



FFPSA and the IMD Issue

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The IMD Exclusion

Federal Center for Medicaid Services (CMS) does not allow “institutions for mental disease” (IMDs) to receive Medicaid funding for most institutional care for individuals under age 65

IMDs are defined as any “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”



Impact on QRTPs

Since QRTPs (a new federal definition under FFPSA) are required to have 24/7 nursing staff and are only allowed to serve children and youth with “*serious emotional or behavioral disorders or disturbances*” many QRTPs will likely be classified as IMDs by CMS

If QRTPs are considered IMDs, children and youth would not be eligible for Medicaid reimbursement for their medical and mental health treatment while residing in these placements – which would seriously jeopardize their care



The Solution



For children and youth under age 21, current law provides that the follow programs are exempt from the IMD exclusion:

- A psychiatric inpatient hospital
- A psychiatric program or unit within a general hospital
- A Psychiatric Residential Treatment Facility (PRTF)

Congress can resolve this issue by adding “a Qualified Residential Treatment Facility (QRTP)” to the list of programs exempted from IMD classification.

What States Are Doing

A number of states are declining to implement QRTPs and funding programs with state-only dollars (*note that this does not necessarily protect children's residential treatment programs in these states from IMD classification since this process is a separate determination than QRTP*)

Texas is piloting QRTP implementation with just a few agencies while it awaits a legislative resolution to the QRTP/IMD issue

West Virginia is classifying all its residential programs as serving vulnerable youth "at risk of sex trafficking" to exempt them from QRTP requirements (*note that this approach may not be allowed by ACF and also does not necessarily protect programs from IMD classification*)

Colorado and Nebraska have taken state action to limit all QRTPs in their states to 16 beds to avoid IMD classification (*note that this will significantly reduce bed capacity in these states*)

Florida is attempted to separately license cottages/homes of 12 or fewer beds on the same campus and/or under the same management (*note that this may not be allowed by CMS*)

Oklahoma included an exemption for QRTPs from IMD classification in its 1115 Medicaid waiver (*note that the waiver route has limitations including a 30-day limit in some states*)

Providers Are Already Taking Action

In lieu of a federal resolution to the IMD, many direct service providers are already modifying their programs to avoid IMD classification. These approaches include:

- Reducing capacity to 16 beds
- Carving up their campuses and dedicating space to other populations including children with commercial insurance (non-foster care or “community” placements) and/or unaccompanied minors

Most county and state child welfare systems already lack sufficient residential treatment capacity, so as providers reduce QRTP capacity there will be fewer and fewer beds available

Potential Impact

Insufficient capacity within the child welfare system to support children and youth with acute behavioral health challenges will have spillover effects:

- More instability in family-based placements/resource families
- Risk of increased reliance on higher-level inpatient psychiatric services/hospitalization
- Risk of increased youth interaction with juvenile and criminal justice systems
- Risk of increased youth homelessness

