June 13, 2024

The Honorable Carole Johnson
Administrator
Centers for Medicare & Medicaid Services
5600 Fishers Lane
Rockville, MD 20857

Re: DRAFT Health Center Program Policy Guidance Regarding Services to Support Transitions in Care for Justice-Involved Individuals Reentering the Community

Dear Administrator Johnson:

On behalf of the American Society of Addiction Medicine (ASAM), a national medical specialty society representing more than 7,000 physicians and associated health professionals who specialize in the prevention and treatment of addiction, thank you for the opportunity to provide comments to the Health Resource and Services Administration (HRSA) draft program policy guidance regarding services to support transitions in care for justice-involved individuals reentering the community.

The United States has the highest incarceration rate in the world, as well as the greatest number of people detained in its criminal legal system.[1] Studies have found that nearly two-thirds of incarcerated persons have a history of substance use disorder (SUD), and an additional 20 percent who do not meet criteria for SUD have substance involvement at the time of their crime or were arrested for a drug-related offense.[2]

Detainment in correctional settings can pose treatment challenges for individuals with SUD, including unavailability of medications, forced discontinuation of medication in some instances, and non-evidence-based treatment methods. These approaches can cause harm and suffering for individuals who are incarcerated, especially post-release. Upon release, individuals whose SUD treatment has been discontinued are less likely to reenter treatment and more susceptible to drug overdose and death.

Providing access to addiction treatment in correctional settings is challenging due to federal and state laws and regulations regarding insurance coverage, as well as unpredictability about the duration of an individual's incarceration. As a result, the correctional healthcare system is under-resourced, often isolated from mainstream medicine, and not subject

to standardized accreditation or quality reporting requirements. Despite these challenges, access to addiction treatment within the correctional system is a critical public health and ethical issue.

In response to these systematic challenges, ASAM is pleased to see HRSA use its grant authority creatively to provide another pathway of access to care, including addiction treatment through this draft program guidance for Federally Qualified Health Centers (FQHCs). While ASAM applauds this new grant opportunity and program guidance, we are extremely concerned about the exclusion of pre-trial detainees in the custody of state and local jails from this program.

According to some estimates, approximately 70% of people in jails are pre-trial detainees and a significant supermajority are non-white detainees.[3] Given that a disproportionate percentage of these detainees have considerable mental health/SUD treatment needs, excluding them from this grant opportunity would exacerbate their behavioral health challenges, widen existing racial health disparities, and leave communities less safe. Furthermore, this policy is at odds with guidance from the Centers for Medicare and Medicaid Services (CMS) which has outlined a section 1115 waiver opportunity that states may take advantage of to provide healthcare services to individuals up to 90 days prior to community re-entry and does not exclude pre-trial detainees.

Therefore, ASAM urges HRSA to remove the pre-trial detainee exclusion from this program guidance to allow all detainees in state and local carceral settings to have access to care through FQHCs in their communities. Removing this exclusion will also ensure that states and localities are able to fully leverage other opportunities, including the CMS section 1115 community reentry waiver authority to people reentering society.

Additionally, given the evolution of addiction treatment and its increasing integration with general medical care, ASAM also strongly encourages HRSA to adopt general medical terminology to describe addiction treatment. To that end, HRSA should consider replacing references to "medication-assisted treatment" with "addiction medications," "medications for substance use disorder treatment," or "medications for addiction treatment" to refer to any Food and Drug Administration (FDA)-approved medication used to treat SUD.[4] By taking such action, HRSA would be aligning medication terminology in its policy with recent terminology updates made by the Substance Abuse and Mental Health Services Administration (SAMHSA) regarding medications for opioid use disorder found in 42 CFR Part 8.

Thank you for the opportunity to provide comments on this important program guidance and for HRSA's continued focus on bolstering treatment for mental health and substance use disorders and the addiction workforce. If you have any questions, please do not hesitate to contact Corey Barton, Director of Advocacy at cbarton@asam.org.

Sincerely,

Brian Hurley, MD

Brian Hurley, MD, MBA, FAPA, DFASAM
President, American Society of Addiction Medicine

[1] World Prison Brief. https://www.prisonstudies.org/highest-to-lowest/prison-population-total

[2] CASAColumbia. Behind Bars II: Substance Abuse and America's Prison Population. February 2010. Available at: https://www.centeronaddiction.org/addiction-research/reports/behind-bars-ii-substance-abuse-and-america%E2%80%99s-prison-population

[3] Pretrial detention. Prison Policy Initiative. https://www.prisonpolicy.org/research/pretrial_detention/#:~:text=Key%20Statistics%3A,being%20held%20pretrial%3A%2069%25%20%2B

[4] American Society of Addiction Medicine. (2019). Definition of Addiction. https://www.asam.org/quality-care/definition-of-addiction