

SMD #21-002

RE: Implementation of At-Risk
Youth Medicaid Protections for
Inmates of Public Institutions
(Section 1001 of the SUPPORT Act)

January 19, 2021

Dear State Medicaid Director:

The purpose of this letter is to provide guidance to states on the implementation of new Medicaid requirements for at-risk youth who are inmates of public institutions. Section 1001 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (the SUPPORT for Patients and Communities Act, herein referred to as “the SUPPORT Act,” Pub. L. 115-271), signed into law October 24, 2018, amended section 1902(a) of the Social Security Act (the Act), to prohibit states from terminating Medicaid eligibility for “eligible juveniles” (defined as individuals under age 21 and individuals enrolled in the mandatory eligibility group for former foster care children) who become inmates of public institutions on or after October 24, 2019 due to their incarceration.¹ Section 1001 of the SUPPORT Act provides Medicaid protections for at-risk youth who are inmates of public institutions, sometimes referred to as justice-involved juveniles. This is a small but vulnerable population (see Appendix B for additional information on the characteristics of this population). Facilitating enrollment in Medicaid and supporting access to health care services upon release can be crucial to ensuring a successful transition to the community following incarceration.

A. Overview

Section 1001 of the SUPPORT Act added paragraph (84) to section 1902(a) of the Act, specifying that a state shall not terminate eligibility for Medicaid under the state plan for an eligible juvenile² because the juvenile is an inmate of a public institution,³ but may suspend

¹ To claim the temporary Federal Medical Assistance Percentage (FMAP) increase provided under section 6008 of the Families First Coronavirus Response Act (Pub. L. 116-127) (FFCRA), as described at 42 C.F.R. § 433.400 states must maintain Medicaid eligibility for any beneficiary enrolled as of or after March 18, 2020 through the last day of the month in which the COVID-19 public health emergency ends, unless the individual voluntarily disenrolls or is no longer a state resident. This includes beneficiaries who are inmates of public institutions. This letter describes two options, which states can adopt to implement section 1001 of the SUPPORT Act. Both options are consistent with the conditions for claiming the temporary FMAP increase authorized under section 6008 of the FFCRA.

² Section 1001 of the SUPPORT Act also amended section 1902 of the Act to add paragraph (nn), which defines the terms juvenile and eligible juvenile for the purposes of section 1902(a)(84).

³ While states cannot terminate eligibility for an eligible juvenile based on the juvenile being an inmate of a public institution, the state may still terminate the eligible juvenile’s Medicaid eligibility if the eligible juvenile no longer

eligibility during the period the juvenile is an inmate. For an eligible juvenile who was determined Medicaid eligible before entering a public institution, section 1902(a)(84) of the Act requires states to conduct a redetermination of eligibility prior to release without requiring a new application, and, if the juvenile is determined eligible, to restore coverage upon his or her release from the public institution. For an eligible juvenile who applies for Medicaid (or, on whose behalf an application is submitted) while an inmate of a public institution, states are required to process the application “such that the State makes a determination of eligibility for such individual with respect to such medical assistance upon release of such individual from such public institution.” The requirements related to suspension, redetermination and timely processing of applications are discussed in more detail below.⁴

Section 1001 of the SUPPORT Act also added section 1902(nn) of the Act to define “eligible juvenile” for purposes of section 1902(a)(84) of the Act. An eligible juvenile⁵ is defined as an individual who is under 21 years of age or an individual described in section 1902(a)(10)(A)(i)(IX) of the Act (referred to as the mandatory eligibility group for former foster care children)⁶ who was determined eligible for Medicaid before becoming an inmate of a public institution⁷ or who is determined eligible for Medicaid while an inmate of a public institution.⁸ Individuals described in the mandatory eligibility group for former foster care children, implemented at 42 C.F.R. § 435.150, include individuals under age 26 who were enrolled in both Medicaid and in foster care under the responsibility of the state or tribe upon attaining either age 18 or such higher age as the state or tribe has elected for termination of federal foster care assistance under title IV-E of the Act. For purposes of implementing section 1902(a)(84) of the Act, we interpret “eligible juvenile” to include beneficiaries eligible under the state plan and/or under a section 1115 demonstration project for whom expenditures are regarded as expenditures under the state plan, including individuals under age 26 who were enrolled in both Medicaid and in foster care under the responsibility of another state upon attaining age 18 or higher applicable age.

An individual who meets the definition of an eligible juvenile because he or she is under 21 years of age could be enrolled in a variety of Medicaid eligibility groups, depending on the groups the state has elected to cover. For example, an eligible juvenile could be enrolled in the mandatory eligibility group for children described in 42 C.F.R. § 435.118 or, in some states, the adult group described in 42 C.F.R. § 435.119, among others. An individual who meets the

meets the applicable eligibility criteria, provided that the state conducts a full redetermination (42 C.F.R. § 431.916) and provides advance notice and due process rights (42 C.F.R. part 431, subpart E) prior to the termination.

⁴ Section 1001 of the SUPPORT Act does not modify either the existing Medicaid definition of an inmate of a public institution or the payment exclusion limiting the provision of federal financial participation (FFP) for services provided to inmates.

⁵ Section 1902(nn)(2) of the Act defines “eligible juvenile” to mean “a juvenile who is an inmate of a public institution and who (A) was determined eligible for medical assistance under the State plan immediately before becoming an inmate of such a public institution; or (B) is determined eligible for such medical assistance while an inmate of a public institution.” We interpret the phrase “immediately before becoming an inmate of such a public institution” to include juveniles whose last determination or redetermination of eligibility occurred within the previous 12 months for juveniles eligible based on MAGI and within the eligibility period established by the state in accordance with 42 C.F.R. § 435.916(b) for juveniles eligible on another basis.

⁶ See 42 C.F.R. § 435.150.

⁷ See section 1902(nn)(2)(A) of the Act.

⁸ See section 1902(nn)(2)(B) of the Act.

criteria for the mandatory eligibility group for former foster care children must be enrolled in the mandatory eligibility group for former foster care children; these eligible juveniles will not be enrolled in another Medicaid eligibility group.

B. Background

1. Medicaid Requirements for Inmates of Public Institutions

An inmate of a public institution is defined, generally, as “a person who is living in a public institution,” and a public institution is defined, generally, as “an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.”⁹ In 2016, CMS issued State Health Official letter (SHO) #16-007,¹⁰ which provides guidance to states on facilitating access to covered Medicaid services for eligible individuals prior to and after a stay in a correctional institution. The SHO letter explains that a correctional institution is a public institution, that CMS considers an individual of any age to be an inmate if the individual is in custody and held in a public institution (other than certain specified public institutions) involuntarily through operation of law enforcement authorities, and describes several scenarios states may encounter when determining if a justice-involved individual would be considered an inmate of a public institution.

