

**Service Chapter:** 510-03 & 510-05

**Effective Date:** January 1, 2025

## **Overview**

Updating language in Medicaid policy to align with federal policy in SHO #24-004 which states “In Medicaid, incarceration is not a condition of eligibility and does not render an individual ineligible.” Consolidated Appropriations Act of 2024 P.L. 118-42, Division G – Title I, Subtitle B - Medicaid Sec 205 relating to the Prohibition on Termination of Enrollment Due to Incarceration.

## **Description of Changes**

### **1. Definitions 510-03-05 – Change**

Updating definition of “public institution” to match what is written in N.D.A.C Section 75-02-02.1-19 and adding definitions of “inmate” and “unconditionally released” per N.D.A.C 75-02-02.1-19

### **2. Public Institutions 510-03-35-95 - Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

### **3. General Statement (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-03-35-95-05-05 - Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

### **4. Definitions for Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions 510-03-35-95-05-10 – Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

### **5. Individuals Covered (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-03-35-95-05-15 – Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

### **6. Coverage for Inmates Residing in Corrections-related Supervised Community**

**Residential Facilities 510-03-35-95-10 - Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

**7. Medicaid Eligibility for Incarcerated Individuals 510-03-35-95-15 – New**

Adding eligibility policy per requirements in the Consolidated Appropriations Act, 2024 to address the prohibition on termination of Medicaid eligibility due to incarceration.

**8. ACA Income Methodologies 510-03-85-13 – Change**

Removing verbiage inconsistent with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible

**9. Definitions 510-05-05 – Change**

Updating definition of “public institution” to match what is written in N.D.A.C Section 75-02-02.1-19 and adding definitions of “inmate” and “unconditionally released” per N.D.A.C 75-02-02.1-19

**10. Public Institutions 510-05-35-95 - Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

**11. General Statement (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-05-35-95-05-05 - Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

**12. Definitions for Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions 510-05-35-95-05-10 – Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

**13. Individuals Covered (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-05-35-95-05-15 – Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

**14. Coverage for Inmates Residing in Corrections-related Supervised Community Residential Facilities 510-05-35-95-10 - Change**

Updating verbiage to align with federal policies that state incarceration is not a condition of Medicaid eligibility and does not make an individual ineligible.

**15. Medicaid Eligibility for Incarcerated Individuals 510-05-35-95-15 - New**

Adding eligibility policy per requirements in the Consolidated Appropriations Act, 2024 to address the prohibition on termination of Medicaid eligibility due to incarceration.

## Policy Section Updates

### 1. Definitions 510-03-05

#### Inmate

A person who has been sentenced, placed, committed, admitted, or otherwise required or allowed to live in a public institution, and who has not subsequently been unconditionally released or discharged from the institution.

#### Public Institution

An institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term “public institution” does not include:

(1) A medical institution as defined in 42 CFR §435.1010;

(2) An intermediate care facility as defined in 42 CFR § §440.140 and 440.150;

(3) A publicly operated community residence that serves no more than 16 residents, as defined in 20 CFR §416.231 (b)(6)(i); or

(4) A child-care institution as defined in 42 CFR §435.1010 with respect to:

(a) Children for whom foster care maintenance payments are made under title IV- E of the Act; and

(b) Children receiving AFDC—foster care under title IV-A of the Act.

#### Unconditionally Released

Unconditionally released means released, discharged, or otherwise allowed or required to leave the institution under circumstances such that a return to the institution cannot be required by the operator of the institution.

### 2. Public Institutions 510-03-35-95

(N.D.A.C. Section 75-02-02.1-19)

- Incarceration status is not a condition of Medicaid eligibility and does not make an individual ineligible. An individual who is an “inmate” of a “public institution” who meets all eligibility factors for Medicaid is Medicaid eligible. Medicaid eligibility for individuals who are inmates of a public institution will be suspended. is not eligible for Medicaid unless the eligible individual is a child under the age of

~~21, who is determined to be continuously eligible. Such child remains eligible for Medicaid. No medical services will be covered under the Medicaid program during the individual's stay in the public institution.~~

~~a. A public institution is an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control, but does not include a medical institution.~~

**Public Institutions in North Dakota** ~~Examples~~ include (but are not limited to): School for the Blind, School for the Deaf, North Dakota Youth Correctional Center, Dakota Women's Correctional Center in New England, North Dakota State Penitentiary, Bismarck Transition Center (BTC) Women's Treatment Program (locked unit which is separate and distinct from the BTC transitional housing and work release unit), James River Correctional Center, Heart River Correctional Center, Missouri River Correctional Center and city, county, or and tribal jails.

