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**Government Serving Citizens**

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October 3, 2023

The Honorable Marco Rubio, United States Senator  
284 Russell Senate Office Building  
Washington, DC 20510

Re: Eliminate the Medicaid Inmate Exclusion Policy

Honorable US Senator Marco Rubio,

On behalf of the Levy County Board of County Commissioners, and the Levy County Sheriff's Office, we respectfully request your urgent support for the bipartisan legislation that amends the Medicaid Inmate Exclusion Policy (MIEP). This harmful policy, outlined under Section 1905(a)(A) of the Social Security Act, makes no distinction between individuals housed in jails versus prisons, and thus unfairly denies or revokes federal health benefits for adults and juveniles that are being housed in local jails prior to conviction. Our nation's founders made it clear: Individuals are presumed innocent until proven guilty. Despite this fundamental constitutional mandate, people who have a right to federal health benefits, such as Medicaid, Medicare or Children's Health Insurance Program for juveniles, are stripped of those benefits when arrested and jailed for an alleged crime, before conviction.

This antiquated policy is a clear violation of the spirit of the equal protection and due process clauses of the Fifth and 14<sup>th</sup> Amendments of the U.S. Constitution. Additionally, it produces unfavorable health outcomes for individuals and communities, and places undue financial and administrative burdens on our local jails.

An end to the MIEP would rectify a serious inequity that allows individuals who can afford to post bail to remain on these health benefits, while rescinding these benefits from our most vulnerable residents, despite their presumed innocence. This is unfair, and we must end it.

County governments operate 2,875 of our nation's 3,160 local jails, admitting approximately 11 million individuals across the United States each year. Many of these individuals have mental health or substance use issues, with serious mental illnesses being three to four times more prevalent among jail inmates than the general population. America's local jail population includes an estimated 40 percent of people with a serious chronic health condition, 44 percent with a major mental health illness and 63 percent with a substance use disorder. In Levy County, there is an average of 100-110 pre-trial detainees housed in our jail on any given day, our average population is around 150 inmates, and about 70% of our inmates exhibit behavioral health disorders. This isn't exclusive to Levy County, our nation's jails provide critical care to individuals with mental illness, who – without adequate community resources and continuous health care coverage – rely on the jail as de facto behavioral health hospitals and treatment facilities.

Recent federal action has reinforced the importance of continuing care coordination for incarcerated individuals with behavioral health conditions as the FY 2023 omnibus appropriations bill included a provision to give states the option to continue Medicaid coverage for juveniles in pre-trial status. Additionally, the U.S. Department of Health and Human Services (HHS), through the Centers for Medicare and Medicaid Services (CMS), released new guidance encouraging state to apply for a Medicaid section 1115 demonstration opportunity allowing incarcerated individuals to receive health services under Medicaid at least 30 days prior to release from jail or prison.

While these are promising wins for counties, more needs to be done to ensure continuity of care for incarcerated individuals across the country. Currently 14 states await CMS approval of Medicaid reentry waivers, and there are two bipartisan bills under consideration in Congress that would greatly improve care coordination for those individuals suffering from mental health, substance use and/or other chronic health conditions by allowing continued access to federal benefits:

- The Reentry Act (H.R. 2400/S.1165), which would allow Medicaid payment for medical services furnished to an incarcerated individual during the 30-day period preceding the individual's release.
- The Due Process Continuity of Care Act (H.R. 3074/S.971), which would allow pretrial detainees to receive Medicaid benefits at the option of the state.

Consistent federal health benefits for non-convicted individuals would allow for improved care while decreasing short-term costs to local taxpayers and long-term expenses to the federal government. A more efficient investment of resources would improve post-release care coordination and result in decreased crime, reduced recidivism, and better outcomes for overall health and safety of our residents.

As we continue our work as county governments and local behavioral health providers to ensure better access to and the continuity of care in our communities, we recognize that the local efforts will be far more effective when carried out in partnership with state and federal counterparts.

Thank you for our continued service to the people of Levy County, we hope to have your support in fostering better behavioral health outcomes through your support of this important, bipartisan policy change.

Sincerely,

Matt Brooks, Chairman  
Levy County Board of County Commissioners

Cc: Representative Chuck Clemons, Senator Keith Perry, US Senator Rick Scott, Representative Kat Cammack