The payment exclusion described in subdivision (A) of the matter following section 1905(a)(30) of the Act limits the provision of federal financial participation (FFP) for inmates of public institutions to inpatient services furnished to inmates when they are patients in a medical institution. The SUPPORT Act does not make any changes to this payment exclusion, which takes effect upon a beneficiary becoming an inmate of a public institution.

Section 1001(c) of the SUPPORT Act does not mandate, encourage or suggest that states suspend or terminate Medicaid eligibility for eligible juveniles prior to adjudication or sentencing. The determining factor when considering whether an individual is an inmate of a public institution under Medicaid regulations is whether the individual is living in a public institution involuntarily, through operation of law enforcement authorities. Adjudication status is not a factor in this analysis. This is consistent with the definition of an eligible juvenile in section 1902(nn) of the Act and the inmate payment exclusion in subdivision (A) of the matter following section 1905(a)(30) of the Act, both of which refer simply to “inmates of a public institution,” without reference to adjudication status.

⁹ See 42 C.F.R. § 435.1010. An individual is not considered an inmate if he or she is in a public educational or vocational training institution for purposes of securing education or vocational training, or in a public institution for a temporary period pending other arrangements appropriate to his or her needs. The following are excluded from the definition of a public institution: a medical institution as defined in 42 C.F.R. § 435.1010; an intermediate care facility as defined in 42 C.F.R. §§ 440.140 and 440.150; a publicly operated community residence that serves no more than 16 residents as defined in 42 C.F.R. § 435.1010; and a child-care institution, as defined in 42 C.F.R. § 435.1010, with respect to children for whom foster care maintenance payments are made under title IV-E of the Act and with respect to children receiving AFDC-foster care under title IV-A of the Act.

¹⁰ SHO# 16-007, *To facilitate successful re-entry for individuals transitioning from incarceration to their communities*. Available at <https://www.medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf>.

In implementing section 1902(a)(84) of the Act, as added by section 1001 of the SUPPORT Act, states should continue to refer to SHO #16-007 for guidance on the definitions of a public institution and inmate of a public institution. States should also continue to refer to that SHO for guidance applicable to individuals who do not meet the definition of a juvenile in section 1902(nn)(1) of the Act, meaning individuals age 21 or older who are not enrolled in Medicaid in the mandatory eligibility group for former foster care children **or** a section 1115 demonstration project covering individuals under age 26 who were enrolled in both Medicaid and in foster care under the responsibility of another state upon attaining age 18 or higher applicable age.¹¹

2. Medicaid Financial Eligibility

Regardless of incarceration status, financial eligibility for Medicaid is determined using either modified adjusted gross income (MAGI)-based income methodologies or non-MAGI methodologies, which most often are based on the methodologies applied in determining eligibility for supplemental security income (SSI). MAGI-based income methodologies are used to determine eligibility for most Medicaid eligibility groups not excepted from use of MAGI-based methodologies, including groups for children, pregnant women, parents and other caretaker relatives, and adults described in section 1902(a)(10)(A)(i)(VIII) of the Act and 42 C.F.R. § 435.119. The eligibility groups for which non-MAGI methodologies are used typically cover individuals who are age 65 or older, have blindness or a disability, or are in need of institutional care or other long-term services and supports.¹² Some eligibility groups do not have an income standard, including the mandatory eligibility group for former foster care children. For discussion on how incarceration may impact MAGI-based and non-MAGI Medicaid eligibility, see section 5 below.

C. Section 1001 of the SUPPORT Act Implementation Requirements

The following section of this letter describes (a) the requirements states must fulfill to comply with the requirements in section 1001 of the SUPPORT Act – codified at section 1902(a)(84) and 1902(nn) of the Act – that states may suspend, but may not terminate Medicaid eligibility for an eligible juvenile receiving Medicaid who becomes an inmate of a public institution; must process Medicaid applications submitted by, or on behalf of, eligible juveniles while incarcerated; and must redetermine the eligibility of certain eligible juveniles prior to their release from the public institution; and (b) the flexibilities available to states related to implementation of these requirements. It also provides additional detail related to notice and residency requirements and the impact of incarceration on additional members of the Medicaid household.

¹¹ For additional information and tools to assist states in implementing strategies for Medicaid enrollment and care coordination for justice-involved populations, please see the February 2015 learning collaborative slide deck, *Medicaid Eligibility and Enrollment for Justice-Involved Populations* (<https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/justice-involved-populations.pdf>), and the August 2017 learning collaborative slide deck, *Medicaid and Justice-Involved Populations: Strategies to Increase Coverage and Care Coordination* (<https://www.medicaid.gov/state-resource-center/downloads/mac-learning-collaboratives/justice-involved-populations.pdf>).

¹² See 42 C.F.R. § 435.603(j) for the complete description of eligibility groups exempt from MAGI-based methodologies.

1. Suspension Strategies

Suspension, rather than termination, of Medicaid eligibility facilitates more timely and streamlined reinstatement of coverage upon release from incarceration. This can reduce administrative burden for both states and beneficiaries and ensure that beneficiaries can access essential health services more quickly in the days following release. Because amendments made by the SUPPORT Act do not permit termination of eligibility due to incarceration for eligible juveniles,¹³ states may adopt one of two approaches to effectuate the requirements in section 1902(a)(84) of the Act: suspension of eligibility or suspension of benefits. These strategies can be applied to eligible juveniles who had Medicaid coverage at the point of incarceration or who applied for Medicaid while incarcerated. Requirements and considerations for both approaches are outlined below (see Appendix A for a comparison of these options). States may elect to use one or both of these approaches depending on the circumstances.

Eligibility Suspension

Under an eligibility suspension, the eligible juvenile's eligibility is not terminated, but it is effectively paused. The individual cannot receive Medicaid coverage for services and no FFP is available. When eligibility is suspended, a state is not required to conduct regular annual renewals or redetermine eligibility based on changes in circumstances. However, states retain the option to conduct renewals and redetermine eligibility based on changes in circumstances for these individuals, and there are circumstances under which states may wish to do so. For example, if other members of an eligible juvenile's household are enrolled in Medicaid, the state may choose to process an annual renewal for the incarcerated child when the state processes the required annual renewal for the other household members.

