



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: December 17, 2019

Subject: Support for Legislation that Strengthens Counties' Ability to Address Health Care in Jails

RECOMMENDATION(S):

ADOPT a position of "Support" on S. 2626, the Restoring Health Benefits for Justice-Involved Individuals Act, which would allow for continued access to Medicare, the Children's Health Insurance Program (CHIP) and veterans' health benefits while an individual is awaiting trial, and S. 2628, the Equity in Pretrial Medicaid Coverage Act, which supports continued access to Medicaid benefits while an individual is awaiting trial.

Authorize the Chair of the Board to communicate this position to the County's congressional delegation, and direct staff to incorporate the principle into the 2020 Federal Platform.

FISCAL IMPACT:

By eliminating the Medicaid inmate exclusion and allowing federal safety-net benefits to cover pretrial detainees, these bills would promote care continuity for justice-involved individuals, decrease short-term costs to taxpayers and county governments as well as long term costs to the federal government, and break cycles of recidivism in our communities.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **12/17/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: December 17, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: L. DeLaney,
925-335-1097

cc:

BACKGROUND:

The Medicaid Inmate Exclusion Policy (MIEP) strips federal health benefits from individuals admitted to jail before they are convicted of a crime. This policy violates constitutional rights and individuals' fundamental presumption of innocence. Further, it strains our local judicial, law enforcement, public safety and human services systems and results in higher rates of recidivism and poorer health outcomes.

The MIEP contributes to the overincarceration of individuals suffering from mental and behavioral health crises, making jails the largest behavioral health providers in the nation.

There are currently two bills in the U.S. Senate that would aid pre-trial individuals who have not yet been convicted of a crime:

- [S. 2626](#), the *Restoring Health Benefits for Justice-Involved Individuals Act*, which would allow for continued access to Medicare, the Children's Health Insurance Program (CHIP) and veterans' health benefits while an individual is awaiting trial.
- [S. 2628](#), the *Equity in Pretrial Medicaid Coverage Act*, which supports continued access to Medicaid benefits while an individual is awaiting trial.

Currently, under what is known as the Medicaid inmate exclusion, federal law prohibits the use of federal funds and services, such as veterans' benefits, Medicaid and Children's Health Insurance Program (CHIP) benefits, for medical care provided to inmates of public institutions. However, the law makes no distinction between a convicted inmate and a person incarcerated prior to conviction, thereby denying federal benefits to individuals who are still presumed innocent under the Constitution. Additionally, because serious mental illnesses are three to four times more common among local inmates than the general population, the nation's mental health crisis is increasingly centered in our jails, with county jails among the largest behavioral health care providers in our communities. By eliminating the Medicaid inmate exclusion and allowing federal safety-net benefits to cover pretrial detainees, these bills would promote care continuity for justice-involved individuals, decrease short-term costs to taxpayers and county governments as well as long term costs to the federal government, and break cycles of recidivism in our communities. The National Association of Counties (NACo) urges counties to request our Senators to co-sponsor these bills and request our U.S. House Members to introduce legislation that would restore pretrial detainee access to federal health benefits. This position is recommended by Health Services Director Anna Roth as well as former director Dr. William Walker, who noted that this action would promote equity and budget savings.