Ryan White HIV/AIDS Program Part B and ADAP Coverage of Treatment & Services for Justice-Involved People with HIV

May 2020

This fact sheet outlines key considerations for Ryan White HIV/AIDS Program (RWHAP) Part B Programs and AIDS Drug Assistance Programs (ADAPs) as they support the HIV-related healthcare needs of justice-involved individuals (e.g., currently incarcerated, formerly incarcerated, under community supervision). It also provides a summary of Health Resources and Services Administration HIV/AIDS Bureau (HRSA HAB) guidance related to the provision of services for justice-involved communities.

Key Considerations for the Provision of RWHAP Part B and ADAP Services to Justice-Involved Populations

HIV disproportionately impacts justice-involved populations and justice-involvement disproportionately impacts people with HIV

HIV prevalence is five- to seven-times higher among individuals incarcerated in jails and prisons than in the national population and an estimated one in seven people with HIV are incarcerated at some point in their lives. As 95% of people currently in state prisons will be released into their communities and experiences of incarceration and homelessness impede viral load suppression, it is acutely important for HIV programs, including RWHAP Part B programs and ADAPs, to evaluate the services that could be delivered and/or tailored to address the needs of justice-involved people with HIV.

Justice-involved populations have unique care and service needs

Justice-involved individuals, including those living with HIV, are highly impacted by behavioral health conditions (e.g., mental health, substance use) and other chronic infectious diseases (e.g., hepatitis C (HCV)). Justice-involved people with HIV often have multiple risk factors associated with initial incarceration and recidivism, including injection drug use. For those who use substances, the period following release from incarceration poses particular risks in terms of fatal overdose, possibly due to loss of tolerance following a period of abstinence. Per the National Hepatitis Corrections Network, an estimated 17% of individuals currently incarcerated have chronic HCV. Meanwhile, it is estimated that more than half of people incarcerated in jails and

prisons meet criteria for a diagnosis of a mental illness. Taken together, this illustrates the need for comprehensive services for justice-involved people with HIV that address the totality of any comorbid conditions. RWHAP Part B programs and ADAPs are well-positioned to leverage their expertise and infrastructure to support justice-involved clients as they seek necessary care and treatment services.

Justice-involved people with HIV often face a number of structural barriers to accessing culturally competent, medically necessary care. Formerly incarcerated individuals often must resume caretaking roles for children, obtain stable housing, find employment and reliable transportation, and reestablish social relationships while also navigating child welfare, community supervision, health care, and social services. Employment discrimination against formerly incarcerated individuals and policies that limit their access to public benefits and housing make transition into the community following incarceration challenging.

For individuals on Medicaid who become incarcerated, the majority of states either terminate Medicaid enrollment immediately upon incarceration or terminate enrollment for individuals with longer prison sentences. The vast majority of recently incarcerated individuals are eligible for Medicaid in expansion states, but may nonetheless experience a delay in coverage following release from incarceration. An individual whose enrollment is terminated during their incarceration must reapply and reenroll in Medicaid upon release—by contrast, in states that suspend enrollment during incarceration regardless of the length of sentence, people with HIV can easily reinstate coverage when they are released from jail or prison and immediately access HIV care, behavioral health care, and other services they need. Additionally, many states do not accept Medicaid applications from incarcerated individuals, which can lead to gaps in coverage and care while recently released individuals reapply for Medicaid and wait for their coverage to begin. This is often the case regardless of how long an individual is incarcerated—a one-month stay in jail could result in as many as three months without health coverage upon release. For individuals who rely on other types of coverage, including private insurance or Medicare, restrictive enrollment periods and delayed coverage effective dates limit their ability to enroll in and maintain coverage year-round.

Unlike Medicaid, which allows for year-round enrollment, Marketplace enrollment is limited to certain times of the year. Recently incarcerated individuals that rely on the Marketplace for insurance—for example, because they are ineligible for Medicaid or Medicare—are usually barred from applying while they are still incarcerated, although some states with state-based marketplaces may permit applications up to 60 days prior to release. Most recently incarcerated individuals have a 60-day Special Enrollment

Period (SEP) following release to apply for coverage, followed by a waiting period of anywhere from two to six weeks before their coverage begins. If they do not apply within 60 days, they must wait until the next open enrollment period to enroll in a plan.

