

# **Building Bridges**

## **An Act to Reduce Recidivism by Improving Access to Benefits for Individuals with Psychiatric Disabilities upon Release from Incarceration**

### **Section-by-Section Summary**

#### **Article I**

Sets out findings and explains the purposes of the bill. When released from jail or prison, individuals with psychiatric disabilities often lack access to critical services and supports such as health and mental health care, housing, education and employment or income support. As a result, many become trapped in a cycle of destitution, deterioration, re-arrest and re-incarceration. Although federal entitlement programs offer income support and health care coverage, individuals released from incarceration seldom have timely access to these benefits. The Act directs state and local agencies to adopt policies and procedures that enable individuals with psychiatric disabilities, upon release, to be enrolled or reinstated in these programs, receive needed services speedily and establish connections to the community-based mental health system prior to release. By thus promoting the successful community re-entry of inmates with psychiatric disabilities, the Act will enhance public safety and offer taxpayers relief from the fiscal burdens imposed by avoidable recidivism.

#### **Article II**

Defines terms used in the bill.

#### **Article III.**

Establishes state policy to facilitate suspension, rather than termination, of federal benefits when an individual with psychiatric disabilities is incarcerated and to enable speedy restoration of benefits upon the individual's release.

#### **Article IV**

Establishes state policy to assist inmates with psychiatric disabilities who are not on eligibility rolls for federal entitlements in applying, while incarcerated, to receive benefits upon release. Requires the Medicaid agency to set up procedures for receiving Medicaid applications and reviewing them within 14 days and enrolling eligible individuals on suspended status while incarcerated. Mandates that correctional agencies identify inmates who are likely to be eligible for Medicaid and/or disability benefits, ask them if they wish to apply and ensure that applications are filed well in advance of their release.

## **Article V**

Requires correctional agencies to negotiate Pre-Release Agreements with the Social Security Administration and to arrange for competent and experienced staff to assist inmates with psychiatric disabilities in applying for federal disability benefits prior to their release.

## **Article VI**

Creates a bridge program for released inmates whose applications for federal benefits are pending. Requires the state Medicaid agency to provide a temporary Medicaid card and cover services for up to six (6) months or until an individual is determined ineligible. Designates a state agency to provide temporary income support for up to six (6) months to individuals with psychiatric disabilities who have applied for but are not receiving SSI or SSDI upon release. Provides for the state to claim federal reimbursement of benefits provided to the individual and prohibits the recovery of any costs from an individual who is found ineligible for federal entitlements.

## **Article VII**

Requires correctional agencies to arrange for the issue of a photo identification card that does not disclose the individual's incarceration.

## **Article VIII**

Requires access to medically necessary mental health services for inmates both while incarcerated and upon release. Assigns this responsibility to the state corrections agency for individuals in prison who have psychiatric disabilities, to the state juvenile corrections agency for individuals in juvenile corrections facilities, and to the state mental health agency for inmates in jails or juvenile detention facilities. Mandates the provision of an adequate temporary supply of medication upon an inmate's release and requires the state mental health agency to provide case management services well in advance of an inmate's release to help arrange for shelter, services and supports and assist with benefit applications.

## **Article IX**

Requires the state Medicaid agency to seek federal approval of amendments to the state Medicaid plan that may be necessary to implement this legislation.

## **Article X**

Appropriates funding to implement the Act.

## **Article XI**

Sets dates when the various articles will take effect.

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## An Act to Reduce Recidivism by Improving Access to Benefits for Individuals with Psychiatric Disabilities upon Release from Incarceration

### Article I: Findings and Purpose

#### A. Findings

The Legislature finds and declares that:

1. When released from incarceration, adults and juveniles with psychiatric disabilities often lack access to mental health services, stable housing, employment or other income and education. Obtaining food and other necessities can be a problem. Without basic supports, many needlessly become trapped in a cycle of destitution, deterioration, rearrest and re-incarceration.

2. Upon release, individuals with psychiatric disabilities need basic services and supports to enable them to transition successfully to community life. Existing federal programs, such as Medicaid, Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI), provide health care coverage and income support to people with psychiatric disabilities. Often, however, individuals released from incarceration are not enrolled in these programs or their enrollment is unreasonably delayed.

