



# **Preliminary Findings from Congressionally Mandated Study on Institutions for Mental Diseases**

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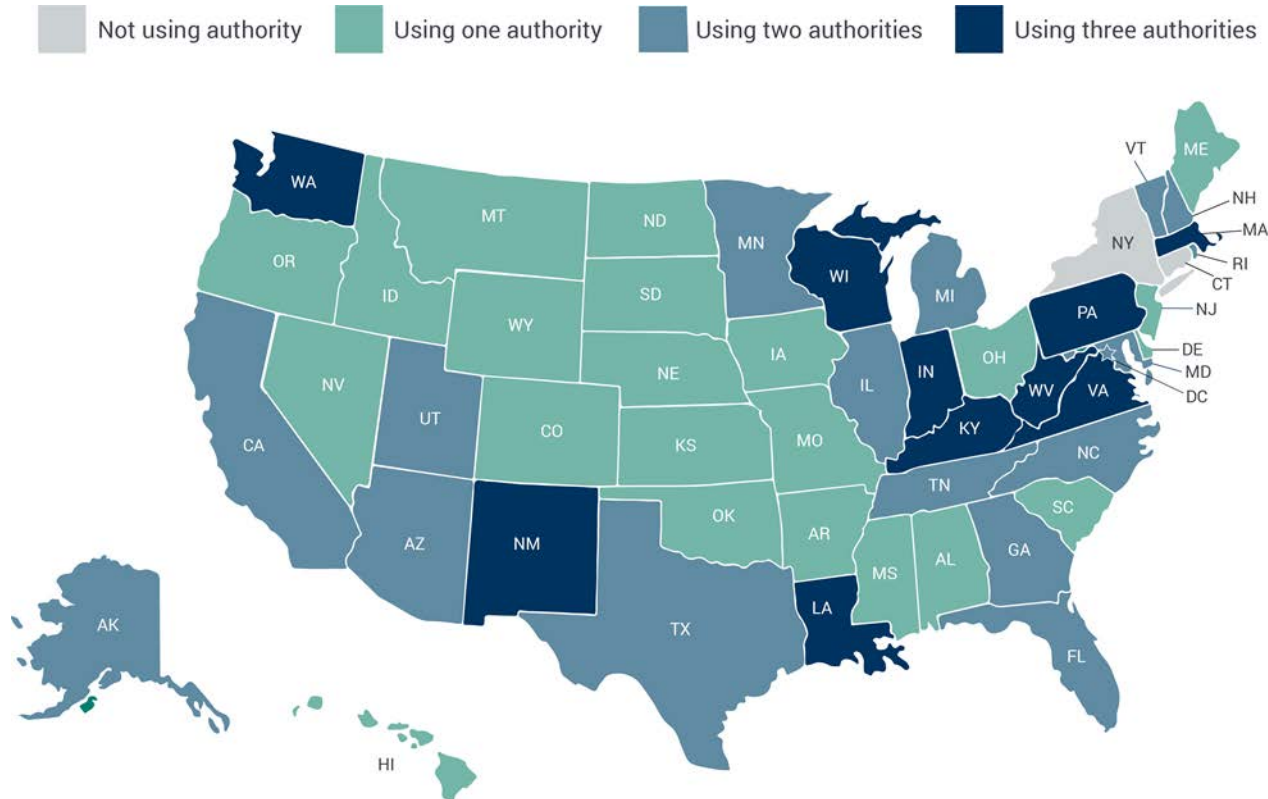
Medicaid and CHIP Payment and Access Commission

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# Overview

- Medicaid payments to IMDs
- Legislative requirements for MACPAC study
- Study Approach
- Preliminary findings
  - Federal oversight
  - State oversight & accreditation organizations
  - Medicaid standards
- Next steps

# Federal Authorities Used to Make Payments to Institutions for Mental Diseases, 2018 – 2019



**Note:** This map captures instances under which states make payments to IMDs as a state plan benefit for beneficiaries over the age of 65, through Section 1115 demonstrations, and as an in-lieu of service. Information on the state plan IMD benefit for beneficiaries over the age of 65 reflects coverage as of 2018. Use of Section 1115 demonstrations reflects approved demonstrations as of March 2019. States reporting use of the in-lieu of managed care authority for either 2018 or 2019 were included in this chart as using at least one Medicaid authority to pay for services in IMDs. Information regarding state use of DSH payments to IMDs in 2018 is unavailable and not reflected in this figure.

