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October 31, 2024

Nicholas Di Meo
Waukesha State Office Building
Department of Health Services
Attn: Wisconsin 1115 SMI/SED Waiver
141 NW Barstow St. Rm 126
Waukesha, WI 53188-3789
DHSMedicaidSMISED@dhs.wisconsin.gov

Comments submitted via email

RE: Invitation to comment on October 1 Section 1115 BadgerCare Reform Wavier Serious Mental Illness and Serious Emotional Disturbance Amendment (IMD waiver)

Dear Mr. Di Meo:

Thank you for the opportunity provided by the Public Notice on October 1, 2024, to provide comment to help DHS determine if changes should be made to the waiver amendment request.

To create additional inpatient psychiatric placement options for Medicaid fee-for-service patients, the Wisconsin Hospital Association (WHA) supports state and federal efforts to loosen the outdated federal Institute for Mental Disease (IMD) restrictions on Medicaid coverage in IMD hospitals. The federal IMD restriction runs afoul of mental health parity principles, has stigmatized individuals with mental health needs, and created access barriers unique to Medicaid fee-for-service enrollees with mental illness.

Through this comment letter, WHA is following up to two questions asked during the DHS public hearing on the waiver on October 9, 2024, and in which DHS staff indicated they would provide a response at a later date.

Specifically, prior to its submission to CMS, WHA requests that DHS work with WHA to address some potential confusion regarding the currently drafted 1115 Waiver Application, and an additional follow up question regarding coordination and linkage of post-discharge services.

Impacts on existing Wisconsin Medicaid-certified IMDs

All hospitals that are IMDs are currently certified by Medicaid under DHS 105.21 – Hospital IMDs. These facilities may currently be reimbursed with Medicaid funds for services under the Medicaid Fee-for Service program for individuals under 21 years of age or older than 65 years of age, or if the Medicaid enrollee is enrolled in a Medicaid managed care plan.

To clear up some potential confusion regarding the draft 1115 Waiver Application, if approved as submitted:

- Does the waiver application make reimbursement under the Medicaid Fee-for-Service program for 21-65 year olds in hospital IMDs contingent on hospital IMDs that are currently certified by Medicaid under DHS 105.21 meeting additional requirements that are not currently required to serve those existing populations?
- Does the waiver application make Medicaid reimbursement to hospital IMDs for currently reimbursable Medicaid services provided to Medicaid enrollees in Medicaid managed care or Medicaid Fee-for-Service enrollees under 21 years of age or older than 65 years of age contingent on hospital IMDs currently certified by Medicaid under DHS 105.21 – Hospital IMDS – meeting additional requirements that are not currently required to serve those existing populations?

Coordination of post-discharge care

Wisconsin’s mental health system as detailed in Chapter 51, Wis. Stats., places significant responsibility on county governments to provide a full range of treatment services for individuals, with a specific intent to “enable and encourage counties to develop a comprehensive range of services offering continuity of care,” as stated in s. 51.42(1)(a), Wis. Stats.

To that end, DHS 34, Wis. Admin. Code, specifies direction and standards for comprehensive county mental health crisis services, which includes provision of and linkage and coordination services (DHS 34.22(3)(e)). Those linkage and coordination services are currently requirements that DHS 34 county mental health service programs must provide to receive Medicaid reimbursement under Subchapter III of DHS 34.

To the extent the waiver application makes Medicaid reimbursement to hospital IMDs contingent on new linkage and coordination follow up services that the hospital IMD would be responsible for, we encourage DHS to consider whether placing that responsibility on the hospital IMD would create confusion, duplication and fragmentation of post-hospitalization follow up and linkage services that are currently built to be provided, in a coordinated manner, by county DHS 34 programs.

WHA appreciates DHS’s timely work to advance a 1115 waiver application to CMS in order to remove outdated restriction on the provision of reimbursement for health care services provided in IMDs to patients enrolled in the Medicaid Fee-for-Service Program. WHA looks forward to working with DHS to expeditiously advance and implement this waiver.

Sincerely,

/s/

Matthew Stanford
General Counsel
Wisconsin Hospital Association, Inc.
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