3. Legislative action is required to aid individuals with psychiatric disabilities in maintaining their eligibility for federal benefit programs during incarceration and, upon release, to enable them to access federal benefit programs for which they are eligible and temporary health care coverage and income when federal benefits are not immediately available.

4. Legislative action is also required to ensure that, upon release, individuals with psychiatric disabilities are connected to the community-based mental health system.

5. Providing access to mental health care and income support for individuals with psychiatric disabilities upon their release will promote

successful community re-entry, enhance public safety and provide relief to taxpayers from fiscal burdens imposed by avoidable recidivism.

## **B. Purpose**

The purpose of this Act is to facilitate the community reintegration of adults and juveniles with psychiatric disabilities upon release from jail, prison, detention centers or other correctional facilities and to enhance public safety and provide cost-effective care by enabling such individuals to receive benefits speedily upon their release from incarceration. It directs [identify state and local agencies] to adopt policies and procedures that enable individuals with psychiatric disabilities, upon release from incarceration, to:

1. participate in federal benefit programs for which they qualify;
2. be speedily reinstated or enrolled in federal health insurance and income support programs for which they are eligible;
3. obtain temporary health care coverage and income support while receipt of federal benefits is pending; and
4. receive mental health services, including case management, medications and substance abuse services.

This Act also provides funds for costs associated with its implementation.

## **Article II: Definitions**

1. “Case management” means [see state law and policy]
2. “Correctional agency” means an agency of state or local government responsible for overseeing the operation of one or more correctional institutions, including juvenile justice facilities.
3. “Correctional institution” means a jail, prison, juvenile corrections facility, juvenile detention facility or other detention facility operated by a state or local correctional agency that qualifies as a public institution under 42 Code of Federal Regulations (C.F.R.) § 435.1009.
4. “Enrolled in the SSI program” means (a) currently eligible, as determined by the Social Security Administration pursuant to SSI program rules and (b) on eligibility rolls, even if cash benefits are currently suspended.

5. “Enrolled in the SSDI program” means (a) currently eligible, as determined by the Social Security Administration pursuant to SSDI program rules and (b) on eligibility rolls, even if cash benefits are currently suspended.
6. “Federal benefit programs” refers to Medicaid, Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI).
7. “Incarcerated” means confined in a correctional institution.
8. “Individuals with psychiatric disabilities” includes (a) adults with serious mental illnesses, as defined in [state law or policy], and (b) juveniles with emotional/behavioral disturbances or emotional disorders, as defined in [state law or policy].
9. “Inmates” refers to incarcerated individuals with psychiatric disabilities.
10. “Likely to be eligible” individuals means individuals with psychiatric disabilities (a) whose enrollment in the Medicaid, SSI or SSDI program was terminated during their incarceration; (b) who were enrolled in the Medicaid, SSI or SSDI program at any time during the five years prior to their incarceration; or (c) who were not previously enrolled, but who are likely to meet eligibility criteria for the Medicaid, SSI, or SSDI programs upon their release from incarceration.
11. “Medicaid eligibility category” refers to all existing eligibility categories established in the state Medicaid plan
12. “Medicaid eligibility through SSI” means that an individual is eligible to participate in the Medicaid program by virtue of enrollment in the SSI program.
13. “Mental health services” means [see state law and policy]. It includes substance abuse services.
14. “Parent” means a parent, guardian or individual acting in the role of parent (*e.g.*, grandparent raising a child).
15. “Pre-Release Agreement” means a formal agreement with the Social Security Administration (SSA) under which a correctional agency and SSA will work collaboratively to ensure that applications for SSI and SSDI by inmates are speedily handled by SSA.
16. “SSI” means the Supplemental Security Income program, a federal income support program for people with disabilities and low incomes,

provided under Title XVI of the Social Security Act.

17. “SSDI” means the Social Security Disability Income program, a federal income support program, provided under Title II of the Social Security Act, for individuals with disabilities who have worked and paid Social Security taxes.

18. “Suspend” Medicaid coverage means to place an individual’s Medicaid eligibility in an inactive status such that (a) the individual remains eligible for Medicaid and continues on the state rolls but (b) Medicaid benefits are not payable for services furnished (e.g., during incarceration).

