



C A L I F O R N I A D E P A R T M E N T O F
Mental Health

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DMH LETTER NO.: 02-06

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: MEDI-CAL COVERAGE FOR BENEFICIARIES IN
INSTITUTIONS FOR MENTAL DISEASES

The Department of Mental Health (DMH) has become aware of the need to clarify several issues related to Medi-Cal coverage for beneficiaries living in institutions for mental diseases (IMDs), especially with respect to the claiming of federal financial participation (FFP) for services provided to these beneficiaries. This letter provides clarification on the following issues: the definition of an IMD, the prohibition in federal law from claiming FFP for beneficiaries in IMDs (the IMD exclusion), standard exceptions to the IMD exclusion, common situations to which the IMD exclusion applies, and mental health plan (MHP) responsibility for services to beneficiaries in IMDs when FFP is not available.

What is an IMD?

Title 42, Code of Federal Regulations, Section 435.1009(b)(2), defines an IMD as “a 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. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such.” The federal Center for Medicaid and State Operations has included guidelines for interpreting this definition in its State Medicaid Manual (Attachment 1). IMDs in California generally include facilities in the following licensing categories, if the facility has 17 beds or more: acute



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psychiatric hospitals, psychiatric health facilities (PHFs), skilled nursing facilities (SNFs) with a certified special treatment program for the mentally disordered (STP), and mental health rehabilitation centers (MHRCs).

There may be exceptions for individual facilities based on the criteria in Attachment 1. For example, a large SNF with a small STP unit (less than half the total SNF beds) is not an IMD. DMH is currently seeking clarification from the State Department of Health Services on several issues related to IMD status, including whether social rehabilitation facilities that serve as adult residential treatment centers and have more than 16 beds are IMDs. Until clarification is provided, MHPs should make reasonable judgments about the IMD status of facilities based on the information in this letter, federal regulations and Attachment 1.

What is the IMD exclusion?

Title 42, CFR, Section 435.1008, says that "FFP is not available in expenditures for services provided to . . . Individuals under age 65 who are patients in an institution for mental diseases unless they are under age 22 and are receiving inpatient psychiatric services under Sec. 440.160 of this subchapter. . . The exclusion of FFP . . . does not apply during that part of the month in which the individual is not . . . a patient in an institution for . . . mental diseases. . . An individual on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in that institution. However, such an individual who is under age 22 and has been receiving inpatient psychiatric services under Sec. 440.160 of this subchapter is considered to be a patient in the institution until he is unconditionally released or, if earlier, the date he reaches age 22."

Title 9, CCR, Sections 1840.210 and 1840.312, describe the IMD exclusion from the perspective of the Medi-Cal Mental Health Services Consolidation program. Section 1840.210 covers non-reimbursable psychiatric inpatient hospital services and provides that the "MHP may claim FFP for psychiatric inpatient hospital services in a hospital that is a psychiatric health facility or acute psychiatric hospital larger than 16 beds only for beneficiaries 65 years of age or older, or beneficiaries under 21 years of age, except if the beneficiary was receiving such services prior to his/her twenty-first birthday. If the beneficiary [*who is 21 through 22 years old*] continues without interruption to require and receive such services, the eligibility for FFP continues to the date he or she no longer requires such services, or if earlier, his/her twenty-second birthday. . ."

Section 1840.312 covers non-reimbursable outpatient or inpatient professional services and provides that the "following services are not eligible for FFP: . . Specialty mental health services covered by this article provided during the time a beneficiary 21 years of

age through 64 years of age resides in any institution for mental disease. . .[and] . . . Specialty mental health services . . . provided during the time a beneficiary under 21 years of age resides in an institution for mental disease other than a psychiatric health facility that [*provides psychiatric inpatient hospital services*] . . . or an acute psychiatric hospital, except if the beneficiary under 21 years of age was receiving such services prior to his/her twenty-first birthday. If this beneficiary continues without interruption to require and receive such services, the eligibility for FFP continues to the date he or she no longer requires such services, or if earlier, his/her twenty-second birthday. These restrictions regarding claiming FFP for services in an institution for mental disease shall cease to have effect if federal law changes or a federal waiver is obtained and reimbursement is subsequently approved. . . "

Exceptions to the IMD exclusion:

FFP is available for services provided to patients in IMDs who are 65 years of age or older.

FFP is available for services to patients, regardless of age, who are admitted to an acute psychiatric hospital, nursing facility or other facilities with fewer than 17 beds, or to a psychiatric ward of a general hospital.

FFP is available for services to patients under age 65 who are on conditional release or convalescent leave from an IMD. Convalescent leave occurs when a patient is sent home for a trial visit. Conditional leave is when a patient is released from an IMD on the condition that the patient receive outpatient treatment or other comparable condition.

FFP is available for services to beneficiaries under age 21 receiving psychiatric inpatient services in a facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Council on Accreditation of Services for Families and Children (COA).

