

**Chairman Martin (Senate) / Wood (House)** and members of the committee, my name is David Welsh and I am the Bureau Chief over Care Management in the Division of Medicaid. The Department is asking you to **EXTEND the temporary rule in docket number 16-0309-2001**. This docket is in your rules review book on pages **350 – 354**.

### PAUSE

The Division of Medicaid developed this rulemaking in compliance with the Red Tape Reduction Act. Changes in this docket reduced the total word count for this chapter by 59, and the number of restrictive words was reduced by 1.

The purpose of this docket is to remove all IDAPA references to the Institutions for Mental Diseases (IMD) exclusion. This docket supports Senate Bill 1204, enacted in the 2019 Legislative session. Senate Bill 1204 requires the Director of the Department of Health and Welfare to *“research options and apply for federal waivers to enable cost-efficient use of Medicaid funds to pay for substance abuse and/or mental health services in IMDs.”*

The institutions for mental diseases (IMD) exclusion has been in place in Medicaid statute since 1965. An IMD is defined 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, which includes substance use disorders (SUDs).

Historically, IMDs have not been eligible to receive Medicaid payment for services provided to individuals aged 21-64. However, in recent years, the federal government has provided new mechanisms and authorities for states to finance IMD services for nonelderly adults through Medicaid in certain situations.

In response to the legislative direction in Senate Bill 1204, the Division of Medicaid submitted applications to CMS for two new authorities that waive the IMD exclusion in federal law and allow reimbursement for IMD services:

1. A Section 1915(l) state plan option, which would allow reimbursement for IMD services related to a substance use disorder (SUD) diagnosis. This state plan option was submitted to CMS on September 30<sup>th</sup>. CMS intends to approve this authority with an effective date of January 1, 2020.
2. A Section 1115 demonstration waiver, which will cover both mental health and SUD services in IMDs. The Department submitted this waiver on January 3, 2020 and received a letter of completeness for this submission on January 9, 2020. We are working closely with our partners at CMS to expeditiously review and approve this waiver.

This temporary docket has an effective date of January 1, 2020. This effective date was required in order to coincide with the effective date of the 1915(I) state plan option. By aligning these dates, the Division of Medicaid was able to begin reimbursing SUD services provided in an IMD on the same day as expanding Medicaid to the new adult population.

Because these are temporary rules, the Department did not engage in negotiated rulemaking. The public comment period for the 1115 IMD waiver opened on November 22<sup>nd</sup> and closed on December 24<sup>th</sup>. Public hearings were held in Boise on December 2<sup>nd</sup> and 3<sup>rd</sup>, with an available conference line for those unable to attend in person. This provided stakeholders an opportunity to give feedback on the proposed changes. The public comments received about this waiver are overwhelmingly positive.

These rule changes are not expected to have any fiscal impacts on the State General Fund. During the 2019 legislative session, action by the Joint Finance Appropriations Committee shifted budget dollars from the Division of Behavioral Health and the Department of Correction to the Division of Medicaid to pay for costs of Medicaid Expansion, including the costs of the waivers set forth in Senate Bill 1204. Additionally, Idaho Medicaid was required to demonstrate cost neutrality of this 1115 waiver to CMS.

The Department anticipates the 1115 waiver will have significant positive impacts on the Idaho behavioral health continuum of care. This waiver will be instrumental in helping to reduce opioid overdoses and suicide rates in Idaho. Without a waiver in place, the only option for patients with serious mental illness is admission to the psychiatric unit of an acute hospital, which is the most expensive setting of all for psychiatric treatment.

**The Department asks that the committee EXTEND these temporary rules.**

Thank you – I stand for your questions.