



MEDICAID MANAGED CARE FINAL RULE

CMS FINAL RULE UPDATING MANAGED MEDICAID/CHIP REGULATIONS INCLUDES A PROVISION GIVING MCOs FLEXIBILITY ON IMD EXCLUSION.

On May 6, 2016, the Centers for Medicare and Medicaid Services (CMS) issued the long-anticipated [final rule](#) (CMS-2390-F) that updates – for the first time in more than a decade – Medicaid and Children’s Health Insurance Program (CHIP) managed care regulations to better align them with existing commercial, Marketplace, and Medicare Advantage regulations.

Among the provisions included in the final rule is one that gives managed care organizations (MCOs) flexibility to address the Medicaid Institutions for Mental Disease (IMD) exclusion, which currently prevents adult Medicaid beneficiaries (ages 21 to 64) from accessing short-term acute care in psychiatric hospitals.

The IMD provision is based on CMS authority that allows managed care plans (that are under comprehensive risk contracts that receive a monthly capitation payment) to cover services or settings that are an alternative to those covered under the state plan, which are also known as “in lieu of services.” This is the first time that CMS in rulemaking (or in any other official guidance) interpreted the “in lieu of service” authority to allow payments to IMDs. Although a managed care organization (MCO) or a Prepaid Inpatient Health Plan (PIHP) may not require an enrollee to use an “in lieu of” arrangement as a substitute for a state plan covered service or setting, the MCO or PIHP may offer and cover such services or settings as a means of ensuring appropriate care is provided in a cost-efficient manner.

This rule does not cover Medicaid fee-for-service patients.

The final rule allows Medicaid health plans (that are at-risk, capitated plans) to contract with IMDs, including psychiatric hospitals and crisis residential settings (undefined) for up to 15 days per month. It is possible that a patient stay could be more than 15 days depending on when the patient was admitted in a given month. For example, a patient admitted on the 16th day of one month could continue his or her stay and Medicaid would pay into the second month up to 15 days, which would equal a total stay of 29 days.

In interpreting the current Medicaid statute, CMS determined that short-term stays in IMDs could be allowed because this would be a substitute for inpatient stays in psychiatric units in general hospitals (which are not subject to the IMD exclusion). The limit of 15 days was chosen because preliminary data from the current Medicaid Emergency Psychiatric Demonstration showed that average length of stay in IMDs participating in the demonstration was 8.2 days. Also, other sources showed that more than 90% of mental health inpatient stays were 15 days or shorter.

According to the final rule, capitation payments can include projected utilization in IMDs, but the pricing of the capitation rate must be based on the costs of inpatient psychiatric services provided in general hospital psychiatric units. CMS decided on this approach based on their interpretation of the underlying statutory language addressing the Medicaid IMD exclusion.

As outlined in a CMS [summary of implementation dates](#), the IMD provision will be effective 60 days after the May 6 publication of the final rule (that is, effective July 6, 2016).

THE FINAL RULE ALSO ADDRESSES A VARIETY OF OTHER ASPECTS OF MEDICAID MANAGED CARE.

The final rule outlines new standards for managed care provider networks, quality measures, external quality review, and beneficiary rights and protections.

In addition, the final rule imposes new requirements for medical loss ratios for managed care plans, implements best practices identified in existing managed long-term care services and support programs, and requires states to develop a Medicaid managed care quality rating system for health plans.

Additional fact sheets describing all aspects of the final rule are online at <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/delivery-systems/managed-care/managed-care-site.html>.

For questions regarding Medicaid managed care, CMS recommends emailing ManagedCareRule@cms.hhs.gov.

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