~~The Bismarck Transition Center (BTC) is a community-based correctional program designed to help eligible, non-violent offenders transition back into the community, and is a public institution. Individuals entering this facility as "inmates" who are sent to the facility for assessment purposes are committed under the penal system and will be arrested if they leave. Because such individuals are "inmates," they are not eligible for Medicaid. (Individuals entering this facility on a voluntary basis while on probation are not "inmates.")~~

~~While some institutions are owned or controlled by governmental entities, they do not meet the definition of public institutions because they are medical institutions.~~

~~Examples include (but are not limited to): State Hospital, State Developmental Center at Grafton, Veterans Administration Hospitals, and the North Dakota Veteran's Home.~~

~~b. An "inmate" of a public institution is a person who has been involuntarily sentenced, placed, committed, admitted, or otherwise required to live in the institution, and who has not been unconditionally released from the institution.~~

~~"Unconditionally released" means released, discharged, or otherwise allowed or required to leave the institution under circumstances where a return to the institution cannot be required by the operator of the institution~~

~~Residence in a penal institution is terminated by parole, discharge, release on bond, or whenever the individual is allowed to return and reside in their home. A transfer from a penal public institution facility to the state a hospital or another medical institution, for evaluation or treatment does not terminate inmate status.~~

**Example:** A release from a penal public institution to a hospital for the birth of the inmate's child will not terminate inmate status if the inmate is required to return to the penal public institution following discharge from the hospital.

- ~~c. An individual who is voluntarily residing in a public institution or who has not yet been placed in the facility is not an "inmate." An individual is not considered an "inmate" (so can remain or become eligible for Medicaid) if:~~
- ~~i. The individual is attending school at the North Dakota School for the Blind in Grand Forks, or the North Dakota School for the Deaf in Devils Lake;~~
  - ~~ii. The individual is in a public institution for a temporary period pending other arrangements appropriate to the individual's needs (i.e., Juvenile Detention Center, Fargo);~~
  - ~~iii. The individual has not yet been placed in a public institution. For instance, an individual who is arrested and transported directly to a medical facility is not an inmate until actually placed in the jail. The individual may remain Medicaid eligible until actually placed in jail; or~~
  - ~~iv. The individual enters the Bismarck Transitional Center (BTC) on a voluntary basis while on probation.~~
2. The period of ineligibility Medicaid eligibility suspension under this section begins the day after the day the individual of entry enters the public institution and ends the day before the day the individual is of discharged of the individual from a the public institution. A Ten-Day Advance Notice is not needed when ~~terminating~~ suspending benefits due to entry into the public institution. See Paragraph (4)(c)(iii) of 510-03-25-25, "Decision and Notice," for further information.

### 3. General Statement (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-03-35-95-05-05

~~As a general rule, An individual's Medicaid coverage is suspended becomes ineligible for Medicaid coverage when he or she is incarcerated and is an inmate with the Department of Corrections and Rehabilitation (DOCR) or a county or tribal jail. The 2011 Legislature passed Senate Bill 2024 which required the Department to expand Medicaid coverage to include Medicaid-covered services provided to an inmate who is admitted as an inpatient in certain Medical Institutions. This provision~~

~~became effective with the benefit month of October 1, 2015, with the implementation of the new MMIS Health Enterprise System.~~

#### 4. Definitions for **and** Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions 510-03-35-95-05-10

For purposes of the Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions section:

1. Inpatient: A patient who has been admitted to a medical institution as an 'inpatient' on recommendation of a physician or dentist and:
  - a. Receives room, board and professional services in the institution for a 24-hour period or longer, or
  - b. Is expected by the institution to receive room, board and professional services in the institution for a 24-hour period or longer even though it later develops that the patient dies, is discharged or is transferred to another facility and does not actually stay in the institution for 24 hours.

