



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

**MARYLAND MEDICAL ASSISTANCE PROGRAM**  
**Substance Abuse Provider Transmittal No. 4**  
**June 20, 2012**

**To:** Alcohol and Substance Abuse Certified Residential Treatment Providers  
 Levels: III.1, III.3, III.5, III.7, III.2-D, and III.7D

**FROM:** *Susan J. Tucker*  
 Susan J. Tucker, Executive Director  
 Office of Health Services

**Note:** Please ensure that appropriate staff members in your organization are informed of the contents of this transmittal.

**RE:** Prohibition on reimbursing for outpatient services for adults admitted to residential programs that meet the definition of Institutes for Mental Disease under federal Medicaid rules

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 Recently, a provider asked the Medicaid Program (Program) whether the Program could reimburse a certified residential substance abuse provider for outpatient services, rendered to adults between the ages of 21 and 64, while the adults are admitted to an inpatient program with greater than 16 beds. The provider asking the question was certified both as a residential and outpatient provider.

As explained below, the answer to the provider's question is "No, the Program cannot provide Medicaid funding to providers for outpatient services in the above circumstances." Under COMAR 42 CFR 435.1009(a)(2), federal law prohibits state Medicaid programs from reimbursing certified residential providers for *either* residential or outpatient services provided to adults between the ages of 21 and 64 who are admitted to "an institution for mental diseases" (IMD). An IMD is defined as "an institution for mental diseases as a hospital, nursing facility, or other institution of *more than 16 beds* that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services". COMAR 42 CFR 435.1010 (emphasis added). The regulation also indicates that a facility of more than 16 beds is an IMD if its "overall character [is] that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases."

For purposes of determining whether a facility is subject to the federal IMD exclusion, the term "mental disease" includes diseases listed as mental disorders in the International Classification of Diseases 9<sup>th</sup> Edition (ICD-9-CM). Persons who have chemical dependency diagnoses are classified as having a mental disease under ICD-9-CM.

In summary, federal Medicaid reimbursement is not available for services provided to any individual who is admitted to an IMD of more than 16 beds, and who is between the ages of 21 and 64, even when the only services being billed are outpatient services.

If you have any question, please telephone me at 410-767-1430.