The Honorable Richard J. Durbin  
United States Senate  
Washington, DC 20510  

Dear Senator Durbin:

Thank you for your letter regarding the Centers for Medicare & Medicaid Services’ (CMS) policy on Medicaid payments for individuals in Institutions for Mental Diseases (IMDs). As you indicated in your letter, the IMD payment exclusion was enacted by Congress as part of the Social Security Act almost 50 years ago. The exclusion applies to individuals that are patients in IMDs and prohibits federal payment for all Medicaid services, including treatment and other supports rendered both inside and outside of an IMD. You have asked that we reassess the current payment exclusion for individuals in an IMD and allow individuals in substance use disorder (SUD) treatment facilities to be exempt from this exclusion.

The CMS is committed to improving the lives of Medicaid beneficiaries with a SUD. Over the past several years, we have encouraged or required states to include treatment and support services for Medicaid beneficiaries with a SUD. These services included care that is community-based and cost-effective, including medication assisted treatment, screening, brief intervention, and referral to treatment. In addition, we have launched the Innovation Accelerator Program (IAP) to improve care, health, and reduce costs. As part of this program, we are working with states to leverage IAP resources to introduce system reforms that better identify individuals with a SUD, expand coverage for effective SUD treatment, and enhance SUD practices delivered to beneficiaries.

The CMS continues to take steps to reassess the IMD payment exclusion policy, within the parameters established by Congress. For example, we are examining the potential for use of our section 1115 demonstration authority to assess the value of covering a full range of SUD evidence-based services in improving outcomes for individuals with a SUD. As stated in our October 2014 informational bulletin, CMS is developing additional guidance on our 1115 demonstrations that may allow a limited number of proposals to test comprehensive SUD system transformation, and ensure integrated and community-based care to effectively treat individuals with SUD. As indicated in the informational bulletin, section 1115 demonstrations may be designed to provide more effective treatment of SUD by allowing states to cover services normally prohibited by federal statute, such as short-term acute treatment for SUD, which may include some residential and/or inpatient services. As you may know, CMS is administering section 2707 of the Affordable Care Act to conduct and evaluate a demonstration to provide Medicaid reimbursements to private psychiatric institutions for beneficiaries from ages 21 to 64 with psychiatric emergency medical conditions. This demonstration is authorized to continue until December 31, 2015.
I appreciate hearing from you on this important issue, and we will continue our efforts to work with states on ways to ensure that individuals with a SUD receive quality services. Should you have additional questions, please contact the Office of Legislation at 202-690-8220. I will also provide this response to the co-signers of your letter.

Sincerely,

Marilyn Tavenner

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