


KAREN HURD

STATE REPRESENTATIVE • 68TH ASSEMBLY DISTRICT

Assembly Bill 616
Public Testimony
Assembly Committee on Health, Aging and Long-Term Care
November 8, 2023

Thank you, Chair Moses, Vice-Chair Rozar and members of the committee for holding this hearing on Assembly Bill 616.

It is informative for our hearing today to understand an extremely brief history that has led us to this legislation; as indeed, the past steps on the heels of the present.

In 1955, almost all of our severely mentally ill were housed in public psychiatric hospitals. It was at that time that the widespread introduction of Thorazine, one of the first effective antipsychotic medications, precipitated the process of deinstitutionalization. This belief that the new antipsychotic medications offered a cure, coupled with the belief that mental hospitals were cruel and inhumane, led to discharging people from the public psychiatric hospitals into the community into the least restrictive setting possible. President Jimmy Carter's Commission on Mental Health emphasized this movement. Unfortunately, for some the "least restrictive setting" frequently turned out to result in homelessness, criminality, or a terror-filled existence.

An additional consequence of the deinstitutionalization was the dramatic reduction of psychiatric beds available due to the closing of large numbers of facilities. Although the goal of deinstitutionalization was well-intentioned, the unforeseen long-term consequences were then not known.

It was in this climate of deinstitutionalization that Medicaid was enacted in 1965. Congress specifically barred contributions for any care delivered in certain institutions that fell within the definition of an "institution for mental disease," (IMD). An IMD was defined as a hospital, nursing facility, or other institution of more than 16 beds that was primarily engaged in the provision of diagnostic services, treatment, or care of persons with mental disease, including medical attention, nursing care, and related services. The exclusion applied then and still does to persons between the ages of 22 and 64. IMD residents 65 and older have been exempted from the exclusion since Medicaid was enacted, and state Medicaid plans have had the option of exempting those under the age of 22 since 1972.

Fast forward to 2018. The Centers for Medicare & Medicaid Services (CMS) relaxed the IMD exclusion providing an opportunity for states to receive authority to pay for short-term residential treatment services in an IMD for adults with serious mental illness. Currently, more than one-quarter of adults with a serious mental illness rely on Medicaid. Since this CMS change, eleven states currently have approved IMD waivers for mental health treatment (AL, DC, ID, IN, MD, NH, NM, OK, UT, VT, WA). Seven additional states have an application pending for a waiver.

AB 616 directs the DHS to submit a request to the federal Department of Health and Human Services for a waiver to obtain approval for Wisconsin persons aged 21-64 to have Medicaid coverage for an IMD. The bill also stipulates that DHS "shall" provide Medicaid coverage of services for an IMD versus the

current language of “may,” predicated upon the approval of the waiver. AB 616 will cover the 7% of the Medicaid population that are in a fee-for-service plan.

Currently, there are 8 psychiatric hospitals in Wisconsin with more than 16 beds that are classified as IMDs. This includes the state’s two mental health institutes which account for 729 of the 1,268 beds in these hospitals.

By pursuing this waiver, Wisconsin would be taking significant steps towards providing individuals with mental health conditions access to the care that they need as well as continuing the progress we have made to destigmatize mental health and prioritize access to behavioral health care.

I am happy to address any questions that the committee may have.

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HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

November 8, 2023

Assembly Committee on Health, Aging and Long-Term Care Testimony on Assembly Bill (AB) 616

Thank you Chairman Moses and committee members for hearing Assembly Bill (AB) 616, which directs the Department of Health Services (DHS) to seek approval from the federal government for an Institutions for Mental Disease (IMD) waiver for mental health services. Thank you Vice-Chair Rozar, Rep. Dittrich, Rep. Drake, Rep. Gundrum, Rep. Murphy, Rep. Schutt, and Rep. Subeck for co-sponsoring this bipartisan legislation.

