project webpage](#) for resources and instructions. If you have general or routine questions related to your Health Center Program award or look-alike designation, please use the [BPHC Contact Form](#).

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I. BACKGROUND

The Health Center Program is authorized by section 330 of the Public Health Service (PHS) Act, 42 U.S.C. § 254b. The Health Resources and Services Administration (HRSA) provides federal award funding to health centers under section 330 to deliver required primary care and additional health services to medically underserved areas and populations. HRSA also designates entities as Health Center Program “look-alikes” that it has determined meet section 330 requirements. Such health centers provide required primary care and additional health services for all residents of the area served by the health center.

II. PURPOSE OF THIS POLICY INFORMATION NOTICE

The purpose of this Policy Information Notice (PIN) is to provide policy guidance for health centers to provide certain health services within their HRSA-approved scope of project to incarcerated/detained individuals who are within 90 days of their scheduled or expected release from a carceral setting, described in this PIN as “justice-involved individuals reentering the community” (JI-R individuals). A carceral setting is the prison, jail, correctional facility, juvenile justice facility, or other facility where a JI-R individual is incarcerated or detained by state or local government. A carceral authority is the local or state government that is responsible for the care and custody of the JI-R individual. This policy does not apply to care provided to JI-R individuals in the care and custody of the Federal government nor to individuals in pre-trial detention.

This PIN is intended to support health centers in providing certain health services—delivered under the exclusive control and authority of the health center—to support the transition of JI-R individuals from the carceral setting back into the community setting.

This policy is informed by guidance from the Centers for Medicare & Medicaid Services (CMS) that encouraged states to improve care transitions for certain individuals who are soon-to-be formerly incarcerated persons of a public institution and who are otherwise eligible for Medicaid.¹

In alignment with the foregoing rationale and the previously issued CMS guidance, HRSA has determined that health centers may, within their Health Center Program scope of project, provide certain health services to JI-R individuals, during the 90-day period prior to their scheduled or expected release from a carceral setting, to facilitate the transition of their medical care from the carceral setting to the community setting.

When a health center provides health services under the circumstances described in this PIN, the JI-R individual receiving care during such an encounter is considered by HRSA to be a patient of the health center for purposes of the care provided during those encounters.

¹ Refer to [SMD 23-003 - Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated \(medicaid.gov\)](#) and section 5122 of Consolidated Appropriations Act, 2023 (P.L. 117-328).

Although this policy does not address all pertinent factors relevant to eligibility for liability protections, including Federal Tort Claims Act (FTCA) coverage, under the Federally Supported Health Centers Assistance Act (FSHCAA), 42 U.S.C. § 233(g)-(n), it does provide important scope of project policy guidance that may be relevant to such determinations within this context. Health Centers should consult the [Federal Tort Claims Act \(FTCA\) webpage](#) regarding the applicability of and eligibility for liability coverage under FSHCAA.

Federal, state, and local governments are required by the U.S. Constitution to provide medical care to individuals whom they incarcerate,² and this policy is not intended to transfer that obligation or shift associated costs to the Health Center Program or to individual HRSA-supported health centers. Rather, this PIN identifies a set of health services that a health center may provide on its own behalf, and subject to all section 330 requirements, to JI-R individuals to support their care transition from the carceral setting to the community.³

III. APPLICABILITY

The policy guidance set forth in this PIN applies to all health centers that apply for and receive [federal award](#) funds under the Health Center Program authorized by section 330 of the PHS Act ([42 U.S.C. § 254b](#)) (“section 330”), (including sections 330(e), (g), (h), and (i)), as well as section 330 [subrecipient](#) organizations⁴ and Health Center Program [look-alikes](#).⁵ For the purposes of this document, HRSA refers to all of these entities collectively as “health centers.”

For additional policy guidance related to scope of project, refer to [Policy Information Notice \(PIN\) 2008-01: “Defining Scope of Project and Policy for Requesting Changes.”](#)

IV. GENERAL CRITERIA FOR INCLUDING ACTIVITIES FOR JUSTICE-INVOLVED INDIVIDUALS REENTERING THE COMMUNITY WITHIN THE HEALTH CENTER PROGRAM SCOPE OF PROJECT

A health center’s HRSA-approved Health Center Program scope of project must be consistent with the Health Center Program authority and program requirements, including scope of project-related policy. As applicable, the general criteria for including activities within the Health Center Program scope of project include that the services are delivered, service sites are operated, and activities are conducted **on behalf of** the health center under Section 330 of the Public Health Service Act. For this purpose, criteria for demonstrating that activities are conducted on behalf of the health center include the following:

² Refer to *Estelle v. Gamble*, 429 U.S. 97 (1976).

