State of Vermont
Agency of Human Services
280 State Drive
Waterbury, Vermont 05671

Report on Vermont's Institutions for Mental Disease

Act 200 of 2018

Submitted to

House Committee on Appropriations

House Committee on Corrections and Institutions

House Committee on Health Care

House Committee on Human Services

Senate Committee on Appropriations

Senate Committee on Health and Welfare

Senate Committee on Institutions

Submitted by

Michael K. Smith, Secretary

Vermont Agency of Human Services

January 15, 2020

Statutory Language

Sec. 10 of Act 200 of 2018, An act relating to systemic improvements of the mental health system, requires that the Agency of Human Services (AHS) provide the Vermont Legislature an annual report each January 15 from 2019-2025 on the Agency's progress in evaluating the impact of federal Institutions for Mental Disease (IMD) spending on persons with serious mental illness or substance use disorders.

> Sec. 10. REPORT; INSTITUTIONS FOR MENTAL DISEASE
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> The Secretary of Human Services, in partnership with entities in Vermont designated by the Centers for Medicare and Medicaid Services as "institutions for mental disease" (IMDs), shall submit the following reports to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services and to the Senate Committees on Appropriations, on Health and Welfare, and on Institutions regarding the Agency's progress in evaluating the impact of federal IMD spending on persons with serious mental illness or substance use disorders:
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> (1) a status update that shall provide possible solutions considered as part of the State's response to the Centers for Medicare and Medicaid Services' requirement to begin reducing federal Medicaid spending due on or before November 15, 2018; and
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> (2) on or before January 15 of each year from 2019 to 2025, a written report evaluating:
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> (A) the impact to the State caused by the requirement to reduce and eventually terminate federal Medicaid IMD spending;
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> (B) the number of existing psychiatric and substance use disorder treatment beds at risk and the geographical location of those beds;
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> (C) the State's plan to address the needs of Vermont residents if psychiatric and substance use disorder treatment beds are at risk;
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> (D) the potential of attaining a waiver from the Centers for Medicare and Medicaid Services for existing psychiatric and substance use disorder services; and
>
> (E) alternative solutions, including alternative sources of revenue, such as general funds, or opportunities to repurpose buildings designed as IMDs.

This is the second annual report required under Sec. 10 of Act 200 of 2018. The following report is broken into four parts to provide a description of Vermont's evaluation of the impact of federal IMD spending on persons with serious mental illness (SMI) or substance use disorders (SUD), including: (1) Five Year IMD Phase-down Schedule, (2) Current Waiver Activities and Impact on Federal Funding, (3) Phase-down Options, and (4) Conclusions.

1. Five-Year IMD Phasedown Schedule

As discussed in the report submitted November 15, 2018[1], AHS was required by CMS in Vermont's Global Commitment to Health 1115 Demonstration Waiver to submit a phase-down schedule of funding for Vermont IMDs. To ensure adequate time to strategically adjust Vermont's system of care, AHS presented the following phase-down schedule of Federal Medical Assistance Percentages (FMAP) for IMDs to the Centers for Medicare and Medicaid Services (CMS)[2]:

2021: 95% of FMAP
2022: 90% of FMAP
2023: 85% of FMAP
2024: 80% of FMAP
2025: 75% of FMAP
2026: 0% of FMAP

Vermont is awaiting approval from CMS of the 2021 phasedown target of 95%. However, CMS is unable to approve the full schedule that was proposed for years beyond Vermont's current 1115 waiver term, which ends on December 31, 2021. CMS indicates that the remainder of the phasedown schedule will be discussed and formalized during forthcoming negotiations with Vermont for renewal of the 1115 waiver to occur throughout 2021.

In June 2018, Vermont amended its Global Commitment to Health 1115 Demonstration waiver to receive authority to pay for IMD treatment of primary substance use disorders (SUD). With the final acceptance of the SMI IMD waiver amendment described in the next section, the IMD phasedown of Federal Financial Participation (FFP) required by STC 87 of the State's 1115 waiver is estimated to be at the following gross amounts:

[1] https://legislature.vermont.gov/assets/Legislative-Reports/ACT-200-IMD-report-update-11-15-18.pdf
[2] http://dvha.vermont.gov/global-commitment-to-health/1cms.final-phasedown-report-12-31-18.pdf

Facility	Type and Target Group(s)	Treatment Focus	# of Beds	CY18 Gross Expenditure
Lund Home *Burlington*	Residential treatment for pregnant and parenting women with children under 5 years old	Psychiatric/SUD	26	$2,188,170
Brattleboro Retreat *Brattleboro*	Inpatient stabilization for adults	Psychiatric, Co-occurring SUD	89	$7,581,000
Vermont Psychiatric Care Hospital (VPCH) *Berlin*	Inpatient stabilization for adults under the care and custody of DMH	Psychiatric, Co-occurring SUD	25	$19,862,173