Since the creation of Medicaid in the 1960's, states have been unable to receive federal Medicaid reimbursement for inpatient mental health services provided to individuals between the ages of 21 and 64 in a facility with more than 16 beds. Facilities with more than 16 beds are known as IMDs and the prohibition on reimbursement is known as the "IMD exclusion". While the original goal of the IMD exclusion was to discourage the use of large, psychiatric institutions to treat patients, over time it has inadvertently hindered the ability of states to provide care to individuals in the appropriate facility.

Today, the IMD exclusion is outdated and creates significant barriers for adults with severe mental illness to receive access to care. The IMD exclusion applies to roughly half of Wisconsin's inpatient psychiatric beds. Wisconsin has eight psychiatric hospitals classified as IMDs, including Winnebago Mental Health Institute (WMHI) and Mendota Mental Health Institute (MMHI).

For this reason, mental health services provided to the Medicaid population typically occur at facilities with fewer than 16 beds or, as in the case of WMHI and MMHI, are fully paid for by counties.

Over time, the federal government has relaxed its stance on the IMD exclusion. Since 2018, the federal government has allowed states to submit a waiver for the coverage of inpatient mental health services provided in IMDs on a short-term basis. Specifically, any stay is limited to 60 days, and the statewide average of all IMD stays must be 30 days or less. However, Wisconsin has not done this.

AB 616 directs DHS to seek a federal waiver to allow Medicaid coverage of inpatient hospital services for mental health conditions in IMDs for adults aged 21-64. While it is likely DHS has the authority to submit this waiver already, AB 616 provides the necessary certainty for DHS to take action.

This legislation will allow freestanding psychiatric hospitals to be reimbursed for services provided to the eligible Medicaid population and will remove the disincentive impacting the sustainability of psychiatric hospitals with more than 16 beds. In addition, there will be significant cost savings for counties as they will no longer pay for the full cost of patients at WMHI or MMHI.

Currently, 10 states (and DC), including Alabama, Utah, and Vermont, have an approved IMD waiver for mental health treatment. Seven states, including Kentucky and West Virginia, have waivers pending with the federal government. In addition, Wisconsin has received a similar IMD waiver for substance use disorder services.

AB 616 is supported by the Wisconsin Hospital Association, National Alliance on Mental Illness (NAMI) Wisconsin, the Wisconsin Counties Association, and other providers of inpatient mental health services.

Thank you again to the committee for hearing AB 616, and your timely action on the bill.



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Kirsten L. Johnson, Secretary

TO: Members of the Assembly Committee on Health, Aging, and Long-Term Care

FROM: HJ Waukau, Legislative Director

DATE: November 8, 2023

RE: AB 616 relating to: Medical Assistance coverage of services provided in an institution for mental disease.

The Department of Health Services (DHS) would like to submit written testimony for information only on Assembly Bill (AB 616) regarding Medical Assistance (MA) coverage of services provided in an institution for mental disease (IMD). Under current law, DHS may but is not required to cover the MA program costs of services provided to MA beneficiaries in an IMD, if federal financial participation is available and specified requirements are met. AB 616 would require DHS to cover the costs of these services. The bill also requires DHS, by January 1, 2025, to submit a request to the federal U.S. Department of Health and Human Services (HHS) for any waiver or approval necessary to provide MA coverage, with federal funding participation, of short-term stays for acute care in an IMD.

In Governor Evers' "Year of Mental Health," pursuit of an IMD waiver could have significant impacts for mental health access in Wisconsin. Under AB 616 it is more than likely that receiving an IMD waiver approval from HHS would increase access to mental health services across the state, potentially provide better alignment of incentives with HMOs, and decrease costs to counties for individuals age 21-64 who need these mental health services. Under existing authority and federal approvals there is no MA reimbursement for services provided in an IMD for individuals ages 21-64. These costs are being paid for by counties. However, HMOs can cover IMD services for ages 21-64, for up to 15 days in a calendar month. Further, DHS does have experience seeking a related waiver proposal as it has an approved 1115 waiver for IMD payment exclusion for substance use disorder treatment.