People eligible for Medicare may apply for coverage while incarcerated, but enrollment is limited to certain times of the year and Medicare-eligible individuals must wait until the next Medicare enrollment period to apply, followed by a several month delay until their coverage begins. There is no SEP for Medicare for recently incarcerated individuals.

Even absent state and federal policies that delay coverage following release, and despite recent expansion of coverage options under the ACA, justice-involved individuals face numerous barriers to accessing coverage and care. Recently incarcerated individuals often interact with multiple public agencies following release, and lack of coordination between services that justice-involved populations need can jeopardize the continuity of care. Additionally, recently incarcerated individuals often have minimal experience navigating a health delivery system and have likely deferred preventive care for several years; even those who used coverage and care prior to incarceration have difficulty adjusting to an ever-changing health care landscape as they re-enter the community. Fear of re-incarceration may also cause individuals to withhold information from medical providers, and the marginalization of justice-involved individuals in the health care system may breed mistrust of providers, plans, and other entities seeking to gather information about patients.

RWHAP Part B program and ADAPs should work in concert with other entities, including departments of corrections and community supervision (e.g., parole), to ensure comprehensive access to treatment and services for their justice-involved clients.

Policy implications affecting justice-involved people with HIV's access to treatment and services within incarceration settings

Even when state and local governments are required to provide medical care to incarcerated individuals within their jurisdictions, studies have shown that many people with HIV lack access to appropriate medical care while incarcerated. Inadequate medical care in incarceration settings can lead to negative individual and public health outcomes, including loss of viral load suppression, increased risk of transmission, and exacerbation of comorbid conditions. Medication access may vary depending on the type of medication (e.g., antiretrovirals (ARVs), medications to treat substance use, mental health conditions, hepatitis C (HCV), or hepatitis B (HBV)) and/or whether the person with HIV is incarcerated in jail or prison.

In addition to often receiving inadequate care during incarceration, justice-involved people with HIV face various obstacles to accessing appropriate medical care after their release. Despite the benefits of ensuring recently incarcerated individuals have access to health coverage immediately upon release—including reduced uncompensated care costs, reduced recidivism, and better health outcomes for individuals and communities— the previous section outlined a number of federal and state policies impact formerly incarcerated individuals' access to comprehensive, affordable health coverage. For more information about eligibility and enrollment in different types of coverage, see "ADAP coverage of medications via full-pay prescription program and ADAP-funded insurance" in the "Treatment and Care for Justice-Involved People with HIV: RWHAP Service-Specific Information" section below.

Given the various challenges faced by currently and formerly incarcerated individuals, RWHAP Part B programs and ADAPs are positioned to support eligible justice-involved people with HIV in receiving continuous medical care and other services necessary to support overall health and well-being.

Under specific conditions, HRSA HAB policy allows RWHAP Part B Programs and ADAPs to support justice-involved people with HIV's access to care and treatment

HRSA HAB PCN 18-02 supports the use of RWHAP funds for providing allowable core medical and support services to currently incarcerated people with HIV in certain circumstances. RWHAP rules apply to the provision of justice involved people with HIV. For example, RWHAP funding may only be used to support incarcerated people with HIV who meet RWHAP eligibility requirements while incarcerated and/or are expected to be eligible for RWHAP services upon their release, and the RWHAP payer of last resort requirement applies to federal and state prisons. Since local jails are neither a federal or state entity, they may not be subject to the payer of last resort requirement; however, PCN 18-02 clarifies that RWHAP funds cannot be used to duplicate services provided by the other correctional system or community supervision program, whether at the federal, state or local level.