NOTE: An individual **inmate** may be placed in a hospital under an 'observation' status, which is an 'outpatient' category. These individuals **inmates** are not considered receiving inpatient medical care and **Medicaid eligibility would remain in suspended status.** ~~not eligible for Medicaid under this provision.~~

#### 5. Individuals Covered (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-03-35-95-05-15

Individuals who **Inmates of a public institution for whom Medicaid eligibility is suspended** are ~~not eligible for Medicaid because they are incarcerated and are inmates with the Department of Corrections and Rehabilitation (DOCR) or with a county jail~~ are eligible for payment of their Medicaid-covered services received while an inpatient in one of the following Medical Institutions **for a 24-hour period or longer:**

- A hospital,
- A nursing facility (nursing home),
- A Psychiatric Residential Treatment Facility (PRTF),
- An Intermediate Care Facility for the Intellectually Disabled (ICF-ID),

The inmate must apply for and meet all other Medicaid factors of eligibility.

Individuals who are not aged or disabled will have their eligibility determined under this Chapter.

Individuals who are aged or disabled will have their eligibility determined based on Non-ACA Medicaid Policy defined in Manual Chapter 510-05.

Note #1: Individuals who become incarcerated will have their Social Security and SSI benefits terminated by the Social Security Administration. However, these individuals continue to be considered disabled for Medicaid purposes.

Note #2: Individuals who are under age 65, disabled, and do not have Medicare coverage, who fail the asset limits, can have their eligibility determined under ACA Medicaid.

Eligibility begins on the date the inmate is admitted as an inpatient in a medical institution and ends the day they are discharged from the medical institution. Any services received before the inmate is admitted or after the inmate is discharged from the medical institution will not be covered by Medicaid.

Individuals who are:

- Greater than age 21 but less than age 65 will be assigned a COE of M072.
- Pregnant, under age 21, or aged or disabled will be assigned a COE of M073.

Note: For individuals who are aged, blind or disabled, please refer to policy at 510-05-35-95-05-10.

Regardless of the COE assigned individuals eligible under this provision:

- Will have their **eligible** inpatient care paid through the Traditional Medicaid Fee for Service benefit plan.
- Will receive notification of their Medicaid ID Number from ND Health Enterprise MMIS;
- Will not be issued a Medicaid ID Card;
- ~~Will not be subject to the inpatient hospital co-payment.~~

## **6. Coverage for Inmates Residing in Corrections-related Supervised Community Residential Facilities 510-03-95-10**

~~Inmates of public institutions, who are held involuntarily, are not eligible for Medicaid coverage with the exception of Medicaid coverage for inmates who receive care as an inpatient in a hospital, nursing facility (nursing home), Psychiatric Residential Treatment Facility (PRTF) or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID). Recently, the Centers for Medicare and Medicaid Services (CMS) issued guidance to states on facilitating access to all covered Medicaid services for inmates, in certain circumstances, after a stay in a public~~

~~institution, who are residing in corrections-related supervised community residential facilities.~~

~~Note: Different than coverage for Inmates Receiving Inpatient Services, this coverage is available for inmates who were inmates in a Tribal jail and residing in one of the corrections-related supervised community residential facilities, provided all criteria below are met.~~

Inmates residing in state or local corrections-related supervised community residential facilities (whether operated by a governmental entity or a private entity) are eligible for Medicaid unless the inmate does not have the freedom of movement and association while residing at the facility. To meet this requirement, the facility must operate in such a way as to ensure that individuals living there have freedom of movement and association, and the ~~resident~~ inmate:

1. MUST be able to work outside the facility in employment available to individuals who are not under justice system supervision;
2. MUST be able to use community resources (libraries, grocery stores, recreation, education, etc.) “at will”; and
3. MUST be able to seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state.

For this purpose, “at will” includes and is consistent with requirements related to operational “house rules” where, for example the residence may be closed or locked during certain hours or where ~~residents~~ inmates are required to report during certain times and sign in and out. Similarly, an individual’s inmate’s supervisory requirements may restrict traveling to or frequenting certain locations that may be associated with high criminal activity.

~~Currently, we have the following~~ Examples of (not limited to) corrections-related supervised community residential facilities that house inmates include:

- Bismarck Transition Center Transitional Housing and Work Release Program
- Centre Inc. in Mandan
- Centre Inc. in Fargo
- Centre Inc. in Grand Forks
- Lake Region Residential Reentry Center

Note: These facilities also house individuals who are on parole and probation. Individuals on probation or parole are not considered inmates.

