



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

September 20, 2024

The Honorable Pamela Beidle, Chair
Finance Committee
3 East Miller Senate Office Bldg.
Annapolis, MD 21401-1991

The Honorable Joseline A. Peña-Melnyk, Chair
Health and Government Operations Committee
241 House Office Bldg.
Annapolis, MD 21401-1991

RE: Report Required by Health - General §15-103.8 and HB 684 - Ch. 691 of the Acts of 2022- IMD Services for Medicaid Participants with Serious Mental Illness and Substance Use Disorder

Dear Chair Beidle and Chair Peña-Melnyk:

In keeping with the requirements of HB 684 - *Md. Medical Assistance Program - Psychiatric Inpatient Care - Admissions Restrictions (Psychiatric Hospital Admissions Equity Act)*, Ch. 691 of the Acts of 2022, the Maryland Department of Health (the Department) respectfully submits this report on Psychiatric Inpatient Care - Admissions Restrictions. Specifically, this report details the average length-of-stay (ALOS) for Medicaid participants for serious mental illness (SMI) and substance use disorder (SUD) Institute of Mental Disease (IMD) services, any corrective action plans and limits on days of stay required by CMS, any federal funding withheld and additional State funding required, and data on whether Medicaid participants receiving IMD services were transferred to another facility.

Background

While many Medicaid services provided to participants with SUD and SMI are covered jointly by both federal and state funds, traditionally stays in IMDs have been excluded from federal funding since the Medicaid program was enacted in 1965. This exclusion was designed to ensure that states would maintain primary responsibility for funding inpatient psychiatric services, rather than the federal government. The term “IMD” encompasses any hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of a person with mental diseases.¹

In 2016, the Centers for Medicare and Medicaid Services (CMS) approved Maryland Medicaid to expand specialty SUD coverage to include SUD treatment in IMDs. Effective July 1, 2017, the

¹ "Medicaid's Institution for Mental Diseases (IMD) Exclusion." *Congressional Research Service*, 5 Oct 2023, <https://crsreports.congress.gov/product/pdf/IF/IF10222>.

approval permitted services to be provided to all full-benefit Medicaid-eligible individuals aged 21 to 64 who reside in a non-public IMD for American Society of Addiction Medicine (ASAM) residential levels 3.3, 3.5, 3.7, and 3.7-WM (licensed as 3.7D in Maryland) for up to two non-consecutive 30-day stays annually.

On January 1, 2019, the Department phased in coverage of ASAM level 3.1. The Department extended coverage to individuals dually eligible for Medicare and Medicaid as of January 1, 2020.

In March 2019, the Department received approval for a waiver amendment to allow coverage for ASAM level 4.0 for beneficiaries with a primary SUD and a secondary mental health disease (MHD) in inpatient hospital settings for up to 15 days per month. The Department implemented coverage effective July 1, 2019.

Residential Treatment was again expanded in the current 2022 to 2026 waiver renewal, which (1) removed any caps on length of stays for SUD treatment and (2) included coverage for IMD services for individuals with SMI and serious emotional disturbance (SED). The current §1115 waiver special terms and conditions (STCs) require the State to aim for a statewide ALOS of 30 days or less in residential and inpatient treatment settings, to be monitored pursuant to the SUD and SMI/SED Monitoring Protocols as to ensure short-term residential stays.

The STCs governing coverage of SMI IMD stays further provide that the Department may claim federal financial participation (FFP) for services furnished to beneficiaries during IMD stays of up to 60 days, as long as the Department shows at its midpoint assessment that it is meeting the requirement of a 30 day or less ALOS. Demonstration services furnished to beneficiaries whose stays in IMDs exceed 60 days are not eligible for FFP under this demonstration.

Notably, consistently exceeding this 30-day ALOS may jeopardize the Department's ability to draw down federal matching dollars for SMI residential services or result in CMS placing a hard cap on coverage for services of 45 days. Either scenario would result in increases in expenditures using state-only funds. The waiver expansion of SUD and SMI IMD does not include room and board, which is paid for with state-only funds by the Department's Behavioral Health Administration (BHA).