³ If a carceral authority already provides services to JI-R individuals to support reentry and successful transitions from the health care provided by the carceral facility to community-based care, a health center seeking to work with those JI-R individuals should identify services that will complement rather than duplicate or replace those existing services.

⁴ 42 U.S.C. § 1395x(aa)(4)(A)(ii) and 42 U.S.C. § 1396d(l)(2)(B)(ii).

⁵ Sections 1861(aa)(4)(B) and 1905(l)(2)(B) of the Social Security Act (42 U.S.C. § 1395x(aa)(4)(B) and 42 U.S.C. § 1396d(l)(2)(B)(iii)).

- a. The health center's governing board has approved the location(s) and the service(s) offered by the health center for the JI-R individuals consistent with the policy set forth in this PIN;
- b. The services provided at the location benefit the health center's target population;
- c. Health centers deliver in-scope services directly, under the authority and direction of the health center's governing board and in accordance with the health center's policies and procedures, or if the health center provides services through contracts or formal written referral arrangements with other organizations, the health center's governing board approves these contracts or formal written referral arrangements to provide services to health center patients;
- d. The health center uses grant or non-grant funds from its Health Center Program annual budget⁶ to provide services and, when applicable, the health center bills for these services; and
- e. The health center establishes and maintains its own health records related to the services it provides for the individuals being served.

In addition, where relevant facts (including contracts, billing, and medical records) indicate that the provider is acting on behalf of a third party and not on behalf of the health center, HRSA will not consider the location or activity to be within the approved scope of project.

V. SPECIFIC CRITERIA FOR PROVIDING HEALTH CENTER SERVICES TO SUPPORT TRANSITIONS IN CARE FOR JUSTICE-INVOLVED INDIVIDUALS REENTERING THE COMMUNITY WITHIN THE HEALTH CENTER PROGRAM SCOPE OF PROJECT

Health centers may provide certain in-scope services to support transitions in care for JI-R individuals per the definition described in [Section II: Purpose of this Policy Information Notice](#) and in accordance with the criteria outlined below. Specifically, a health center may provide certain health services (refer to [Section VI. Allowable In-Scope Services to Support Transitions in Care for Justice-Involved Individuals Reentering the Community](#)) within its scope of project to JI-R individuals in carceral settings if the health center meets all the following criteria:

- a. The health center provides services to a JI-R individual during the 90-day period prior to the individual's scheduled or expected date for release to the community;⁷
- b. The health center has a written agreement with the carceral authority that describes the independent responsibility of the health center to provide services under its control (not on behalf of the carceral authority) to such JI-R individuals, including language to address the elements in criteria c of this list;
- c. The written agreement between the health center and the carceral authority establishes that the health center does not and will not assume the carceral authority's obligation to provide health care to individuals under the carceral

⁶ For more information, refer to the Health Center Program Compliance Manual, [Chapter 17: Budget](#).

⁷ A health center may also choose to limit services to a JI-R individual to a time period that is less than 90 days prior to the individual's scheduled or expected date for release.

authority's custody, nor any responsibility to administer the carceral authority's medical program. The health center's agreement ensures:

- i. The health center providers (whether employees, volunteer health professionals, or contractors of the health center) who provide health center services to JI-R individuals are acting solely on behalf of the health center;
 - ii. The health center governing board retains authority over the provision of all health center services at any location where services are provided to such JI-R individuals (including determining which services will be provided and when and at which carceral settings the health center will provide services);
 - iii. The carceral setting where JI-R individuals are incarcerated or detained and where care may be provided to such JI-R individuals is located in the health center's HRSA-approved service area;
 - iv. The health center establishes and maintains its own patient medical record⁸ for each patient encounter involving the provision of any in-scope health service to such JI-R individuals;
 - v. The health center facilitates continuity of care through access to relevant health data (including transfer and discharge information and the exchange of patient record information) from the carceral setting to the health center; and
 - vi. The health center and the facility agree to any necessary specific terms related to patient care for such JI-R individuals including, for example, mechanisms for distribution of health center prescribed medications.
- d. Services provided to such JI-R individuals in carceral settings are limited to those services delineated in [Section VI. Allowable In-Scope Services to Support Transitions to Care for Justice-Involved Individuals Reentering the Community](#);
 - e. The health center makes all services provided to such JI-R individuals available to all residents of the health center's service area;
 - f. The health center provides services to such JI-R individuals regardless of the individuals' ability to pay, consistent with the board-approved sliding fee discount scale and policy for waiving charges;⁹ and

