



# Funding for Services in Institutions for Mental Diseases

Engrossed Substitute House Bill 1109; Section 215(39); Chapter 415; Laws of  
2019

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Health Care Authority

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# Executive Summary

The 2019-21 Operating Budget directed the Health Care Authority (HCA) to determine whether there was a gap in fiscal year (FY) 2020 behavioral health entity funding for services in institutions for mental diseases. HCA must submit a report to the office of financial manager (OFM) and the appropriate committees of the legislature by November 1, 2019.

The budget further directed that the report must be developed in consultation with OFM and staff from the fiscal committees of the legislature, and must include the following elements:

- a) The increase in the number of non-Medicaid bed days in institutions for mental diseases from FY2018 to FY2019 by facility and the estimated annual cost associated with these increased bed days in FY2020;
- b) The increase in the number of Medicaid bed days in institutions of mental diseases (IMDs) from FY2017 to FY2019 by facility and the estimated annual cost associated with these increase bed days in FY2020;
- c) The amount of funding assumed in current behavioral health entity Medicaid capitation rates for institutions for mental diseases bed days that are currently allowable under Medicaid regulation of waivers;
- d) The amounts provided in subsection (29) of this section to assist with costs in institutions for mental diseases not covered in Medicaid capitation rates; and
- e) Any remaining gap in behavioral health entity funding for institutions for mental diseases for Medicaid or non-Medicaid clients.

## Background

Since the Social Security Act's passage in 1965, the "IMD exclusion" has barred use of federal financial participation (FFP) medical assistance under title XIX for services provided to individuals under age 65 residing in an IMD. In 1972 an exception to the exclusion was passed, allowing FFP for inpatient psychiatric services for individuals under age 21. The IMD exclusion was intended to ensure that states pay for long-term inpatient psychiatric services in institutions such as state hospitals. Under the exclusion, no Medicaid payment can be made for services provided either in or outside the facility when a person between the ages of 21-65 resides in an IMD.

42 CFR §435.1010 defines an IMD as:

*Institution for mental diseases means 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. An institution for Individuals with Intellectual Disabilities is not an institution for mental diseases.*

While the IMD exclusion strictly limits use of FFP for Medicaid fee-for-service payments, Medicaid managed care plans were allowed to purchase services at IMDs as an “in lieu of” service for stays of 30 days up until CMS revised 42 CFR §438.6e in May of 2016. Once contracts active at the time of the rule change expired, Medicaid managed care entities could only purchase up to 15 days of IMD services in a calendar month in lieu of non-IMD inpatient psychiatric services. However, if a patient requires more than 15 days of such care, the individual must be dis-enrolled and the capitation payment recouped from the plan. The 15 calendar day limit has resulted in cumbersome processes to reconcile claims and plan capitation payments.

Washington State currently has 543 staffed inpatient mental health beds in eleven facilities that meet the definition of an IMD. Because the 2016 Managed Care Final Rule prohibits use of FFP in these facilities when the stay lasts longer than 15 days in a calendar month, the state and the managed care entities it contracts with must use limited state dollars to pay for treatment of excluded services. Use of state dollars to pay for services in IMD settings reduces the ability to focus state funding on other vital services.

## Proviso Language

*The authority must conduct an analysis to determine whether there is a gap in fiscal year 2020 behavioral health entity funding for services in institutions for mental diseases and submit a report to the office of financial management and the appropriate committees of the legislature by November 1, 2019. The report must be developed in consultation with the office of financial management and staff from the fiscal committees of the legislature and must include the following elements: (a) The increase in the number of nonmedicaid bed days in institutions for mental diseases from fiscal year 2017 to fiscal year 2019 by facility and the estimated annual cost associated with these increased bed days in FY 2020; (b) the increase in the number of Medicaid bed days in institutions for mental diseases from fiscal year 2017 to fiscal year 2019 by facility and the estimated 17 annual cost associated with these increased bed days in FY 2020; (c) 18 the amount of funding assumed in current behavioral health entity Medicaid capitation rates for institutions for mental diseases bed days that are currently allowable under Medicaid regulation or waivers; (d) the amounts provided in subsection (29) of this section to assist with costs in institutions for mental diseases not covered in Medicaid capitation rates; and (e) any remaining gap in behavioral health entity funding for institutions for mental diseases for Medicaid or non-Medicaid clients.*



# Analysis

In the fall of 2019, HCA collaborated with the contracted actuaries at Mercer and Milliman to evaluate the potential gap in behavioral health funding for services in IMDs.

For the purposes of this analysis, the existing rate development data sets were used. These datasets are calendar years as opposed to state fiscal years as the proviso requested.

