

MOTION BY SUPERVISORS KATHRYN BARGER AND
HILDA L. SOLIS

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Health Care Benefits for Non-Convicted Justice Involved Individuals

Across the United States, many people are detained in county jails for crimes of which they have not yet been convicted. Despite not having been formally convicted, these individuals are subject to a federal law which deprives them of federally funded programs, most notably Medicaid. The individuals who enter the criminal justice system often depend on these critical programs to receive the care and treatment that they require. However, this gap in law known as the Federal Medicaid Inmate Exclusion has continued to place undue burden on those impacted.

Pursuant to The Social Security Act (Sec. 1905 (a)(A)), the use of federal funds and services is prohibited “for any individual who is an inmate of a public institution”. This statute as currently written applies to individuals who are incarcerated prior to a conviction, which has created an inequity within our criminal justice system. Those who have yet to be convicted of a crime are losing Medicaid, Veterans Affairs and Children’s Health Insurance Program (CHIP) benefits. This provision of the Social Security Act needs to be amended to exclude those who have not yet been convicted of a crime, and to ensure that those who have yet to be convicted do not face undue burden.

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The Due Process Clause and the Equal Protection Clause of the United States Constitution maintain that individuals are innocent until proven guilty. By taking away a pre-conviction inmate's federal benefits, this section of the Social Security Act implies the inmate's guilt even though a conviction has yet to take place. In order to comply with this Constitutional Right, we must ensure that no adverse action is taken until such time that trial by jury convicts the individual.

When a pre-conviction inmate loses their benefits, the burden of care ultimately falls on counties because the individual is no longer eligible for federal benefits. Local taxpayers are then forced to fill this gap in funding, which is perpetuated by the Federal Medicaid Inmate Exclusion policy. This policy unfairly burdens counties, and eliminates coverage for pre-conviction inmate care. For that reason, this board should support legislation that seeks to address this statutory shortfall.

WE, THEREFORE, MOVE that the Board of Supervisors direct the Chief Executive Office of Intergovernmental Affairs to support legislation that seeks to repeal the Federal Medicaid Inmate Exclusion policy, specifically as it pertains to pre-conviction inmates.

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