⁸ The carceral authority and the health center should each maintain a distinct patient record. With the authorization and consent of the JI-R individual, any protected health information or relevant health data, such as prescriptions, should be shared between the carceral authority and the health center to facilitate continuity of care as the JI-R individual transitions back to the community and to prevent duplication of services.

⁹ As with all other services, health centers should also ensure they are providing services to all patients regardless of a patient's insurance status or a patient's ability to pay. It is acceptable under the Health Center Program Compliance Manual Chapter 16: Billing and Collections for a health center's fee and payment waiver policy to include the specific circumstance when patients are JI-R individuals who are scheduled for release from incarceration or detention up to 90 days from the date of health center service. Refer to [Chapter 16: Billing and Collections: Demonstrating Compliance:\(h\)](#).

- g. The health center ensures such JI-R individuals who receive health center services prior to the individuals' scheduled or expected dates for release from incarceration have access to all of the health center's in-scope services upon release and for as long as the individuals continue to reside in the community served by the health center; or, if the individuals will not be residing in the health center's service area, the health center ensures continuity of care by connecting the individuals to a health center or other primary care provider in the community where the individuals will reside after their release, for example by assisting the JI-R individual in making a first-time appointment and providing the JI-R individual with the contact information for the new health center.

This PIN does not allow a health center to contract with a carceral authority to provide medical services on behalf of the carceral authority as part of the Health Center Program scope of project. Services provided in the carceral setting that do not comply with the foregoing criteria may be considered an other line of business outside the health center's scope of project.

VI. ALLOWABLE IN-SCOPE SERVICES TO SUPPORT TRANSITIONS IN CARE FOR JUSTICE-INVOLVED INDIVIDUALS REENTERING THE COMMUNITY

Health center services provided within the Health Center Program scope of project under this PIN are limited to those health services that facilitate care transitions, improve health outcomes, and reduce health disparities in the health center's service area related to reentry of the JI-R individual into the community. Specifically, a health center that meets the criteria listed in the previous section (refer to [Section V. Specific Criteria for Providing Health Center Services to Support Transitions in Care for Justice-involved Individuals Reentering the Community Within the Health Center Program Scope of Project](#)) may provide the following services, as appropriate to support transitions in care, to JI-R individuals within the health center's scope of project during the 90-day period prior to the individual's scheduled or expected release:

- a. Care coordination to facilitate continuity of care including access to relevant health data (including transfer and discharge information) from the carceral setting to the health center;
- b. Health evaluation(s) to identify acute and chronic physical health, behavioral health, or oral health issues and associated needs;
- c. Screening and treatment for communicable diseases, such as HIV, Hepatitis C (HCV), and sexually transmitted infections (STIs);
- d. Primary health services to begin or continue treatment of acute and chronic conditions and associated health needs identified by the health center provider through the health evaluation, including diagnosing conditions, developing treatment plans, prescribing and providing access to medications, and performing minor procedures of the kind ordinarily conducted in a primary care outpatient setting;
- e. Immunizations;

- f. Behavioral health (mental health services and substance use disorder services), including initiating and continuing medication-assisted treatment (MAT), and peer recovery support;
- g. Recommendations/referrals for post-release care. This may include referrals for substance use disorder treatment and, when medically indicated, specialty services;
- h. Obstetrical/gynecological care (including prenatal¹⁰ and postpartum care) of the kind ordinarily conducted in a primary care outpatient setting;
- i. Voluntary family planning services;
- j. Optometry services;
- k. Preventive dental services, including screenings and recommendations/referrals for post-release dental care;
- l. Pharmaceutical services, including:
 - i. Medication management plan development and therapeutic monitoring; and
 - ii. To the extent authorized by law, and as appropriate and feasible in coordination with the carceral authority, a supply of medications for use post-release, including naloxone and MATs for opioid use disorder (MOUD), such as buprenorphine or methadone.¹¹
- m. Case management services, including:
 - i. Connecting JI-R individuals with Federal, state, and local programs that provide or financially support the provision of housing services;
 - ii. Assisting JI-R individuals with preparing prescription drug vouchers;
 - iii. Assisting JI-R individuals with navigation of and enrollment for benefits, such as Medicaid, Medicare, Supplemental Nutrition Assistance Program, Supplemental Security Income, Social Security Disability Insurance, and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); and
 - iv. Assisting JI-R individuals with access to education enrollment, legal services and aid, job training, and employment assistance;
- n. Translation services to support access to Health Center Program in-scope services and medical adherence;
- o. To the extent authorized by law, and as appropriate and feasible in coordination with the carceral setting, providing transportation (including transportation vouchers) for use post-release to support JI-R individuals to access health center services;