Should a federal waiver application process move forward there are several elements of an IMD waiver approval that would need to be addressed. First, is how the IMD services align with the operations of Family Care managed care organizations (MCOs). DHS cannot currently carve IMD services into Family Care MCOs contracts that do not have a health insurance license from the Office of the Commissioner of Insurance (OCI), and AB 616 does not address this issue. Current issues also exist where a Family Care member remains in an IMD after active treatment is completed because the MCO can't find a provider in the community to care for the individual. OCI provisions allow MCOs to be certified by DHS without becoming HMOs and requiring a health insurance license. Additional statutory language would be needed to allow DHS to carve IMD benefits in MCO contracts.

Second, AB 616 does not include statutory language requiring counties to cover the non-federal share of IMD services for individuals ages 21-64. This is not in alignment with existing statutory provisions requiring counties to cover the non-federal share for individuals under 21, or older than 65, served at either the Winnebago Mental Health Institute or Mendota Mental Health Institute. If counties are not required to cover any costs related to IMD stays for individuals 21-64, it could create financial incentives to increase utilization of IMD inpatient services rather than other, less restrictive treatment options. Additional statutory language would be needed to require counties to cover the non-federal share of IMD costs for county clients aged 21-64. This would create consistency in statutory requirements for counties to cover the non-federal share of IMD services for individuals of all ages.

Overall, DHS supports a robust continuum of behavioral health care that includes IMD services for those individuals in need of the level of treatment that would be provided in an IMD setting. If approved, it would extend coverage by providing a more comprehensive continuum of care for individuals in need of this level of treatment.

DHS thanks the Committee for the opportunity to provide written testimony in support of AB 616 and we offer ourselves as a resource for Committee members for any follow up or additional information that may be needed.

November 8, 2023

Topic: Medicaid Coverage of Mental Health Treatment Services in Institutions of Mental Disease

Background: The federal Medicaid program is the primary payor for mental health treatment services for persons with mental illness. The federal requirements for the Medicaid program include a restriction on Medicaid reimbursement for in-patient treatment services in facilities larger than 16 beds, defined as Institutes for Mental Disease (IMDs).

The IMD restriction was created to prohibit Medicaid reimbursement for large psychiatric hospitals and mental health institutes to encourage states to provide community-based mental health treatment and discourage use of institutions. While the goal of reducing institutional care is important, the IMD restriction on Medicaid reimbursement has contributed to a decline in the number of psychiatric hospital beds available for inpatient treatment and increased demand on the state Mendota and Winnebago Mental Health Institutes.

Since 2018, the federal government has allowed states to apply for a waiver of the IMD restriction under the Medicaid 1115 waiver process. Currently 11 states have waivers for mental health treatment in IMDs and 7 states have waiver applications pending. Wisconsin already has an approved waiver for substance use disorder treatment in IMDs.

Recommendation: Wisconsin should apply for an 1115 waiver to allow Medicaid reimbursement for mental health inpatient treatment services in IMDs. The waiver would have the following positive impacts for Wisconsin:

- Provide Medicaid reimbursement for mental health treatment in psychiatric hospitals, providing funding to make it more sustainable for hospitals to maintain psychiatric beds and hopefully reverse the trend of declining numbers of psychiatric beds. The waiver will create more mental health treatment resources for hospitals to provide patients coming into emergency rooms with mental health conditions.
- Reduce the demand on the Mendota and Winnebago Mental Health Institutes by having more beds available closer to their communities for persons in need of emergency detention and civil commitment. The federal Medicaid reimbursement will also improve the funding structure for the Mental Health Institutes and reduce the financial burden on the state and counties to pay 100% of mental health treatment costs.
- Make the proposed crisis urgent care and observation centers (AB 467 and SB 462) more viable by allowing the operators of the centers the option to have more than 16 beds without bumping up against the IMD restriction.
- By supporting additional mental health treatment beds in hospitals and the proposed crisis urgent care and observation centers, the waiver should help reduce the amount of time law enforcement spends transporting persons needing emergency detention to the Winnebago Mental Health Institute.

