



## FREQUENTLY ASKED QUESTIONS (FAQs):

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Please see the DHCS Website: <https://www.dhcs.ca.gov/> for more information.

These FAQs were developed to give additional guidance to STRTP providers regarding the Institution for Mental Disease (IMD) determination assessment tool based on Centers for Medicare and Medicaid Services (CMS) guidelines. The CMS guidelines are found in Sections 4390 and 4390.1 of the State Medicaid Manual.

On May 11, 2021, in an effort to conduct the IMD determinations, DHCS shared the assessment tool to help providers in making a self-determination of their facility. This tool is strictly meant as a guide for providers to review their own programs and to give an overview of the CMS guideline requirements.

DHCS has provided responses to questions it received during statewide webinars conducted on June 3 and July 8, 2021, as well as questions submitted to DHCS by other individuals.

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### 1. I operate a small 6-bed STRTP. Does this apply to my situation?

Yes. All STRTPs, regardless of bed capacity, must be evaluated to determine whether they are IMDs.

### 2. What is an independent STRTP that is not considered an IMD?

Based on CMS IMD guidance, an STRTP with 16 or fewer beds, with no co-located facilities that provide treatment to persons with mental illness and no nearby facility owned by the same organization, would be considered separate and independent if the following criteria are met:

- Each STRTP facility maintains its own license;
- Each STRTP facility maintains its own Mental Health Program approval;
- Each STRTP facility maintains its own Medi-Cal certification;
- Each STRTP facility has distinct and separate staff (no shared staff);
- Each STRTP facility has a separate address; and
- The STRTP has its own distinct governing body or is its own legal entity.

### 3. Where can I locate the CMS guidelines for IMD determinations?

CMS guidelines are referenced in the Code of Federal Regulations (CFR): [guidelines issued in Sections 4390 and 4390.1 of the State Medicaid Manual](#).

**4. What is a component? Is the component definition based on NPI/provider or actual physical facility? What if multiple buildings or facilities are under one NPI/provider number?**

The component definition is based on the actual physical facility, not the NPI number. If multiple buildings/facilities are under one NPI/provider number, this may affect the determination of whether a facility is separate from other components.

A component is defined as each program/facility at a particular location or campus. For example, an organization may have an STRTP, a Community Treatment Facility and a group home on one campus. Each of these would be a separate component. Or a facility may have multiple small STRTPs on one campus, and each STRTP would be considered a component. A facility that hosts multiple programs providing diagnosis, treatment or care to persons with a mental illness, with shared staff and programming in a single building, would be considered one component.

The definition of a component as used within the tool is as follows: "each program/facility at a particular location or campus." A component has a licensed bed capacity.

Although the IMD determination tool seeks information pertaining to Medi-Cal certifications, it is for the purpose of identifying whether a component is independent of the others and is not used as part of the definition of component.

**5. What is an IMD? What does it mean to be designated an IMD?**

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."

**Prohibition of Federal Medicaid Coverage**

A facility designated as an IMD is not be eligible to claim FFP for any expenditure for services provided to IMD residents. In other words, the Federal Medicaid program does not provide for coverage of (i.e. federal payment for) any Medicaid (Medi-Cal in CA) services, inside or outside an IMD, for individuals who are living at the IMD.

**6. If our agency has an STRTP at only one location and we have more than 16 beds, will we be designated as an IMD?**

Yes. Single locations that are licensed as STRTPs with more than 16 beds, which are primarily engaged in providing mental health treatment and services, would be considered IMDs.

**7. Our agency is not permanently licensed as an STRTP because we do not yet have DHCS Mental Health Program Approval. Will we be reviewed for IMD determination this year or only after we are permanently licensed?**

DHCS will review all STRTPs for IMD determination, including provisionally and permanently licensed STRTPs.

**8. Our agency runs a specialty pregnant and parenting program that operates under an STRTP license. Are there exceptions to IMD determination for specialty programs like ours? If we are reviewed, will the number of babies/toddlers we are allowed to house per our license be included in the total number of beds?**

At the present time, there are no exceptions to the IMD designation process for specialty programs (e.g., pregnancy and parenting, CSEC, substance abuse) that operate as STRTPs. The STRTP IMD assessment will include a review of the facility bed count per the total number of beds contained in the STRTP license.

