



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

February 22, 2022

The Honorable Delores G. Kelley
Chair, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

**RE: SB 659 – Maryland Medical Assistance Program – Psychiatric Inpatient Care –
Admission Restrictions – Letter of Information**

Dear Chair Kelley and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of information on Senate Bill (SB) 659 – Maryland Medical Assistance Program – Psychiatric Inpatient Care – Admission Restrictions. SB 659 will prohibit MDH, except under certain circumstances, from limiting or restricting admission of a Maryland Medical Assistance Program recipient from inpatient care at a special psychiatric hospital or an acute general care hospital with a separate inpatient psychiatric service.

Federal regulations limit the number of days in a psychiatric facility that the state can cover through the Medical Assistance Program to an average length of stay (ALOS) of 30 days. Failure to meet these requirements will put Maryland at risk of losing some or all federal matching dollars for these services, which will have a substantial indeterminate fiscal impact.

The Centers for Medicare and Medicaid Services (CMS) approved Maryland's 1115 HealthChoice Waiver renewal effective January 1, 2022. Maryland's initial draft application would have restricted coverage to up to two non-consecutive 30-day stays (no more than 60 days per person) in an Institute of Mental Disease (IMD).¹ As requested by stakeholders, and consistent with federal requirements, MDH updated the terms and conditions of the waiver to include coverage of an ALOS of 30 days for Maryland Medicaid participants who receive psychiatric care in an IMD.

ALOS is calculated at the overall program level and not at the individual stay level. CMS requires two additional guardrails — (1) Medicaid cannot pay for days that extend beyond 60 days and (2) if the ALOS exceeds 30 days for the population, CMS will require a corrective action plan with a hard limit of 45 days. In fiscal year 2020, the ALOS for Maryland Medicaid participants was below 30 days for Serious Mental Illness (SMI) IMD services. For Substance

¹ An IMD is defined as a facility with more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental illness. (42 U.S.C. §1396d(i))

Use Disorder (SUD) IMD services, the average length of stay was higher than the requested ALOS (42 days). While CMS examines each of the programs individually, MDH must monitor to ensure that the average length of stay for both programs does not exceed an average stay of 30 days. As the SUD average stay exceeds this limit by approximately 40 percent (40%), there is a risk that CMS may impose a hard limit of 45 days for both programs. This restriction would reduce MDH's flexibility in allowing additional days for certain patients.

If you have any questions, please contact Heather Shek, Director of Governmental Affairs, at heather.shek@maryland.gov or (443) 695-4218.

Sincerely,

A handwritten signature in black ink, reading "Dennis R. Schrader". The signature is written in a cursive style with a large, stylized "D" and "S".

Dennis R. Schrader
Secretary