There are several ways a state can effectuate an eligibility suspension. States may make eligibility systems edits to place the individual in a "suspended" eligibility status or the state may make Medicaid Management Information System (MMIS) edits to place the individual in a "no pay" or other status that ensures claims are not paid for the eligible juvenile.

If an inmate whose eligibility has been suspended is hospitalized or becomes an inpatient in another type of medical institution and the state intends to claim FFP for inpatient services furnished during the inpatient stay, the state must lift the eligibility suspension to reinstate eligibility for the period of the inpatient stay. The steps required to lift the eligibility suspension vary depending on the date of the individual's last renewal. If the individual has received a Medicaid renewal within the twelve months prior to being hospitalized and has not experienced a change in circumstances since becoming incarcerated, prior to claiming FFP, the state may lift the eligibility suspension to reinstate inpatient coverage without taking any further action. If the individual's last Medicaid renewal was more than twelve months prior to being hospitalized, or the individual experienced a change in circumstances since incarceration, the state must redetermine eligibility before lifting the suspension and claiming FFP for any inpatient services; if the individual continues to be eligible, the state may reinstate eligibility for the period of the

¹³ See section 1902(a)(84)(A) of the Act.

inpatient stay; if the individual is determined to no longer meet eligibility requirements, the state may not claim FFP for the inpatient services.¹⁴

Requirements related to conducting redeterminations prior to release from incarceration are discussed in section C.2 of this letter.

Benefits Suspension

Under a benefits suspension, an eligible juvenile continues to be enrolled in Medicaid, but Medicaid coverage is limited to inpatient services furnished to the individual while admitted to a medical institution for at least a 24-hour inpatient stay,¹⁵ in accordance with the payment exclusion for inmates of public institutions described in subdivision (A) of the matter following section 1905(a)(30) of the Act.¹⁶ Under a benefits suspension, the state must complete regular annual renewals and redetermine eligibility when eligible juveniles experience changes in circumstances, in accordance with renewal requirements described in 42 C.F.R. § 435.916, for the duration of the eligible juvenile's incarceration.

One way for a state to effectuate a benefits suspension is to make MMIS edits to limit the individual's benefit package to inpatient hospital services and other inpatient services furnished in a medical institution other than a hospital. If an inmate becomes an inpatient in a hospital or other medical institution, and the state intends to claim FFP for the inpatient stay, the state is then able to claim for the stay with no additional action needed.

Advance Notice and Fair Hearing Rights

Placement of an eligible juvenile in either an eligibility suspension or a benefits suspension status is an adverse action under 42 C.F.R. § 431.201 and a decision affecting their eligibility under 42 C.F.R. § 435.917. Therefore, states must provide eligible juveniles with timely and adequate written notice at least 10 days in advance of the date of action in accordance with 42 C.F.R. §§ 431.211-214. This notice must be written in plain language, be accessible to persons who are limited English proficient and individuals with disabilities, and provide information to individuals consistent with the notice requirements described at 42 C.F.R. §§ 431.206-431.210. This notice must inform the eligible juvenile of his or her fair hearing rights, pursuant to 42 C.F.R. part 431 subpart E.

¹⁴ Ordinarily, the state also would take appropriate steps to terminate eligibility of an individual determined to no longer meet eligibility requirements, consistent with advance notice and fair hearing rights under 42 C.F.R. part 431 subpart E. However, through the end of the month in which the COVID-19 public health emergency ends, states which seek to claim the temporary FMAP increase authorized under section 6008 of the FFCRA must maintain the enrollment of Medicaid beneficiaries in accordance with 42 C.F.R. § 433.400.

¹⁵ 42 C.F.R. § 435.1010.

¹⁶ This "medical institution" exception to the inmate exclusion applies to hospitals, nursing facilities, intermediate care facilities for individuals with intellectual disabilities, and to facilities pursuant to the inpatient psychiatric services for individuals under age 21 benefit, including psychiatric residential treatment facilities. To qualify for the medical institution exception, services must be covered under the state's Medicaid plan, delivered in a prescribed setting in a way that is consistent with other terms of the state's Medicaid plan, and provided by a certified or enrolled provider that maintains compliance with federal requirements. However, federal financial participation is not available for services to Medicaid beneficiaries who reside in an institution for mental diseases (IMD), as defined in section 1905(i) of the Social Security Act, unless one of the exceptions to the IMD exclusion applies. CMS is available to provide technical assistance to states on the inmate and IMD exclusions and exceptions.

It is important to note that the federal payment exclusion for inmates of public institutions takes effect immediately when a beneficiary becomes an inmate of a public institution and is not linked to the implementation date of the beneficiary's suspension. States should instruct their public institutions that the inmate payment exclusion policy continues to apply during the 10-day advance notice period and that public institutions should not submit claims for services subject to the inmate payment exclusion for eligible juveniles.

2. Enrolling in Medicaid While Incarcerated

Incarceration does not preclude an inmate from being determined Medicaid-eligible, and section 1902(a)(84)(C) of the Act contemplates that some individuals may apply for Medicaid while incarcerated and thereby may become eligible juveniles as defined at section 1902(nn) of the Act. The state Medicaid agency must accept Medicaid applications from, or on behalf of, inmates of public institutions at any time during their incarceration¹⁷ and process these applications promptly, in accordance with 42 C.F.R. § 435.912, which describes federal timeliness requirements.

If an individual is determined eligible for Medicaid while incarcerated and the individual otherwise satisfies the definition of an eligible juvenile, the state must treat this individual as it would an eligible juvenile who was enrolled in Medicaid at the time of incarceration and place the individual in a suspended eligibility or benefits status, as discussed above. States must ensure that an eligible juvenile described in section 1902(nn)(2)(B) of the Act is provided full benefits upon release from the public institution, provided he or she remains eligible.

3. Conducting Pre-Release Redeterminations

For eligible juveniles with Medicaid coverage at the time of incarceration, section 1902(a)(84)(B) of the Act requires states to conduct a redetermination of eligibility prior to the individual's release from a public institution without requiring a new Medicaid application from the juvenile. Redeterminations of eligibility must be conducted in accordance with regulations at 42 C.F.R. § 435.916, which require states to first redetermine eligibility without requiring information from the individual, if able to do so based on reliable information in the beneficiary's account or other more current information available to the agency, including information available through electronic data sources. If the state is unable to redetermine eligibility in this manner, the state may request only the information from the beneficiary needed to renew eligibility. This information must be collected through the use of a pre-populated renewal form if the eligible juvenile was eligible at the time of incarceration on the basis of MAGI and may be collected through a pre-populated or other renewal form if he or she was eligible on other bases. If the beneficiary remains eligible, the state must restore full benefits upon release from incarceration. If this redetermination finds the juvenile is no longer eligible, the state must provide the beneficiary with advance notice and fair hearing rights, consistent with 42 C.F.R. part 431, subpart E.

