Report to
The Vermont Legislature

Report on Vermont's
Institutions for Mental Disease
Act 200, Section 10 (2018)

In Accordance with Sec. 10 of Act 200 of 2018.
REPORT; INSTITUTIONS FOR MENTAL DISEASE

Submitted to: The House Committee 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

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VERMONT
AGENCY OF HUMAN SERVICES

Overview

This is the fourth annual report required by 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 Institutions for Mental Disease (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 (3) Phase-down Options, and (4) Conclusions.

1. Five-Year IMD Phasedown Schedule

As described in the report submitted January 15, 2021[1], AHS was required by the Centers for Medicare & Medicaid Services (CMS) in Vermont's Global Commitment to Health 1115 Demonstration Waiver (1115 Waiver) 2017 renewal 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 Financial Participation (FFP) for IMDs to [2]:

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

In August 2020, CMS requested that the State submit a revised and accelerated phasedown percentage for calendar year 2021. Vermont carefully reviewed its IMD projections and submitted an updated phasedown percentage of 75% FFP to CMS in October 2020. **This change from 95% to 75% of FFP has no real dollar impact for CY21, but rather reflects the migration of dollars from the investment category of spending to the programmatic category because Vermont's SUD and SMI IMD waiver amendments now allow these expenditures as Medicaid program expenditures.** On January 13th, 2021, CMS approved Vermont's revised phasedown proposal for 2021 (see appendix). Without changes that were requested through Vermont's 2022 1115 renewal application, actual loss of FMAP for IMDs will occur in CY22 if the state is required to phase-down investment dollars used for IMDs beyond what is covered by the IMD waivers.

In June 2018, Vermont amended its 1115 Waiver to receive authority to pay for IMD treatment of primary substance use disorders (SUD). On December 5, 2019, the 1115 Waiver was again amended to enable Vermont to receive FFP for short-term (60 days or fewer) IMD stays provided to otherwise-eligible Medicaid beneficiaries with diagnosis of serious mental illness (SMI) and/or serious emotional disturbance (SED). With both the SUD and SMI IMD waiver amendments, the IMD phasedown required by Special Terms and Conditions (STC) 91 of the State's 1115 waiver is estimated to be at the following gross amounts:

Facility	Type and Target Group(s)	Treatment Focus	# of Beds	CY21 Gross Est.
Lund Home *Burlington* *100% of ineligible dollars due to stay over 60 days.*	Residential treatment for pregnant and parenting women with children under 5 years old	Psychiatric/SUD	26	$2,527,441
Brattleboro Retreat *Brattleboro* *Ineligible dollars due to combination*	Inpatient stabilization for adults	Psychiatric, Co-occurring SUD	86	$6,932,000

[1] 2021 Report on Vermont's Institutions for Mental Disease (Act 200 of 2018)
[2] http://dvha.vermont.gov/global-commitment-to-health/1cms.final-phasedown-report-12-31-18.pdf

of stays over 60 days and forensic stays.				
Vermont Psychiatric Care Hospital (VPCH) *Berlin* *Ineligible dollars due to combination of stays over 60 days and forensic stays.*	Inpatient stabilization for adults under the care and custody of DMH	Psychiatric, Co-occurring SUD	25	$20,527,960
Total				**$29,987,401**

The phasedown amounts above reflect the state/federal-combined cost for stays prohibited under the terms of the SMI/SUD IMD waivers. Specifically, the following stays are not eligible for FFP under Vermont's IMD waivers:

- IMD stays for non-Medicaid patients.
- IMD stays over 60 days.
- IMD stays for individuals defined as "forensic" under the terms of the IMD waiver:
  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.
  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 remaining $30M in investment spending that is subject to phasedown 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 phase-down schedule considered the extensive amount of time and resources that will be necessary to adequately plan and implement the large-scale change necessary for determining an appropriate financing plan, for the remaining, non-waivered types of care provided in IMDs.

2. Current Waiver Activities and Impact on Federal Funding

Vermont's Global Commitment to Health 1115 Demonstration Waiver was set to expire on December 31, 2021. Due to the Public Health Emergency, Vermont was able to extend its renewal application deadline from December 2020 to June 2021 and received a six-month extension of its existing waiver demonstration period and terms through June 2022. This six-month demonstration extension was permitted to allow adequate time to negotiate the terms of the next demonstration period. The temporary extension does not impact IMD funding and has no additional IMD phasedown requirements for the first six months of 2022.

Sustainable federal IMD funding is a top priority for Vermont during the 1115 Waiver negotiations.

3. Phase-down Options

While it is important to carefully evaluate all the options utilized by states nationally to address federal funding issues related to IMDs, it is essential to note that the weighted evaluation of these alternatives does not rest exclusively on monetary impacts but must also align with Vermont's vision for a comprehensive, accessible, and high-quality system of care. The State endeavors for individuals to obtain community-based mental health and SUD treatment to the maximum extent possible; however, there are instances when residential or inpatient treatment is medically necessary. Vermont's IMDs provide high-quality residential and inpatient care, performing better than the State's Medicaid program as a whole and the national HEDIS benchmark on measures of the percentage of enrollees with follow-up after hospitalization for mental illness at the 7-day and 30-day mark. In addition, Vermont's IMDs have lower 30- and 180-day readmission rates than psychiatric care provided in general settings (8% v. 9% 30-day readmission rate and 17% v. 20% 180-day readmission rate, respectively).

As referenced in Section 2 above, sustainable IMD funding is a top priority for Vermont in its 1115 waiver negotiations. The state is in active conversations with CMS relative to the innovative approaches to IMDs that Vermont proposed in its 1115 waiver renewal application found here:
https://humanservices.vermont.gov/sites/ahsnew/files/documents/MedicaidPolicy/GC1115Waiver/VT-Global-Commitment-Renewal-Final-6.30.2021.pdf

4. Conclusion

SMI IMDs are one of the essential and high-quality components of Vermont's psychiatric system of care. Without approval of Vermont's requests to broaden its existing IMD waivers, the potential elimination of federal investment funds for these institutions will significantly impact the state's mental health care system. While the existing IMD waivers ease Vermont's burden of phasedown planning, their numerous constraints still require the State to carefully assess the system of care and to propose an adequate and proper financing mechanism for sustainability. The outcome of negotiation of Vermont's next 1115 demonstration period will have real consequences for Vermont IMD funding. If IMD waiver authorities are expanded under the next demonstration period, then any phasedown requirement becomes less severe. However, if IMD authorities are not expanded broadly enough or at all, then the gradual loss of Medicaid dollars until complete phase out by 2026 will require hard decisions around future IMD funding.

As a practical matter, the elimination of IMD federal funding currently required by STC 84 will result in bed closures. Vermont does not have the infrastructure, staff resources, or geographic attributes needed to further decentralize its systems of care. Vermont's mental health and substance use systems of care need to be stabilized and enhanced in order to impact high emergency room utilization for mental health, pervasive opioid use, adverse childhood events and trauma, and suicide rates. With less capacity for delivering the most intensive treatment, patients with the most complex needs will need to obtain care in psychiatric units of acute care hospitals, creating reduced access for patients who would have otherwise sought care in those settings. This issue will have ripple effects throughout the continuum of care, reducing access to all levels of mental health care.

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.