19. “Suspend” SSI or SSDI eligibility means to stop cash payments due to incarceration.

### **Article III: Suspension of Eligibility Upon Incarceration and Restoration Upon Release**

#### **A. State Policy**

It shall be the policy of [State] to facilitate, to the full extent permitted by federal law:

1. the suspension rather than termination of federal benefits when an individual with psychiatric disabilities is incarcerated, and
2. speedy restoration of benefits upon the individual’s release.

#### **B. Medicaid**

The [Medicaid agency] shall adopt regulations or policies ensuring that:

1. When an individual with psychiatric disabilities enrolled in the Medicaid program is incarcerated,
  - a. the individual’s eligibility for Medicaid will be suspended rather than terminated, and will remain suspended rather than terminated for as long as is permitted by federal law; and
  - b. the individual shall not be terminated from the Medicaid program unless [Medicaid agency] determines that the individual (i) no longer meets the Medicaid eligibility criteria under which they had

qualified and (ii) is not eligible for Medicaid under any other Medicaid eligibility category.

2. When an individual whose Medicaid eligibility is suspended is released from incarceration, the individual's Medicaid eligibility will be fully restored on the day of release unless and until the [Medicaid agency] determines that the individual is no longer eligible for Medicaid.

### **C. Federal Disability Benefits**

[Correctional agencies] shall seek to ensure the speedy restoration of benefits of inmates with psychiatric disabilities whose eligibility for SSI or SSDI has been suspended during incarceration. These agencies shall seek to ensure that cash benefits under SSI and SSDI are reinstated in the month of release. To this end, these agencies shall:

1. identify inmates with psychiatric disabilities whose SSI or SSDI was suspended during incarceration, and ask them if they wish to receive benefits when released, and

2. for those who wish to receive benefits, ensure that (i) applications for reinstatement of SSI or SSDI upon release are filed on their behalf as soon as possible following suspension, and (ii) all applicants for reinstatement leave the correctional institution with a copy of the application.

## **Article IV: Applications for Inmates with Psychiatric Disabilities Terminated from or Not Enrolled in Federal Benefit Programs**

### **A. State Policy**

It shall be the policy of [State] to assist inmates with psychiatric disabilities whose eligibility for SSI, SSDI or Medicaid benefits was terminated while incarcerated or who were not receiving benefits at the time they were incarcerated to apply, while incarcerated, to receive benefits upon release.

### **B. Medicaid**

1. The [Medicaid agency] shall:

a. establish procedures for receiving Medicaid applications on behalf of incarcerated individuals with psychiatric disabilities in anticipation of their release.

b. expeditiously review such applications and, to the extent practicable, complete its review before the individual is released. All reviews shall be completed within fourteen (14) days of the application's receipt.

2. The review process shall assess whether the individual is presently eligible to be enrolled in the Medicaid program or is likely to be Medicaid eligible upon release.

a. If the individual is eligible to be enrolled while incarcerated, the individual will be enrolled but placed on suspended status. The individual will be provided a Medicaid card, entitling the individual to receive benefits effective upon his or her release.

b. If the individual is not eligible to be enrolled in Medicaid while incarcerated but is likely to be eligible for Medicaid upon release, the individual will be enrolled in the temporary Medicaid eligibility program described in Article VI. B., but on suspended status pending release. The individual will be provided a Medicaid card, entitling the individual to receive benefits under the temporary Medicaid eligibility program effective upon his or her release.

3. To facilitate enrollment in Medicaid, [correctional agencies] shall:

a. identify inmates with psychiatric disabilities who are likely to be eligible for Medicaid while incarcerated or upon release, and ask them if they wish to receive benefits when released, and

b. for those who wish to receive benefits, ensure that (i) applications for Medicaid are filed, to the extent practicable, well in advance of release and, if possible, at least ninety (90) days before release, and (ii) all applicants for these benefits leave the correctional institution with a copy of the application.