¹⁷ 42 C.F.R. § 435.906.

States may consider the last redetermination conducted for an eligible juvenile with Medicaid coverage at the time of incarceration to meet the requirement at section 1902(a)(84)(B) of the Act if that redetermination occurred after the time of incarceration and within 12 months of the date of release. For example, suppose an eligible juvenile becomes incarcerated in January; the state effectuates a benefits suspension and conducts an annual renewal for the individual in March; and the individual is released from incarceration in May. The March annual renewal would fulfill the requirement for a pre-release redetermination, because the renewal was conducted after incarceration and the individual's release is within the twelve-month eligibility period. Conversely, if an eligible juvenile is determined eligible for Medicaid in January, becomes incarcerated in March and is released from incarceration in May; the January Medicaid eligibility determination would not fulfill the pre-release redetermination required under section 1902(a)(84)(B) of the Act, because the eligibility determination was made before incarceration, and the state would need to conduct a redetermination for the eligible juvenile prior to release from incarceration.

Some eligible juveniles who apply and are determined eligible for Medicaid while an inmate of a public institution may also need a redetermination of eligibility prior to release in order to meet the requirements of section 1902(a)(84)(C).¹⁸ As discussed above, states implementing the benefits suspension option must complete regular annual renewals and redetermine eligibility when eligible juveniles experience changes in circumstances, in accordance with renewal requirements described in 42 C.F.R. § 435.916, for the duration of the eligible juvenile's incarceration. States that have elected the eligibility suspension option, will need to conduct a redetermination for individuals who were determined eligible at application more than 12 months prior to the date of release, if the state has not redetermined eligibility within the 12-month period preceding release.

To effectuate the requirements under section 1902(a)(84) of the Act, states will need to coordinate with agencies responsible for the processing and housing of individuals in the criminal justice system – for example, local jails, state and federal prisons, and state departments of corrections – to ensure these agencies notify state Medicaid agencies sufficiently in advance of upcoming releases of eligible juveniles to allow the state Medicaid agency to complete the redetermination (if needed) and restore full benefits to those who are eligible immediately upon release. If the redetermination cannot be completed prior to release, due to administrative circumstances beyond the state Medicaid agency's control, as described in 42 C.F.R. § 435.912(e), states must restore the Medicaid benefits of an eligible juvenile upon release and complete the redetermination as expeditiously as possible, within a reasonable timeframe, which we expect generally would be no more than 60 days after release.

4. Sending Notices

Notices, including the eligibility notice related to the suspension, must be sent to the address on record for the household, or electronically, as appropriate per the beneficiary election under 42

¹⁸ We interpret the requirement at section 1902(a)(84)(C) of the Act that the state “makes a determination of eligibility for such individual with respect to such medical assistance upon release of such individual from such public institution” to include eligibility determinations or redeterminations of eligibility that occur while the juvenile is incarcerated and within 12 months of release, such that the individual described at section 1902(n)(2)(B) of the Act has a current determination of eligibility upon release.

C.F.R. § 435.918. If the household contact is the incarcerated individual, the state must determine if the eligible juvenile wishes to update his or her contact information to reflect the mailing address that will reach the eligible juvenile at the public institution or if he or she elects to receive electronic notices. States are encouraged to work with justice agencies and public institutions to facilitate such updates to contact information and ensure that any Medicaid notices sent to eligible juveniles at public institutions are delivered to the incarcerated individual in a timely manner. Per 42 C.F.R. § 435.918, state Medicaid agencies must provide all beneficiaries with the option to receive notices and information required under 42 C.F.R. §§ 435.917, 431.206, and 431.210 in electronic format or by regular mail, and to allow the beneficiary to change this choice. As a part of their coordination with justice agencies, state Medicaid agencies are encouraged to discuss with the justice agency and eligible juvenile whether electronic communication will be accessible to eligible juveniles during their incarceration, keeping in mind that the method of notice delivery (electronic or regular mail) is the individual's decision.

5. Impact of Suspension on the Eligibility of Eligible Juveniles and Their Household Members

As noted above, incarceration status is not a condition of eligibility for any Medicaid eligibility group; therefore, incarceration is not itself a reason to terminate a beneficiary's Medicaid eligibility. However, incarceration may impact the household composition, and therefore the underlying eligibility, of both the incarcerated eligible juveniles and their families. Any potential impact will depend, in part, on whether the Medicaid eligibility of the eligible juvenile or other household members was determined using MAGI-based income methodologies or non-MAGI methodologies.

Beneficiaries eligible on a MAGI basis

Section 1902(e)(14) of the Act generally requires use of household composition and income counting methodologies based on MAGI, as defined in section 36B(d)(2)(B) of the Internal Revenue Code of 1986 (the Code), to determine income eligibility for most children, pregnant women, parents, and adults under age 65 who are not seeking coverage on the basis of disability or blindness or need for institutional care or other long-term services and supports. Under MAGI-based methodologies, the household composition for a household that expects to file a federal income tax return generally consists of a taxpayer (including the taxpayer's spouse if married and filing a joint return) and his or her tax dependents.

Whether a taxpayer can claim an individual as a dependent on his or her tax return depends on several factors, an important one of which is living together. The Internal Revenue Service (IRS) rules provide for flexibility with respect to living together in the case of "temporary absences," such as an individual's detention in a juvenile facility. Specifically, an individual detained in a juvenile facility may be considered to be temporarily absent from, but still remain living in, the home the individual lived in before his or her detention.¹⁹ The IRS considers an

¹⁹ See page 12, *Publication 501: Dependents, Standard Deduction, and Filing Information For use in preparing 2019 Returns*, available at: <https://www.irs.gov/pub/irs-pdf/p501.pdf>. In order to satisfy the residency test, "your child must have lived with you for more than half the year. There are exceptions for temporary absences...Your child is considered to have lived with you during periods of time when one of you, or both, are temporarily absent due to special circumstances such as:... Detention in a juvenile facility."

absence to be temporary if it is reasonable to assume the absent person will return to the home after the temporary absence and the home is maintained during the person's absence; it is not limited to a specific length of time.²⁰

In light of the IRS's temporary absence policy, an eligible juvenile may be considered temporarily absent from his or her household while an inmate of a public institution for the purposes of determining income eligibility for both the eligible juvenile and other household members using MAGI-based methodologies.²¹ As such, the incarceration of an eligible juvenile in a public institution generally would not require a redetermination for any household members whose financial eligibility is based on MAGI. An exception to this general rule would occur if it is not reasonable to assume the eligible juvenile will return to the same household following his or her release from the public institution.