~~Based on this guidance, and in discussion with staff at the Department of Corrections and Rehabilitation, inmates residing in these facilities meet the criteria~~

listed in #1 through #3 above and may be eligible for Medicaid if all other factors of eligibility are met.

Federal inmates residing in “Residential Reentry Centers” **supervised community residential facilities** are not eligible for Medicaid coverage under this provision as the Department of Justice (DOJ) and/or Bureau of Prisons (BOP) retains responsibility for payment of health care services rendered to individuals in ~~Residential Re-entry Centers (RRCs)~~ **supervised community residential facilities**.

## **7. Medicaid Eligibility for Incarcerated Individuals 510-03-35-95-15**

Incarceration status is not a condition of Medicaid eligibility and does not make an individual ineligible. A person who applies for or is enrolled in Medicaid, and who is or becomes incarcerated, is eligible for Medicaid if they meet all Medicaid eligibility factors. If an inmate meets all eligibility factors for Medicaid, Medicaid will be suspended while the individual remains an inmate in the public institution. Medicaid will not pay for medical services for inmates in a public institution except for inpatient care per [510-03-35-95-05-15](#).

### **Applications**

People who are incarcerated may apply for Medicaid at any time. The zone agency must accept Medicaid applications from, or on behalf of, inmates of public institutions at any time during their incarceration and process these applications promptly. They are not to be held for later processing (refer to [510-03-25-05](#)).

If determined eligible for Medicaid while incarcerated, the individuals Medicaid will be placed in a suspended eligibility status.

### **Medicaid Reviews**

Individuals who are incarcerated will continue to have Medicaid eligibility reviews while their eligibility is in suspend status. Passive reviews will be completed and if an incarcerated person fails reasonable compatibility, a review form will be mailed. Review forms received are not to be held for later processing.

### **Eligible Medicaid individuals who are under age 19 in a continuous eligibility (CE) period**

Incarceration is not an exception to a child's CE period. Therefore, if a child is released from the carceral setting before their CE period ends, benefits must be

reinstated without conducting a redetermination of eligibility, unless the child has experienced an exception per Continuous [Eligibility Periods 510-03-53-15](#).

Example: Alex is 17 and his eligibility period is January 1, 2024 through December 31, 2024. Due to Alex's age, he has 12 months of CE. Alex becomes incarcerated in May 2024, and is released on October 1, 2024. A Medicaid review prior to his release is not needed because Alex is released prior to the end of his current CE period.

***Eligible Medicaid individuals who are not in a continuous eligibility (CE) period prior to their release***

Redetermination of eligibility is required for certain individuals prior to their release from a carceral setting. If a Medicaid determination was conducted while an individual was incarcerated and within 12 months of date of release, another redetermination upon release is not required.

Example: Sally is determined eligible for Medicaid in January, becomes incarcerated in March, and is released from incarceration in May. Sally's Medicaid eligibility determination, which was completed pre-incarceration in January, would not fulfill the pre-release redetermination because the eligibility determination was made before Sally was incarcerated in March. Therefore, Sally's eligibility needs to be redetermined prior to Sally's release.

Example: Sally is determined eligible for Medicaid in May 2024 and becomes incarcerated in January 2025. She had a passive review complete in May 2025, and was released in July 2025. Sally does not need a review upon release as she had one completed while incarcerated and within 12 months of last review.

## **8. ACA Income Methodologies 510-03-85-13**

The following income methodologies will be used in determining income eligibility for individuals eligible under ACA Medicaid:

1. Income is based on household composition, [tax filer](#) rules, and who resides with the individual.
2. Monthly income is used prospectively.
3. Current, point in time income is used—prospecting reasonable expected changes.

Married couples, who file their taxes jointly, must be included in each other's households, even if they are not residing together. This includes situations where one of spouses is incarcerated.

~~Note: The incarcerated spouse is not eligible for Medicaid.~~

## 9. Definitions 510-05-05

### Inmate

A person who has been sentenced, placed, committed, admitted, or otherwise required or allowed to live in a public institution, and who has not subsequently been unconditionally released or discharged from the institution.

