June 8, 2023

Hon. Kevin McCarthy
Speaker
House of Representatives
H-232, The Capitol
Washington, D.C. 20515

Hon. Hakeem Jeffries
Minority Leader
House of Representatives
H-204, The Capitol
Washington, D.C. 20515

Hon. Chuck Schumer
Majority Leader
S-221, The Capitol
Washington, D.C. 20510

Hon. Mitch McConnell
Minority Leader
S-230, The Capitol
Washington, DC 20510

Hon. McMorris Rodgers
Chair
House Energy and Commerce Committee
2155 Rayburn House Office Building
Washington, DC 20515

Hon. Frank Pallone
Ranking Member
House Energy and Commerce Committee
2155 Rayburn House Office Building
Washington, DC 20515

Hon. Ron Wyden
Chair
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Hon. Mike Crapo
Ranking Member
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Speaker McCarthy, Majority Leader Schumer, Minority Leader Jeffries, Minority Leader McConnell, Chair McMorris Rodgers, Ranking Member Pallone, Chair Wyden, and Ranking Member Crapo,

The undersigned organizations, representing a diverse group of stakeholders, write today to endorse the Due Process Continuity of Care Act (H.R. 3074, S.971). This critical legislation would allow pre-trial incarcerated individuals to receive medical services supported by Medicaid.

Currently, the “Medicaid inmate exclusion policy” (MIEP) prohibits the use of federal funds and services for medical care for “inmates of a public institution.” This policy prevents Medicaid-eligible incarcerated individuals, regardless of whether they have been convicted, from receiving services funded by Medicaid. This means that incarcerated individuals awaiting trial in a jail cannot receive most Medicaid services. The policy also prevents incarcerated veterans from receiving hospital and outpatient care in local jails from the Department of Veterans Affairs.

The MIEP was established in Sec. 1905(a)(A) of the Social Security Act, decades before the current overdose crisis began. Almost sixty years later, the MIEP has become a significant barrier to accessing substance use disorder treatment in correctional facilities. Despite nearly 60% of incarcerated individuals having a substance use disorder, most go untreated. In 2021, just 12% of jails and prisons offered medications for opioid use disorder (MOUD). A recent Bureau of Justice Statistics report on local jails indicated that fatal drug overdoses are the fastest growing cause of death amongst incarcerated individuals.

2 https://prisonopioidproject.org/data/
individuals, and the median time served before a drug or alcohol intoxication death was just one day.\(^3\) According to the *New England Journal of Medicine*, individuals reentering society from incarcerations are 129 times likelier to die of a drug overdose during the two weeks following their release than the general population.\(^4\) FDA approved MOUD, such as buprenorphine and methadone, have been associated with an 80% reduction in overdose mortality risk for the first month post-release. Despite this, most jails and prisons do not provide methadone or buprenorphine for opioid use disorders.\(^5\)

The MIEP can also be linked to our nation's high recidivism rates. Not treating substance use disorder in a correctional setting can contribute to increased chances of returning to illicit drug use upon release, which leads to a greater likelihood of reoffending. If an individual initiates MOUD treatment while in a correctional setting they have a greater chance of continuing care upon reentry, which contributes to a 32% reduction in recidivism rates.\(^6\) Not only will initiating and maintaining care in correctional settings save lives, but it will also have a positive impact on public safety and reducing the cycle of recidivism.

This act is crucial in ensuring an individual's constitutionally protected rights. The MIEP violates the right that an individual is presumed innocent until proven guilty by including pre-trial incarcerated individuals in the definition of “inmate”, thus causing them from to lose their Medicaid benefits before having a chance to defend their innocence. The *Due Process Continuity of Care Act* will ensure that access to treatment is maintained while an individual awaits trial.

Our organizations stand unified in our support of the *Due Process Continuity of Care Act* and our belief that increasing access to treatment will improve public health and public safety in our communities. Thank you for your leadership.

If you have any questions, please contact Ryan Greenstein at rgreenstein@advocacyincubator.org.

Sincerely,

A New PATH (Parents for Addiction Treatment & Healing)
Academic Consortium on Criminal Justice Health
ACOJA Consulting LLC
Addiction Professionals of North Carolina
AIDS United
Alcohol & Drug Abuse Certification Board of Georgia
American Association of Psychiatric Pharmacists

\(^3\) [https://bjs.ojp.gov/content/pdf/mlj0018st.pdf](https://bjs.ojp.gov/content/pdf/mlj0018st.pdf)
American College of Correctional Physicians
American Jail Association
American Medical Student Association (AMSA)
Association for Ambulatory Behavioral Healthcare
C4 Recovery Foundation
CADA of Northwest Louisiana
California Consortium of Addiction Programs & Professionals
CASES
Church of Scientology National Affairs Office
Clinical Social Work Association
Community Catalyst
Community Oriented Correctional Health Services
Correctional Leaders Association
Drug Policy Alliance
Due Process Institute
Faces & Voices of Recovery
Families On The Move Of NYC, Inc.
Family Based Services Assoc of NJ
Fox Valley Perinatology
FREDLA (Family-Run Executive Director Leadership Association)
Futures Without Violence
Global Alliance for Behavioral Health and Social Justice
HIV Alliance
International Community Justice Association
Just Detention International
Law Enforcement Leaders to Reduce Crime & Incarceration
Legal Action Center
Montgomery County Federation of Families for Children's Mental Health, Inc.
National Alliance for Medication Assisted Recovery (NAMA Recovery)
National Association for Behavioral Healthcare
National Association of Criminal Defense Lawyers
National Association of State Mental Health Program Directors
National Behavioral Health Association of Providers
National Center for Advocacy and Recovery, Inc.
National Commission on Correctional Health Care
National Council for Mental Wellbeing
National District Attorneys Association
National Health Care for the Homeless Council
National Juvenile Justice Network
North Carolina Formerly Incarcerated Transition Program
North Carolina Psychiatric Association
Operation Restoration
Overdose Crisis Response Fund
Overdose Prevention Initiative
Prison Families Alliance
Prison Policy Initiative
R Street Institute
TASC, Inc. (Treatment Alternatives for Safe Communities)
The AIDS Institute
The Council of State Governments (CSG) Justice Center
The Fortune Society
The Kennedy Forum
The National Association for Rural Mental Health
The National Association of County Behavioral Health and Developmental Disability Directors
The Police, Treatment, and Community Collaborative (PTACC)
Voices of Community Activists and Leaders- Kentucky
Washington State Community Connectors
Women on the Rise
CC
Congressman David Trone
Congressman Mike Turner
Congressman Paul Tonko
Congressman John Rutherford
Senator Bill Cassidy
Senator Ed Markey
Senator Jeff Merkley
Senator Thom Tillis