¹⁰ This does not include labor and delivery services.

¹¹ For example, a health center may provide a JI-R individual scheduled for release with a 30-day supply of medication for opioid use disorder to prevent relapse during the individual's transition back into the community. Because this treatment is focused on the period of transition back into the community, the service is not considered duplicative or supplanting of the carceral authority's existing treatment of the patient for opioid use disorder.

- p. Establishing new or strengthening existing partnerships with justice system stakeholders (such as police and probation departments, discharge planners, and specialty court administrators) to inform them about and promote the availability of health center services;
- q. Promoting awareness among JI-R individuals of the health center's services and supporting entry into care post-release, including by formerly JI-R peer navigators; or
- r. Other health education, for example, education regarding the availability and appropriate use of health center services or targeted education on health-promoting behaviors.

VII. DOCUMENTING SERVICES TO SUPPORT TRANSITIONS IN CARE FOR JUSTICE-INVOLVED INDIVIDUALS REENTERING THE COMMUNITY

A health center providing transitional services to JI-R individuals up to 90 days prior to their scheduled or expected release must ensure that all services provided within the scope of project are included on the health center's Form 5A: Services Provided. Health centers will document any carceral settings where they provide in-scope services to JI-R individuals, in accordance with this policy, in a manner to be determined by HRSA.

VIII. PROVIDING HEALTH SERVICES TO JUSTICE-INVOLVED INDIVIDUALS REENTERING THE COMMUNITY AND ELIGIBILITY FOR OTHER FEDERAL PROGRAMS ASSOCIATED WITH SECTION 330 OF THE PUBLIC HEALTH SERVICE ACT

A health center's approved scope of project is fundamental to determining eligibility for FTCA coverage under FSHCAA for health services provided by the health center, if the health center receives grant funding under section 330 and has been deemed as a Public Health Service employee under FSHCAA.¹² However, inclusion of services within a health center's HRSA-approved Health Center Program scope of project does not guarantee the availability of FTCA coverage, which depends on all of the pertinent facts and circumstances of a given case or claim and whether those facts and circumstances support the availability of such liability protections.

A health center's approved scope of project is also the basis for eligibility for the 340B Drug Pricing Program and other federal programs in which a health center may participate as a result of the Health Center Program award or designation. Health centers are recognized under Titles XVIII and XIX of the Social Security Act as federally qualified health centers and, as a result, are generally eligible for FQHC Medicaid and Medicare payments for services.¹³ However, inclusion of services provided within a health center's HRSA-approved Health Center Program scope of project is not a guarantee that these benefits will be realized, and these programs may include restrictions on JI-R individuals' eligibility for benefits. Each of these programs are administered

¹² Note that "scope of project" and "scope of employment" for purposes of FTCA coverage are not synonymous. For important information relating to FTCA coverage, refer to the [FTCA Health Center Policy Manual](#).

¹³ Within the context of medical services provided in carceral settings, the availability of Medicare and Medicaid payments applies only to the extent permitted by the Centers for Medicare & Medicaid Services.

and implemented separately and have unique requirements, of which the Health Center Program scope of project is only one component.

Services and activities conducted by a health center that are not part of the health center's HRSA-approved Health Center Program scope of project (for example, other lines of business) are ineligible for these associated federal benefits.

IX. CONTACT INFORMATION

If you have any questions or require further guidance on the scope of project policy detailed in this PIN, please contact the Bureau of Primary Health Care at 877-464-4772 from 8 a.m. – 8 p.m. ET, Monday – Friday (except federal holidays) or online using the [BPHC Contact Form](#). If you have general or routine questions regarding the process for making a change to your health center's scope of project, please use the [BPHC Contact Form](#).