



Fact Sheet: Medicaid Coverage of Inpatient Psychiatric Treatment for Individuals Under 21

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Q: Must states cover psychiatric residential treatment facility (PRTF) services, including room and board, for children under 21, under Medicaid's Early & Periodic Screening, Diagnostic and Treatment (EPSDT) mandate?

A: Yes. Inpatient psychiatric treatment for individuals under 21 must be covered when medically necessary. Furthermore, CMS and the courts have recognized that PRTF treatment is included in this mandate. While room and board are not generally covered under Medicaid, the residential component of inpatient psychiatric treatment and PRTFs are covered as a part of the broader service.

Discussion

The Medicaid statute lists categories of services that must or can be included in a state's Medicaid program.¹ Inpatient psychiatric services for beneficiaries under 21 are listed as optional services category.² However, Medicaid also requires that states cover the EPSDT benefit for children and youth, which mandates that any of the categories listed in the Medicaid statute are covered for beneficiaries under 21 when necessary to correct or ameliorate a physical or mental condition.³ Therefore, as discussed below, CMS and the courts have long considered this benefit mandatory when medically necessary.

Scope of the Service

The provision for inpatient psychiatric treatment for children enacted in the 1970s as an exception to the institutions for mental diseases (IMDs) exclusion rule bars FFP for

¹ 42 U.S.C. § 1396d(a).

² 42 U.S.C. § 1396a(a)(10)(A) (providing that state Medicaid plans must cover services listed in 1396d(a)(1)-(5), (17) and (21); 42 U.S.C. 1396d(a)(16), 1396d(h)(1).

³ 42 U.S.C. §§ 1396a(a)(43), 1396d(r)(5).

coverage of treatment at IMDs for beneficiaries under 65.⁴ Since its adoption, courts have interpreted the exception narrowly, allowing for Medicaid reimbursement only in cases that meet all of the specific statutory requirements for the service.⁵

The statute defines inpatient psychiatric hospital services as inpatient services that:

- (A) are provided in an institution which is a psychiatric hospital or in another inpatient setting that HHS has specified in regulations;
- (B) involve active treatment which meets standards as prescribed by HHS; has been determined medically necessary; and is reasonably expected to improve the condition to the extent that eventually the services will no longer be necessary; and
- (C) are provided prior to the date the individual attains age 21, or in the case of an individual receiving the services right before turning age 21, until he no longer needs the services or turns 22, whichever is earlier.⁶

Federal regulations provide that inpatient psychiatric services are covered when (1) provided under the direction of a physician; (2) furnished before the recipient is 21 or, in some cases, 22; and (3) certified in writing to be necessary in the setting in which it will be provided or in emergency circumstances.⁷ In addition, inpatient psychiatric care must involve implementation of an individual plan of care that must be developed within 14 days of admission to the facility, and implemented through active treatment designed to “achieve the beneficiary's discharge from inpatient status at the earliest possible time.”⁸

The regulations further require that hospitals or facilities providing this service have accreditation from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or (for facilities that are not hospitals) the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, or by another accrediting organization recognized by the state that has comparable standards.⁹

For many years, CMS, with the support of the courts, had limited the inpatient psychiatric hospital benefit for individuals under 21 to psychiatric treatment, with other covered services received at inpatient psychiatric facilities falling outside of the scope of the exception. For example, in *Virginia Dept. of Medical Assistance Services v. U.S. Dept. of Health and Human Services*, the D.C. Circuit Court of Appeals upheld HHS's determination that payment for non-psychiatric treatment received by Medicaid

⁴ Pub. L. 92-603, Title II, § 299B (1972) (inpatient psychiatric treatment coverage provision); 42 U.S.C. § 1396d(a)(29)(B) (FFP ban for IMD services).

⁵ 42 U.S.C. § 1396d(h)(1).

⁶ 42 U.S.C. § 1396d(h)(1).

⁷ 42 C.F.R. § 441.151(a).

⁸ 42 C.F.R. §§ 441.154 & 441.155.

⁹ 42 C.F.R. § 441.151(a)(2).

beneficiaries in inpatient psychiatric settings was improper even when the psychiatric care itself was covered.¹⁰ In 2016, however, Congress enacted the 21st Century Cures Act, which authorizes federal financial participation for *any* EPSDT services received by individuals receiving inpatient psychiatric services, beginning January 1, 2019.¹¹

Coverage of PRTF Services

CMS defines PRTFs as “any non-hospital [accredited] facility with a provider agreement with a State Medicaid Agency to provide the inpatient services benefit to Medicaid-eligible individuals under the age of 21.”¹² PRTFs must also comply with regulations governing facility accreditation, physician direction, beneficiary’s age, and certification of need.¹³ Significantly, PRTFs must comply with limits and specifications governing restraint and seclusion of patients in residential facilities.¹⁴

Courts and CMS have consistently determined that residential services such as PRTFs qualify as inpatient psychiatric hospitals and must be covered when medically necessary, despite Medicaid’s general prohibition against paying for room and board.¹⁵ CMS has clarified that “payment for inpatient psychiatric services to individuals under age 21 includes . . . room and board as well as the provision of a comprehensive package of services.”¹⁶ Similarly, courts have stated that the benefit is not limited to provision of treatment in a hospital, but that it includes costs associated with medically necessary placement in a psychiatric residential treatment facility. For example, in *Collins v. Hamilton*, a child diagnosed with several mental health conditions during EPSDT screenings challenged Indiana’s refusal to cover PRTF services. The treating provider recommended treatment in a PRTF setting as well as supplemental acute treatment through inpatient hospitalization, but Indiana’s Medicaid coverage of inpatient psychiatric services at the time did not extend to residential placement. The Seventh Circuit,

¹⁰ 678 F.3d 918 (D.C. Cir. 2012).