The Wisconsin County Human Services Association supports AB 616 to direct the Wisconsin Department of Health Services to seek a federal waiver to allow Medicaid reimbursement for mental health treatment in IMDs.



Health and Human Services

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November 7, 2023

The Honorable Clint Moses
Wisconsin State Legislature
State Capitol, Rm 12W
Madison, WI 53708

Re: Letter of Support for **Assembly Bill 616**

Dear Representative Moses:

On behalf of the St. Croix County Health and Human Services Department, I would like to express my support for Assembly Bill 616, as we believe this Bill would assist in meeting the growing mental health needs of our residents. As you know, the Institutions for Mental Disease (IMD) exclusion under Medicaid law prevents residential mental health providers with more than 16 beds from receiving Medicaid reimbursement. The IMD exclusion, while well intentioned to prevent the institutionalization of mental healthcare while promoting community-based care, has led to a significant shortfall of inpatient mental health beds in our state.

Therefore, we believe the efforts by the Legislature to direct the Wisconsin Department of Human Services to apply for a Federal 1115 Waiver will assist in expanding capacity in our state by allowing mental health providers to receive Medicaid funding when they exceed the current bed limit under this exclusion. Additionally, St. Croix County supports the development of regional behavioral health urgent care facilities to better serve our residents and reduce law enforcement time in transporting patients long distances to state hospitals.

Given the increasing demands on local resources (law enforcement and behavioral health providers) we recognize a need to both increase capacity and move toward a sustainable and localized solution to addressing the needs of our residents.

I would be happy to answer any questions you may have and/or provide additional information that would assist in the success in the passage of Assembly Bill 616.

Respectfully,

A handwritten signature in black ink that reads "Bob Rohret".

Bob Rohret, MPH
Health and Human Services Director
St. Croix County, Wisconsin
Office: 715-246-8223
Cell: 715-928-9175
Bob.rohret@sccwi.gov

November 6, 2023

To Whom It May Concern:

Ozaukee County's Department of Human Services asks the Wisconsin Department of Health Services to seek a federal waiver allowing Medicaid reimbursement for mental health treatment in Institutes for Mental Disease (IMDs). The federal Medicaid reimbursement will not only give individuals additional choice when selecting psychiatric inpatient care, it also improves the funding structure for the Mental Health Institutes and reduce the financial burden on the state and counties to pay 100% of mental health treatment costs.

Applying for a 1115 waiver would provide Medicaid reimbursement for mental health treatment in psychiatric hospitals and provide funding to make it more viable for hospitals to maintain psychiatric beds. Implementing the waiver may reverse the growing trend of decreasing psychiatric beds across the State of Wisconsin. The waiver will create more mental health treatment resources for hospitals to provide individuals coming into emergency rooms with mental health conditions. Local options to inpatient treatment, closer to home and a patient's support system, increase positive treatment outcomes. Additionally, for individuals placed under an Emergency Detention (Chapter 51), travel time to the Mental Health Institutes would decrease, lessening the amount of time law enforcement are involved.

Sincerely,



Liza Drake

Behavioral Health Policy Advisory Committee Tri-Chair

Ozaukee County Human Services Director



**DEPARTMENT
OF
HUMAN
SERVICES**

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Liza Drake

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Testimony in Support of Assembly Bill 616
Assembly Committee on Health, Aging and Long-Term Care
Alison Denil, Wisconsin Market CEO
Summit Behavioral Health

Good morning Chair Moses, Vice-Chair Rozar, and members of the Committee on Health, Aging and Long-Term Care. Thank you for your time today and the opportunity to testify and share our support of Assembly Bill 616, which makes significant progress in providing individuals with mental health conditions access to the care that they need.

My name is Alison Denil. I have been in healthcare for 30 years and a registered nurse for 25 of those. My experience varies in both direct care and administrative roles. I joined Willow Creek Behavioral Health upon their opening in January 2017. Initially, I was the Chief Nursing and Operations Officer and became the Chief Executive Officer in December of 2019. As of May, I became the Wisconsin Market CEO for Summit Behavioral Health. With this role, I am responsible for the oversight of 2 free standing psychiatric hospitals and a soon to open satellite clinic in the Waukesha area. The acute hospitals are Willow Creek Behavioral Health which is located in Green Bay, and Miramont Behavioral Health, which opened September 2021, and is located in Middleton. Each facility has 72 inpatient beds and both operate outpatient programs on site as well.