CY2017 data was compared to CY2018 data. The results of the analysis included trend adjustments to convert the results into a reasonable projection for CY2020. The draft information was shared with OFM and Legislative fiscal committee staff, and their input was incorporated into the final version of the analysis. The final projected impacts were converted into state fiscal years and compared to the existing budget amounts. The second fiscal year was adjusted to assume the MH IMD waiver would be approved by CMS by July 2020 (SFY 2021). The table below provides additional details about projected CY2020 IMD funding needs.

**Table 1 – Projected CY2020 IMD funding needs**

<b>CY2020 IMD Funding Estimate</b>			
	<b>Actual \$s</b>		<b>\$s in Thousands</b>
IP / E&T	\$	33,470,011	\$ 33,470
Residential	\$	7,718,485	\$ 7,718
Non IMD Unallowable	\$	2,448,620	\$ 2,449
Total Need	\$	43,637,116	\$ 43,637



Based on information from Mercer and Milliman, HCA estimates a total need of approximately \$29.2M GFS in FY2020. The underlying 2019-21 Operating Budget provided approximately \$24.8M to cover these costs. This yields a gap in funding of \$4.5M GFS in FY2020. For FY2021, HCA estimates a total need of approximately \$35.9M (\$12.4M GFS and \$23.5M GFF). The underlying 2019-21 Operating Budget provided approximately \$24.8M (\$8.6M GFS and \$16.2M GFF) to cover these costs. This yields a gap of approximately \$11.1M (\$3.8M GFS and \$7.3M GFF). The table below describes this information in further detail.

**Table 2 – Estimated funding gaps for FY2020-21**

	FY2020 (1)			FY2021 (3)		
	GFS	Medicaid	Total	GFS	Medicaid	Total
Unallowable BH Exp	\$ 29,287.50	\$ -	\$ 29,288	\$ 35,919	\$ -	\$ 35,919
<b>Subtotal</b>	<b>\$ 29,287.50</b>	<b>\$ -</b>	<b>\$ 29,288</b>	<b>\$ 35,919</b>	<b>\$ -</b>	<b>\$ 35,919</b>
Conversion to rates	\$ -	\$ -	\$ -	\$ 12,419	\$ 23,500	\$ 35,919
Unallowable BH Exp RTF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total IMD</b>	<b>\$ 29,288</b>	<b>\$ -</b>	<b>\$ 29,288</b>	<b>\$ 12,419</b>	<b>\$ 23,500</b>	<b>\$ 35,919</b>
<i>Current Funding (2)</i>	\$ 24,819	\$ -	\$ 24,819	\$ 8,581	\$ 16,238	\$ 24,819
<b>BH IMD Funding gap</b>	<b>\$ 4,469</b>	<b>\$ -</b>	<b>\$ 4,469</b>	<b>\$ 3,838</b>	<b>\$ 7,262</b>	<b>\$ 11,100</b>

(1) Includes 6 months of CY 19 expenditures based on budget assumptions and 6 months of CY 20 expenditures based on updated Mercer and Milliman analysis.  
(2) Includes funding for both residential and unallowable IP/E&T expenditures. Residential costs will remain unallowable regardless of waiver approval.  
(3) Based on CY 20 expenditures from updated Mercer and Milliman analysis.  
(4) FY 21 amounts assume CMS approval of MH IMD Waiver.

**Table 3 - Unallowable services reported by Behavioral Health Organizations for SFY2018**

	Great Rivers REPORTED	Greater Columbia REPORTED	King REPORTED	North Central REPORTED	North Sound REPORTED	Optum REPORTED	Salish REPORTED	Spokane REPORTED	Thurston Mason REPORTED	Southwest FIMC REPORTED	REPORTED Totals
Unallowable Services for Clients served in an IMD	2,181,160	113,546	3,663,820	-	430,612	1,988,206	39,498	-	-	-	8,416,842



## Conclusion

Individuals experiencing serious mental illness often require higher levels of care. HCA is in the process of applying for the IMD waiver which allows FFP for stays of greater than 15 days.

The analysis above indicates a gap of approximately \$11.1M (\$3.8M GFS and \$7.3M GFF). Table 2 in this report describes this information in further detail.

Washington State remains committed to funding mental health, substance use, and crisis services - as demonstrated by recent budget increases outlined in the Governor's plan and enacted by the legislature. Approval of the IMD waiver may allow the state to continue to use state funds to maintain and expand this continuum of care. The expectation is that the waiver will be in effect on July 1, 2020. Waiver approval will provide additional federal funding for vital inpatient services for those individuals experiencing behavioral health challenges.

