

**Service Chapter:** Medicaid 510-03 and 510-05

**Effective Date:** May 3, 2024

## **Overview**

Removing Teen Challenge from one section and updating to another section.

## **Description of Changes**

### **1. Coverage for Inmates Residing in Corrections-related Supervised Community Residential Facilities 510-03-35-95-10 - Change**

Removing references to Teen Challenge

### **2. Institutions for Mental Disease (IMD) 510-03-35-97 - Clarification**

Clarifying which individuals residing in Teen Challenge would be considered residing in an IMD

### **3. Coverage for Inmates Residing in Corrections-related Supervised Community Residential Facilities 510-05-35-95] - Change**

Removing references to Teen Challenge

### **4. Institutions for Mental Disease (IMD) 510-05-35-97 - Clarification**

Clarifying which individuals residing in Teen Challenge would be considered residing in an IMD

## **Policy Section Updates**

### **1. Coverage for Inmates Residing in Corrections-related Supervised Community Residential Facilities 510-03-35-95-10**

Inmates of public institutions, who are held **involuntarily**, are not eligible for Medicaid coverage with the exception of Medicaid coverage for inmates who receive care as an inpatient in a hospital, nursing facility (nursing home), Psychiatric Residential Treatment Facility (PRTF) or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID). Recently, the Centers for Medicare and Medicaid Services (CMS) issued guidance to states on facilitating access to all covered Medicaid services for inmates, in certain circumstances, **after** a stay in a public institution, who are residing in corrections-related supervised community residential facilities.

**Note:** Different than coverage for Inmates Receiving Inpatient Services, this coverage is available for inmates who were inmates in a Tribal jail and residing in one of the corrections-related supervised community residential facilities, provided all criteria below are met.

Inmates residing in state or local corrections-related supervised community residential facilities (whether operated by a governmental entity or a private entity) are eligible for Medicaid unless the inmate does not have the freedom of movement and association while residing at the facility. To meet this requirement, the facility must operate in such a way as to ensure that individuals living there have freedom of movement and association, and the resident:

1. MUST be able to work outside the facility in employment available to individuals who are not under justice system supervision;
2. MUST be able to use community resources (libraries, grocery stores, recreation, education, etc.) “at will”; and
3. MUST be able to seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state.

For this purpose, “at will” includes and is consistent with requirements related to operational “house rules” where, for example the residence may be closed or locked during certain hours or where residents are required to report during certain times and sign in and out. Similarly, an individual’s supervisory requirements may restrict traveling to or frequenting certain locations that may be associated with high criminal activity.

Currently, we have the following corrections-related supervised community residential facilities that house inmates.

- Bismarck Transition Center
- Centre Inc. in Mandan
- Centre Inc. in Fargo
- Centre Inc. in Grand Forks
- ~~Teen Challenge in Mandan~~
- Lake Region Residential Reentry Center

**Note:** These facilities also house individuals who are on parole and probation. Individuals on probation or parole are not considered inmates.

Based on this guidance, and in discussion with staff at the Department of Corrections and Rehabilitation, inmates residing in these facilities meet the criteria listed in #1 through #3 above and may be eligible for Medicaid **if all other factors of eligibility are met.**

Federal inmates residing in “Residential Reentry Centers” are not eligible for Medicaid coverage under this provision as the Department of Justice (DOJ) and/or Bureau of Prisons (BOP) retains responsibility for payment of health care services rendered to individuals in Residential Re-entry Centers (RRCs).

If an inmate was incarcerated by another state and was sent to North Dakota for any reason, including the other state not having capacity to house the individual, the other state remains the state of residence. The inmate would retain residency for purposes of Medicaid eligibility in the other state and eligibility in North Dakota would be denied for ‘Not a Resident’.

Likewise, if an inmate was incarcerated by North Dakota and was sent to another State for any reason, including North Dakota not having capacity to house the individual, North Dakota remains the state of residence. The inmate would retain residency for purposes of Medicaid eligibility in North Dakota. When determining the Medicaid Unit for this individual under ACA, the household of the individual is determined based on their tax filing status. While the individual is considered NOT residing in the home, this may result in a spouse or child(ren) needing to be included in the ACA case.

Many of these individuals are allowed to work in the community. This income must be considered when determining eligibility.

Processing for these individuals can be found in the Processing Appendix at 510-03.

## 2. Institutions for Mental Disease (IMD) 510-03-35-97

An individual under age 65 who is a "patient" in an IMD is not eligible for Medicaid, except as identified in subdivision d, unless the individual is under age 21 and is receiving inpatient psychiatric services and meets the certificate of need for admission. An individual who attains age 21 while receiving treatment, and who continues to receive treatment as an inpatient, may continue to be eligible through the month the individual attains the age of 22.

- a. An IMD is 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. A facility with 16 beds or less is not an IMD. Whether an institution is an IMD is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of mental diseases. An intermediate care facility for individuals with intellectual disabilities (ICF-IID) is not an IMD.

