



## **PRIORITY ISSUE: MEDICAID INSTITUTIONS FOR MENTAL DISEASE (IMD) EXCLUSION**

**Treatment Communities of America (TCA)** is a nonprofit, member-led professional association representing hundreds of community-based behavioral health treatment providers in the United States and Canada. TCA offers this position statement urging **the full repeal of the Medicaid Institutions for Mental Diseases (IMD) Exclusion** enacted in 1965.

While states struggle to contain the COVID-19 virus, America’s drug epidemic continues to rage across the country with deadly impact. Bereft families and communities are grieving the loss of loved ones and neighbors. Not surprisingly, the demand for addiction treatment and mental health services is increasing daily.

The Centers for Disease Control and Prevention now reports that over 81,230 Americans died of drug overdoses between May 2019 and May 2020 – the highest number ever recorded in a twelve-month period. (Overdose Deaths Accelerating During COVID-19, 12/17/2020)

In the face of the renewed deadly epidemic of drug related deaths, the nation cannot afford to bow to the constraints of a 50-year-old Medicaid provision that severely impedes availability and access to treatment.

### **What is the IMD Exclusion?**

The Institution for Mental Diseases Exclusion (IMD) is a federal financing rule from 1965 that bars federal Medicaid matching dollars for treatment in facilities with more than 16 beds. The 16 or less bed restriction makes economic survival difficult while complying with licensure requirements for addiction treatment including staff/patient ratios, counseling and coverage hours, etc.

In comparison, residential treatment services are generally available as part of the full continuum of treatment for people with private health insurance coverage.

### **Does the IMD Exclusion Impact?**

The IMD Exclusion causes serious gaps in the availability of non-hospital residential addiction treatment services for adolescents, for pregnant addicted women, addicted women with dependent

children, veterans with addictions, homeless addicted individuals and low-level drug offenders sent to treatment as part of sentencing.

Who else does the IMD Exclusion impact? Through the failure to provide needed care, the IMD Exclusion drives up the use of health care, hospitalizations and drug and alcohol-related crime – i.e. – the IMD Exclusion impacts every American.

In fact, the National Institute of Drug Abuse (NIDA) estimates the cost of untreated addiction to the country at over \$600 billion annually and the National Institute of Mental Health (NIMH) estimates the cost of mental illness at \$300 billion a year.

### **What have states been doing with this 16-bed restriction?**

In the past, the Center for Medicare & Medicaid Services (CMS) has permitted states to obtain Medicaid match where treatment is provided in alternative, less expensive settings through Medicaid managed care when they are “in lieu of or in place of more expensive covered services”. However, rules put in place in 2017, severely limit access to this much needed help.

Under the 2017 Federal rules, states can draw severely limited federal Medicaid matching dollars for either 15 days a month or an average of 30 days through a temporary 1115 Demonstration Waiver. Neither option provides sufficient addiction treatment for deteriorated patients who need residential care. In fact, according to NIDA, meaningful residential lengths of stay of 90 days or longer, remain the only treatment method backed by solid evidence.

**TCA does not support waivers** as the long-term solution to the barriers created by the IMD Exclusion. Waivers are time-limited and state-specific and will limit the long-term effectiveness of community-based providers to address the overall problem of addiction. **TCA urges the full repeal of the IMD Exclusion for substance use disorder through an executive action or a full repeal by Congressional action.**

**It is time to eliminate the IMD barrier to addiction treatment.**

### **Who supports elimination of this barrier to addiction treatment?**

Understanding of the IMD barrier to treatment has grown over the last several Congressional sessions. During this time, hundreds of organizations, associations and individuals across the country have identified the elimination of the IMD as a priority including: state and national drug and alcohol abuse prevention and addiction treatment organizations, behavioral health managed care firms, insurers, many Governors, U.S. Senators, members of the U.S. House of Representatives, Attorneys General, some State Legislatures, County Commissioners, Medicaid Directors, etc.

In April of 2020, the U.S. Government Accountability Office issued a publication titled “*Medicaid State Views on Program Administration Challenges*”. According to the GAO, **Medicaid**

**officials from 47 states** identified the IMD Exclusion as a barrier to provision of proper addiction and mental health treatment.

With opioid overdose deaths at historic highs, eliminating the IMD Exclusion would immediately expand access to residential beds for people in need of SUD treatment and create much-needed capacity in an SUD treatment system where accessing care is far too difficult, especially for people of limited means. It is critical that the 118<sup>th</sup> Congress pass legislation to eliminate the archaic Medicaid IMD Exclusion.



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