All short-term or transitional services RWHAP Part B programs/ADAPs provide to currently incarcerated people with HIV must be coordinated with the HIV care and treatment services the incarceration facility is required to provide. **RWHAP Part B programs/ADAPs should therefore familiarize themselves with the services required to be provided to people with HIV within the incarceration facilities in their state/territory, which can vary considerably within and across jurisdictions.**

Justice-involvement system	Duration of services	Purpose of funds
State or federal prison	Transitional **only**	As necessary to support the HIV-related needs of eligible individuals for whom release from incarceration is imminent, for the purpose of ensuring linkage to and continuity of RWHAP care and services upon release. The transitional services must be based on the HIV-related needs and anticipated release date of the incarcerated person. May only be provided if services are not otherwise available through another payer, including the incarceration facility. The nature of these services must be defined by recipients and subrecipients in collaboration with the state or federal prison system.
Non-state or federal incarceration setting (e.g., local jails) or community supervision (e.g., parole or home detention)	Transitional basis **AND/OR** Short-term basis	As necessary to support the HIV-related needs of eligible individuals during incarceration, only if services are not otherwise provided by another payer, including the incarceration facility. The nature of these services must be defined by recipients and subrecipients in collaboration with the correctional institution to ensure there is no duplication of services. When determining whether services are duplicative, recipients and subrecipients should refer to the services *required to be provided* by the correctional system, rather than the services that are *actually* provided. If services are provided on a short-term basis, HRSA HAB recommends that services also be provided on a transitional basis.

RWHAP Part B programs and ADAPs may determine:

- What constitutes a "short-term basis", for services provided to currently incarcerated individuals on a short-term basis when such services are not otherwise provided by an incarceration setting. In some cases, this may be commensurate with the duration of incarceration.
- How "imminent release" is defined (e.g., number of days until release; generally, 180 days or fewer), for services provided to currently incarcerated individuals on a transitional basis when their release from incarceration is imminent.
- Which RWHAP Part B/ADAP services should be prioritized for currently or formerly incarcerated individuals and how can these services be tailored to the unique needs of justice-involved people with HIV.

RWHAP Part B programs and ADAPs have the flexibility to develop policies and infrastructure that address the needs of justice-involved populations in their state/territory. RWHAP Part B programs are therefore well-positioned to provide necessary and life-saving services to a population vulnerable to significant structural and social barriers that negatively affect their HIV- and non-HIV-related health outcomes.

Treatment and Care for Justice-Involved People with HIV: RWHAP Service-Specific Information

RWHAP Part B core and support services that benefit justice-involved people with HIV

There are thirty RWHAP service categories that RWHAP Part B recipients can fund to diagnose HIV infection, link and retain people with HIV in care, and provide HIV treatment for RWHAP-eligible justice-involved people with HIV. The following are select RWHAP service categories that can be particularly beneficial to meeting the needs of justice-involved people with HIV:

- ADAP
- Child Care Services
- Early Intervention Services (EIS)
- Emergency Financial Assistance
- Food Bank/Home Delivered Meals
- Health Education/Risk Reduction
- Health Insurance Premium Cost-Sharing Assistance for Low-Income Individuals
- Housing Services
- Medical Case Management
- Medical Nutrition Therapy
- Medical Transportation
- Mental Health Services

- Non-Medical Case Management
- Oral Health Care
- Outpatient/Ambulatory Health Services
- Outreach Services
- Referral for Health Care and Support Services
- Substance Use (Outpatient Care)
- Substance Use (Residential)
- Rehabilitation Services

This list of services is not exhaustive, however, and services designed for justice-involved people with HIV should be considered within the broader context of individual jurisdictions' and clients' needs. RWHAP Part B programs providing services should ensure that they do so in a manner that is accessible and culturally competent for justice-involved clients who may use them.

Please refer to HRSA HAB PCN 16-02 for the complete list of RWHAP service categories and their definitions.