This temporary absence policy applies equally to MAGI-based households that expect to file taxes and those that do not. In addition, we note that this policy applies to any members of an eligible juvenile's household whose eligibility was determined using MAGI-based methods, even if the eligible juvenile is eligible on a non-MAGI basis.²² However, if the household experiences other changes in circumstances that may affect eligibility, including an increase in household size or income, the Medicaid agency must make a redetermination of eligibility for the household members, consistent with 42 C.F.R. § 435.916(d); depending on whether the state has elected to effectuate the requirements in section 1902(a)(84) of the Act through an eligibility suspension or a benefits suspension, as discussed above, the state also may need to redetermine the eligibility of the eligible juvenile.

Beneficiaries eligible on a non-MAGI basis

Generally, in non-MAGI eligibility determinations, only individuals who are actually living with the Medicaid applicant or beneficiary will have their income and resources "deemed" (i.e., included without regard to whether such income or resources are actually made available) to the applicant or beneficiary, or will be included in the applicant or beneficiary's household, and only the income and resources of a spouse, or a parent of a child who is under age 21 or has blindness or a disability, can be deemed available to a Medicaid applicant or beneficiary. This means that the incarceration of a non-MAGI Medicaid beneficiary (which will separate the non-MAGI beneficiary from other individuals with whom the beneficiary was living) may impact the incarcerated individual's eligibility. Similarly, the incarceration of a member of a non-MAGI Medicaid beneficiary's household may likewise impact a non-MAGI beneficiary's financial eligibility through a potential change in the household size of the non-MAGI beneficiary.

²⁰ IRS Publication 501.

²¹ While MAGI-based methodologies apply equally to the Children's Health Insurance Program (CHIP), the definition of targeted low-income child excludes inmates of a public institution (42 C.F.R. § 457.310(c)(2)). Therefore, a child who becomes an inmate of a public institution generally is no longer eligible for CHIP, unless the state has elected to provide continuous eligibility (CE) and did not include incarceration as an exception to its CE policy. Because of this difference in eligibility criteria between CHIP and Medicaid, the temporary absence policy cannot be applied to CHIP beneficiaries who are incarcerated; however, it can be applied to other household members who may be CHIP-eligible, such as a sibling of an incarcerated juvenile.

²² For example, while the mandatory eligibility group for former foster care children is a non-MAGI group, other family members (e.g., a spouse and children) may include an eligible juvenile who is a former foster care child in their MAGI-based household.

Therefore, states may need to conduct a redetermination upon the incarceration of an eligible juvenile whose eligibility is not based on MAGI or when a member of a non-MAGI beneficiary's Medicaid household becomes incarcerated.

Some non-MAGI beneficiaries qualify for Medicaid without application of an income test because they have a categorical status that leads directly to eligibility. The mandatory eligibility group for former foster care youth is an example of this type of group. Incarceration would not affect the Medicaid eligibility of a beneficiary in the former foster care youth group. However, eligibility in other groups without an income test may be affected. For example, in most states, SSI recipients are mandatorily eligible for Medicaid based on their receipt of SSI. However, SSI benefits are generally suspended when a recipient becomes incarcerated.²³ If an eligible juvenile's non-MAGI eligibility was based on the receipt of SSI benefits, and those benefits are suspended, the beneficiary is no longer eligible on that basis.²⁴ However, the beneficiary may still be eligible under other eligibility groups covered under the state plan. In states that apply financial methodologies more restrictive than the SSI program when determining Medicaid eligibility for individuals 65 years old or older, or having blindness or disability, also known as "209(b)" states, loss of SSI will not necessarily result in ineligibility for Medicaid.²⁵

States should carefully review the eligibility of each non-MAGI eligible juvenile and each non-MAGI household member of the eligible juvenile to determine if, and how, the incarceration of the eligible juvenile impacts the non-MAGI beneficiary's eligibility. We note that whether a state must process any changes in circumstances that impact the eligibility of a non-MAGI eligible juvenile (for example, the suspension of SSI benefits) will depend on whether the state has elected to effectuate the requirements in section 1902(a)(84) of the Act through an eligibility suspension or a benefits suspension, as discussed above.

²³ Social Security Administration. 2018. *Publication No. 05-10133: What Prisoners Need to Know*. Available at: <https://www.ssa.gov/pubs/EN-05-10133.pdf>.

²⁴ Section 1902(a)(10)(A)(i)(II)(aa) of the Act requires that states extend Medicaid eligibility to individuals "with respect to whom supplemental security income benefits *are being paid*." (Emphasis added.) While the federal law requires that certain individuals who are not being paid SSI benefits be treated as though they are receiving benefits for purposes of Medicaid (e.g., individuals who, as described in section 1634(c) of the Act, are at least 18 and developed disabilities prior to the age of 22 and who lose SSI due to eligibility for Title II benefits), individuals whose SSI benefits are suspended on the basis of incarceration are not such a protected population and, unless they satisfy eligibility requirements for another eligibility group, are subject to termination per 42 C.F.R. § 435.916, subject to advance notice and fair hearing rights provided under 42 C.F.R. part 431 subpart E. Note that, as discussed in footnote 1 of this letter, states claiming the temporary FMAP increase per section 6008 of the FFCRA must maintain the enrollment of Medicaid beneficiaries through the end of the month in which the COVID-19 public health emergency ends, in accordance with 42 C.F.R. § 433.400.

²⁵ Certain states have elected the authority under section 1902(f) of the Act to apply financial methodologies more restrictive than the SSI program's against individuals who seek Medicaid eligibility on the basis of being 65 years old or older, or having blindness or a disability, otherwise known as "209(b)" states. These states are not required to extend Medicaid to SSI beneficiaries, but they are required to maintain a mandatory low-income eligibility group serving individuals who apply for Medicaid on the basis of being 65 years old or older or having blindness or disability. SSI beneficiaries in 209(b) states are typically eligible under this eligibility group. If such SSI beneficiaries become incarcerated, the suspension of their SSI benefits will not directly result in their ineligibility for the mandatory 209(b) eligibility group. In fact, because their SSI benefits may not be counted in their income eligibility determination for the mandatory 209(b) state eligibility group (see §42 C.F.R. § 435.121(f)(i)), their incarceration, and corresponding suspension of SSI benefits, might not result in any changes in their Medicaid eligibility status at all.