**9. Our agency has several 6-bed STRTPs around the state and our total number of beds agency wide is more than 16. Will our STRTPs be designated as IMDs?**

The IMD determination review by DHCS includes many factors and is not reliant only on the total number of beds in each agency. Other factors include the geographic distance between licensed facilities, the staffing structure and the character of the facilities. We anticipate that many “scattered-site” STRTPs with no more than 16 beds in each licensed facility will not be designated as IMDs, particularly if they do not share programmatic staff, Administrators or Heads of Service. However, each organization must undergo an individual review by DHCS.

**10. If our STRTP with 16 beds shares a campus location with group home licensed cottages under the same non-profit agency, are we at risk for being determined an IMD?**

All STRTPs will be reviewed for an IMD determination. For those on a campus setting, if the group homes serve youth with mental health disorders, the STRTP may be determined to be an IMD because the total number of beds treating youth with mental health disorders under one legal entity is more than 16 beds. All CMS IMD guidelines are considered when conducting an IMD assessment; however, the critical factors are whether the facilities on the same campus:

1. provide diagnostic, treatment or care services;
2. have more than 16 beds, including all commonly owned facilities; and
3. have more than 50% of the residents in the facility because of their mental disease (mental illness and/or substance use disorder.)

**11. Our STRTP is on one location (property) but has different addresses for each cottage. Will we be reviewed as a campus site or as scattered site STRTPs?**

Even if the cottages have different addresses, if they are at the same geographic location and share common spaces (e.g., recreation areas), the facilities will be reviewed as a campus.

**12. Can our 3 scattered-site 6-bed STRTPs continue to share administrative staff, the Head of Service and an Administrator?**

One factor in the IMD determination tool is identifying if the STRTPs “operate as a single entity.” Sharing of programmatic staff may be one factor in determining if the STRTPs function as one entity or if they are organizationally separate enough to avoid an IMD designation. STRTP providers should ensure that programmatic management (STRTP administrators and Heads of Service) are assigned to oversee 16 beds or less for each house/licensed facility.

**13. The IMD Facility Assessment Tool shared by DHCS asks if components are “so organizationally and geographically separate that it is not feasible to operate as a single entity” (B5). Can DHCS provide a definition of “so organizationally” separate and “geographically separate”?**

While these phrases do not have a strict definition, typically, organizational separation is determined by the facilities using separate and distinct staff and programmatic leadership to operate their programs. Additionally, organizational separation includes separate and independent licenses of 16 beds or less and each facility having independent control over client admissions.

Geographic separation typically means that the facilities are not on the same grounds or campus and are not adjacent to each other. Additionally, geographic separation can be demonstrated by ensuring that there is no mingling of populations and that common areas (indoor or outdoor) are not shared. For example, two STRTPs that are different streets in a city or in different neighborhoods have geographic separation. Components may also have separate addresses and entrances.

**14. Will we, as a single site campus with both group home and STRTP licensed beds totaling over 16 beds combined, be required to give DHCS access to group home client files to check diagnoses, HR files to check leadership credentials/job descriptions, corporate files to determine governance structure, etc.?**

At the present time, no. The IMD assessment is for STRTPs; however, the number of beds counted in the assessment will include group home beds if the program is providing diagnosis, treatment or care to individuals with a mental illness.

**15. Are two legal entities operating STRTPs on the same location allowed to share an Executive Director? Can they share membership on their Board of Directors and, if yes, how many members can be shared?**

Two STRTPs run by two legal entities may share an Executive Director/membership on the Board of Directors. If either of the STRTPs are more than 16 beds and intend to claim FFP, DHCS must consider several factors to determine whether the STRTPs are separate (staffing, ownership, location, facility organizational structure and operation) or are operating as a single facility. If an IMD determination review indicates that one or more of the facilities have intertwined operations and appear to be operating as a single, unified facility, the IMD criteria would apply.

**16. STRTPs don’t typically have a role of “chief medical officer.” Does this mean that question B2 would be not applicable or will DHCS be considering a different role for this question (e.g., Head of Service or Clinical Director)?**

Based on previous guidance from CMS, this question could apply to the clinical administration or other equivalent position, such as the Clinical Director.

**17. How and when will DHCS do IMD determinations for newly opened STRTPs in the future?**

The STRTP should contact DHCS and request an IMD assessment at [MHLC@dhcs.ca.gov](mailto:MHLC@dhcs.ca.gov). When a facility applies for a Mental Health Program approval through DHCS, this will also be communicated as part of the application process.

**18. When will Section C of the tool be used?**

Section C is applied to an independent component with greater than 16 beds, to determine the overall character of a facility. Some larger facilities would not be considered to be IMDs if they do not provide mental health services to the majority of their patients.