¹¹Pub. L. No. 114-255, § 12005 (codified at 42 USC 1396d(a)(16) and providing for FFP “for individuals receiving services described in subparagraph (A), early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)), whether or not such screening, diagnostic, and treatment services are furnished by the provider of the services described in such subparagraph.”)

¹² CMS, What is a PRTF?, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/WhatisaPRTF.pdf>.

¹³ 42 C.F.R. §§ 441.151–441.156.

¹⁴ 42 C.F.R. § 441.151(b), requiring compliance with 42 C.F.R. §§ 483.350–483.376.

¹⁵ U.S. Dep’t of Health and Human Services, ASPE, UNDERSTANDING MEDICAID HOME AND COMMUNITY SERVICES: A PRIMER, 2010 EDITION. ENABLING MEDICAID BENEFICIARIES TO PAY FOR ROOM AND BOARD (Oct. 29, 2010). *See, e.g.*, 42 C.F.R. § 441.360(b) (For example, federal law prohibits the use of FFP for costs associated with room and board incurred by community residential facilities under a state’s home- and community-based (HCBS) waiver).

¹⁶ CMS, Memorandum on Psychiatric Residential Treatment Facilities (PRTF) Clarification, February 16, 2007, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/downloads/SCLetter07-15.pdf>; *See also* CMS, Psychiatric Residential Treatment Facility Providers, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/PRTFs.html>.

however, held that PRTFs qualify as inpatient psychiatric hospitals within the meaning of the Medicaid Act, and that Indiana was required to cover medically necessary placements for individuals under 21.¹⁷

Unfortunately, the fact that Medicaid does not cover room and board outside of certified PRTFs means that many individuals may have difficulty accessing certain effective, evidence-based services, when medically necessary. However, Medicaid coverage is available for EPSDT mental health services provided in group home settings, despite the fact that group homes do not qualify for reimbursement for inpatient psychiatric hospital services. Similarly, while therapeutic foster care (TFC) is a mandatory benefit under EPSDT, room and board for TFC is not reimbursable by Medicaid.¹⁸

Conclusion and Recommendations

- While inpatient psychiatric hospitalization and PRTFs are optional services under the Medicaid Act, these services are mandatory for children and youth under 21, when medically necessary. Coverage extends to all services provided at these facilities, including psychiatric and non-psychiatric treatment, as well as costs associated with room and board.
- While treatment at PRTFs, including room and board, is mandated under EPSDT, these settings should be used as a last resort and only for extreme cases or when justice involvement prevents community placement. Long-term placement in facilities or congregate settings has limited therapeutic value at best and is harmful at worst. Significant evidence shows that all youth, even those with significant mental health needs, have better outcomes in home and community-based settings.¹⁹ Moreover, Medicaid services must be provided consistently with the Americans with Disabilities Act (ADA) community integration mandate and the *Olmstead* decision.²⁰ Children's right to community based mental health services is examined in detail in National Health Law Program's issue brief, [Children's Right to Mental Health Services: The Right to Community Based Care](#) (August 2018).
- National Health Law Program is available for consultation and further assistance with Medicaid and children's mental health issues.

¹⁷ See *Collins v. Hamilton*, 349 F.3d 371 (7th Cir. 2003). See also CMS, Psychiatric Residential Treatment Facility Providers, available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/PRTFs.html>.

¹⁸ See MACPAC, The Intersection of Medicaid and Child Welfare, June 2015, available at <https://www.macpac.gov/wp-content/uploads/2015/06/Intersection-of-Medicaid-and-Child-Welfare.pdf>.

¹⁹ See, e.g., SAMHSA and Nat'l Inst. of Mental Health, *Mental Health: A Report of the Surgeon General* 168 (1999), <https://www.surgeongeneral.gov/library/reports/index.html>; Joint CMCS and SAMHSA Informational Bulletin, Coverage of Behavioral Health Services for Children, Youth, and Young Adults with Significant Mental Health Conditions (May 7, 2013), <https://www.medicaid.gov/federal-policy-guidance/downloads/CIB-05-07-2013.pdf>; SAMHSA, *The Comprehensive Community Mental Health Services for Children with Serious Emotional Disturbances Program, Report to Congress* (2015), https://www.samhsa.gov/sites/default/files/programs_campaigns/nitt-ta/2015-report-to-congress.pdf.

²⁰ Joint CMCS and SAMHSA Informational Bulletin, *supra*, n. 19.