

# IMD Exclusion Waivers 101

## IMD Exclusion Basics

The Institutions for Mental Diseases (IMD) Exclusion is a provision in the Social Security Act. It states that Medicare will not pay for more than 15 lifetime days of inpatient psychiatric services in any institution greater than 16 beds. This applies to any individual aged 21-64 covered under Medicare.

### Why is the IMD exclusion harmful?

If an individual aged 21-64 is on Medicare, it is likely because they are disabled. Many of these people have psychiatric disabilities. The IMD Exclusion means that once they use up their 15 days, they can no longer receive typical treatment for the condition that placed them on Medicare to begin with. This severely limits treatment options. These patients must self-pay, find scholarships to cover the cost of treatment, or find a place at a facility under 16 beds, which is exceedingly uncommon.

## What is the IMD Exclusion Waiver?

2018 federal policy allows states to pursue waivers to the IMD Exclusion. This would remove the 15 day lifetime limit on most inpatient psychiatric care. This would allow Texans on Medicare to receive the amount of psychiatric care that they need.

## Benefits of the IMD Exclusion Waiver

- When psychiatric stays are limited, patients must be discharged when their time runs out. This means that they may be discharged before medically recommended and before stabilization.
- Without treatment, people with serious mental illness strain public services like emergency rooms, shelters, and jails.
- Without treatment, they may commit crimes and often end up in jails. This is a public safety issue, but it is also an injustice to the patient who is jailed instead of receiving treatment.
- Jails, shelters, and emergency rooms are not equipped to provide psychiatric care that inpatient facilities can provide. The burden should not fall on these services after patients use their 15 days.

## Challenges of IMD Exclusion Waivers

IMD exclusion waivers may increase state spending on psychiatric services. However, it is likely to decrease spending on other social services that currently fill that gap, such as jails and shelters.

## History of IMD Exclusion Laws

The IMD Exclusion was originally created in response to disability advocacy. The goal was to decrease institutionalization of people with mental illness. By prohibiting Medicare to pay for more than 15 days in a psychiatric facility of greater than 16 beds, the original goal was to encourage placement of these individuals into small residential communities (i.e. under 16 beds) that were better suited for long-term placement of people with high support needs. Smaller communities are thought to help these individuals live with more meaning and dignity. However, no such expansion of these communities happened but the law persisted, leaving people in need with no options for care after 15 days.

## Next Steps

Texas Jail Project recommends that Texas apply for an Institution for Mental Diseases (IMD) Exclusion Waiver under **Section 1115 of the Social Security Act**. This waiver would expand Medicare coverage to include vital mental health treatment services in facilities designated as IMDs, addressing an urgent gap in our state's behavioral health care system.