

Research and Program Brief

Research and Program Briefs are periodic publications aimed at improving policy and practice for youth with mental health disorders in contact with the juvenile justice system. This publication is supported by a grant from the **John D. and Catherine T. MacArthur Foundation**.

Funding Mental Health Services for Youth in the Juvenile Justice System: Challenges and Opportunities

by Bruce Kamradt

Abstract

This paper explores the issue of funding for mental health and substance abuse services for youth in the juvenile justice system. It describes funding options currently available through public and private health insurance, entitlement programs and block grants. It concludes with a discussion of best practices and the description of a successful program model.

Introduction

Every year more than one million youth under the age of 18 in the United States come in contact with some aspect of the juvenile justice system (Stahl, 2001). Of these children, it is estimated that up to 80 percent have diagnosable mental health disorders, and at least one out of every five has a serious emotional disturbance (SED) that substantially interferes with their daily functioning (Cocozza and Skowrya, 2000). Further, many of these justice-involved youth with mental health disorders also have co-occurring substance use disorders, making their diagnosis and treatment needs even more challenging (Otto et al., 1992). Yet, despite their obvious need for services, many of these children go without treatment, both in the community and during incarceration.

One of the major barriers to accessing the critical treatment services required is lack of access to adequate funding. These funding issues are related to under-funded program initiatives, stringent eligibility criteria for certain programs, and confusion over whether the mental health, child welfare or juvenile justice

systems are, or should be, responsible for payments. Regardless of the reasons for funding problems, research shows that economics play a decisive role in whether or not a youth gets timely and significant mental health support (Coalition for Juvenile Justice, 2000).

This paper examines options for funding mental health services to youth in contact with the juvenile justice system, and profiles some specific initiatives. This document is designed to offer program administrators information on how to leverage funds to provide services to youth with mental health problems who are in contact with the juvenile justice system. In addition, perhaps policymakers will consider eliminating legal and regulatory barriers that impede access to services.

Insurance products

Using insurance-type products to fund mental health services is relatively new and coincides with the move to deliver mental

health services in communities instead of state psychiatric hospitals. Insurance can be public or private, and can support health and mental health services in either managed care, per-diem or fee-for-service models.

Public insurance

Mental health services paid for by the public sector are generally the most comprehensive and diverse. They are usually the services that are called on to meet the needs of children and adolescents with the most serious and long-term mental health and substance abuse needs. There are two public insurance programs that serve children: Medicaid and the State Children's Health Insurance Program (SCHIP). Details of these programs appear below.

Medicaid

Medicaid is the major source of funding for mental health and related support services for youth. The Medicaid program is a partnership between Federal, state, and occasionally local

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governments. While each state's program is unique, certain aspects are federally prescribed as conditions for receiving Federal financial participation (FFP).

Scope of services: Medicaid's medical orientation circumscribes the range of services, so some services considered part of the mental health continuum must be supported through other funding. However, of the benefits required by the Federal government, the Early Periodic Screening, Diagnosis and Treatment (EPSDT) Program is particularly important. EPSDT can be used for providing specialized screening or enhanced diagnostic and treatment services. Unfortunately, most states have not maximized the use of ESPDT to provide services for youth with mental health needs (Fox et al., 1993).

Eligibility and its limitations: Whether a youth in contact with the juvenile justice system is eligible for Medicaid or not is

generally related to where they are placed. Under 42CFR, 436.1004(a), Federal financial participation (FFP) is not available to support Medicaid services for individuals who are inmates of detention centers, jails and correctional facilities. However, according to the Bazelon Center for Mental Health Law, many states are inappropriately applying this statute (Bazelon Center, March 2001). The Federal restriction, for instance, does not require states to terminate eligibility upon incarceration, only to eliminate payments for services rendered during the period of incarceration. Maintaining eligibility allows someone to access Medicaid payments for services and medication immediately upon release. Oregon has addressed this problem by adopting the "Interim Incarceration Disenrollment Policy," which specifies that individuals cannot be terminated from Medicaid during their first 14 days of incarceration, pending disposition of their case (GAINS Center, 1999).

