September 26, 2023

The Honorable Ron Wyden  
Chair  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Cathy McMorris Rodgers  
Chair  
House Committee on Energy and Commerce  
2188 Rayburn House Office Building  
Washington, DC 20515

The Honorable Mike Crapo  
Ranking Member  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Frank Pallone  
Ranking Member  
House Committee on Energy and Commerce  
2107 Rayburn House Office Building  
Washington, DC 20515

Dear Chair Wyden, Ranking Member Crapo, Chair Rodgers and Ranking Member Pallone,

On behalf of the nation’s state and local government elected and appointed officials we respectfully urge your support for bipartisan legislation that amends the Medicaid Inmate Exclusion Policy (MIEP) of the Social Security Act §1905(a)(A) which revokes federal health benefits for adults and juveniles both during and prior to conviction. By amending this policy, the Reentry Act (H.R. 2400/S.1165) and the Due Process Continuity of Care Act (H.R.3074/S.971) will facilitate a crucial path forward for programs that improve health outcomes and reduce rates of recidivism.

Justice-involved people are disproportionately low-income and often have complex and/or chronic medical and behavioral health challenges. The American Psychological Association
reported that in 2014, 64% of jail inmates, 54% of state prisoners and 45% of federal prisoners reported mental health concerns. In a 2020 report, the National Institute on Drug Abuse (NIDA) estimated that 85% of incarcerated people in the US have an active substance use disorder or were incarcerated for a crime involving drugs or drug use. In its January 2023 report to congress, the Medicaid Reentry Stakeholder Group concluded that roughly “80% of returning community members have chronic medical, psychiatric, or substance use disorders.”

The costs to individuals and to society are enormous. Without treatment, these individuals are at increased risk of overdose within the first few weeks of reentry. In 2007, before the significant increases in prescription drug misuse of recent years, the National Drug Intelligence Center estimated that $113 billion was associated with drug related crime while the cost of treating drug use was a fraction of the cost to society at $14.6 billion.

The Reentry Act will help pave the way towards improved public health outcomes and public safety. Promising practices in the pre-release population include substance use disorder screening and treatment, post-release medication supply, discharge planning, data sharing between correctional systems and Medicaid agencies, collaboration between correctional systems and community providers and more.

Secondly, the pervasiveness of our nation’s mental health and substance use disorder crisis is highly concentrated in our local jails. Across our nation, approximately 11 million people cycle in and out of local jails each year, 60% of whom are pre-trial detainees. The number of individuals being detained pre-adjudication has grown tremendously in the past several decades and paralleled the number of individuals in local jails that are experiencing mental illness and serious mental illness, often with co-occurring substance use disorders. According to the Council of State Governments, approximately 17% of people entering jails pretrial meet criteria for serious mental illness, and three quarters of people with serious mental illnesses in jails have co-occurring substance use disorder. This population is also by and large eligible, and in many cases, already receiving publicly funded health care.

The Due Process Continuity of Care Act would allow pretrial detainees, who have unfairly been stripped of their federal health benefits prior to due process, to receive Medicaid benefits at the option of the state to facilitate the continuation of necessary treatment for chronic, mental health and substance use disorder conditions.

These are complex issues requiring the efforts of federal, state and local leaders and our organizations stand ready to partner work with you to achieve these important outcomes for communities across the country.

Should you have questions or need further information, please contact Lauren Kallins at Lauren.Kallins@ncsl.org.

Respectfully,
Clarence E. Anthony  
CEO & Executive Director  
National League of Cities

David Adkins  
Executive Director/CEO  
The Council of State Governments

Tom Cochran  
CEO & Executive Director  
United States Conference of Mayors

Tim Storey  
Chief Executive Officer  
National Conference of State Legislatures

Matthew D. Chase  
CEO/Executive Director  
National Association of Counties

Cc:

Senator John Barrasso  
Representative Richard Allen

Senator Michael Bennet  
Representative Kelly Armstrong

Senator Marsha Blackburn  
Representative Troy Balderson

Senator Sherrod Brown  
Representative Nanette Barragan

Senator Maria Cantwell  
Representative Gus Bilirakis

Senator Benjamin Cardin  
Representative Lisa Blunt Rochester

Senator Thomas Carper  
Representative Larry Bucshon

Senator Robert Casey  
Representative Michael Burgess

Senator William Cassidy  
Representative Kathryn Cammack

Senator John Cornyn  
Representative Antonio Cárdenas

Senator Catherine Cortez Masto  
Representative Earl Carter

Senator Steven Daines  
Representative Katherine Castor

Senator Chuck Grassley  
Representative Yvette Clarke

Senator Margaret Hassan  
Representative Angela Craig

Senator Ronald Johnson  
Representative Daniel Crenshaw

Senator James Lankford  
Representative John Curtis

Senator Robert Menendez  
Representative Diana Degette
Senator Timothy Scott
Senator Deborah Stabenow
Senator John Thune
Senator Thomas Tillis
Senator Mark Warner
Senator Elizabeth Warren
Senator Sheldon Whitehouse
Senator Todd Young

Representative Deborah Dingell
Representative Jeffrey Duncan
Representative Neal Dunn
Representative Anna Eshoo
Representative Elizabeth Fletcher
Representative Russell Fulcher
Representative Morgan Griffith
Representative Brett Guthrie
Representative Diana Harshbarger
Representative Richard Hudson
Representative William Johnson
Representative John Joyce
Representative Robin Kelly
Representative Ann Kuster
Representative Robert Latta
Representative Debbie Lesko
Representative Doris Matsui
Representative Marianne Miller-Meeks
Representative Jay Obernolte
Representative Gary Palmer
Representative Gregory Pence
Representative Scott Peters
Representative August Pfluger
Representative Raul Ruiz
Representative John Sarbanes
Representative Janice Schakowsky
Representative Kim Schrier
Representative Darren Soto
Representative Paul Tonko
Representative Lori Trahan
Representative Marc Veasey
Representative Timothy Walberg
Representative Randy Weber