**19. Does a licensed STRTP with more than 16 beds that maintains its own Mental Health Program approval imply that the facility has the “overall character of a facility,” established and maintained primarily for the care and treatment of individuals with mental diseases?**

Yes. CMS has determined that licensed STRTPs with more than 16 beds that maintain a Mental Health Program approval meet the overall character of a facility established and maintained primarily for the care and treatment of individuals with mental diseases.

**20. Do the current admission criteria for STRTP meet the standard for the need for institutionalization resulting from mental diseases?**

Yes. STRTP criteria for admission requirements are established in [Welfare and Institutions Code section 11462.01\(b\) \(1-3\)](#).

**21. Is an Autism Spectrum Disorder diagnosis considered a mental health diagnosis as it relates to the STRTP IMD determination?**

No. An Autism Spectrum Disorder diagnosis is not considered a mental health diagnosis for the purposes of STRTP IMD assessment. The STRTP medical necessity criteria for admission requirements do not include an Autism Spectrum Disorder diagnosis.

**22. What are the guidelines used to evaluate whether the overall character of a facility is that of an IMD?**

CMS guidelines are referenced in the [CFR guidelines issued in Sections 4390 and 4390.1 of the State Medicaid Manual](#).

Per CMS guidelines, an STRTP or another facility type may be determined to be an IMD based on the overall character of the institution, including its governance, staffing, and patient population. If any of these criteria is met, a thorough IMD assessment will be made.

**23. Would having separate licenses, or not having separate licenses, for each component on a campus be one factor that would prompt an IMD designation?**

The licensure of components is one factor of many in determining whether a component is separate for the purposes of an IMD assessment to determine if commonly owned facilities are actually operating as one facility. A review of all components and the IMD criteria in the CMS guidelines will be required for all STRTPs regardless of how components are licensed.

**24. If an agency operates STRTPs/group homes in California as well as in other states, would the out-of-state facilities be counted toward the agency's total bed capacity in the IMD determination process, or would it only include beds located within California?**

DHCS is assessing only STRTPs located within California. Out of state beds will not be included.

**25. Can you confirm that California has an option for IMD exemption for children's psychiatric facilities and hospitals?**

The Social Security Amendments of 1972 (P.L. 92-603) provided an exception to the IMD exclusion for children under the age of 21, or in certain circumstances under the age of 22. (This exception is commonly referred to as the "Psych Under 21" benefit.) With this exception, states have the option to provide inpatient psychiatric hospital services to children.

Under federal law, inpatient settings providing the optional "Psych under 21" benefit are exempted from the IMD exclusion. However, STRTPs do not meet the federal conditions of participation to operate as an inpatient setting providing the "Psych under 21" benefit.

A psychiatric residential treatment facility (PRTF) would fall under an exception to the IMD exclusion, but that licensing pathway is not yet available in California.

**26. If an STRTP is determined to be an IMD, what will the next steps be?**

DHCS has informed CMS that all STRTP IMD determinations will be completed by December 31, 2022. Any STRTP determined to be an IMD may be excluded from FFP. STRTPs that have been designated as IMDs have the option to comply with CMS IMD guidelines in order not to be subjected to the CMS IMD exclusion rules.

**27. It's common practice for employees to work for different STRTPs. Will this mean they will no longer be able to do that?**

No. Individuals may work for different STRTPs; however, STRTP direct care staff members shall not be counted in more than one staffing ratio during their shift.

**28. How is an IMD funded? And how is an STRTP that has been determined to be an IMD funded?**

IMD is not a state licensure or certification category. Further, IMDs are operationally defined by federal law and refer to various criteria for restricting a facility's eligibility to participate in the Medicaid program. The IMD designation does not refer to or imply a level of care, but rather has restrictive consequences for federal reimbursement. Title 42, Code of Federal Regulations, Section 435.1010, 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."

STRTPs that have been determined to be IMDs have the option to seek funding for their facilities/programs through contractual agreements with respective County Mental Health Plans, Health Maintenance Organizations, commercial insurance or private pay.

**29. Can we separate facilities with multiple components within a common facility or campus so one qualifies as a STRTP and the other facility an IMD with the same Executive Director, Medical Director and Governing Body?**

Generally, an STRTP provider may operate an STRTP with another facility on the same campus. However, an STRTP and co-located facilities that provide treatment to persons with mental illness on a campus setting could be considered an IMD if there are more than 16 beds total. If you provide multiple services on a campus, there are several factors the Department must consider to determine whether a facility is separate (staffing, ownership, location, facility organizational structure and operation). If an IMD determination review indicates that one or more of the components or facilities have intertwined operations and appear to be operating as a single, unified facility, then the bed count of each component would be aggregated, and, if the bed count exceeded a total of 16 beds, the IMD criteria would apply to both facilities.

