



**COLORADO**

Department of Health Care  
Policy & Financing

303 E. 17th Avenue  
Denver, CO 80203

# Payment Policy for Member Stays in Institutes of Mental Diseases (IMD)

*Updated March 2024*

## History and Background

Per federal and state regulations, HCPF cannot pay for stays in IMDs for members aged 21-64. More specific information is detailed below.

- Colorado statute declares that “the purpose of the “Colorado Medical Assistance Act” is to promote the public health and welfare of the people of Colorado by providing, in cooperation with the federal government, medical and remedial care and services ... as contemplated by the provisions of Title XIX of the social security act” (CRS 25.5-4-102). In addition, the Department has appropriated funding on the basis that matching federal funds will be received. There is an (M) headnote on the appropriation for medical services, which indicates that state funding is appropriated to support a federally supported program. There are some complicated restrictions on how HCPF can use state funding if there are no matching federal funds. There are a few exceptions of programs that we pay for with state funds, which were specifically appropriated with state-only funds by the legislature. Given the legislative intent, and the restriction on our appropriations, HCPF cannot spend state funds without federal funds (i.e. Federal Match/FMAP) without specific authorization.
- According to the 2016 Managed Care Final Rule, the Center for Medicaid Services (CMS) formally recognized states’ abilities to cover services or settings that are substitutes for services or settings covered under the state plan (also known as In Lieu Of Services (ILOS)). ILOS allows FMAP to be used for stays in an IMD up to 15 days [<https://www.federalregister.gov/d/2016-09581/p-874>]. This total length of stay includes the discharge day. IMD stays longer than 15 days are not federally matched and thus we are unable to cover any stay in an IMD longer than 15 days.
- The RAEs have some leeway in deciding how to pay providers, but the RAE contract with HCPF does set some specific standards and limitations on payment through the monthly capitation payment. In the RAE contract, section 14.10 details the rules and requirements related to IMDs. The State Guide to CMS Criteria for Medicaid Managed Care Contract Review and Approval (I.D.1.04) states: “The [RAE] contract specifies the state will only make a monthly capitation payment to the plan for an enrollee aged 21-64 receiving inpatient treatment in an Institution for Mental Diseases (IMD),



as defined in 42 CFR 435.1010, so long as the facility is a hospital providing psychiatric or substance use disorder inpatient care or a sub-acute facility providing psychiatric or substance use disorder crisis residential services, and length of stay in the IMD is for a short term stay of no more than 15 days during the period of the monthly capitation payment. [42 CFR 438.6(e)] [Existing standard].” The RAE will not receive the capitation payment for the days a member is in the IMD but can receive a partial capitation for the remaining days in a month. Because of these regulations, HCPF cannot require RAEs to pay for services that HCPF will not cover/pay them for through monthly capitation payments. Additionally, RAEs are not allowed to use stays over 15 days when calculating their Medical Loss Ratio (MLR) or for any future rate setting.

- In Colorado, under the CHASE provider fee statute, Disproportionate Hospital Share (DSH) payments are funded using hospital fees and paid to general/critical access hospitals that serve a population that is at least 50% Medicaid.

## Suggestions to Acquire Funding for IMDs

HCPF understands that this puts IMDs in a difficult spot when it comes to providing care to the highest acuity patients. Some options and helpful information that may help are listed below.

- A patient can stay for longer than 15 days if those days span 2 months. For example, when a patient starts a stay in the middle of one month and is discharged in the middle of the next month, so long as each month does not contain more than 15 days the total stay is reimbursable.
- Patients being treated for SUD are covered under an 1115 waiver. Therefore, if the first part of the stay is detox or other SUD treatment, that can be covered, and other care can be provided after using the in lieu of services policy.

Policies may change overtime so please stay up to date on changes and newsletters from HCPF.

## For more information contact

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Or visit the [IMD Webpage](#)

