

## North Dakota Medicaid Policy for Institutions for Mental Diseases (IMD)

### **Definitions**

**IMD exclusion** – The IMD exclusion is in §1905(a) of the Social Security Act in paragraph (B) following the list of Medicaid services. This paragraph states that federal financial participation is not available for any medical assistance under title XIX for services provided to any individual who is under age 65 and who is a patient in an IMD unless the payment is for inpatient psychiatric services for individuals under age 21. This exclusion was designed to assure that states, rather than the federal government, continue to have principal responsibility for funding inpatient psychiatric services. Under this broad exclusion, no Medicaid payment can be made for services provided either in or outside the facility for IMD patients in this age group.

**IMD definition** – 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. This definition is in §1905(i) of the Social Security Act and in 42 CFR 435.1009. The regulations also indicate that an institution is an IMD if its overall character is that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases.

Facilities with fewer than 17 beds that specialize in treating persons with mental disorders can provide the types of services discussed if they meet the regulatory requirements to provide these institutional benefits, but these facilities are not technically IMDs. Because IMDs are defined to be institutions with more than 16 beds, the IMD exclusion applies only to institutions with at least 17 beds.

Beds include mattresses, regardless of if they are on a bed frame or not, as well as bed frames without a mattress. All beds are counted, regardless of if they are occupied or not. This includes portable/inflatable beds, couches and beds that can be constructed and deconstructed such as bunk beds.

**Mental diseases definition** – diseases listed as mental disorders in the International Classification of Diseases (ICD), with the exception of intellectual disability, senility and organic brain syndrome. Substance use disorders are considered a mental disease.

### **Purpose**

The purpose of this policy is to provide a framework for North Dakota Medicaid, its providers and members to understand what constitutes an IMD, how facilities are determined to be an IMD and other related guidance.

### **Step 1: Determine Whether a Facility is an IMD**

The following criteria are used to evaluate whether the overall character of a facility is that of an IMD. If any of these criteria are met, the facility may be an IMD. These criteria will be

ascertained upon provider enrollment with North Dakota Medicaid and periodically throughout the course of a provider's enrollment.

1. The facility is licensed as a psychiatric facility;
2. The facility is accredited as a psychiatric facility;
3. The facility is under the jurisdiction of the State's mental health authority. (This criterion does not apply to facilities under mental health authority that are not providing services to mentally ill persons.);
4. The facility specializes in providing psychiatric/psychological care and treatment. This may be ascertained through review of patients' records. It may also be indicated by the fact that an unusually large proportion of the staff has specialized psychiatric/psychological training or that a large proportion of the patients are receiving psychopharmacological drugs; and
5. The current need for institutionalization for more than 50 percent\* of all the patients in the facility results from mental diseases.

\*In applying the 50 percent guideline, determine whether each patient's current need for institutionalization results from a mental disease. It is not necessary to determine whether any mental health care is being provided in applying this guideline.

If the facility has only one location, the determination can be made in step 1. If the facility has more than one location, move to step 2.

If North Dakota Medicaid determines in step 1 that the facility is not an IMD, the review process stops.

If North Dakota Medicaid determines in step 1 that the facility is an IMD, it will work with the facility to determine next steps.

### **Step 2: Guidelines for Agencies with Multiple Facility Locations**

The following questions are used to evaluate whether the multiple locations are operating as a single, unified facility. North Dakota Medicaid may use other guidelines that it determines relevant in a specific situation. These criteria will be ascertained upon provider enrollment with North Dakota Medicaid and periodically throughout the course of a provider's enrollment.

- Are both facilities controlled by one owner or governing body?
- Is one chief medical officer responsible for the medical staff activities in both facilities?
- Is there a shared administrative oversight (e.g., does the same person(s) control the hiring, firing and scheduling of staff and activities at both facilities)?
- Do the facilities use the same clinical or unlicensed staff?
- Is it expected at time of hiring that a staff member might work at either facility, or does each facility maintain a separate staff?
- Do residents at one facility utilize services from the other facility (e.g., residents at facility A attend counseling sessions at facility B)?
- Do the facilities share operational components (e.g., do they use the same groundskeepers, laundry service, food services, etc.)?
- Are the facilities separately licensed?

If it is determined that overall, the facilities are operating as a single, unified facility, the beds at each facility will be added together. If the total number of beds is greater than 16, North Dakota Medicaid will consider the facilities to fall under the IMD exclusion.

If it is determined that overall, the facilities do not operate as a single, unified facility, the beds at each facility will be counted separately for each location. If the total number of beds at any single location is greater than 16, North Dakota Medicaid will consider the facility to fall under the IMD exclusion.

### **Step 3: Periodic Information Gathering from Facilities that Provide Services to Individuals with Mental Diseases**

Upon facility licensing conducted by the Department of Human Services' Behavioral Health Division for SUD treatment facilities, a review of facility locations and bed counts will take place. North Dakota Medicaid will also communicate regularly with the North Dakota Department of Health, Health Facilities Division, to determine if any changes to hospitals or nursing homes have taken place that should be considered in the context of IMD.

#### **ADDENDUM – Questions and Answers**

- 1. If a facility has beds that are used to accommodate children of individuals who are being treated, do those beds count towards the overall bed count?**  
No. Beds that are not licensed or used as treatment beds do not need to be counted.
- 2. If an individual who is currently receiving inpatient or residential services at an IMD and needs other medical services outside of the IMD, does Medicaid cover those services?**  
No. The IMD exclusion applies not only to IMD services but to all Medicaid services.
- 3. Can an IMD receive reimbursement for outpatient services provided to Medicaid members?**  
Yes, if the member is not staying at the IMD.
- 4. Can a Medicaid member who is receiving outpatient services at the IMD stay onsite at the IMD if the member pays for their own room and board?**  
No. If a Medicaid member is staying onsite at the IMD, no Medicaid services may be reimbursed on behalf of that member.
- 5. If an individual is on a conditional release or leave from an IMD, are they considered to be a patient of the IMD?**  
No. If the period of absence relates to the course of treatment for the individual's mental disorder, the individual is not considered to be a patient. If a patient is sent home for a trial visit, this is convalescent leave. If a patient is released from the institution on the condition that the patient receive outpatient treatment or on other comparable conditions, the patient is on conditional release.

If an emergency or other need to obtain medical treatment arises during the course of convalescent leave or conditional release, these services may be covered under Medicaid because the individual is not considered to be an IMD patient during these periods. If a

patient is temporarily transferred from an IMD for the purpose of obtaining medical treatment, however, this is not considered a conditional release, and the patient is still considered an IMD patient.

**6. Can an IMD provide Medicaid-reimbursable services to individuals age 65 and over?**

Yes, because the IMD exclusion does not apply to individuals ages 65 and older.

**7. Are psychiatric residential treatment facilities (PRTFs) considered IMDs?**

Yes, if the facility meets the criteria to be classified as an IMD. However, Medicaid payment is available for inpatient psychiatric services as well as other Medicaid-covered services for individuals under age 21, because individuals under the age of 21 are not included in the IMD exclusion.

**8. Are qualified residential treatment programs (QRTPs) considered IMDs?**

Yes, if the facility meets the criteria to be classified as an IMD.

**Please note, these answers are subject to change and practices will need to be modified if future federal/state guidance alters the answers provided.**

Questions about this policy should be sent to [dhsmedicalservices@nd.gov](mailto:dhsmedicalservices@nd.gov).