### **C. Disability Benefits**

[Correctional agencies] shall seek to ensure that inmates with psychiatric disabilities begin to receive SSI and SSDI cash benefits for which they are eligible in the month following release. To this end, these agencies shall:

1. identify inmates with psychiatric disabilities who are likely to be eligible for SSI or SSDI upon release and ask them if they wish to

receive benefits when released, and

2. for those who wish to receive benefits, ensure that applications are filed on their behalf prior to release and, to the extent practicable, at least ninety (90) days before release, and that they leave jail or prison with a copy of the application.

## **Article V: Facilitating Applications for Benefits**

### **A. State Policy**

It shall be the policy of [State] for correctional agencies to enter into Pre-Release Agreements with the Social Security Administration and to otherwise facilitate participation by inmates with psychiatric disabilities in federal benefit programs upon their release from incarceration

### **B. Negotiating Pre-Release Agreements with Social Security Administration**

1. [Correctional agencies] shall use their best efforts to negotiate Pre-Release Agreements with the Social Security Administration that will ensure:

a. speedy consideration by the Social Security Administration of new applications for and applications for reinstatement of SSI or SSDI on behalf of individuals with psychiatric disabilities, and that

b. the Social Security Administration is informed of the expected and actual release dates of individuals with psychiatric disabilities whose applications have been approved or are pending.

2. Once negotiated, each agreement shall be implemented as soon as practicable.

### **C. Application Assistance**

1. Competent staff familiar with the characteristics of successful SSI, SSDI and Medicaid applications shall ensure that proper applications are filed and updated as needed. These staff will, among other things:

a. with applicants' assistance, complete required forms for applicants with psychiatric disabilities;

- b. with applicants' consent, secure medical and other information required to support applications; and
- c. submit applications to the appropriate agency office.

These staff may be provided through contracts with local mental health agencies or providers.

2. With the applicant's permission, a copy of each application shall be provided to a family member designated by the applicant and to any mental health case manager who will work with the individual upon release. Permission to provide a copy to a parent is not required in the case of minors under the age of 16.

## **Article VI: Bridge Programs**

### **A. State Policy**

It shall be the policy of [State] to offer individuals with psychiatric disabilities temporary Medicaid eligibility and temporary income support when released from incarceration while their applications for federal benefits are pending.

[Medicaid agency] will administer the temporary Medicaid eligibility program, and [state agency] will administer the temporary income support program.

### **B. Temporary Medicaid Card**

1. An individual with psychiatric disabilities shall be qualified to receive a temporary Medicaid card upon release from incarceration if:
  - a. the individual is not receiving Medicaid-funded services;
  - b. the individual is likely to be eligible for Medicaid; and
  - c. an application for SSI or Medicaid was filed on his or her behalf while the individual was incarcerated or within three (3) months after the individual's release.
2. An individual with a psychiatric disability may apply for a temporary Medicaid card while incarcerated or within three (3) months after release. Application may be made by submission to the [Medicaid agency] of an application for Medicaid, a copy of an application for SSI

submitted on the individual's behalf or other documentation deemed suitable by the [Medicaid agency].

3. Within fourteen (14) days of submission of the application, the [Medicaid agency] will determine whether the individual is qualified to receive a temporary Medicaid card and, if so, will immediately issue a temporary Medicaid card to the individual. If the individual is incarcerated, the card will entitle the individual to receive benefits under the temporary Medicaid program effective upon his or her release. If the individual has already been released, the card will be effective immediately.

4. If found qualified for a temporary Medicaid card, the individual is entitled to receive covered Medicaid services from certified Medicaid providers for a period of six (6) months. For individuals found qualified while incarcerated, the six (6) months begins upon release. For individuals found qualified after release, the six (6) months begins on the date of that determination. The six (6) month term may be renewed at the option of the [Medicaid agency].

5. A temporary Medicaid card shall be void if, prior to the end of a six (6) month term, it is determined that:

- a. the individual is not eligible for the SSI program, and
- b. the individual is not eligible for Medicaid under any other Medicaid eligibility category.

6. To the extent permitted by federal law, the state may claim reimbursement under the Medicaid program for payments made for care provided to an individual to whom a temporary Medicaid card has been issued. The state may not recoup any costs from the individual, including if the individual is found ineligible for Medicaid.