2. Current Waiver Activities and Impact on Federal Funding

On September 9, 2019, Vermont submitted a request to amend Vermont's Section 1115 Global Commitment to Health Demonstration pursuant to the opportunity described in CMS' November 13, 2018 State Medicaid Director's Letter[3]. Specifically, Vermont sought Federal Financial Participation (FFP) for services provided to Medicaid beneficiaries in psychiatric IMDs when the statewide average length of stay (LOS) meets the expectation of 30 days or less. It is important to note that no IMD waiver available through CMS provides Federal Financial Participation (FFP) for forensic mental health patients. Following phase-down of investment authority, any individual who has a forensic status, currently making up close to half of VPCH's census and accounting for several beds at Brattleboro Retreat, will have to be paid for exclusively with state dollars.

There are four categories of individuals who receive "forensic" psychiatric care:

1. Individuals who are awaiting a psychiatric evaluation as part of a trial

2. Individuals who have been found incompetent to stand trial

3. Individuals who have been found to be insane at the time of the crime were tried and found not guilty by reason of insanity

[3] SMD # 18--011 RE: Opportunities to Design Innovative Service Delivery Systems for Adults with a Serious Mental Illness or Children with a Serious Emotional Disturbance.

4. Individuals who are pre-adjudication or have been convicted and are in DOC custody who develop the need for acute psychiatric care on either a voluntary or involuntary basis

The estimated impact of excluding forensic stays is $11.2M gross based on CY 18 numbers but will vary based on IMD census. This equates to an approximate loss of $6.1M in federal funding in future years when the phase-down is implemented.

On December 5, 2019, Vermont's Global Commitment to Health waiver was amended to enable Vermont to receive Federal Financial Participation (FFP) for short-term (60 days or fewer) inpatient services provided to otherwise-eligible Medicaid beneficiaries while residing in IMDs for diagnosis of serious mental illness (SMI) and/or serious emotional disturbance (SED). Today, the state uses approximately $43M in investment dollars to pay for care in IMDs. This waiver allows the state to shift approximately $13.4M gross from investments to the Medicaid program. This will leave approximately $29.6M gross remaining in IMD investment dollars which will need to be phased down from Federal Financial Participation during CY2021-2026 (pending the renewal of the 1115 demonstration). The investment spending that will need to be phased down is attributed to forensic care in IMDs, care for persons who are not Medicaid eligible, and care for persons whose length of stay exceeds 60 days. Vermont's proposed phase-down schedule considers the extensive amount of time and resources that will be necessary to adequately plan and implement the large-scale change that is necessary for determining an appropriate financing plan, for the remaining, non-waivered types of care provided in IMDs.