### Public Institution

An institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term "public institution" does not include:

- (1) A medical institution as defined in 42 CFR §435.1010;
- (2) An intermediate care facility as defined in 42 CFR §§440.140 and 440.150;
- (3) A publicly operated community residence that serves no more than 16 residents, as defined in 20 CFR §416.231 (b)(6)(i); or
- (4) A child-care institution as defined in 42 CFR §435.1010 with respect to:
  - (a) Children for whom foster care maintenance payments are made under title IV- E of the Act; and
  - (b) Children receiving AFDC—foster care under title IV-A of the Act.

### Unconditionally Released

Unconditionally released means released, discharged, or otherwise allowed or required to leave the institution under circumstances such that a return to the institution cannot be required by the operator of the institution.

## 10. Public Institutions 510-05-35-95

(N.D.A.C. Section 75-02-02.1-19)

1. Incarceration status is not a condition of Medicaid eligibility and does not make an individual ineligible. An individual who is an “inmate” of a “public institution” who meets all eligibility factors for Medicaid is Medicaid eligible. Medicaid eligibility for individuals who are inmates of a public institution will be suspended. is not eligible for Medicaid unless the eligible individual is a child under the age of 21, who is determined to be continuously eligible. Such child remains eligible for Medicaid No medical services will be covered under the Medicaid program during the individual's stay in the public institution.
  - a. ~~A public institution is an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control, but does not include a medical institution.~~

**Public Institutions in North Dakota** ~~Examples~~ include (but are not limited to): School for the Blind, School for the Deaf, North Dakota Youth Correctional Center, Dakota Women’s Correctional Center in New England, North Dakota State Penitentiary, Bismarck Transition Center (BTC) Women’s Treatment Program (locked unit which is separate and distinct from the BTC transitional housing and work release unit), James River Correctional Center, Heart River Correctional Center, Missouri River Correctional Center and city, county, or and tribal jails.

~~The Bismarck Transition Center (BTC) is a community-based correctional program designed to help eligible, non-violent offenders transition back into the community, and is a public institution. Individuals entering this facility as “inmates” who are sent to the facility for assessment purposes are committed under the penal system and will be arrested if they leave. Because such individuals are “inmates,” they are not eligible for Medicaid. (Individuals entering this facility on a voluntary basis while on probation are not “inmates.”)~~

~~While some institutions are owned or controlled by governmental entities, they do not meet the definition of public institutions because they are medical institutions.~~

~~**Examples** include (but are not limited to): State Hospital, State Developmental Center at Grafton, Veterans Administration Hospitals, and the North Dakota Veteran’s Home.~~

- ~~b. An “inmate” of a public institution is a person who has been involuntarily sentenced, placed, committed, admitted, or otherwise required to live in the institution, and who has not been unconditionally released from the institution.~~

~~"Unconditionally released" means released, discharged, or otherwise allowed or required to leave the institution under circumstances where a return to the institution cannot be required by the operator of the institution~~

~~Residence in a penal institution is terminated by parole, discharge, release on bond, or whenever the individual is allowed to return and reside in their home. A transfer from a penal public institution facility to the state a hospital or another medical institution, for evaluation or treatment does not terminate inmate status.~~

**Example:** A release from a penal public institution to a hospital for the birth of the inmate's child will not terminate inmate status if the inmate is required to return to the penal public institution following discharge from the hospital.

- ~~d. An individual who is voluntarily residing in a public institution or who has not yet been placed in the facility is not an "inmate." An individual is not considered an "inmate" (so can remain or become eligible for Medicaid) if:~~
- ~~v. The individual is attending school at the North Dakota School for the Blind in Grand Forks, or the North Dakota School for the Deaf in Devils Lake;~~
  - ~~vi. The individual is in a public institution for a temporary period pending other arrangements appropriate to the individual's needs (i.e., Juvenile Detention Center, Fargo);~~
  - ~~vii. The individual has not yet been placed in a public institution. For instance, an individual who is arrested and transported directly to a medical facility is not an inmate until actually placed in the jail. The individual may remain Medicaid eligible until actually placed in jail; or~~
  - ~~viii. The individual enters the Bismarck Transitional Center (BTC) on a voluntary basis while on probation.~~
2. The period of ~~ineligibility~~ Medicaid eligibility suspension under this section begins the day after the day the individual of entry enters the public institution and ends the day before the day the individual is of dischargedd of the individual from a the public institution. A Ten-Day Advance Notice is not needed when ~~terminating~~ suspending benefits due to entry into the public institution. See Paragraph (4)(c)(iii) of 510-05-25-25, "Decision and Notice," for further information.

