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JOINT COMMITTEE ON FINANCE

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Howard Marklein
Representative Mark Born

Date: May 22, 2024

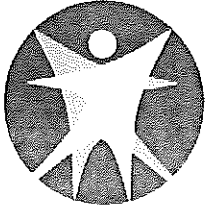
Re: DHS Implementation Plan to JFC

Attached is a implementation plan for developing a federal demonstration waiver request from the Department of Health Services, pursuant to s. 20.940(3)(a)1, Stats.

This implementation plan is being provided for your information only. No action by the Committee is required. Please feel free to contact us if you have any questions.

Attachments

HM:MB:jm



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Kirsten L. Johnson, Secretary

May 21, 2024

The Honorable Howard L. Marklein, Senate Co-Chair
Joint Committee on Finance
Room 316 East
State Capitol
P.O. Box 7882
Madison, WI 53707

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The Honorable Representative Mark Born, Assembly Co-Chair
Joint Committee on Finance
Room 308 East
State Capitol
P.O. Box 8952
Madison, WI 53707

Dear Senator Marklein and Representative Born:

Per s. 20.940(3)(a)1., created by 2017 Act 370, I am submitting an implementation plan for developing a federal demonstration waiver request to provide Medicaid coverage of services provided in an institution for mental disease as required under 2023 Act 177.

Section 20.940(3)(a)1. requires agencies to submit an implementation plan to the Committee within 60 days of the enactment of the legislation directing submission of the federal waiver request. It also provides that the plan include a timeline for submitting the waiver request to the federal government.

Per the non-statutory provisions of 2023 Act 177, the Department will submit its waiver demonstration project request to the Centers for Medicare and Medicaid Services (CMS) no later than January 1, 2025.

The implementation plan is attached. Please contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kirsten Johnson".

Kirsten Johnson
Secretary-designee

MEDICAID COVERAGE OF IMD SERVICES FOR ADULTS
Department of Health Services Implementation Plan for Submission of a Medicaid Section 1115
Demonstration Project Application to the Centers for Medicare and Medicaid Services

Per s. 20.940(3)(a)1., this document describes an implementation plan for development and submission by the Wisconsin Department of Health Services (DHS) of an application for a federal Medicaid Section 1115 demonstration project to provide Medicaid coverage of services in an institution for mental disease (IMD) as required by 2023 Act 177.

Expected date for submission of the application to CMS: No later than January 1, 2025.

1. Institutions for Mental Disease

The Federal Code of Regulations (42 U.S.C §1396d.(i)) defines an IMD as 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. Wisconsin DHS 101.03(85M), mirrors this definition and adds that an institution is an IMD if its overall character is that of a facility established and maintained primarily for the care and treatment of individuals with mental disease.

2. Summary of IMD Services for Adults

2023 Act 177 directs the Department of Health Services to submit a request for a federal waiver or other approval to the federal department of health and human services, to provide Medical Assistance coverage of services provided in an IMD to persons ages 21 to 64. Per current Wisconsin administrative code (DHS 107.03(15)), Wisconsin Medicaid does not reimburse expenditures for any service to a person 21 to 64 years of age who is a resident of an IMD unless one of the following exceptions are met; the member was a resident of the IMD immediately prior to turning 21 and has been continuously a resident up to the resident's 22nd birthday, or the member was on convalescent leave from an IMD. A member who is a resident of an IMD and is 21 years of age may be covered only until the resident's 22nd birthday.

3. Process to Submit Request to Federal Government

Information Gathering

In November 2018, CMS issued state Medicaid Director letter 18-011, "Opportunities to Design Innovative Service Delivery Systems for Adults with a Serious Mental Illness or Children with a Serious Emotional Disturbance." Through this letter, CMS announced the opportunity for demonstration projects, authorized under section 1115(a) of the Social Security Act to improve care for adults with serious mental illness (SMI) and children with serious emotional disturbance (SED). States with an approved demonstration waiver may receive federal financial participation for Medicaid-covered services furnished to Medicaid beneficiaries during short term stays for acute care in psychiatric hospitals or residential treatment settings that qualify as IMDs if they can demonstrate that they can ensure good quality of care in IMDs and improved access to community-based care.

States wishing to participate in this initiative can submit a demonstration application to CMS outlining the state's strategy for achieving the goals of this demonstration opportunity, including a commitment to meeting the milestones with the expectation that those milestones will be met by the end of the first two years of the demonstration. The milestones are as follows:

1. Ensuring Quality of Care in Psychiatric Hospitals and Residential Settings
2. Improving Care Coordination and Transitions to Community-Based Care
3. Increasing Access to Continuum of Care Including Crisis Stabilization Services
4. Earlier Identification and Engagement in Treatment, Including Through Increased Integration
5. Financing Plan
6. Health Information Technology Plan
7. Closed Loop Referral and e-Referral Capability

DHS is in the process of researching CMS guidance related to the milestone requirements and assessing the extent to which these milestones are already met, identifying gaps, and developing a plan to address those gaps.

DHS is also researching the policies, procedures, and mechanisms necessary to provide coverage of services delivered to Medicaid members during short-term stays in an IMD as directed by 2023 Act 177 and CMS policy and guidance. Lastly, DHS is seeking CMS guidance on operationalizing concurrent implementation of the residential substance use disorder (RSUD) waiver and this SMI/SED waiver.

Draft 1115 Demonstration Waiver

The Secretary of Health and Human Services the authority to approve states' requests experimental, pilot, or demonstration projects through an 1115 demonstration waiver,. Demonstration waivers must be budget neutral to the federal government; any increase to the cost of the program as a result of the demonstration must be funded through general program revenue. Waivers are typically approved for an initial five-year period. 2023 Act 177 directs DHS to provide Medical Assistance coverage for beneficiaries who receive services provided in an IMD when federal financial participation is available.. DHS will follow the process outlined in 42 CFR Part 431, subpart G in order to draft and submit the waiver application to accomplish the goal established in Act 177.

4. Expected Timeline for Development and Submission

Per Section 2 of 2023 Act 177, DHS will submit its SMI/SED waiver demonstration project request to CMS no later than January 1, 2025.

DHS will undertake the following activities to develop and submit the SMI/SED waiver demonstration project application by January 1, 2025.

- Develop the proposed application and complete the internal DHS review process, including an approvable budget neutrality approach.

- Notify and consult with tribes at least 60 days prior to submitting the demonstration projects to CMS.
- Initiate the required 30-day public notice and comment period. The public notice will include a comprehensive description of the application with a sufficient level of detail to enable meaningful input.
- Conduct two public hearings regarding the waiver application. The hearings will use telephone or web conference capabilities.
- Consult the Medicaid Advisory Committee.
- Compile and take into consideration all public comments and edit the demonstration project application accordingly.
- Submit the final demonstration project application to the Joint Committee on Finance for review and approval.
- Submit the Joint Committee on Finance-approved demonstration project application to CMS by January 1, 2025.