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Long Time Behavioral Health IMD Exclusion Provisions are Lifted

Dateline: November 29, 2018

Included in the North Carolina 1115 Medicaid waiver that was just approved by the federal Centers for Medicare and Medicaid Services (CMS) was a waiver request on the Institution for Mental Diseases (IMD) exclusion that applies to substance use disorder facilities with 16 or more beds. This waiver will allow Medicaid funds to be used to pay for treatment of Medicaid beneficiaries who are admitted to these substance use disorder facilities. In a recent webinar handout, DHHS approximated the time of implementation for the SUD waiver in January 2019.

In addition, the US HHS Secretary sent a letter to State Medicaid Directors stating that the IMD exclusion for inpatient psychiatric facilities could be waived by individual states. North Carolina already takes advantage of an allowance in the federal regulation, 42 CFR 438, to have a 15-day exception for mental health services provided in an acute or subacute setting. NC DHHS is currently exploring the impact of the new option presented by CMS.

The IMD exclusion was written into the Social Security Act when Medicaid was created in 1965 and was established to ensure that states, rather than the federal government, would have primary responsibility for funding inpatient psychiatric and substance use disorder services. The inference in this explanation is that the federal government did not want individuals to be “warehoused” in inappropriate and higher level treatment settings. Coincidental to the North Carolina 1115 Medicaid waiver approval, the U.S. Congress just passed the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act. The shortened name is the SUPPORT for Patients and Communities Act. Title XI of the new law temporarily allows states to apply to

receive Medicaid for services provided in IMDs for Medicaid beneficiaries aged 21 to 64 with opioid-use or cocaine-use disorders. These services may be covered for a total of up to 30 days within a one year period for each Medicaid beneficiary (See more about the SUPPORT Act in the link below). North Carolina has a much broader approval by using the 1115 Medicaid waiver as one means of funding these SUD services.

Waiving the IMD exclusion is one facet of the Medicaid Transformation that provides more flexibility within the Medicaid program and increases access to treatment services.

SUPPORT Act: <https://www.congress.gov/bill/115th-congress/house-bill/6>