

Expanded Medicaid Treatment Options for Individuals with Substance Use Disorder and Serious Mental Illness

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This fall there have been a variety of federal initiatives aimed at expanding treatment options to address substance use disorder and mental illness. In late October, President Trump signed into law a comprehensive bipartisan opioid and substance abuse bill (available [here](#)) aimed at prevention, recovery, and treatment. Several weeks later, the Centers for Medicare and Medicaid (CMS) then issued a State Medicaid Director letter (available [here](#)) expanding access to treatment options for individuals with serious mental illness. Taken together there are several new opportunities for states and providers to leverage additional resources to provide treatment to individuals with substance use disorder and/or mental illness.

The SUPPORT for Patients and Communities Act (the “Act”)

The Act provides additional support and funding to current federal and state efforts aimed at addressing the opioid epidemic through broad reforms touching multiple federal agencies. Some of the more noteworthy provisions in the Act for providers include the following:

- *New and Expanded Grant Opportunities.* The Act significantly increases funding directed to states and other organizations who are already finding innovative ways to address substance use disorder (SUD). A few of the grants are summarized below; however, the Act contains many more new and reauthorized grant opportunities in addition to following:
 - Medicaid demonstration projects to increase provider capacity;
 - Provider education efforts, including additional funding for SUD training for Federally Qualified Health Centers and Rural Health Clinics;
 - SAMHSA grants for entities establishing comprehensive opioid recovery centers; and
 - Department of Labor grants to address SUD and mental health workforce shortages;
- *Expanded Access.* The Act expands access to SUD treatment through a number of initiatives, including a direct expansion of medication assisted treatment (MAT), increased flexibility for providers prescribing MAT, as well as additional federal support for telehealth strategies in the provision of SUD treatment.
- *Institute of Mental Disease (IMD).* While Congress did not remove the longstanding Medicaid IMD exclusion, the Act both codified existing CMS policies as well as created an additional path for obtaining IMD coverage via a state plan amendment. As a result, there are now three separate authorities to allow states to cover services in an IMD for Medicaid-eligible adults with SUD:
 1. Medicaid managed care “in lieu of service” for up to 15 days;
 2. Section 1115 demonstration waiver with goal of statewide average length of stay of 30 days;



and

3. The new state plan amendment option (available through 2023) to allow for Medicaid coverage for adults in an IMD for up to 30 days in a 12-month period (consecutive or non-consecutive).

Additional Treatment Opportunities for Adults with Serious Mental Illness and Children with a Serious Emotional Disturbance

On November 13, 2018, CMS published a State Medicaid Director Letter announcing new opportunities for treatment for adults with serious mental illness (SMI) and children with serious emotional disturbance (SED). The letter details several potential strategies under existing federal and state authorities to support innovative service delivery system improvements aimed at improving care for these populations. However, most notably, the letter also provided a new opportunity for states to seek a Section 1115 demonstration project to waive the IMD exclusion for individuals with an SMI/SED diagnosis. To date, IMD waivers have only been provided for individuals with SUD (as summarized above). Like the SUD demonstration projects, states must stay within a statewide average length of stay of 30 days, and the IMD exclusion waiver must be part of a more comprehensive strategy to improve care across the continuum, including community-based mental health care.

For more information on either The SUPPORT for Patients and Communities Act or the State Medicaid Director letter, please contact [Amanda K. Schipp \(aschipp@kdlegal.com\)](mailto:aschipp@kdlegal.com) or [Stacy Walton Long \(slong@kdlegal.com\)](mailto:slong@kdlegal.com).

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