### **C. Temporary Income Support**

1. An individual with a psychiatric disability shall be qualified for temporary income support upon release from incarceration if:

- a. the individual is not receiving SSI or SSDI;
- b. the individual is likely to be eligible for SSI or SSDI, and
- c. an application for SSI or SSDI was filed on his or her behalf while the individual was incarcerated or within three (3) months after the individual's release.

2. An individual with a psychiatric disability may apply for temporary income support while incarcerated or within three (3) months after release. Application may be made by submitting to the [responsible agency] a copy of an application for SSI or SSDI benefits, or other documentation deemed suitable by the [responsible agency]. Within fourteen (14) days of submission of the application, the [responsible agency] will determine whether the individual is qualified to receive temporary income support.

3. Temporary income support shall be paid monthly in an amount equal to the [basic SSI payment in the state]. Payments will be made for a period of six (6) months. For individuals found qualified while incarcerated, the six (6) months begins upon release. For individuals found qualified after release, the six (6) months begins on the date of that determination. The six (6) month term may be renewed at the option of the [responsible agency]. Payments may be terminated before the end of a six (6) month term if the Social Security Administration makes a final determination that the individual is not eligible to receive the federal benefits for which the individual applied.

4. To the extent permitted by federal law, the state may recoup the temporary income support from SSI or SSDI back benefits issued by the Social Security Administration. The state may not otherwise recoup any payments of temporary income support from the individual, including if the individual is found ineligible for SSI or SSDI.

### **Article VII: Photo Identification**

[Correctional agencies] shall arrange for adults and emancipated youth with psychiatric disabilities to have photo identification when they are released from incarceration. [Correctional agencies] will ensure that inmates who lack photo identification are issued a photo identification card before or immediately upon release. The photo identification card will not disclose the individual's incarceration or criminal record. It will list an address other than a correctional facility.

## **Article VIII: Access to Services**

### **A. State Policy**

It is [State's] policy that inmates have access to mental health services while incarcerated and upon release, as provided below.

1. For individuals in prison who have psychiatric disabilities, the [state corrections agency] shall be responsible for the provision of mental health services.

2. For individuals in juvenile corrections facilities who have psychiatric disabilities, the [state juvenile corrections agency] shall be responsible for the provision of mental health services.

3. For individuals in jail or juvenile detention facilities who have psychiatric disabilities, the [state mental health agency] shall be responsible for the provision of mental health services.

4. The [state mental health agency] shall be responsible for the provision of the case management services described in (C.) below.

These agencies may arrange for services to be provided through contracts with community mental health agencies or community mental health providers.

### **B. Mental Health Services**

1. While incarcerated, individuals with psychiatric disabilities shall have access to medically necessary mental health services, including substance abuse and crisis services.

2. At the time of their release, individuals with psychiatric disabilities shall be provided a fourteen (14) day supply of the psychiatric medications they were taking prior to release.

3. Individuals with psychiatric disabilities shall be given access upon release to Medicaid-covered services as provided in Articles III, IV and VI.

### **C. Case Management Services**

1. To aid their transition to community living, the [state mental health agency] shall provide to incarcerated individuals with psychiatric disabilities case management services well in advance of their release, to the extent practicable, and if possible, at least ninety (90) days before release.

2. The case manager shall work with the individual to identify services and supports that the individual desires and needs upon return to community living. As desired by the individual, the case manager will:
  - a. help arrange for needed shelter, mental health services including substance abuse services and other supports to be provided to the individual upon release; and
  - b. help the individual access federal benefit programs upon release, including, as needed, by updating benefit applications.

### **Article IX: State Medicaid Plan**

If implementation of any regulation or policy anticipated by this Act requires an amendment to the state Medicaid plan, the [Medicaid agency] shall use its best efforts to obtain federal approval of the amendment.

### **Article X: Funding**

A total of \$\_\_\_\_\_ is appropriated for implementation of this Act, as follows:

1. \$\_\_\_\_\_ to [Medicaid agency] for implementation of Articles III, IV and VI;
2. \$\_\_\_\_\_ to [corrections agencies] for implementation of Articles III, IV, V, VII and VIII;
3. \$\_\_\_\_\_ to [responsible state agency] for implementation of Article VI.C; and
4. \$\_\_\_\_\_ to [state mental health agency] for implementation of Article VIII.