6. Critical Age Milestones

If an eligible juvenile ages out of his or her current Medicaid eligibility group, the state will need to determine whether that event may impact the eligibility of other household members, and redetermine their eligibility, if appropriate, consistent with 42 C.F.R. § 435.916. Whether the state redetermines the eligibility of the eligible juvenile at that time depends on whether the state has elected to effectuate the requirements in section 1902(a)(84) of the Act through an eligibility suspension or a benefits suspension, as discussed above.

If an eligible juvenile attains the age of 21 while incarcerated (or age 26 if enrolled in the mandatory eligibility group for former foster care children), the individual will no longer meet the definition of an eligible juvenile at section 1902(nn) of the Act, such that the requirements in section 1902(a)(84) of the Act no longer will apply with respect to the individual. At that time, the state should adhere to the guidance in SHO #16-007, applying the policy applicable to all incarcerated individuals with respect to whom the requirements of section 1902(a)(84) of the Act do not apply.

7. Residency

It is possible for incarceration to impact the state of residency of an eligible juvenile. Regulations in 42 C.F.R. § 435.403 define standards for determining the residency of individuals, including those residing in an institution (including public institutions within the meaning of 42 C.F.R. § 435.1010) as well as individuals not residing in an institution. When eligible juveniles are incarcerated by their home state, they remain a resident of the home state even if they are sent to an out-of-state public institution by their home state.²⁶ However, if an eligible juvenile committed a crime outside of the home state and was incarcerated by the state in which the crime was committed, he or she would now be a resident of the state which incarcerated the eligible juvenile for the duration of his or her incarceration, which would cause a change in residency. States should refer to these regulations and to SHO #16-007 for additional information regarding state residency and incarceration.²⁷

D. Operational Considerations for Implementing Section 1001 of the SUPPORT Act

To implement the requirements of section 1001 of the SUPPORT Act as codified at section 1902(a)(84) of the Act, when a Medicaid-enrolled juvenile becomes incarcerated, there are a number of points at which the state will need to take action during the individual's incarceration. States will first need a mechanism to identify individuals becoming inmates of public institutions who meet the definition of an eligible juvenile, and then assess eligible juveniles' coverage status. As such, effective coordination between the Medicaid and justice agencies will be critical. States will need to effectuate suspension of eligibility or benefits, as discussed above, for eligible juveniles who are not inpatients in a hospital or other medical institution. Depending on the suspension approach, states may need to take action to enable claiming of FFP if an eligible juvenile becomes hospitalized or an inpatient in another medical institution. Finally, states will need to establish procedures to ensure they are able to conduct renewals, when

²⁶ 42 C.F.R. § 435.403(e).

²⁷ SHO #16-007 Questions 15 and 16.

appropriate, during incarceration as well as conduct a redetermination prior to release and restore benefits as appropriate upon release, as discussed above.

This letter outlines requirements states must fulfill to comply with section 1902(a)(84) of the Act with respect to beneficiaries under age 21 or enrolled in the former foster youth group. However, suspension of Medicaid eligibility for incarcerated beneficiaries of all ages is a common practice; as of state fiscal year 2019, 43 states²⁸ employed some form of suspension policy for incarcerated individuals regardless of age. The payment exclusion described in subdivision (A) of the matter following section 1905(a)(30) of the Act limits the provision of FFP for inmates of public institutions, but it does not preclude an individual of any age from being determined eligible or remaining eligible while incarcerated, provided that the individual meets all applicable eligibility requirements. Facilitating enrollment in Medicaid and supporting access to health care services upon release can be crucial to ensuring a successful transition to the community following incarceration, and CMS encourages states to consider implementing or expanding suspension practices for incarcerated beneficiaries beyond those implicated by Section 1001 of the SUPPORT Act. See SHO #16-007 for more information on suspension policy for non-eligible juveniles. We note further that states may apply the benefits suspension approach to all incarcerated individuals and may apply the eligibility suspension approach, except that states must continue to conduct periodic renewals (once every 12 months for MAGI-based individuals) and must process changes in circumstances per 42 C.F.R. § 435.916 for any beneficiary over the age of 21 or not enrolled in the former foster youth group under either approach. States that already operate suspension policies will need to review their policies and procedures to determine where they are in alignment with the requirements added by section 1001 of the SUPPORT Act and discussed in this letter and amend state policies and procedures for the various incarcerated populations as necessary to comply with all applicable requirements.

States are not required to submit a state plan amendment (SPA) or notify CMS of the suspension approach(es) the states will use for eligible juveniles or other populations. Instead, and consistent with 42 C.F.R. § 431.18, a state should document its suspension approach for eligible juveniles in an appropriate and publicly accessible location.

E. Implications for Managed Care Enrollment

Many states use managed care plans to provide coverage for some or all Medicaid services to beneficiaries, paying managed care plans a capitation payment to provide a specific set of services. While Medicaid eligibility for eligible juveniles cannot be terminated because the juvenile is an inmate of a public institution, the state may not claim FFP for services provided to an eligible juvenile, or capitation payments made on behalf of an eligible individual, while they are an inmate of a public institution, except when the juvenile is receiving inpatient services while a patient in a medical institution. States can determine the most efficient way to ensure compliance with the limitation on FFP for incarcerated juveniles for their program; for example, states could provide coverage of inpatient services for eligible juveniles on a fee-for-service

²⁸ Kaiser Family Foundation. States Reporting Corrections-Related Medicaid Enrollment Policies In Place for Prisons or Jails: Table and Map. Available at <https://www.kff.org/medicaid/state-indicator/states-reporting-corrections-related-medicaid-enrollment-policies-in-place-for-prisons-or-jails/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>. Updated state fiscal year 2019.

basis or leave the juveniles enrolled in a managed care plan. While we defer to states to determine the best methodology for their program, we remind states that capitation payments can only be made for Medicaid-eligible enrollees for services covered under the contract and Medicaid authority per 42 C.F.R. §§ 438.3(c) and 438.4. As such, states need to ensure that their managed care plan contracts provide for the suspension or termination of capitation payments, or for payment of a capitation payment developed specifically for incarcerated juveniles solely for services covered under the Medicaid state plan (i.e., inpatient services) as appropriate. Further, in the event that inappropriate capitation payments are made to a managed care plan covering all or part of a month in which an eligible juvenile is incarcerated, state managed care contracts need to provide for the recoupment of such payments. It is important that states establish a process that enables the state to notify its plans of an enrollee's incarceration status and address capitation payments in a timely fashion.²⁹

