



COLORADO

Department of Health Care
Policy & Financing

303 E. 17th Ave. Suite 1100
Denver, CO 80203

Institution of Mental Disease Frequently Asked Questions on Service Reimbursement and Recoupment

Q1: What is the definition of an Institution of Mental Disease (IMD)?

A1: "The term 'institution for mental diseases' means 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." (SSA §1905(i).)

In addition to the above definition, Centers for Medicaid and Medicare Services (CMS) also considers the following information:

- Does the facility have an independent license or accreditation?
- Is it under the jurisdiction of the state mental health or state auditing agency?
- Do more than 50% of patients have Mental Health or Substance Use Disorder (MH/SUD) diagnoses?
- Does the facility specialize in MH/SUD therapies, medications patterns, staff training or credentials?

Examples of potential IMD Settings: Crisis Stabilization Units, psychiatric hospitals, residential treatment facilities, nursing facilities.

Q2: Why is knowing if my facility is considered an IMD important?

A2: Restrictions exist in state statute and federal policy directing how HCPF is allowed to use state funding without a federal match. Unless specific authorization is approved, HCPF is not permitted to spend state funds without the availability of federal matching funds. If a facility is deemed an IMD via federal or state audit and the facility does not follow specificities outlined below for reimbursement, the state is required to recoupate all payment given to a provider for services rendered in an IMD.

Q3: When can providers receive reimbursement for services provided in an IMD?

A3: Under the Managed Care Final Rule of 2016, CMS recognized states' abilities to cover services in IMD settings that are considered substitutes for services covered under the state plan. This is referred to as In Lieu of Services (ILOS). Federal match for payment of services in an IMD setting is allowed if services are provided for 15 days or less in one calendar month.



Q4: How does the 1115 waiver affect In Lieu of Services (ILOS) provisions?

A4.1: In January of 2021, Colorado received approval of a 5 year 1115 SUD demonstration waiver, granting the state authority to provide reimbursement for SUD treatment services for short-term stays in residential and inpatient IMD settings. Specifically, when the first part of a member's stay in an IMD is SUD treatment focused, the member may still receive additional care following the use of the ILOS provision, and the reimbursement limitation of 15 days in a calendar month is waived.

A4.2: Colorado received Authority from CMS in September of 2025 to implement the amended 1115 waiver, which includes a Severe Mental Illness (SMI) or Serious Emotional Disturbance (SED) demonstration. Under the demonstration, and in accordance with the CMS approved implementation plan, the limitation of 15 days in a calendar month is waived for treatment services delivered to members diagnosed with SMI or SED. However, the demonstration stipulates that no reimbursement may be made for stays exceeding 60 days and the state must maintain average lengths of stay that do not exceed 30 days.

Q5: If a member enters an IMD for behavioral health services not related to SUD, SMI or SED on January 1, 2026, and is discharged on January 14, 2026, will the facility be reimbursed for services?

A5: Yes, under ILOS 15 days per calendar month is an allowable service appropriate for Medicaid reimbursement.

Q5.1: If that same member enters a different IMD facility on January 18, 2026, and is discharged on January 24, 2026, will I be reimbursed for services?

A5.1: No, although the stay is less than 15 days in the second IMD, the stay in the first IMD and the stay in the second IMD occurred in the same month totaling greater than 15 days of services in an IMD setting in one month. Neither the first IMD, nor the second IMD is eligible for reimbursement of any component of services provided during the members stay.

Q5.2: What happens if the RAE provided payment to the first IMD the member stayed in during January?

A5.2: Once the RAE becomes aware that a member stayed in any combination of one or more IMDs for over 15 days during one calendar month, the RAE is obligated to recuperate any payment made to the provider or providers. As RAEs try to expeditiously provide payment to providers, this type of situation is considered a processing error.



Q5.3 What happens if the second IMD the member stays in bills the RAE for the services provided during the January 18, 2026, to January 24, 2026, stay?

A5.3 If the first IMD has billed and received payment for services, the second IMD's claim for reimbursement will be denied. If the first IMD has not billed and the second has billed, the second facility will receive an initial reimbursement. Once the first facility submits a claim for reimbursement, neither facility is eligible for reimbursement because the member stayed greater than 15 days in one calendar month.

Q6: If a member is admitted to an IMD on January 24, 2026, and is discharged on February 12, 2026, will I get paid?

A6: Yes, as long as the member's stay is 15 days or less in each calendar month.

Q7: What actions does CMS take if they identify the State of Colorado reimbursed for services in a facility deemed as an IMD?

A7: CMS will require the state to pay back any funds provided for reimbursement in an IMD setting that does not fall under the provisions of ILOS or the 1115 demonstration waiver. Subsequently, RAEs will have to recuperate any inappropriate reimbursement supplied to providers.