



## The Medicaid IMD Exclusion and Mental Illness Discrimination

### SUMMARY

The Medicaid Institutions for Mental Disease (IMD) exclusion is an outdated, discriminatory federal rule that creates significant barriers to treatment for adults with severe mental illness. Under this rule, Medicaid payments to states are prohibited for non-geriatric adults receiving psychiatric care in a treatment facility with more than 16 beds.

Even with recent advances in mental health care afforded by the Affordable Care Act and federal parity legislation, the IMD exclusion remains the only section of federal Medicaid law that prohibits federal payment for medically necessary care simply because of the type of illness being treated. This categorically discriminatory rule is a leading cause of our national psychiatric hospital bed shortage and directly contributes to a host of negative consequences for those with the most severe mental illnesses.

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### BACKGROUND

Established by [Section 1905\(a\)\(B\)](#) of the Social Security Act, the IMD exclusion prohibits “payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases.” Individuals over the age of 65 have always been excluded from this restriction, and a separate provision enacted in 1972 excludes patients under 21 from it.

An institution for mental diseases is defined in the law as any “hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services.”

The U.S. Department of Health and Human Services (HHS) considers any institution to be an “IMD” that, by its overall character, is established and maintained primarily for care of individuals with “mental diseases.” Categorization as an IMD is based upon factors such as whether the facility is licensed as a psychiatric facility or specializes in providing psychiatric care; whether a large proportion of staff has specialized psychiatric training; whether the facility is under the jurisdiction of a state’s mental health agency; and whether 50% of all admitted patients are there based on a need for “institutionalization as a result of mental disease.”

In 2011, as part of the Affordable Care Act, the federal government created a five-year Medicaid Emergency Psychiatric Demonstration in 11 states and the District of Columbia. The demonstration removes the restriction from select private IMDs to evaluate whether Medicaid, by reimbursing for acute psychiatric care services provided in an IMD, could lower costs and provide better care to people with psychiatric illnesses.



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In 2016, based on comments from the public and preliminary data from the Medicaid Emergency Psychiatric Demonstration, the Centers for Medicare and Medicaid finalized a rule permitting Medicaid managed care organizations (MCOs) to receive reimbursement for acute care (defined as less than 15 days per month) provided in IMDs to non-geriatric adults. More than 70% of Medicaid beneficiaries are currently covered by MCOs.

### *Why was the IMD exclusion passed into law?*

The IMD exclusion was included in the law when Medicaid was enacted in 1965. At the time, there was hope that large inpatient facilities would be quickly rendered obsolete by advancements in new antipsychotic medications that allowed some people with serious mental illness to live safely in the community for the first time. The reasoning behind the IMD exclusion prohibiting reimbursement was thus twofold: disincentivize the treatment of the mentally ill in large institutions and shift the costs for psychiatric treatment from the federal government onto the states.

### *What has been the impact of the IMD exclusion?*

The IMD exclusion, which provides disincentives for psychiatric care facilities to grow, fuels the nationwide shortage of psychiatric beds and has proved disastrous for people with severe mental illness. The United States has closed almost 97% of its state hospital beds since the mid-1950s and today has fewer psychiatric beds per capita than it did in 1850. The trend, known as “deinstitutionalization,” accelerated with enactment of the IMD exclusion, while the promised alternative of community behavioral health centers to provide care was never realized.

The results of not treating those in psychiatric crisis in an appropriate setting for an appropriate amount of time are profound: Instead of providing adequate care, the mental health system abandons those with severe mental illness to a revolving door of acute hospitalization, incarceration, homelessness and victimization. Many acutely ill individuals who deteriorate without access to appropriate inpatient care end up in inappropriate care settings including emergency rooms and jails. Their families and caregivers frequently suffer medical, emotional and financial impacts as they struggle with little support to get treatment and save their loved ones.

The economic impacts of the IMD exclusion have also been tremendous. While it does cost money to provide inpatient treatment to individuals with mental illness, cost savings from restricting inpatient care is largely an illusion. Studies show that short-length hospitalizations of individuals in psychiatric crises are associated with higher rehospitalization rates. In fact, a study by the federal Agency for Health Research and Quality within HHS found that, for Medicaid patients, mental illness conditions were two of the top three causes of 30-day inpatient readmissions. Along with diabetes, these three conditions resulted in approximately \$839 million in hospital costs in 2011 alone. Also costly are the forensic beds, jail and prison cells and homelessness services that become the default care sites for individuals in need when a bed is not available.



## CONCLUSION

The IMD exclusion is a discriminatory federal rule that prohibits federal Medicaid reimbursement to states for adult patients receiving mental health or substance abuse care in a psychiatric or substance abuse treatment facility with more than 16 beds. The IMD exclusion is the only section of federal Medicaid law that prohibits federal payment to help states cover the cost of providing medically necessary care to Medicaid beneficiaries.

The IMD exclusion has greatly contributed to the nation's psychiatric hospital bed shortage, which results in non-treatment of acute and chronic serious mental illness and the innumerable bad outcomes resulting from non-treatment. While significant steps are being made at the federal level to reform the IMD exclusion, a full repeal that extends to all Medicaid beneficiaries and without arbitrary inpatient-day limitations, will ultimately be necessary to address these issues.