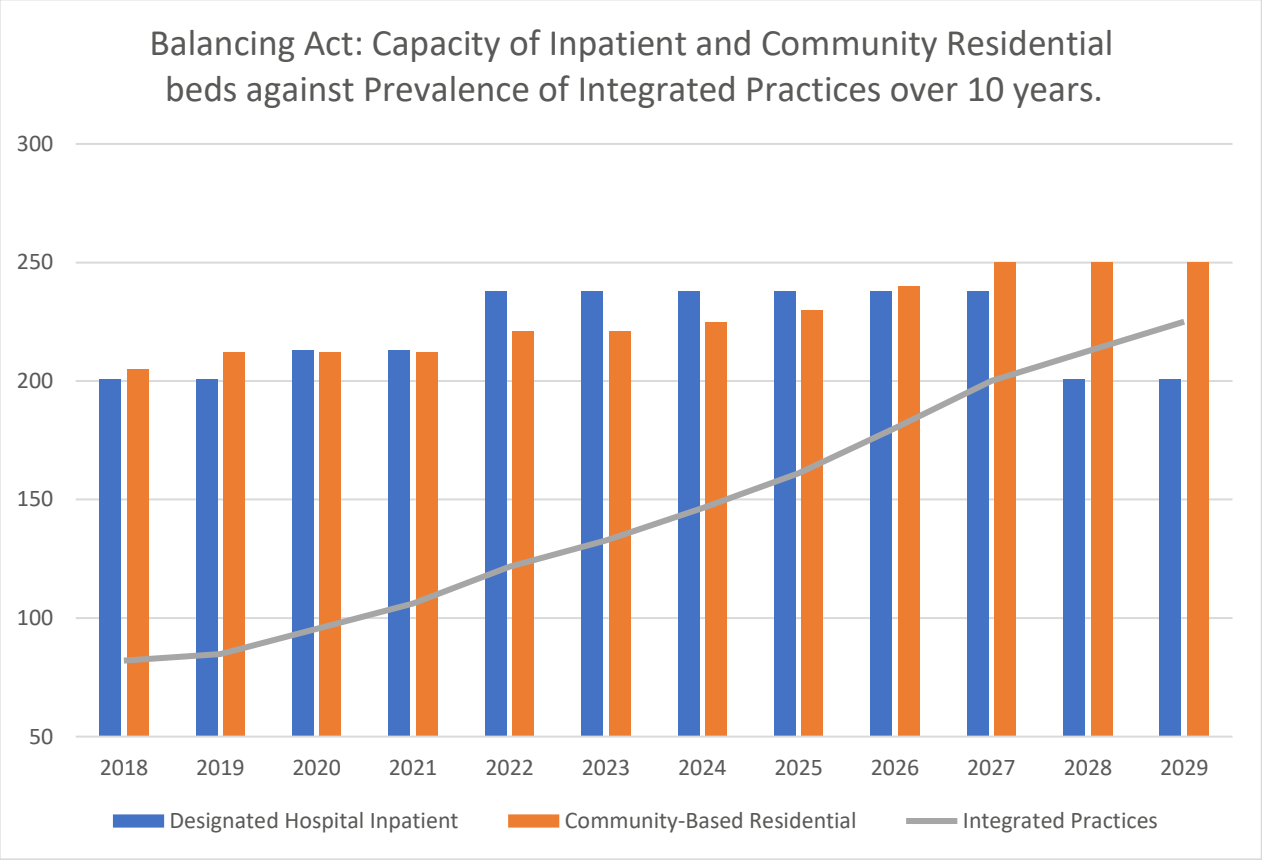
Summary (CY 2018 actuals)					
	Allowable	Unallowable - Forensic	Unallowable - LOS > 60 days	Unallowable - Not Medicaid eligible	Total
Lund Home			$ 2,188,170		$ 2,188,170
VPCH	$ 1,435,942	$ 9,655,822	$ 7,547,575	$ 2,658,776	$ 21,298,115
BR	$ 11,985,675	$ 1,578,900	$ 3,511,200	$ 2,490,900	$ 19,566,675
Total	$ 13,421,617	$ 11,234,722	$ 13,246,945	$ 5,149,676	$ 43,052,960
ffp %		0.5439	0.5439	0.5439	Total
loss of ffp		$ 6,110,565	$ 7,205,013	$ 2,800,909	$ 16,116,487

3. Phase-down Options

Consistent with a collaborative network approach between hospitals and community-based programs, the gap in bed capacity could potentially be addressed through more robust investments in the expansion of an array of residential support models in the community. However, in line with a complete system of care, Vermont will need to ensure there is a place for all individuals experiencing a psychiatric crisis.

Further, as Vermont works towards its goals of an integrated and holistic health care system, the need for inpatient level of care may be reduced over time. A visual of this concept is provided below for illustration and discussion purposes. The premise is that inpatient capacity must grow initially, but that additional capacity in community based and residential levels of care and expansion of integrated care approaches may alleviate the need for inpatient level of care over time. Prevention and health promotion activities should also help decrease the number of Vermonters who find themselves in need of such levels of care.

Inpatient levels of care are illustrated to be stable for several years while the growth and impacts of improved community capacity, integrated care approaches, and prevention activities are evaluated for impact. For purposes of this illustration, the projected outcome is that increases in community based, residential and integrated care delivery are over the long term impactful. This is not a foregone assumption by AHS but is proposed as the framework of a vision that is worth further exploration.



4. Conclusion

SMI IMDs are one of the essential and high-quality components of Vermont's psychiatric system of care.

The anticipated elimination of federal investment funds for these institutions will significantly impact the system of care. The waiver to allow federal fiscal participation for short-term stays at IMDs will ease Vermont's burden of phase-down planning, yet still requires the state to carefully assess the system of care and to propose an adequate and proper financing mechanism if necessary. The phase-down plan proposed to CMS allows AHS and its partners the time necessary to evaluate and carefully prepare for the elimination of IMD funding. It will also provide for more time to study and continue to implement the most effective care-delivery models to serve these populations.

AHS believes Vermont must continue to make efforts to achieve an integrated and holistic health care system. However, working towards establishing a balance between mental health services provided in the hospital, and services delivered in the community, requires time to develop the necessary community supports to ensure all Vermonters have access to the care they need at the time they need it. The State must ensure it is done in a thoughtful way, driven by the needs of Vermonters, and not based on federal funding decisions.