IMD Utilization

Currently, the Department may only limit or restrict a program participant's admission for inpatient care at a special psychiatric hospital or an acute general care hospital with separately identified inpatient psychiatric service on bases of the medical necessity of the admission. Any such limitation must be established through regulation.

SUD and SMI measures are collected and submitted to CMS on a basis of months, quarters, or years according to CMS specifications. Measure 36, *Average Length of Stay in IMDs*, is measured on a calendar year basis per CMS guidance; therefore, the Department has provided data on the ALOS in IMDs for participants with SUD according to this measure in Table 1 below.

CMS approved Maryland Medicaid’s SMI Implementation plan on July 20, 2022 and is currently working with the Department on the state’s SMI Monitoring Protocol. Once the protocol has been approved, the Department will begin to measure and report data to CMS, such as SMI average length of stay.

Table 1. Average Length of Stay for Medicaid Participants for Substance Use Disorder IMD Services, CY 2017 - 2022

Demonstration Year	Calendar Year	Number of Participants with Stays in IMDs	Number of Days Spent in IMDs	Average LOS in days
Year 2	2017	10,468	158,845	15.17
Year 3	2018	23,764	378,166	15.91
Year 4	2019	33,556	587,505	17.51
Year 5	2020	34,806	658,935	18.93
Year 6	2021	14,727	266,605	18.10
Year 7	2022	35,685	753,157	21.11

The Department has not received any corrective action plans or limits on days of stay as required by CMS. To this point, no federal funding has been withheld by CMS for covered services. No participants have had their care cut short or moved/transferred to a lower level facility due to exceeding the day limit and ALOS requirements.

Table 2 shows the total number of Emergency Department (ED) visits overall that participants with a primary SUD diagnosis received both before and after IMD treatment. The number and percentage of participants with an ED visit decreased between the pre- and post-treatment periods, with the percentage of participants with an ED visit dropping from 55.9 percent in the 6 months prior to treatment to 45.4 percent in the 6 months after. The total number of visits and the average number of visits per participant also decreased.

Table 2. Total Number of ED Visits Pre and Post IMD Treatment, CY 2022

6 Months Before IMD Visit				Within 6 months After IMD Visit				
Total Participants	Any ED Visit		Number of visits	Visits per participant	Any ED Visit		Number of visits	Visits per participant
	#	%			#	%		

13,614	7,608	55.9%	25,004	1.8	6,182	45.4%	20,646	1.5
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Table 3 compares the total number of behavioral health-related ED visits before and after IMD treatment. The number and percentage of participants with behavioral health-related ED visits both decreased between the pre- and post-treatment periods. The total number of behavioral health ED visits dropped by 2,371, and the average number of visits per participant decreased by 0.1.

Table 3. Total Number of Behavioral Health ED Visits Pre and Post IMD Treatment, CY 2022

6 Months Before IMD Visit					Within 6 months After IMD Visit			
Total Participants	Any BH ED Visit		Number of visits	Visits per participant	Any BH ED Visit		Number of visits	Visits per participant
	#	%			#	%		
13,614	3,429	25.2%	7,445	0.5	2,025	14.9%	5,074	0.4

Next Steps

The Department will continue to work with CMS on reporting SUD IMD data, as well as the implementation of SMI Monitoring protocol . The Department will provide updates in future reports annually on or before July 1.

If further information about this program is needed, please contact Sarah Case-Herron, Director of Government Affairs (sarah.case-herron@maryland.gov).

Sincerely,

Laura Herrera Scott
Secretary

- cc: Tricia Roddy, Deputy Director, Maryland Medicaid Program
- Ryan Moran, Deputy Secretary, Health Care Financing and Medicaid Director
- Debbie Ruppert, Executive Director, Office of Eligibility Services
- Alyssa Brown, Director, Office of Innovation, Research, and Development
- Sarah Albert, Department of Legislative Services (5 copies)