- **ADAP:**

  During incarceration: A majority of justice-involved individuals with HIV are diagnosed and begin treatment while incarcerated. Incarcerated persons with HIV may be eligible to receive ADAP services (i.e., be low-income as defined by the ADAP, be a resident of the state or territory). The provision of ADAP full-pay medications to clients who are currently incarcerated in federal or state prisons on a transitional and/or short-term basis would violate the payer of last resort provision, as the facility is federally or state-administered. An ADAP may provide linkage and referral services for ADAP to eligible individuals in a federal or state prison on a transitional basis when release is imminent. As noted earlier, county and local jails may not be subject to the payer of last resort provision, and ADAP can provide services (e.g., providing short-term and/or transitional access to full-pay prescription program medications or ADAP-funded insurance) if the services are not provided by the jail.

  After incarceration: Evidence demonstrates that individuals who achieve viral load suppression while incarcerated may be challenged to sustain their suppression after release into the community. Only five percent of recently incarcerated people with HIV fill a prescription for ARVs within ten days and only 30% fill a prescription for ARVs within sixty days following incarceration. ADAP provision of full-pay medications and/or ADAP-funded insurance can provide necessary support to ensure continuation of and adherence to care and treatment following incarceration

for individuals determined to be eligible. ADAP full-pay medication and insurance coverage, coupled with RWHAP Part B services that facilitate enrollment in coverage and linkage to care, enables recently incarcerated individuals determined to be eligible to receive affordable, comprehensive care post-release without interruption.

- **Early Intervention Services (EIS):** Fewer than one-third of jurisdictions offer HIV testing to individuals as they leave prison and re-enter the community. EIS could ensure testing, counseling, medical care, and relevant referrals to other services for individuals who were not tested upon release and do not know their HIV status and/or are likely to fall out of care. RWHAP Part B recipients can promote the identification, referral, and linkage of justice-involved people with HIV into care and other supportive services as they reenter their communities. RWHAP Part B recipients might also leverage EIS as part of broader Data to Care (D2C) activities geared towards linking and re-engaging individuals who are out of care.

- **Health Insurance Premium and Cost Sharing Assistance for Low-Income Individuals:** Health Insurance Premium and Cost Sharing Assistance for Low-Income Individuals funded through RWHAP Part B can allow justice-involved, insured people with HIV access to necessary medications and medical care following incarceration beyond what is allowable using federal ADAP funding alone (e.g., coverage of medical cost-sharing/co-payments/deductibles). Funds can additionally be used to provide dental insurance to those who are eligible, which may be especially useful for justice-involved people with HIV given the substandard dental care available in many incarceration settings.

- **Medical Case Management:** Studies show that Medical Case Management services improve post-release linkage to and retention in care for people with HIV.

  During incarceration: Providing Medical Case Management to eligible incarcerated people with HIV on a short-term and/or transitional basis as they prepare to reenter their community may prevent the interruption or complete discontinuation of ARVs that many justice-involved people with HIV experience post-incarceration. For example, as a transitional service, medical case managers may complete the process of assessing a person with HIV for eligibility to receive ADAP services once they leave incarceration within federal/state prisons and/or local jails. Such transitional assistance can be key in ensuring that access to the medication necessary for incarcerated people with HIV is not disrupted upon release.

  After incarceration: Studies show that Medical Case Management services improve post-release linkage to and retention in care for people with HIV. Justice-involved people with HIV face unique challenges to continuing their necessary medical regime

post-incarceration, and Medical Case Management may prevent the interruption or complete discontinuation of ARVs that many justice-involved people with HIV experience when they re-enter the community.

- **Medical Nutrition Therapy:** Poor nutrition in incarceration facilities is common and can exacerbate health issues experienced by incarcerated individuals, leading to long-term health consequences. Poor nutrition can persist even after release into the community. This can be especially problematic for people with HIV, as they may be at higher risk of malnutrition due to malabsorption, changes in metabolism, and loss of appetite caused by medication side effects. People with HIV often have special dietary requirements because some ARVs must be taken with food or with specific types of nutrients to maximize absorption. Medical Nutrition Therapy can therefore aid recently incarcerated people with HIV in developing and adhering to a successful nutrient plan to maximize their welfare, achieve viral load suppression, and improve overall health outcomes.