## 11. General Statement (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-05-35-95-05-05

~~As a general rule, An individual's Medicaid coverage is suspended becomes ineligible for Medicaid coverage when he or she is incarcerated and is an inmate with the Department of Corrections and Rehabilitation (DOCR) or a county or tribal jail. The 2011 Legislature passed Senate Bill 2024 which required the Department to expand Medicaid coverage to include Medicaid-covered services provided to an inmate who is admitted as an inpatient in certain Medical Institutions. This provision became effective with the benefit month of October 1, 2015, with the implementation of the new MMIS Health Enterprise System.~~

## 12. Definitions for and Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions 510-05-35-95-05-10

For purposes of the Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions section:

1. Inpatient: A patient who has been admitted to a medical institution as an 'inpatient' on recommendation of a physician or dentist and:
  - a. Receives room, board and professional services in the institution for a 24-hour period or longer, or
  - b. Is expected by the institution to receive room, board and professional services in the institution for a 24-hour period or longer even though it later develops that the patient dies, is discharged or is transferred to another facility and does not actually stay in the institution for 24 hours.

NOTE: An individual inmate may be placed in a hospital under an 'observation' status, which is an 'outpatient' category. These individuals inmates are not considered receiving inpatient medical care and Medicaid would remain in suspended status. ~~not eligible for Medicaid under this provision.~~

## 13. Individuals Covered (Coverage for Inmates Receiving Inpatient Care in Certain Medical Institutions) 510-05-35-95-05-15

~~Individuals who Inmates of a public institution for whom Medicaid eligibility is suspended are not eligible for Medicaid because they are incarcerated and are inmates with the Department of Corrections and Rehabilitation (DOCR) or with a county jail are eligible for payment of their Medicaid-covered services received while an inpatient in one of the following Medical Institutions for a 24-hour period or longer:~~

- A hospital,
- A nursing facility (nursing home),

- A Psychiatric Residential Treatment Facility (PRTF),
- An Intermediate Care Facility for the Intellectually Disabled (ICF-ID),

The inmate must apply for and meet all other Medicaid factors of eligibility.

Individuals who are aged or disabled will have their eligibility determined based on Non-ACA Medicaid Policy defined in Manual Chapter 510-05.

Note #1: Individuals who become incarcerated will have their Social Security and SSI benefits terminated by the Social Security Administration. However, these individuals continue to be considered disabled for Medicaid purposes.

Note #2: Individuals who are under age 65, disabled, and do not have Medicare coverage, who fail the asset limits, can have their eligibility determined under ACA Medicaid.

Eligibility begins on the date the inmate is admitted as an inpatient in a medical institution and ends the day they are discharged from the medical institution. Any services received before the inmate is admitted or after the inmate is discharged from the medical institution will not be covered by Medicaid.

Individuals who are:

- Aged or disabled will be assigned a COE of M073

Regardless of the COE assigned individuals eligible under this provision:

- Will have their **eligible** inpatient care paid through the Traditional Medicaid Fee for Service benefit plan.
- Will receive notification of their Medicaid ID Number from ND Health Enterprise MMIS;
- Will not be issued a Medicaid ID Card;
- ~~Will not be subject to the inpatient hospital co-payment.~~

#### **14. Coverage for Inmates Residing in Corrections-related Supervised Community Residential Facilities 510-05-35-95-10**

~~Inmates of public institutions, who are held involuntarily, are not eligible for Medicaid coverage with the exception of Medicaid coverage for inmates who receive care as an inpatient in a hospital, nursing facility (nursing home), Psychiatric Residential Treatment Facility (PRTF) or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF IID). Recently, the Centers for Medicare and Medicaid Services (CMS) issued guidance to states on facilitating access to all covered Medicaid services for inmates, in certain circumstances, after a stay in a public~~

~~institution, who are residing in corrections-related supervised community residential facilities.~~

~~—Note: Different than coverage for Inmates Receiving Inpatient Services, this coverage is available for inmates who were inmates in a Tribal jail and residing in one of the corrections-related supervised community residential facilities, provided all criteria below are met.~~

Inmates residing in state or local corrections-related supervised community residential facilities (whether operated by a governmental entity or a private entity) are eligible for Medicaid unless the inmate does not have the freedom of movement and association while residing at the facility. To meet this requirement, the facility must operate in such a way as to ensure that individuals living there have freedom of movement and association, and the resident inmate:

1. MUST be able to work outside the facility in employment available to individuals who are not under justice system supervision;
2. MUST be able to use community resources (libraries, grocery stores, recreation, education, etc.) “at will”; and
3. MUST be able to seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state.

