

Arizona Section 1115 Waiver Amendment Request Institution for Mental Disease (IMD)

I. SUMMARY

The Arizona Health Care Cost Containment System (AHCCCS) is requesting an amendment to the 1115 Research and Demonstration Waiver to seek expenditure authority to claim as medical assistance of cost of services provided to all Medicaid beneficiaries ages 21-64 who receive inpatient services in an Institution for Mental Disease (IMD), regardless of delivery system, as a mechanism to increase access to residential treatment services across the State. In addition, the State is seeking expenditure authority, notwithstanding the IMD limitations in 42 CFR 438.6(e), for capitation payments to managed care entities under contracts that permit those entities to provide enrollees aged 21-64 inpatient services in an IMD regardless of the length of stay so long as the contract complies with the requirements for services in lieu of State plan services under 42 CFR 438.3(e) including the requirement in 42 CFR 438.3(e) that the actual cost of the in lieu of service are taken into account in determination capitation rates. The objective of this waiver is to maintain managed care enrollee access and enhance fee-for-service beneficiary access to behavioral health services in appropriate settings and assure that individuals receive care in the facility most appropriate to their needs. Specifically, the waiver of the IMD exclusion would allow psychiatric facilities (i.e. hospitals, nursing facilities, or other institutions of more than 16 beds that are primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services) to be able to provide reimbursable services to all AHCCCS members, including managed care members and members who participate in the American Indian Health Program, a fee for service program. This would enable Arizona to offer equal access to care in IMDs for all Medicaid enrollees.

The State requests that expenditures related to providing services in an IMD be regarded as expenditures under the State's Medicaid Title XIX State Plan.

II. OVERVIEW

Prior to July 5, 2016, the effective date of CMS's new managed care regulation, Arizona's contracts with Managed Care Organizations (MCOs) permitted the MCO to provide inpatient services in IMDs regardless of the length of stay in lieu of providing those services in facilities that were not IMDs based on the State's actuarial certification that use of IMDs was a cost-effective alternative to State Plan.

CMS's regulation (Federal Rule 42 C.F.R. 438.6(e) as amended) prohibits federal funding to MCOs when members aged 21-64 are in IMDs for more than 15 days during a calendar month.

Specifically, the rule prohibits AHCCCS from claiming federal financial participation for a monthly payment made by AHCCCS to the member's Managed Care Organization responsible for all care of the member when the member's stay in the IMD is longer than 15 days during the month.

An IMD is defined in federal statute as 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. CMS has published sub-regulatory guidance in the State Medicaid Manual that adds specificity on whether the overall character of a facility is that of an IMD. The manual interprets an institution for mental diseases to include any institution that by its overall character is a facility that is established and maintained primarily for the care and treatment of individuals with mental diseases even if it is not licensed as an IMD. The manual states to the extent any of the following guidelines are met, a thorough IMD assessment must be made:

- The facility is licensed or accredited as psychiatric facility
- 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.)
- 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 is receiving psychopharmacological drugs.
- The current need for institutionalization for more than 50% of all the patients in the facility results from mental diseases.

AHCCCS considers the following provider types to be IMDs at this time based on the federal regulation:

- B1-RESIDENTIAL TREATMENT CTR-SECURE (17+BEDS)
- B3-RESIDENTIAL TREATMENT CENTER-NON-SECURE
- B6-SUBACUTE FACILITY (17+BEDS)
- 71-PSYCHIATRIC HOSPITAL

III. PUBLIC PROCESS

Pursuant to the Special Terms and Conditions (STC) that govern Arizona’s 1115 Waiver, Arizona must provide documentation of its compliance with Demonstration of Public Notice process (42 CFR §431.408), as well as document that the tribal consultation requirements outlined in STC 15 have been met.

The amendment request was posted on the AHCCCS website for public comment and can be found here: <https://azahcccs.gov/Resources/Federal/PendingWaivers/imdwaiveramendment.html>

A public notice of the waiver amendment was posted in the Arizona Republic, the newspaper of widest circulation in Arizona allowing for over a 30 day comment period. The notice included a brief summary of the waiver request, the locations, dates and times of the public hearings, instructions on how to submit comments and a link to where additional information can be found. See following link for the public notice:

<https://azahcccs.gov/Resources/Federal/PendingWaivers/imdwaiveramendment.html>

AHCCCS will present the details about the IMD waiver request in tribal consultation, as well as at public hearings in Phoenix, Flagstaff, and Tucson. The public hearing meetings will have telephonic conference capabilities to ensure statewide accessibility. Public comments will be posted on the AHCCCS website.

IV. ALLOTMENT NEUTRALITY

Not applicable. The amendment does not impact the XXI population.

V. DETAILS

A. Proposed Cost Sharing Requirements under the Demonstration as Amended.

The cost sharing requirements for persons impacted by this proposed demonstration amendment will not change from the State's current program features as described in the current State Plan and Demonstration.

B. Proposed Changes to the Delivery System under the Demonstration as Amended.

The delivery system for persons impacted by this proposed demonstration amendment will be expanded to include services provided in IMDs.

C. Proposed Changes to Benefit Coverage under the Demonstration as Amended.

Arizona is seeking expenditure authority for otherwise-covered services provided to all Medicaid-eligible individuals aged 21 through 64 who receive inpatient services in an Institution for Mental Disease (IMD), regardless of delivery system, as a mechanism to increase access to residential treatment services across the State. In addition, for managed care enrollees, services in an IMD for any length of stay would be permissible as services in lieu of State Plan services based on the State's actuarial certification that the actual cost of IMD services is more cost effective than services in a setting that is not an IMD.

D. Proposed Changes to Eligibility Requirements. Eligibility requirements will not change from the State's current program features as described in the current State Plan and Demonstration.

E. Waiver and Expenditure Authorities Necessary to Authorize the Demonstration. Arizona is requesting expenditure authority under Section 1115 to claim as medical assistance:

1. The costs of services provided to any eligible individuals aged 21-64 receiving inpatient treatment in an Institution for Mental Disease notwithstanding paragraph (B) following Section 1905(a)(29) and 42 CFR 435.1009; and
2. Payments to managed care entities that comply with 42 CFR 438.3(e) but do not comply with Section 1903(m)(3) to the extent that section 1932 and 42 CFR 438.6(e) limit the authority of the State to make federally reimbursable monthly capitation payments for managed care enrollees aged 21-64 receiving inpatient treatment in an Institution for Mental Disease to inpatient stays of 15 days or less and require the cost of those services

to be priced at the same cost as services provided in settings that are not Institutions for Mental Disease.

VI. EVALUATION DESIGN

Arizona's 1115 Waiver Evaluation design will be modified to incorporate the IMD exclusion waiver amendment. The demonstration will test whether authorizing expenditure authority for services in IMDs will result in enhanced beneficiary access to behavioral health services in appropriate settings and ensure that individuals receive care in the facility most appropriate to their needs.