- **Mental Health Services:** As was noted earlier, incarcerated people with HIV are disproportionately impacted by mental health conditions. Almost 45% of justice-involved people with HIV have been estimated to be living with depression, as compared to 33% among all people with HIV. Mental health conditions such as depression are associated with decreased adherence to care and treatment in people with HIV. Access to RWHAP Part B-funded Mental Health Services following incarceration can increase linkage to care and treatment adherence, which would ultimately improve HIV-related health outcomes (e.g., viral load suppression).

- **Oral Health Care:** Studies have shown that incarcerated persons often do not receive adequate dental care during incarceration, further exacerbating health issues related to poor oral health and increasing the need for RWHAP Part B-funded Oral Health Care when re-entering the community.

- **Outpatient/Ambulatory Health Services:** Outpatient/Ambulatory Health Services are effective in ensuring continuity of treatment for people with HIV, including those who are leaving incarceration. Timely linkage to outpatient care post-incarceration is associated with increased adherence and higher rates of viral suppression, but research shows that fewer than 30 percent of recently incarcerated individuals establish HIV-related outpatient care within 90 days of release. The availability of RWHAP Outpatient/Ambulatory Health Services upon their release from incarceration could ensure justice-involved people with HIV access necessary care and treatment vital to achieving and maintaining viral load suppression.

- **Substance Use (Outpatient):** These services are particularly important for people with HIV who are justice-involved, as they have a higher prevalence of substance use dependence. Justice-involved people with HIV who use drugs may be deterred from accessing care due to difficulty navigating the healthcare system, stigma surrounding substance use, and fear of reincarceration. RWHAP Part B programs may support these individuals in accessing necessary and culturally competent care by expanding access to Substance Use - Outpatient Care services.

- **Child Care Services:** Child care services are especially important for justice-involved cisgender women, who are more likely to be a primary caretaker before incarceration and will continue in that role after release.

- **Emergency Financial Assistance:** Emergency Financial Assistance helps to address structural barriers that could prevent recently incarcerated people with HIV from accessing life-saving medical care and achieving viral load suppression. This service category allows RWHAP programs to provide one-time or short-term payments to assist people with HIV with an urgent need for essential items or services necessary to improve health outcomes. Funds may be used for housing and utilities, food, transportation, and medications not otherwise covered under another RWHAP service category. Due to federal regulations prohibiting direct cash payments to clients, payment must be made to an agency or through a voucher program.

- **Food Bank/Home Delivered Meals:** Poor nutrition in incarceration facilities can exacerbate existing health issues and lead to long-term health consequences. This can be especially problematic for people with HIV, many of whom are already at higher risk of malnutrition due to malabsorption, changes in metabolism, and loss of appetite caused by medication side effects and other physical and mental health factors. Additionally, formerly incarcerated individuals experience high rates of economic and food insecurity and may be ineligible for public benefits providing nutrition and other types of assistance, which can make it difficult for them to afford a consistently healthy diet following release. It is therefore important for justice-involved people with HIV to have access to proper nutrition upon release. RWHAP Food Bank/Home Delivered Meals can provide justice-involved people with HIV with necessary access to food items, meals, vouchers for food purchase, and a limited amount of essential non-food items that they may not be able to afford or otherwise access upon release.

- **Health Education/Risk Reduction:** As justice-involved individuals, including those who are incarcerated, experience higher rates of HIV than the general population,

they may particularly benefit from RWHAP Part B program Health Education/Risk Reduction services.

- **Housing Services:** As stated previously, justice-involved individuals, including people with HIV, experience high rates of homelessness and housing insecurity due to several structural barriers. Justice-involved people with HIV are at even greater risk of homelessness and housing instability compared to justice-involved individuals not living with HIV, which in turn negatively affects rates of viral load suppression. Housing is a vital concern for recently incarcerated people with HIV and must be addressed.