Innovative interpretations of Medicaid regulations: A number of states have implemented other innovative solutions to Medicaid prohibitions. Specific strategies to maintain Medicaid eligibility for youth in the juvenile justice system include the following:

- **Continuing Medicaid until there is a final case disposition:** Under Federal law individuals are not considered inmates if they are in a public institution for a temporary period pending permanent placement. Services provided prior to final disposition may be eligible for Medicaid reimbursement. Colorado pursues this strategy under the argument that while a youth is being detained, in a detention center for example, the state may have physical custody, but they do not have legal custody until final disposition. More than a dozen other states are currently re-examining their regulations in this area.
- **Committing youth to privately owned and operated facilities:** Youth in private facilities should be eligible for Medicaid as long as they meet the criteria for children in foster care. Colorado pursues placing youth in such facilities whenever possible.
- **Limit the definition of a "public institution":** States have been able to contract with non-profits and retain youth in facilities that contain fewer than 25 children. In *Dixon v. Stanton* (466 F. Supp. 335, 1979) the court held that group homes administered by a private, not-for-profit agency, and not administered by any governmental unit, are not public institutions for the purposes of Medicaid despite the existence of a governmental contract.
- **Continue Medicaid without FFP:** This saves the state money by allowing the child to access services at reduced Medicaid rates, and reduces the administrative burden of terminating and reactivating cases. Massachusetts initiated this policy by facilitating an agreement between the Department of Youth Services (DYS) and the Department of Public Welfare (DPW) to provide Medicaid to all

incarcerated youth. DYS reimburses DPW for all youth who are found to be ineligible for FFP.

In addition, some states are evaluating the possibility of using several optional categories of Medicaid eligibility to support services for youth with mental health needs in the justice system. These programs have specifically helped fund youth with severe mental health needs, including those in the juvenile justice system, in several jurisdictions. The options include

- **Katie Beckett** – This option provides Medicaid coverage for children under the age of 19 who meet the SSI standard for disability and would be eligible for Medicaid if they were in an institution but are instead receiving medical care at home.
- **HCBS Waiver** – States may apply for a Home and Community Based Services Waiver, which allows states to receive Federal Medicaid matching funds to cover the costs of certain populations receiving long-term care services in the community.

State Children’s Health Insurance Program

In an attempt to provide health insurance to children who come from working families with incomes too high to qualify for Medicaid but too low to afford private health insurance, the Federal and state governments have also implemented **SCHIP**. The program may include low-cost health insurance premiums and/or co-payments. **SCHIP** programs in all of the states provide access to some mental health services, although the exact benefit may vary from state to state.

Private insurance

Private insurance generally pays for psychiatric hospitalization, outpatient treatment and, occasionally, medications. However, plans frequently have caps on the amount they will pay for mental health services. Children with SED, such as those in the juvenile justice system, often require a broader scope of services for a longer duration than these plans will cover. In addition, the co-payments required for mental health services are frequently more than co-payments required for physical health services. Therefore, even when a family has insurance, the financial costs of accessing services may be prohibitive. Parents are then put in the position of paying for these services out-of-pocket, or attempting to obtain help through the public sector (Surgeon General’s Report, 1999).

Other funding approaches

Medicaid managed care

Capitated managed care plans for a fixed per-person fee are an increasingly common part of Medicaid programs. Medicaid

managed care programs for children with special needs, including those with serious physical or mental health needs, generally still require waivers of Federal law. This is to ensure that safeguards to encourage the delivery of appropriate, quality care are in place before children with special needs are required to enroll. Several states with such waivers have seized the opportunity to use the monthly capitated fees in “blended funding” pools. These funds are mixed with funds from other systems and then used for a variety of services to form a comprehensive continuum of care.

Title IV-E waivers

Title IV-E authorizes Federal matching funds to pay states for a portion of foster care maintenance costs (which can include group homes and residential treatment centers). The Federal government began granting Title IV-E waivers to states seeking greater flexibility to use Title IV-E funds to develop community-based treatment services, design programs to prevent out-of-home placement, and to encourage community reintegration of youth to create more permanent homes for children. Many times the IV-E waiver funds are pooled with the Medicaid capitated fees to create the blended funding pools mentioned above. Some of the states with programs currently underway include Missouri, Colorado, Washington, Connecticut and Michigan. In particular, Missouri is attempting to reduce residential treatment and correctional placements for youth through an intensive wraparound approach incorporating comprehensive case management and treatment services.

Other mental health funding sources

Mental Health Block Grants, TANF, Social Services Block Grant and IDEA

For the 2001-2002 fiscal year, the Federal Government authorized over \$430 million in **Mental Health Block Grant** funds. These funds are available to states to fund mental health services, with at least 25 percent of the funds mandated towards serving children. Indiana provides one example of a state applying mental health block grant funds to support services to youth in the justice system. Block grant funds are used to pay for screening and assessment services for all youth who come in contact with the system. **TANF** (Temporary Assistance to Needy Families) is being used in several states to fund mental health and substance abuse services to children and families to reduce out-of-home placements and keep families intact. **TANF** funds can also be transferred to the **Social Services Block Grant**, which can be used for many different types of services to children and families. **TANF Reinvestment Funds** are savings that states have realized through the implementation of new welfare to work initiatives. These funds are returned to communities and can be used to fund mental health and related

services. Wisconsin is one state currently funding mental health and substance abuse services to SED youth in the juvenile justice system through TANF reinvestment funds.