Those who struggle with mental illness already face a myriad of challenges when seeking the care that they desperately need. The IMD exclusion, which applies to roughly half of Wisconsin's inpatient psychiatric beds, only exacerbates this issue. Witnessing the challenges and hurdles these individuals face daily, it is evidently clear that we need to work together to break down the barriers that further limit access to options and care. Our facilities, who serve on average 53% of Medicaid patients each year, provide acute psychiatric care to our youth and throughout the lifespan. Miramont and Willow Creek are committed to meeting the needs of our communities both as quality healthcare providers and as stable employers.

We have made significant progress in the realm of mental health but there is still more work to be done. The efforts to eliminate the stigma that is tied to mental health diseases has increased the volume of individuals who seek care. We have a responsibility to ensure psychiatric care providers are available to meet this need. That is why the federal government has recognized this barrier and provided states with new mechanisms to get an exception to this exclusion, including encouraging states to apply for a waiver that would allow Medicaid reimbursement for inpatient services in an IMD. Nearly a dozen states have applied and received an approved waiver, and others have a waiver pending with CMS. This bill would work to add Wisconsin to that list.

Thank you again for the opportunity to testify and share Summit Behavioral Health's support for this legislation. We recognize and appreciate the Legislature's interest and work on this important issue and would be happy to have any member of the committee out to one of our facilities to see the work that we are doing in our communities. I am happy to take any questions at this time.

Assembly Committee on Health, Aging and Long-Term Care
Sita Diehl, Public Policy & Advocacy Director
NAMI Wisconsin
November 8, 2023

Re: Support for Assembly Bill 616 requiring DHS to apply to CMS for an IMD Exclusion Waiver.

Chairman Moses and members of the Committee,

Thank you for the opportunity to testify in support of Assembly Bill 616. My name is Sita Diehl, and I serve as the Public Policy Director for NAMI Wisconsin, the state organization of the National Alliance on Mental Illness. NAMI is an organization of and for people with mental illness and their families.

This bill would require DHS to apply for a federal waiver to allow Medical Assistance coverage of inpatient care in a free-standing psychiatric hospital with more than 16 beds, also known as an Institution for Mental Disease, or IMD.

The IMD exclusion is an artifact from 70 years ago when Medicaid was first enacted by Congress. The goal at the time was to shift the focus of care to community mental health and away from state psychiatric hospitals where thousands of people with mental illness were institutionalized for years, wasting their lives, at huge public expense.

In the intervening decades the pendulum has swung the other way, and for years it has been difficult to get admitted to a hospital even in a florid psychosis or crushing depression, even when you desperately need a safe place and expert care to adjust your medication.

When there are not enough inpatient psychiatric beds, emergency departments release people in crisis to the community — which means that all too often the person ends up back in crisis, sometimes in jail or on the streets, often at a higher cost to counties, the state and the federal government.

NAMI is in strong support of correcting the antiquated IMD exclusion policy. Assembly Bill 616 puts Wisconsin on the right path. We see this as a parity issue. This is the *only* part of federal Medicaid law that prohibits payment for the cost of providing medically necessary care because of the type of illness being treated.

While this policy was intended to reduce inhumane institutionalization, it also resulted in unequal coverage of mental health and, tragically, a lack of appropriate options for people with severe mental illness. If we treated other chronic conditions this way, far more people would die from diabetes, epilepsy, hypertension, and heart disease.

We know that [one in eight](#) visits to hospital emergency rooms involves a mental health or substance use condition, that emergency departments are often not equipped to help people who are in mental health crisis, and that emergency room staff have limited options for those who require inpatient care. That often means that people must travel far from their homes to Winnebago Mental Health Institute.