- **Non-Medical Case Management:** Coordination of benefits and other non-medical services for justice-involved people with HIV, including those who are currently incarcerated, can improve viral load suppression by alleviating structural barriers that impede access to care following release.

  During incarceration: Non-medical case managers can support incarcerated people with HIV in preparing for their return to their communities by ensuring their linkages to critical core and medical support services. To that end, as a transitional service, non-medical case managers may complete the process of assessing a person with HIV for eligibility to receive ADAP services once they leave incarceration within federal/state prisons and/or local jails. Such transitional assistance can be key in ensuring that access to the medication necessary for incarcerated people with HIV is not disrupted upon release.

  After incarceration: Previously incarcerated individuals re-entering the community often face many challenges in addition to continuing their medical care, from searching for stable housing and employment to rebuilding family relationships. Non-medical case managers can meaningfully improve justice-involved people with HIV access to and use of critical core and medical support services.

- **Outreach Services:** Outreach Services are useful in increasing adherence to treatment and reducing gaps between medical appointments. Even a limited amount of outreach can influence adherence to care; research indicates that a 95% HIV treatment adherence rate can be achieved six months post-incarceration with as few as five contacts by an outreach worker. For recently incarcerated people with HIV, RWHAP Part B Outreach Services can be instrumental in preventing discontinuity of care after release into the community.

- **Medical Transportation:** Justice-involved people with HIV are particularly challenged in accessing transportation following their release from incarceration because public

transportation is not always readily available or safe to access near shelters or other locations where many justice-involved people with HIV may live. As compared to other people with HIV, those who are justice-involved may be less able to rely on their social networks and family members for transportation support. These challenges can prevent justice-involved people with HIV from accessing medical care and achieving viral load suppression. RWHAP Part B programs should expand and/or tailor Medical Transportation services to mitigate these barriers for justice-involved people with HIV.

- **Rehabilitation Services:** Given the unique needs of justice-involved people with HIV, it is likely that the most relevant form of rehabilitation services will be vocational rehabilitation. The unemployment rate for recently incarcerated individuals is significantly higher than for the general population, as many employers discriminate against applicants with criminal records and justice-involved individuals may lack recent employment history. There are many barriers to employment for justice-involved people with HIV, some of which can be addressed through vocational Rehabilitation Services funded by RWHAP Part B programs.

- **Referral for Health Care and Support Services:** Recently incarcerated people with HIV may struggle to access needed medical care and other support services, such as housing and case management. Referral for Health Care and Support Services supports access to programs both within and outside of RWHAP, such as Medicaid or Medicare, and could help individuals preparing to be or recently released into the community obtain both transitional and permanent health care and support service providers.

- **Substance Use (Residential):** Justice-involved people with HIV are more likely than other justice-involved individuals to experience substance use dependence and negative health consequences resulting from substance use. Residential programs provide essential treatment options, such as a therapeutic community, that may not be available in a non-residential program. Residential substance use treatment services could also improve health outcomes for justice-involved people with HIV who might benefit from substance use treatment and also face housing instability upon release.

Resources:

- NASTAD (National Alliance of State & Territorial AIDS Directors) www.NASTAD.org
  - NASTAD – Health Care Access
  - National RWHAP Part B and ADAP Monitoring Project *Annual Report*
  - National ADAP Monitoring Project Formulary Database
- HRSA Policy Clarification Notice 18-02 – "The Use of Ryan White HIV/AIDS Program Funds for Core Medical Services and Support Services for People Living with HIV Who Are Incarcerated and Justice Involved"
- HRSA Policy Clarification Notice 16-02 – "Ryan White HIV/AIDS Program Services: Eligible Individuals & Allowable Uses of Funds"
- HRSA HIV/AIDS Bureau
- TARGETHIV Center – technical assistance for the RWHAP community
- Ryan White HIV/AIDS Treatment Modernization Act (2009)

This publication was supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of an award totaling $500,000 with zero percentage financed with non-governmental sources. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by HRSA, HHS or the U.S. Government.

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May 2020