**PROPOSAL**

**Maryland Register**

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**Title 10
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.95 Special Psychiatric Hospitals**

Authority: Health-General Article, §§2-104(b), 15-102.8, 15-103, and 15-105, Annotated Code of Maryland

**Notice of Proposed Action**

[19-118-P]

     The Secretary of Health proposes to amend Regulation **.05** **under COMAR 10.09.95 Special Psychiatric Hospitals**.

**Statement of Purpose**

The purpose of this action is to remove a limitation on inpatient mental health services for adults with co-occurring substance use disorder (SUD) and mental health diagnoses in order for the Department to reimburse special psychiatric hospitals for providing medically managed intensive inpatient services (ASAM Level 4.0) to eligible participants, pursuant to the Department’s §1115 HealthChoice Waiver.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**Presently, the Maryland Department of Health (the Department) pays for medically managed intensive inpatient services, or American Society of Addiction Medicine (ASAM) Level 4.0, using State-only grants through the Behavioral Health Administration (BHA). The Department’s recently approved §1115 HealthChoice Waiver amendment enables the use of Medicaid funds to pay for ASAM Level 4.0 services in order to receive a 61.49 percent blended FMAP for services rendered to Medicaid-enrolled adults with co-occurring substance use disorder (SUD) and mental health diagnoses.

|  |  |  |
| --- | --- | --- |
|   | Revenue (R+/R-) |   |
| **II. Types of Economic Impact.** | Expenditure(E+/E-) | Magnitude |
|   |  |
|  |  |  |
| A. On issuing agency: | (E+) | $195,942 |
| B. On other State agencies: | NONE |  |
| C. On local governments: | NONE |  |
|   |
|   | Benefit (+)Cost (-) | Magnitude |
|   |  |
|  |  |  |
| D. On regulated industries or trade groups: | (+) | $195,942 |
| E. On other industries or trade groups: | NONE |  |
| F. Direct and indirect effects on public: | NONE |  |
| **III. Assumptions.** (Identified by Impact Letter and Number from Section II.) |
| A. (1) Two psychiatric hospitals (Shepherd Pratt and Brook Lane) will treat all patients previously served by Adventist Behavioral Health, which is no longer providing services.(2) 100 percent of the Medicaid-enrolled adult population with co-occurring SUD and mental health diagnoses in treatment at the two facilities is eligible for federal match.(3) The Department paid $16,736,219 to in State-only grant funds to institutions for mental disease (IMDs) in FY 2019 to provide ASAM 4.0 services to 1,142 adults at an estimated per member per day (PMPD) rate of $1,465. The average length of stay was 10 days.(4) The Health Services Cost Review Commission (HSCRC) dropped rates for hospitals from 94 percent of charges in FY 2019 to 92.3 percent of charges in FY 2020. The total amount to be paid to IMDs in FY 2020 reflects this change.(5) The number of Medicaid-enrolled adults eligible to receive services will increase by 2 percent. The amount paid to IMDs to provide these services will increase by 1 percent. The average length of stay will remain consistent. Based on a projected 1,165 participants receiving services, a PMPD rate of $1,480, and an average length of stay of 10 days, the total amount projected to be reimbursed to IMDs in FY 2020 is $16,932,161.(6) The difference between the FY 2020 and FY 2019 reimbursement amounts equates to an expenditure increase of $195,942 in FY 2020. This amount is subject to a 61.49 percent federal match ($120,485 federal funds, $75,457 general funds).(7) Due to the 61.49 percent blended FMAP, the Department’s usage of Medicaid funds, rather than State-only grant funds through BHA, yields a savings of $10,411,586 general funds in FY 2020. |
| D. See A. above. |

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through July 22, 2019. A public hearing has not been scheduled.

**.05 Limitations.**

A. (text unchanged)

B. The Program does not cover:

(1)—(4) (text unchanged)

(5) Inpatient mental health services for an individual between 21 and 64 in a special psychiatric hospital of more than 16 beds that primarily engages in providing mental health services for an individual who is not waiver-eligible, as defined in COMAR 10.09.62.01, except **[**when**]***:*

*(a) When*receiving mental health services in the special psychiatric hospital immediately before the participant reached 21 years old, in which case the services may be continued until the earlier of the following:

**[**(a)**]***(i)* (text unchanged)

**[**(b)**]** *(ii)* The date the participant reaches 22 years old; *and*

*(b) Effective July 1, 2019, services of up to 15 days per month, when:*

*(i) The participant has co-occurring substance use and mental health diagnoses; and*

*(ii) The provider is located in-State;*

(6)—(16) (text unchanged)

ROBERT R. NEALL
Secretary of Health