IMDs include the North Dakota State Hospital, and facilities determined to be a Psychiatric Residential Treatment Facility (PRTF) by the Medical Services Division. ~~For any other facility, contact the Medical Services Division for a determination of whether the facility is an IMD.~~

For a current listing of IMDs in North Dakota use this link:

[5-24-imd-facility-list.pdf \(nd.gov\)](#)

**Note: Teen Challenge in Mandan: Only the men's program is considered an IMD.**

- b. An individual on conditional release or convalescent leave from an IMD is not considered to be a "patient" in that institution. However, such an individual who is under age 21 and has been receiving inpatient psychiatric services is considered to be a "patient" in the institution until unconditionally released or, if earlier, the last day of the month in which the individual reaches age 22.
- c. An individual on conditional release is an individual who is away from the institution, for trial placement in another setting or for other approved leave, but who is not discharged. An individual on "definite leave" from the state hospital is an individual on conditional release.
- d. A child under the age of 19 who is determined to be continuously eligible for Medicaid, but who does not meet the certificate of need, remains eligible for Medicaid, however, no medical services will be covered during the stay in the IMD.

The period of ineligibility under this section begins the day after the day of entry and ends the day before the day of discharge of the individual from a public institution or IMD. A Ten-Day Advance Notice is not needed when terminating benefits due to entry into the public institution or IMD. See Paragraph (4)(c)(iii) of 510-03-25-25, "Decision and Notice," for further information.

### **3. Coverage for Inmates Residing in Corrections-related Supervised Community Residential Facilities 510-05-35-95-10**

Inmates of public institutions, who are held involuntarily, are not eligible for Medicaid coverage with the exception of Medicaid coverage for inmates who receive care as an inpatient in a hospital, nursing facility (nursing home), Psychiatric Residential Treatment Facility (PRTF) or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-ID). Recently, the Centers for Medicare and Medicaid Services (CMS) issued guidance to states on facilitating access to all covered Medicaid services for inmates, in certain circumstances, after a stay in a public institution, who are residing in corrections-related supervised community residential facilities.

Note: Different than coverage for Inmates Receiving Inpatient Services, this coverage is available for inmates who were inmates in a Tribal jail and are residing in one of the corrections-related supervised community residential facilities, provided all criteria below are met.

Inmates residing in state or local corrections-related supervised community residential facilities (whether operated by a governmental entity or a private entity) are eligible for Medicaid unless the inmate does not have the freedom of movement and association while residing at the facility. To meet this requirement, the facility must operate in such a way as to ensure that individuals living there have freedom of movement and association, and the resident:

1. MUST be able to work outside the facility in employment available to individuals who are not under justice system supervision;
2. MUST be able to use community resources (libraries, grocery stores, recreation, education, etc.) "at will"; and
3. MUST be able to seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state.

For this purpose, "at will" includes and is consistent with requirements related to operational "house rules" where, for example the residence may be closed or locked during certain hours or where residents are required to report during certain times and sign in and out. Similarly, an individual's supervisory requirements may restrict traveling to or frequenting certain locations that may be associated with high criminal activity.

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**Note:** These facilities also house individuals who are on parole and probation. Individuals on probation or parole are not considered inmates.

Based on this CMS guidance, and in discussion with staff at the Department of Corrections and Rehabilitation, inmates residing in these facilities meet the criteria listed in #1 through #3 above and may be eligible for Medicaid **if all other factors of eligibility are met.**

Federal inmates residing in “Residential Reentry Centers” are not eligible for Medicaid coverage under this provision as the Department of Justice (DOJ) and/or Bureau of Prisons (BOP) retains responsibility for payment of health care services rendered to individuals in Residential Re-entry Centers (RRCs).

If an inmate was incarcerated by another state and was sent to North Dakota for any reason, including the other state not having capacity to house the individual, the other state remains the state of residence. The inmate would retain residency for purposes of Medicaid eligibility in the other state and eligibility in North Dakota would be denied for ‘Not a Resident’.

Likewise, if an inmate was incarcerated by North Dakota and was sent to another State for any reason, including North Dakota not having capacity to house the individual, North Dakota remains the state of residence. The inmate would retain residency for purposes of Medicaid eligibility in North Dakota. When determining the Medicaid Unit for this individual under ACA, the Medicaid Unit of the individual is determined based on their tax filing status. While the individual is considered NOT residing in the home, this may result in a spouse or child(ren) needing to be included in the ACA case.

Many of these individuals are allowed to work in the community. This income must be considered when determining eligibility.

Processing for these individuals can be found in the Processing Appendix at 510-05-110.

#### 4. Institutions for Mental Disease (IMD) 510-05-35-97

An individual under age 65 who is a "patient" in an IMD is not eligible for Medicaid, except as identified in subdivision d and e, unless the individual is under age 21 and is receiving inpatient psychiatric services and meets the certificate of need for admission. An individual who attains age 21 while receiving treatment, and who continues to receive treatment as an inpatient, may continue to be eligible through the month the individual attains the age of 22.

An IMD is 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. A facility with 16 beds or less is not an IMD. Whether an institution is an IMD is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of mental diseases. An intermediate care facility for individuals with intellectual disabilities (ICF-ID) is not an IMD.

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- c. An individual on conditional release is an individual who is away from the institution, for trial placement in another setting or for other approved leave, but who is not discharged. An individual on "definite leave" from the state hospital is an individual on conditional release.
- d. A child under the age of 21 who is determined to be continuously eligible for Medicaid, but who does not meet the certificate of need, remains eligible for Medicaid, however, no medical services will be covered during the stay in the IMD.

- e. Individuals eligible under the PACE program will remain eligible for Medicaid regardless of their age.

The period of ineligibility under this section begins the day after the day of entry and ends the day before the day of discharge of the individual from an IMD. A Ten-Day Advance Notice is not needed when terminating benefits due to entry into the IMD. See Paragraph (4)(c)(iii) of 510-03-25-25, "Decision and Notice," for further information.