

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Division of Social Services**

60000 Incarcerated Individuals Medicaid Program

Statutory Authority

Patient Protection and Affordable Care Act (ACA, P.L.111-148, as amended)

Inmates of a public institution who are held involuntarily may be enrolled in Medicaid, but Medicaid may not provide coverage for most services while the individual is detained. The inmate coverage exclusion applies to all Medicaid services provided to inmates, EXCEPT inpatient services provided in a medical institution.

Medicaid regulations, 42 CFR 435.1009, limit payment for services for individuals residing in correctional institutions. Medicaid statute requires coverage of inpatient services for the incarcerated individual if he/she is admitted to a medical institution for 24 hours or more, per 42 USC § 1396d(a)(31)(A).

Incarcerated individuals who apply for Medicaid may be required to enroll with a Managed Care Organization (MCO). Enrollment with an MCO while incarcerated allows for a smooth transition to full Medicaid benefits when the inmate is released from jail or prison if the inmate remains eligible for Medicaid after released.

60100 Incarcerated Individuals Definitions

Inmate - an individual of any age who is in custody and held involuntarily in a public institution under the operation of law enforcement authorities. Regardless of the label attached to any particular custody status, an important consideration of whether an individual is an "inmate" is the individual's legal ability to exercise personal freedom.

Inmate of a Public Institution- Federal law defines an inmate of a public institution as "a person living in a public institution."

Public Institution - Federal Law defines a public institution as "an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. A public institution includes a correctional institution."

(See DSSM section 14120 for additional institution definitions)

60200 Inmate residence

An inmate is considered a resident of the state in which the crime was committed. This information will be obtained from the Medicaid application.

For an inmate incarcerated by their home state but sent to an out of state public institution for any reason, including the home state not having capacity to house the individual, the home state remains the state of residence.

Individuals who have committed a crime outside of their home state and are placed in a correctional institution in and by the state in which the crime was committed are considered be residents of that state while incarcerated.

60300 Financial Eligibility and Household Composition

Financial Eligibility is determined based on modified adjusted gross income (MAGI) eligibility rules, or non-MAGI eligibility rules, depending on the individual's circumstances.

There are no special rules or exceptions for incarcerated individuals. Follow income eligibility rules and household composition under section 16000 of the DSSM.

Exception: Incarcerated individuals are not considered parents/caretaker relatives for Medicaid purposes. However, an incarcerated individual can still file taxes and claim dependents which would be counted in the incarcerated individual's

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household size for Medicaid purposes.

60400 Application and Redetermination

Regulations under DSSM Sections 14000 apply to incarcerated individuals applying for Medicaid. With the following exceptions:

1. Incarcerated Medicaid eligibility is effective the first day of the month if the individual was eligible at any time during that month provided the individual was an Incarcerated Delaware resident on the first of the month. If not a Delaware resident on the first of the month, Medicaid will be effective the date the individual became an Incarcerated Delaware resident.
2. An inmate may designate an individual as an authorized representative (see DSSM section 14100.1) to act on his or her behalf in matters related to eligibility and enrollment. An authorized representative may NOT enroll an inmate in Medicaid without his or her consent.

An annual renewal of eligibility is required for incarcerated individuals, there are no special rules or exclusions. See DSSM Section 14100.6

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