Given the potentially high health care needs of incarcerated and recently released individuals,³⁰ it is important to connect these individuals to care upon release from a public institution. We recommend states consider encouraging or requiring the Medicaid managed care plans to work with state and local correctional authorities to help connect juveniles to health care services upon release.³¹ We also recommend that states establish a process with their managed care plans to coordinate the reinstatement of benefits by the state in situations where the eligible juvenile is reenrolled into a managed care plan upon release in order to facilitate access to services and coordination of care. States may wish to consider how passive enrollment (see 42 C.F.R. § 438.54) or automatic reenrollment (see 42 C.F.R. § 438.56(g)) strategies could assist the state and its managed care plans in coordinating reenrollment for the purposes of connecting eligible juveniles to coverage and facilitating their access to health care services upon release.

F. Eligibility Systems Upgrade Funding

Enhanced FFP is available at 90 percent federal matching funds for the design and development of improvements to Medicaid eligibility determination systems, including changes to implement section 1902(a)(84) of the Act, in accordance with applicable requirements.³² Seventy-five percent enhanced federal funding also is available for ongoing maintenance and operations, in accordance with applicable requirements.³³ Receipt of these enhanced funds is conditioned on states meeting a series of standards and conditions to ensure investments are efficient and effective. Other activities, such as policy development and outreach, may be claimed under

²⁹ SHO #16-007, Question 20.

³⁰ Teplin, L.A., K.M. Abram, J.J. Washburn, et al. 2013. The Northwestern Juvenile Project: Overview. In Office of Juvenile Justice and Delinquency Prevention (OJJDP) Juvenile Justice Bulletin. Washington, DC: Department of Justice. <http://www.ojjdp.gov/pubs/234522.pdf>. Teplin, L.A., G.M. McClellan, K.M. Abram, et al. 2015. Violent Death in Delinquent Youth After Detention. In OJJDP Juvenile Justice Bulletin. Washington, DC: Department of Justice. <https://www.ojjdp.gov/pubs/248408.pdf>. Abram, K.M., L.D. Paskar, J.J. Washburn, et al. 2015. Perceived Barriers to Mental Health Services Among Detained Youth. In OJJDP Juvenile Justice Bulletin. Washington, DC: Department of Justice.

³¹ SHO #16-007, Question 14.

³² 42 C.F.R. Part 433, 80 FR 75817-75843 (Dec 4, 2015); *Medicaid and CHIP FAQs: Enhanced Funding for Medicaid Eligibility Systems Operation and Maintenance*, April 25, 2013, available at <https://www.medicaid.gov/state-resource-center/FAQ-medicaid-and-chip-affordable-care-act-implementation/downloads/Affordable-Care-Act-FAQ-enhanced-funding-for-medicaid.pdf>.

³³ *Id.*

Medicaid at 50 percent administrative match, in accordance with regular eligibility and enrollment claiming policies.

G. Effective Date

The statutory amendments made by section 1001 of the SUPPORT Act, as codified at section 1902(a)(84) of the Act, generally apply to the eligibility of juveniles who become inmates of public institutions on or after October 24, 2019. If a state requires new state legislation (other than legislation authorizing the appropriation of funds) to meet these requirements, then the state must come into compliance by the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after October 24, 2018. For example, if a state's first regular legislative session that begins after October 24, 2018 ends on May 1, 2020, the state must come into compliance on or before July 1, 2020. For the purposes of calculating the applicable date for states with a two-year legislative session, each year of such a session is considered a separate regular session.

CMS looks forward to its continued work with states on the implementation of the requirements newly added by the SUPPORT Act, and to ensuring that justice-involved juveniles have access to critical health services. If you have any questions regarding the information in this letter, please contact Jessica Stephens, Director of the Division of Enrollment Policy and Operations at Jessica.Stephens@cms.hhs.gov or Sarah Lichtman Spector, Acting Director of the Division of Medicaid Eligibility Policy at Sarah.Spector@cms.hhs.gov.

Sincerely,

Anne Marie Costello
Acting Deputy Administrator and Center Director

Appendix A

**Implementing Section 1001 of the SUPPORT Act
Comparison of State Actions under the Eligibility and Benefits Suspension Strategies**

The table below compares implementation of the eligibility suspension strategy and the benefits suspension strategy. At each milestone that an eligible juvenile reaches, from entering the public institution to reaching the end of the eligibility period (i.e., when a renewal is due), to preparing for release, Table 1 describes the action that a state must take depending on the suspension strategy elected in that state.

Key components of the eligibility and benefits suspension strategies are as follows:

Eligibility Suspension Strategy:

- Eligibility is not terminated;
- No annual renewal is required; and
- The eligible juvenile cannot receive any Medicaid coverage.

Benefits Suspension Strategy:

- Eligibility is not terminated;
- Annual renewal is required; and
- Coverage is limited to inpatient services.

Table 1: State Actions Required under the Eligibility vs. Benefits Suspension Strategy

Milestone	Eligibility Suspension Strategy	Benefit Suspension Strategy
Juvenile Medicaid Beneficiary Becomes an Inmate of a Public Institution	Update beneficiary’s status to “suspended” in eligibility system or change to “no pay” or similar status in MMIS to ensure that no claims are paid	Limit benefit package in MMIS to inpatient services only
Juvenile applies for Medicaid while an Inmate of a Public Institution (entered facility without Medicaid)	Process application timely If eligible, update beneficiary’s status to “suspended” in eligibility system or change to “no pay” or similar status in MMIS to ensure that no claims are paid	Process application timely If eligible, limit benefit package in MMIS to inpatient services only
Eligible Juvenile Reaches the End of the Eligibility Period (12 months from last renewal) or Experiences a Change in Circumstances	No action needed; processing annual redeterminations and changes in circumstances are optional	Redetermine eligibility consistent with Medicaid rules