We also know that inpatient psychiatric beds have [decreased significantly](#) since the 1950s. A study published in 2021 found that Wisconsin is one of 28 states with a shortage of psychiatric beds, showing that we need 248 more inpatient psychiatric beds to meet the need – an increase of 17%.¹ We know that availability of psychiatric beds fell sharply during the pandemic when occupancy went from double to single to minimize risk of covid infection. The COVID crisis ran straight into the workforce shortage and now there are whole wings of Granite Hills in Milwaukee County and Miramont Hospital here in Dane County that are empty for lack of staff.

I recently spoke with a mental health professional who practices inpatient mental health care in Wisconsin. When I said there weren't enough people to work in psychiatric hospitals he said, "There are plenty of people who are drawn to this work because it is meaningful, and we transform lives. But it's about money. People need to be adequately compensated for their time and expertise." This waiver would draw down federal Medicaid dollars to cover inpatient psychiatric care for adults, ages 21 – 64, increasing funds available to hospitals to compensate their staff.²

At the federal level, Medicaid recognizes this problem and in recent years, states have been given the option to cover short-term stays in psychiatric hospitals by applying for a [waiver](#) from the federal Centers for Medicare and Medicaid Services, or CMS. This option has been available to Wisconsin for several years. We have an IMD waiver for inpatient substance use treatment. It is high time that we apply for an IMD waiver for psychiatric inpatient care.

People with mental health conditions — just like people with any medical condition — need a range of care options from outpatient services to hospital care. Updating the IMD exclusion to allow for short-term stays in psychiatric hospitals helps strengthen the mental health system and provides more treatment options to Medicaid enrollees.

At NAMI we believe that every person with mental illness, including those who rely on Medicaid, should have access to the full range of treatment options they need — bringing us one step closer towards full and equal treatment under the law. We are in strong support of Assembly Bill 616.

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8625568/>

Bryan Polcyn; 9/6/2023 Wisconsin Psychiatric Bed Shortage Magnified by spike in competency orders, Fox News: <https://www.fox6now.com/news/wisconsin-psychiatric-bed-shortage-competency-orders>

² Note: Federal Medicaid does allow coverage of children and adults 65 and older.



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**Testimony to the Assembly Committee on Health, Aging and Long-Term Care
In Support of Assembly Bill 616
Jessica Small, President of Aurora Psychiatric Hospital and Behavioral Health Operations
November 8th, 2023**

Good morning. Thank you Chairman Moses and members of the committee.

My name is Jessica Small, I am the president of the Aurora Psychiatric Hospital in Wauwatosa and lead all behavioral health operations in the state for Aurora Health Care. I am also Interim Administrator for the Milwaukee County Mental Health Emergency Center, a joint venture between the county and four of the area's health systems for which Aurora is the contracted operator.

Aurora is the largest health system in Wisconsin and a national leader in clinical innovation, health outcomes, consumer experience and value-based care. We serve patients across 17 hospitals and more than 150 sites of care covering much of the eastern part of the state. We are committed to providing care that makes our communities healthier, and I am proud to lead this work with regard to behavioral health services in Wisconsin.

On behalf of Aurora, I am here today to support AB 616 and share my experience with the current IMD (Institute for Mental Disease) exclusion and how it blocks access to much needed psychiatric care for patients with fee-for-service (FFS) Medicaid.

Patients who need inpatient psychiatric care are struggling with one of the most difficult times in their lives and resources are limited. We see patients with great behavioral health needs presenting across all our Emergency Departments, and of course we also care for them at the Milwaukee Mental Health Emergency Center.

This is one of the most complex areas of care to navigate, as leaders in this specialty we get questions daily from neighbors, friends, coworkers, and families on how to help people gain access to life saving care. Unfortunately, the IMD exclusion is one of the greatest barriers patients can face when it comes to gaining access to care. In Milwaukee County, all but 12 of the ~270 inpatient mental health beds are licensed as IMD, meaning Medicaid FFS does not cover access to the vast majority of available beds.