**30. What role will CCL play in determining possible STRTP's to IMD's?**

DHCS is required by CMS to conduct all STRTP IMD determinations to determine whether they are eligible to claim FFP. To meet that goal, DHCS is collaborating with CDSS as the licensing agency for STRTPs.

**31. Will the STRTP be required to be at a 16 bed capacity or less prior to the assessment?**

No. An STRTP will not be required to be at a 16-bed capacity or less prior to the IMD assessment. However, an STRTP with 16 or fewer beds with no co-located facilities that provide treatment to persons with mental illness, and no nearby facility owned by the same organization, may be considered a separate and independent facility if it meets CMS IMD exclusion rules. If an STRTP has more than 16 beds and is determined to be an IMD, once this determination is made the STRTP will not be eligible to receive any Medicaid funding for services provided, and the youth will not be able to receive Medicaid services outside of the facility.

**32. Does this information apply to unaccompanied minors?**

These assessments apply only to STRTPs. STRTP IMD determination assessments do not impact the programmatic services provide to an unaccompanied minor. STRTP IMD determinations are based on CMS guidelines as they pertain to a facility/program's structure and operation.

**33. Will STRTPs have time to reduce their bed capacity after the assessment is complete?**

An STRTP may reduce bed capacity or make other adjustments to demonstrate that it is an independent STRTP with 16 beds or fewer and avoid being classified as an IMD.

**34. Is bed size the only factor used in an IMD determination?**

No. Although it is important, it is not the only factor used in making an IMD determination. Smaller facilities that share a campus may be determined to be an IMD in the aggregate. [See Sections 4390 and 4390.1 of the State Medicaid Manual for the factors used to make the IMD determination.](#)

**35. Any suggestions on how Licensing Program Analysts determine if an STRTP is providing mental health services?**

An STRTP is licensed by CDSS, and the mental health program is approved by DHCS. W&I Code section 4096.5 requires STRTPs to provide mental health treatment services to children admitted to the program. For questions regarding STRTP mental health programmatic service requirements, please send your inquiries to: [STRTP@dhcs.ca.gov](mailto:STRTP@dhcs.ca.gov).

**36. When will IMDs no longer be eligible for Medi-Cal?**

As soon as DHCS makes an IMD determination, FFP will no longer be available for that STRTP.

**37. In determining whether commonly owned facilities, each of which has 16 beds or fewer, are actually operating as one facility, if the answer to one question indicates independence, is that enough or do you need to indicate independence with more than 1 question? If so, how many responses to the questions need to reflect independence?**

The following criteria, at a minimum, should be used to determine if commonly owned facilities, each of which has 16 beds or fewer, are actually operating as one facility:

1. Are all components controlled by one owner or one governing body?
2. Is one chief medical officer responsible for the medical staff activities in all components?
3. Does one chief executive officer control all administrative activities in all components?
4. Are any of the components separately licensed?
5. Are the components so organizationally and geographically separate that it is not feasible to operate as a single entity?
6. If two or more of the components are participating under the same provider category (such as NFs), can each component meet the conditions of participation independently?

The above six questions, posed in section 4390 of the State Medicaid Manual, should be assessed when determining if commonly owned facilities trigger the IMD



exclusion. If the answer to questions 1-3 is “yes” or 4-6 is “no,” it is likely that the facilities meet the characteristics of an IMD. A final determination of a facility’s IMD status depends on whether an evaluation of the facility establishes that its overall character is that of a facility established and/or maintained primarily for the care and treatment of individuals with mental diseases, including substance use disorders.

**38. How do you evaluate whether the overall character of a facility is that of an IMD:**

The following 5 criteria, at a minimum, should be used to evaluate whether the overall character of a facility is that of an IMD:

1. The facility is licensed as a psychiatric facility.
2. The facility is accredited as a psychiatric facility.
3. The facility is under the jurisdiction of the state’s mental health authority.
4. The facility specializes in providing psychiatric/psychological care and treatment, which may be ascertained through a review of patients’ records, finding that patients are receiving psychopharmacological drugs, and a review of staff training and qualifications.
5. More than 50 percent of all the patients in the facility because of mental diseases, including Substance Use Disorders.

If more than 50 percent of the patients are residing in the facility because of implications of mental health or substance use diagnoses, then the facility may be determined to be an IMD.