**Source:** KFF 2019, MACPAC 2019b, and Gifford et al. 2018.

# Legislative Requirements for MACPAC Study

MACPAC report to Congress due January 1, 2020. It must include the following:

- summary of state requirements (e.g., certification, licensure) for IMDs and how state determines requirements are met;
- summary of state standards (e.g., quality, clinical) for IMDs and how state determines standards have been met;
- description of IMDs, including services provided; and
- description of Medicaid funding authorities and coverage limitations placed on IMD services

# Legislative Requirements for MACPAC Study

- Congress directed MACPAC to seek input from stakeholders (e.g., state Medicaid directors, beneficiary advocates, providers) in carrying out study
- If determined appropriate, report may include recommendations for policies and actions by Congress and CMS. Specifically recommendations on:
  - how state Medicaid programs may improve care and improve standards for IMDs; and
  - how CMS can improve data collection for these facilities

# Study Approach

Study has three components:

- State requirements for behavioral health facilities:
  - MACPAC contracted with Watson Health to document standards in seven states
  - Also conducting semi-structured interviews with state-level stakeholders
- Identifying and describing IMDs using two SAMHSA facility surveys
- Additional formal public comment opportunity in summer 2019

# Federal Oversight

# Health Care Regulation: Federal Role

- Medicare certification dictates which providers are regulated by the federal government
- Medicare heavily influences oversight role played by state licensure agencies and accrediting organizations
- To participate in Medicare, facilities obtain certification, which is generally sought through state survey agency or accrediting organization
  - During certification, investigation is done to determine whether facility complies with federal quality and safety requirements (known as conditions of participation)
  - Certification exists for approximately 20 different types of health care facilities (e.g., hospitals)



# Federal Oversight is Lacking

- With the exception of freestanding psychiatric hospitals, Medicare certification process does not apply to many types of facilities that may be IMDs
- Quality and safety standards afforded by Medicare certification, and certification framework which establishes the role of the state survey agencies and accreditation organizations, does not apply to these providers

# State Oversight & Accreditation Organizations

# State Oversight is Fragmented

- Obtaining licensure often a prerequisite to participate in Medicare and Medicaid
  - But, licensure varies considerably by state
  - Some behavioral health providers may be wholly unregulated
- In most states, facility licensure conducted by state survey agency that makes certification recommendations to CMS
  - For behavioral health facilities, entities other than state survey agency may be responsible for licensure
- Licensure standards differ across states (e.g., staffing requirements, treatment planning, discharge planning)
- Enforcement of standards often complaint-based

# Accreditation Organizations

- Health care providers may seek accreditation for Medicare certification or credentialing purposes
- Psychiatric hospitals seek accreditation at high rates; in 2016 over 80 percent of psychiatric hospitals reported Joint Commission accreditation
- Residential facilities seek accreditation at lower rates; these facilities are not recognized by Medicare:
  - Residential mental health: in 2016, 30 percent reported CARF accreditation; 16 percent Joint Commission accredited
  - Non-hospital based SUD seek accreditation at similar rates
- Section 1115 guidance requires IMDs providing psychiatric care to be accredited; no such requirement exists for IMDs providing SUD services

# Medicaid Standards

# Medicaid Provider Enrollment Process

- To receive Medicaid payment, provider must first enroll with a state Medicaid agency
- Screening process to enroll differs based on provider's potential for fraud, waste, or abuse (limited, moderate, or high risk)
  - More involved for high-risk providers than low-risk providers
- For providers not recognized by Medicare, Medicaid agency has discretion in how it performs and completes screening activities
  - Generally, states have flexibility in how they classify and enroll many IMDs resulting in variation across states

# Other Medicaid Standards

- Some Medicaid agencies adopt additional standards outside of provider enrollment process for behavioral health facilities (e.g., use of patient placement criteria)
- MCOs may institute requirements that go beyond what the licensure agency and the Medicaid agency requires
- Often, Medicaid agencies work with other state partners (e.g., Medicaid contractors, state licensure agency, Office of the Inspector General, Medicaid Fraud Control Unit) to enforce program standards

# Next Steps

- MACPAC is finalizing its work with Watson Health which identifies state-specific policies to regulate IMDs
- During summer 2019, MACPAC will seek comment from interested parties on the topics covered in this study
- Draft report to Congress will be presented to Commission in September 2019.
  - The report will include results from Watson Health's work and feedback from request for public comment





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