Affected patients unwittingly find themselves unable to get into facilities that are providing high quality care, all based on whether they are enrolled in Medicaid managed care or FFS.

I ask you to think about where in health care do you have these types of limitations? I can not think of any area, and even the federal government has recognized this as a problem.

As patients sit in emergency rooms across the state waiting for a psychiatric bed to become available, the IMD exclusion shrinks the available options even further, resulting in patients not getting timely beneficial care.

If the state receives this waiver, we will instead have the ability to leverage any open bed regardless of the facility type. We could improve access to care and keep patients closer to home. And all Medicaid members would have access to a best-in-class standard of care within behavioral health.

Therefore I respectfully ask that you help us by supporting AB 616, allowing all patients with Medicaid access to the same locations for behavioral health care. Thank you for your time, I'd be happy to answer any questions.



ADVOCATE. ADVANCE. LEAD.

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TO: Members of the Assembly Committee on Health, Aging and Long-Term Care

**FROM: Matthew Stanford, General Counsel
Kyle O'Brien, Senior Vice President, Government Relations**

DATE: November 8, 2023

RE: WHA supports Assembly Bill 616 which addresses IMD restrictions on inpatient psychiatric placement

To create additional inpatient psychiatric placement options for Medicaid patients, the Wisconsin Hospital Association supports Assembly Bill 616, which will enable Wisconsin to seek a waiver to the 1960s-era psychiatric IMD exclusion that currently excludes about half of Wisconsin's inpatient psychiatric beds from participating in the traditional Medicaid fee-for-service program for adults.

When Congress created the Medicaid program in 1965, it largely excluded Medicaid coverage in psychiatric facilities. Known as the Institute for Mental Disease (IMD) exclusion, the federal Medicaid law defined freestanding psychiatric hospitals with more than 16 beds as an Institute for Mental Disease and prohibited the Medicaid program from providing reimbursement to those facilities for services provided to patients between the ages of 21 and 64.

However, the IMD exclusion's care restrictions have been loosened by the federal government in both the Obama and Trump administrations.

First, in 2015, the federal Centers for Medicare and Medicaid Services (CMS) codified an ability for adult Medicaid managed care patients to receive services in IMD facilities. Then, in November 2018, CMS sought to further loosen IMD restrictions when it sent a letter to all state Medicaid directors encouraging states to seek a waiver of the IMD exclusion that could allow Medicaid reimbursement for short-term (defined as fewer than 30 days) inpatient services in an IMD for Medicaid fee-for-service enrollees with serious mental illness.

In order to remove a disincentive to the sustainability of psychiatric hospitals with more than 16 beds, this bill authorizes the State of Wisconsin through the Department of Health Services to seek a waiver to the federal Institute for Mental Disease exclusion to enable freestanding psychiatric hospitals in Wisconsin with more than 16 beds to receive reimbursement for Medicaid fee-for-service patients ages 21 to 64.

Wisconsin has already applied for and received a similar IMD waiver for substance use disorder services. Utilizing Wisconsin statutory language created in 2017 to implement the substance use disorder IMD waiver, this legislation directs DHS to apply to CMS no later than January 1, 2025 for an IMD waiver for mental health services.

By receiving a federal waiver of the federal IMD Medicaid payment exclusion for fee for service Medicaid enrollees, Wisconsin could:

- Enable freestanding psychiatric hospitals to be reimbursed for services provided to adults aged 21-64 enrolled in a Medicaid fee for service program.
- Remove a disincentive that can discourage freestanding psychiatric hospitals with fewer than 16 beds from expanding services.

Currently, 11 states have an approved IMD waiver for mental health treatment ((AL, DC, ID, IN, MD, NH, NM, OK, UT, VT, WA), and 7 additional states have an application for a waiver pending with CMS (AL, AZ, MA, MO, NY, WA) according to the KFF Medicaid Waiver Tracker.

WHA and our members ask for your support of Assembly Bill 616, which is one step Wisconsin can take to help remove public policy barriers impacting access to mental health services that do not exist for physical health services.