Under the Federal Special Education law, the **Individuals with Disabilities Education Act** (IDEA) mandates school systems to provide special education services to children and adolescents whose disabilities interfere with their education. Assessment, counseling, substance abuse and behavior management services are among the types of mental health services that may be funded locally under IDEA.

Office of Juvenile Justice and Delinquency Prevention

Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides awards to states for programs that may benefit youth in the juvenile justice system with mental health and substance abuse needs. **Formula Grants** are awarded directly to states, territories and the District of Columbia that are in compliance with the core requirements of the Juvenile Justice and Delinquency Prevention Act. Program areas are very broadly defined and could include mental health services, if approved by the required State Advisory Group. **Juvenile Accountability Incentive Block Grants** are allocated to states but at least 75 percent of the funding must be distributed to local governments. There are 12 program purpose areas under this grant that focus mostly on law enforcement and juvenile courts. There is enough flexibility in many of these special purpose areas to focus on high-risk youth, and some states have directed these funds toward juvenile court programs targeting youth with complex mental health and substance abuse needs. **State Challenge Grants** are available for any state that is eligible for **Formula Grants** to improve policies and practices in their juvenile justice systems. These grants are aimed at encouraging states to reform and improve their juvenile justice systems by developing, adopting, or improving policies and programs in 1 or more of 10 specific challenge program areas, including establishing community-based alternatives, gender-specific policies and programs, de-institutionalization of status offenders and state agency coordination/case review systems.

Office of Justice Programs

The Office of Justice Programs (OJP) may also be a funding source for mental health services for youth as well as adults. The current Young Offender Re-entry Grant Program (“Going Home”) contains a strong focus on mental health and substance abuse programming for both youth and adults.

Best practices in blended funding

The majority of this paper has addressed funding streams that

support the development of service delivery systems and the delivery of services to individuals in need. However, in most cases, no single system of care, nor single payor source, can meet the many and diverse needs of children and adolescents with serious mental health, behavioral and substance abuse issues. As mentioned, payment systems such as capitated fees, in conjunction with funding streams such as Medicaid and Title IV-E, have allowed jurisdictions to create blended funding pools that provide the opportunity for resources to follow people instead of programs and categories.

Blended funding allows systems to share costs and risks, and provides more accountability by lodging responsibility for care coordination with a single agency. It supports better services because the children and/or families are primarily interfacing with one care manager who can advocate for them to receive appropriate services. The care manager can do a better job of screening and assessing need, and accessing services in the most appropriate settings. In this way, as stated in the U.S. Surgeon General’s Report, “long-term complex care can be offered in an efficient way that reduces costs for all of the involved child and youth agencies” (Surgeon General’s Reports, 1999).

Several jurisdictions have initiated programs based on blending funding and care coordination models. One of the most successful is described below.

The Wraparound Milwaukee model

Wraparound Milwaukee is a unique publicly operated managed care system organized under the auspices of the Milwaukee County Mental Health Division. It serves 600 youth with severe mental health and/or behavioral needs, referred through the juvenile justice or child welfare systems, who would otherwise be placed in psychiatric hospitals, residential treatment centers or juvenile correctional facilities. The features of this case management model include individually developed plans of care; a care coordination management system whose role is to ensure that services are strength-based, coordinated, monitored and evaluated; a Provider Network that furnishes an array of over 80 mental health, child welfare and supportive services; a mobile urgent treatment team to provide crisis intervention services; strong and active family involvement in implementing plans; and a managed care approach to monitor service utilization, quality and cost.

One of the unique aspects of Wraparound Milwaukee is its pooled funding approach to financing the system of care. Operating as a type of behavioral health “carve-out”, it currently blends over \$30 million annually from both entitlement programs and grant programs. The program receives a monthly capitated rate of \$1,557 from Medicaid for each eligible child – about 80 percent of the 600 youth it serves on a daily basis.

