Repealing the Medicaid "Institution for Mental Diseases" (IMD) Exclusion Position Statement

Position: The National Shattering Silence Coalition (NSSC) calls for a permanent, full repeal of the IMD exclusion and urges Congress to pass the Increasing Behavioral Health Treatment Act (H.R. 4022) and the Strengthening Medicaid for Serious Mental Illness (SMI) Care Act (H.R.3320).

Executive Summary

The Medicaid "Institutions for Mental Diseases" (IMD) exclusion is a discriminatory provision of the 1965 Social Security Act that prohibits federal Medicaid matching funds for adults (ages 21–64) receiving care in psychiatric facilities with more than 16 beds. This 60-year-old policy is the primary engine behind the national psychiatric bed shortage, the "boarding" crisis in emergency departments, and the mass incarceration of individuals with Severe Mental Illness (SMI). NSSC asserts that severe mental illnesses are neurological biological brain diseases and that denying hospital care based on bed count is a violation of the 2008 Mental Health Parity and Addiction Equity Act (MHPAEA).

Historical Context: The Failed Promise of 1965

The IMD exclusion was born from a 1965 belief that community-based care and new medications would eliminate the need for psychiatric hospitals. Consequently, while Medicaid covered physical ailments, it excluded adults with SMI, shifting the burden to the states. The result was not "community care," but rather trans-institutionalization: the movement of patients from clinical hospitals to jails, shelters, and the streets.

The Case for Full Repeal

1. Correction of Legal Misinterpretations (Olmstead v. L.C.)

Opponents frequently misinterpret *Olmstead v. L.C. (1999)* to suggest that psychiatric hospitals are inherently discriminatory. However, Justice Ruth Bader Ginsburg noted: *"The ADA is not reasonably read to impel States to phase out institutions, placing patients in need of close care at risk."* For many, a hospital is the "least restrictive environment" where they can be stabilized safely.

2. Failure of the Section 1115(a) Waiver System

Current policy relies on "waivers" to bypass the exclusion. This is insufficient because of:

- Bureaucratic Hurdles: As of late 2024, 14 states and the District of Columbia have received approval from the Centers for Medicare & Medicaid Services (CMS) for Section 1115 SMI/SED demonstrations to expand mental health treatment services. These demonstrations allow states to receive federal Medicaid reimbursement for care provided in Institutions for Mental Disease (IMDs).
- Time Limitations: Managed care rules often cap IMD stays at 15 days, which is medically inadequate for stabilizing a patient on complex antipsychotic regimens that may take weeks to reach therapeutic levels.

While these waivers allow for payment in facilities over 16 beds, they do not waive the exclusion entirely; they allow for specific, time-limited, and approved exceptions to the rule.

3. The Humanitarian Crisis: Jails as the New Asylums

The IMD exclusion has criminalized brain disease.

- The Bed Crisis: In 1955, there were 337 beds per 100,000 people. Today, that rate has plummeted to less than 12 per 100,000.
- The "Jail-First" Model: There are now ten times more people with SMI in prisons and jails than in psychiatric hospitals.
- Mortality: The risk of being killed during a police encounter is 16 times higher for individuals with untreated SMI (Treatment Advocacy Center).

4. The Economic Reality: $366.8 Billion Annually

Groundbreaking research published in JAMA Psychiatry (2026) by the Schizophrenia & Psychosis Action Alliance (S&PAA) reveals the true cost of our current "fail-first" system:

- The Total Burden: The annual societal cost of schizophrenia in the U.S. has reached $366.8 billion.
- Direct vs. Indirect: Only 10% of this cost is spent on healthcare. The vast majority stems from indirect costs ($291.8 billion), including lost productivity, justice system interactions, and premature mortality.
- The Caregiver Burden: Unpaid family caregivers shoulder an economic burden of $165 billion annually.

Current Legislative Solutions

NSSC supports a permanent, legislative repeal of the IMD exclusion. We urge support for the following active bills in the 119th Congress:

1. H.R. 4022 (Increasing Behavioral Health Treatment Act): Removes the 16-bed limit for psychiatric patients under Medicaid.
2. H.R. 6727 (Repealing the IMD Exclusion Act): A clean repeal to ensure parity across all medical facilities.
3. H.R. 3320 (SMI Care Act): Proposes a comprehensive shift toward treating SMI as a medical priority rather than a criminal justice issue.

Conclusion

The IMD exclusion is a relic of an era that did not understand the biological reality of brain disorders. To continue this exclusion is to endorse the systematic neglect and incarceration of our most vulnerable citizens. No other disease has mandated treatment bed limitations for care and recovery. This is blatant discrimination. NSSC demands that Congress treat brain diseases with medical urgency and human dignity.

References

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