For this purpose, “at will” includes and is consistent with requirements related to operational “house rules” where, for example the residence may be closed or locked during certain hours or where residents inmates are required to report during certain times and sign in and out. Similarly, an individual’s inmate’s supervisory requirements may restrict traveling to or frequenting certain locations that may be associated with high criminal activity.

~~Currently, we have the following~~ Examples of (not limited to) corrections-related supervised community residential facilities that house inmates include:

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- Centre Inc. in Mandan
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Note: These facilities also house individuals who are on parole and probation. Individuals on probation or parole are not considered inmates.

~~Based on this guidance, and in discussion with staff at the Department of Corrections and Rehabilitation, inmates residing in these facilities meet the criteria~~

listed in #1 through #3 above and may be eligible for Medicaid if all other factors of eligibility are met.

Federal inmates residing in “Residential Reentry Centers” supervised community residential facilities are not eligible for Medicaid coverage under this provision as the Department of Justice (DOJ) and/or Bureau of Prisons (BOP) retains responsibility for payment of health care services rendered to individuals in Residential Re-entry Centers (RRCs) supervised community residential facilities.

## **15. Medicaid eligibility for Incarcerated Individuals 510-05-35-95-15**

Incarceration status is not a condition of Medicaid eligibility and does not make an individual ineligible. A person who applies for or is enrolled in Medicaid, and who is or becomes incarcerated, is eligible for Medicaid if they meet all Medicaid eligibility factors. If an inmate meets all eligibility factors for Medicaid, Medicaid will be suspended while the individual remains an inmate in the public institution. Medicaid will not pay for medical services for inmates in a public institution except for inpatient care per 510-05-35-95-05-15.

### **Applications**

People who are incarcerated may apply for Medicaid at any time. The zone agency must accept Medicaid applications from, or on behalf of, inmates of public institutions at any time during their incarceration and process these applications promptly. They are not to be held for later processing (refer to 510-05-25-05).

If determined eligible for Medicaid while incarcerated, the individual’s Medicaid will be placed in a suspended eligibility status.

### **Medicaid Reviews**

Individuals who are incarcerated will continue to have Medicaid eligibility reviews while their eligibility is in suspend status. Passive reviews will be completed and if an incarcerated person fails reasonable compatibility, a review form will be mailed. Review forms received are not to be held for later processing.

### **Eligible Medicaid individuals who are under age 19 in a continuous eligibility (CE) period**

Incarceration is not an exception to a child's CE period. Therefore, if a child is released from the carceral setting before their CE period ends, benefits must be reinstated without conducting a redetermination of eligibility, unless the child has experienced an exception per Continuous Eligibility Periods 510-05-53-15.

Example: Alex is 17 and his eligibility period is January 1, 2024 through December 31, 2024. Due to Alex's age, he has 12 months of CE. Alex becomes incarcerated in May 2024, and is released on October 1, 2024. A review prior to his release is not needed because Alex is released prior to the end of Alex's current CE period.

***Eligible Medicaid individuals who are not in a continuous eligibility (CE) period prior to their release***

A review of eligibility is required for certain eligible individuals prior to their release from a carceral setting. If a Medicaid determination was conducted while an individual was incarcerated and within 12 months of date of release, another redetermination upon release is not required.

Example: Sally is determined eligible for Medicaid in January, becomes incarcerated in March, and is released from incarceration in May. Sally's Medicaid eligibility determination, which was completed pre-incarceration in January, would not fulfill the pre-release redetermination because the eligibility determination was made before Sally was incarcerated in March. Therefore, Sally's eligibility needs to be reviewed prior to Sally's release.

Example: Sally is determined eligible for Medicaid in May 2024 and becomes incarcerated in January 2025. She had a passive review complete in May 2025, and was released in July 2025. Sally does not need a review upon release as she had one completed while incarcerated and within 12 months of last review.