Milestone	Eligibility Suspension Strategy	Benefit Suspension Strategy
Eligible Juvenile is Admitted to a Medical Institution and the State Intends to Claim FFP	<p><u>If most recent redetermination >12 months ago or a change in circumstances occurred since latest redetermination:</u> Redetermine eligibility, “turn on” inpatient coverage, and then claim for services</p> <p><u>If most recent redetermination < 12 months ago and no change in circumstances occurred since the latest redetermination:</u> “Turn on” inpatient coverage, and then claim for services</p>	Claim for inpatient services
Preparing for Release of Eligible Juvenile*	<p><u>If eligible juvenile entered facility with Medicaid coverage:</u> Redetermine eligibility prior to release</p> <p><u>If eligible juvenile entered facility without Medicaid coverage:</u> Redetermine eligibility prior to release only if the most recent redetermination was >12 months ago or a change in circumstances occurred after the last eligibility determination</p>	<p><u>If eligible juvenile entered facility with Medicaid coverage:</u> Redetermine eligibility prior to release only if individual has not received a redetermination since incarceration</p> <p><u>If eligible juvenile entered facility without Medicaid coverage:</u> No action needed, annual renewals required while incarcerated</p>
Eligible Juvenile is Released	<p><u>If eligible:</u> Restore full benefits</p> <p><u>If ineligible:</u> Terminate coverage**</p>	<p><u>If eligible:</u> Restore full benefits</p> <p><u>If ineligible:</u> Terminate coverage**</p>

* If redetermination cannot be completed prior to release due to administrative circumstances beyond the agency’s control, the state should restore benefits and complete the redetermination as expeditiously as possible, as discussed in this guidance.

** States claiming the temporary FMAP increase authorized under section 6008 of the Families First Coronavirus Response Act may not terminate coverage for any beneficiary enrolled as of or after March 18, 2020 through the last day of the month in which the COVID-19 public health emergency ends, with certain exceptions, as described at 42 C.F.R. § 433.400.

Appendix B

Understanding the Populations Impacted by Section 1001 of the SUPPORT Act

Facilitating enrollment in Medicaid and supporting access to health care services upon release from incarceration, consistent with the requirements of section 1001 of the SUPPORT Act, has the potential to make a significant difference in the health of justice-involved juveniles and former foster care children and improve their ability to obtain critical health services that can promote their well-being.

Being incarcerated during adolescence and early adulthood is associated with poor health outcomes as an adult,³⁴ and many justice-involved juveniles have a high prevalence of long-untreated, chronic health care conditions. For example:

- Approximately 70 percent of justice-involved youth have at least one diagnosable mental health or substance use disorder.³⁵
- Former foster care children face similar health challenges, as foster children are frequently exposed to adverse childhood experiences that increase the risk of serious physical and behavioral health conditions in adulthood.³⁶

While we are unable to estimate the size of the eligible juvenile population impacted by section 1001 of the SUPPORT Act, we believe this population is relatively small. Information about the population size and length of incarceration for justice-involved former foster care children is unavailable; and given their age, most incarcerated former foster care children are likely placed in adult facilities. However, we can use the available data regarding juveniles in the justice system to extrapolate some characteristics of this population, as follows:

- The total number of juveniles who are inmates of public institutions is relatively small, and they can be found in a variety of public institutions, ranging from juvenile residential placements³⁷ to federal prisons.

³⁴ Barnert, E.S., Dudovitz, R., Nelson, B.B., et al. 2016. How Does Incarcerating Young People Affect Their Adult Health Outcomes? <https://pediatrics.aappublications.org/content/pediatrics/139/2/e20162624.full.pdf>

³⁵ Implementing Screening, Brief Intervention, and Referral to Treatment (SBIRT) in Juvenile Justice Settings. National Center for Mental Health and Juvenile Justice. Available at: [https://my.ireta.org/sites/ireta.org/files/SBIRT%20in%20JJ%20Settings%20v3%20\(1\).pdf](https://my.ireta.org/sites/ireta.org/files/SBIRT%20in%20JJ%20Settings%20v3%20(1).pdf)

³⁶ Mental Health and Foster Care. 2016. National Conference of State Legislatures. Available at: <http://www.ncsl.org/research/human-services/mental-health-and-foster-care.aspx>

³⁷ OJJDP uses the term “residential placement” to refer to the facilities, both publicly and privately operated, which house juveniles charged with or adjudicated for law violations (see <https://www.ojjdp.gov/pubs/251785.pdf>). Not all residential placement facilities will meet the Medicaid definition for a public institution. Residential placement facilities can include locked detention centers, wilderness camps, boot camps, and residential treatment centers.

- In 2016, there were approximately 45,500³⁸ juveniles³⁹ held in residential placements, while approximately 3,700 youth under 18 were held in local jails.⁴⁰ As of July 2019, there were approximately 2,000 youth between 18 and 21 held in federal prisons.⁴¹
- In 2015, nine states were home to 52 percent of the approximately 48,000 juveniles in residential placement.⁴²
- The population of former foster care children is also small – in 2016, approximately 20,000 youth aged out of the foster care system nationally.⁴³ Estimates of the former foster care child population involved in the justice system are unavailable.

Data collected by the U.S. Department of Justice reflecting the length of stay in a single facility, rather than the total duration of incarceration, indicate that the duration of stay for juveniles in a single residential placement is often short. In fact:

- Most juveniles remain in a residential placement for less than six months.⁴⁴
- Only 18 percent of juveniles remain in a residential placement after 9 months, while only 11 percent of committed juveniles remain in a residential placement after one year.⁴⁵

³⁸ OJJDP Statistical Briefing Book. Online. Available:

<https://www.ojjdp.gov/ojstatbb/corrections/qa08201.asp?qaDate=2017>. Released on April 23, 2019.

³⁹ Defined as “A youth at or below the upper age of juvenile court jurisdiction in a particular state,” see <https://www.ojjdp.gov/ojstatbb/glossary.html>.

⁴⁰ See Table 3, <https://www.bjs.gov/content/pub/pdf/ji16.pdf>.

⁴¹ Federal Bureau of Prisons Inmate Age Statistics. Available:

https://www.bop.gov/about/statistics/statistics_inmate_age.jsp

⁴² Those nine states were California, Florida, Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and Texas. See

⁴³ The Annie E. Casey Foundation, KIDS COUNT Data Center, datacenter.kidscount.org.

⁴⁴ OJJDP Statistical Briefing Book. Online. Available:

<https://www.ojjdp.gov/ojstatbb/corrections/qa08401.asp?qaDate=2015>. Released on June 01, 2017.

⁴⁵ OJJDP Statistical Briefing Book. Online. Available:

<https://www.ojjdp.gov/ojstatbb/corrections/qa08401.asp?qaDate=2015>. Released on June 01, 2017.