California may also recognize accreditation by other organizations, provided the standards are comparable to those of JCAHO, CARF, and COA, although the State has not done so at the present time. At one time, this exception applied only to acute psychiatric hospitals. Federal regulations were changed in December 1998 to expand the exception for children in psychiatric residential treatment facilities. Besides accreditation, the facilities must comply with federal regulations regarding treatment (copies provided as Attachment 2). When federal requirements are met, FFP is available for specialty mental health service in the same way that FFP is claimed for services to beneficiaries who are not patients in IMDs.

When beneficiaries 1) were receiving psychiatric inpatient services in a facility qualified

for the exception above prior to their 21st birthday, 2) remain patients in the facility on their 21st birthday, and 3) continue to require inpatient services, FFP is available for services through the end of a continuous stay or the beneficiaries' 22nd birthday, whichever occurs first.

Common situations involving the IMD exclusion:

FFP is not available for targeted case management services provided to beneficiaries under age 65 who are patients in IMDs, unless one of the exceptions to the IMD exclusion exists. Title 9, CCR, Section 1840.374 lists lockouts for targeted case management services when beneficiaries are receiving psychiatric inpatient hospital services, psychiatric health facility services, or psychiatric nursing facility services. The regulation also provides an exception to allow for discharge planning. This section only applies, however, when the IMD exclusion does not apply.

FFP is not available for specialty mental health services, including day treatment intensive and day rehabilitation, provided to beneficiaries under age 65 who are patients in IMDs even if the services are not provided on site at the IMD, unless one of the exceptions to the IMD exclusion exist.

FFP is not available for services to beneficiaries under age 65 who are patients in an IMD who are temporarily transferred from an IMD for reasons other than discharge, convalescent leave or conditional leave, unless one of the exceptions to the IMD exclusion exists. The federal Office of the Inspector General is currently auditing the Medi-Cal program and has taken the position that the IMD exclusion still applies when a patient is transferred from an IMD to the hospital for acute psychiatric or medical services. The State is appealing this position. DMH will advise MHPs of the final outcome of the appeal.

MHP responsibility for the IMD exclusion:

MHPs are responsible for submitting quarterly reports to DMH regarding the beneficiaries in the IMDs for which the county mental health department pays the room and board. DMH is currently reviewing past reports for consistency with the reports submitted by counties through the Client and Services Information System (CSI). Once CSI reporting is validated, a separate quarterly IMD report will no longer be required. DMH will notify counties in writing when the county has been approved to discontinue the quarterly IMD report. The IMD report is used by the State Department of Health

Services to reimburse the federal government for any FFP that may have been claimed

through the Short-Doyle/Medi-Cal (SD/MC) or Electronic Data Systems (EDS) claims processing systems for services covered by the IMD exclusion.

MHPs are responsible, to the extent possible, to prevent the submission of claims to the State for services provided to beneficiaries covered by the IMD exclusion. Inappropriate claiming of FFP must be minimized in both the Short-Doyle/Medi-Cal (SD/MC) claiming system and the Electronic Data Systems (EDS) claims processing system as described in the two following paragraphs. Individual claiming errors will be subject to disallowance. Failure to establish adequate systems to prevent inappropriate claiming of FFP may result in disallowances and/or more serious compliance actions available to the State and to the federal government.

With respect to Fee-for-Service/Medi-Cal hospital claims submitted to EDS, it is important that MHPs establish MHP payment authorization processes that will deny treatment authorization requests (TARs) when the IMD exclusion applies (e.g., when the hospital is an acute psychiatric hospital and the beneficiary is under age 65 and age 21 or older).

In the SD/MC claiming system, MHPs that have the capability of editing claims for IMD status and age of beneficiary must do so. MHPs that do not have this capability should be especially careful to report beneficiaries in the IMDs accurately on the quarterly IMD report and CSI.

MHP responsibility for services to beneficiaries in IMDs:

Section 14053.1(a) of the Welfare and Institutions Code states: “ancillary outpatient services, pursuant to Section 14132, for any eligible individual who is 21 years of age or over, and has not attained 65 years of age and who is a patient in an institution for mental diseases shall be covered regardless of the availability of federal financial participation.”

Regardless of whether or not FFP is reimbursed, certain specialty mental health services must be provided to eligible patients by MHPs under California law and the provisions of their contract with DMH. Psychiatrist and psychologist services and comparable mental health services and medication support services are the responsibility of the MHPs in accordance with the medical necessity criteria that apply to all other services.

If you have questions or need additional information, please contact your contract

manager in the Technical Assistance and Training Section below.

DMH Technical Assistance and Training Contract Managers

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Sincerely,

Original signed by

STEPHEN W. MAYBERG, Ph.D.
Director

Enclosures

cc: California Mental Health Planning Council
Chief, Technical Assistance and Training