Since all the youth served are either delinquent, from the child welfare system, or both, the program also receives a monthly case rate of \$3,535 per child from the referring system. If both systems have referred the child the rate is split between them. State mental health block grant funds, TANF funding, third party insurance payments and fee-for-service Medicaid monies for services not in the capitation formula are also added to the pool. Finally, Wraparound Milwaukee has grants from the Office of Justice Programs for high risk juvenile sex offenders and Juvenile Accountability Incentive Block Grant funding for youth coming out of juvenile correctional facilities.

The Medicaid capitation, and Child Welfare and Juvenile Justice case rates were determined by an actuarial analysis of the expenditures that were previously made by those agencies to serve the same consumer population. In the past the funds were used primarily to support costly psychiatric hospitalization and residential treatment services. Out of the approximately \$4,780 per month available for each enrollee, Wraparound covers all mental health, substance abuse, social service and supportive costs, in addition to administrative costs. These costs are substantially less than the cost for residential treatment (over \$7,000 per month per child), juvenile correctional facilities (over \$6,000 per month per child), and inpatient hospital care—which can run up to \$30,000 a month for a stay of 30 days or less.

The average stay in Wraparound Milwaukee is about 14 months. Clinical and program outcomes for youth have been excellent, including a 60 percent reduction in recidivism rates for delinquent youth from a year prior to enrollment to one year post disenrollment.

Programs similar to Wraparound Milwaukee are located in Madison, Wisconsin, Indianapolis, Indiana and Utica, New York.

Summary and conclusions

This paper has described both the challenges and opportunities in funding services to youth in the juvenile justice system with mental health, substance abuse or co-occurring disorders. Major opportunities are provided by insurance-type programs in the private and public sectors, most notably Medicaid; entitlement programs to fund child welfare services including Title IV-E funds; and block grants available through the child welfare, social services, mental health and juvenile justice systems. Important challenges are presented by stringent eligibility requirements, narrowly drawn benefit packages, and competition between systems to avoid taking fiscal responsibility for certain children and services.

Best practice sites have successfully sought innovative solutions to funding challenges by accessing multiple funding

sources, particularly sources that allow for funding to be “pooled and/or blended.” Such sources create comprehensive and flexible funding, offering opportunities for innovation. The innovations appear to correlate with good outcomes for youth, which are likely related to the rich package of services that are made available to them. ■

About the author...

Bruce Kamradt, MSW, is Director of the Children's Mental Health Services Division for Milwaukee County, and Director of Wraparound Milwaukee, the largest public provider and purchaser of children's mental health services in Milwaukee, WI. Over the past five years, the division has focused on a system of care to integrate mental health, child welfare, juvenile justice, and education services for complex-needs children and their families.

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About the National Center for Mental Health and Juvenile Justice

Recent findings show that large numbers of youth in the juvenile justice system have serious mental health disorders, with many also having a co-occurring substance use disorder. For many of these youth, effective treatment and diversion programs would result in better outcomes for the youth and their families and less recidivism back into the juvenile and criminal justice systems. Policy Research Associates has established the National Center for Mental Health and Juvenile Justice to highlight these issues. The Center has four key objectives:

- Create a national focus on youth with mental health disorders in contact with the juvenile justice system
- Serve as a national resource for the collection and dissemination of evidence-based and best practice information to improve services for these youth
- Conduct new research and evaluation to fill gaps in the existing knowledge base
- Foster systems and policy changes at the national, state and local levels to improve services for these youth

A key aspect of the Center's mission is to provide practical assistance to all persons interested in mental health and juvenile justice issues. For assistance please contact NCMHJJ toll-free at (866) 9NC-MHJJ, or visit our website at www.ncmhjj.com.

Joseph J. Cocozza, PhD
Director

Kathleen R. Skowyra
Associate Director

For more information...
about funding mental health services for youth in the juvenile justice system, the following agencies and services may be helpful:

National Center for Mental Health and Juvenile Justice

Policy Research Associates, Inc.
345 Delaware Avenue
Delmar, NY 12054
Phone: 866-962-6455
Email: ncmhjj@prainc.com
Website: www.ncmhjj.com

Bazelon Center for Mental Health Law

1101 Fifteenth Street, N.W., Suite 1212
Washington, DC 20005
Phone: 202-467-5730
Website: www.bazelon.org

Substance Abuse and Mental Health Administration

**Center for Mental Health Services
Child and Adolescent Services Branch**
5600 Fishers Lane
11C-16, Rockville, MD 20857
Phone: 301-443-1333
Website: www.cmhs.gov

Office of Juvenile Justice and Delinquency Prevention (OJJDP)

810 7th Street, NW
Washington, DC 20531
Phone: 202-514-9395