

NOTICE OF CONNECTICUT STATE AGENCIES

State of Connecticut Department of Public Health

Notice of Hearing

The Department of Public Health will hold a hearing on February 16, 2021, for the purpose of issuing a declaratory ruling.

The subject of the declaratory ruling is as follows:

- 1 Whether the capacity of a subsurface sewage disposal system (“SSDS”) proposed by Aaron Manor Nursing & Rehabilitation Center (which facility is located at 3 South Wig Hill Road, Chester, Connecticut) exceeds 7,500 gallons per day depriving DPH of jurisdiction?
- 2 Whether the SSDS proposed by Aaron Manor is a “repair” of an existing system; rather, than a replacement and construction of a new SSDS, requiring compliance with § 19-13-B103a *et seq.* of the Regulations of Connecticut State Agencies and the Technical Standards?
- 3 Whether the SSDS proposed by Aaron Manor is in an “area of special concern” as specified in, and does not comply with, § 19-13-B103d(e) *et seq.* of the Regulations of Connecticut State Agencies and the Technical Standards?

The hearing will be held by video conference, commencing at 9:30 a.m. The details for connecting to the hearing will be provided 3-5 days prior to the hearing by contacting the Department of Public Health, Public Health Hearing Office at phho.dph@ct.gov and will posted to the Public Health Hearing Office’s Administrative Hearing Calendar at <https://portal.ct.gov/DPH/Public-Health-Hearing-Office/Public-Health-Hearing-Office-Home/Legal-Office-Public-Health-Hearing-Office-Administrative-Hearings-Calendar>

The Department of Public Health (“the Department”) has prepared this notice in accordance with the Uniform Administrative Procedure Act (“UAPA”), Connecticut General Statute § 4-166 *et seq.*, and specifically Conn. Gen. Stat. § 4-176.

By law, a declaratory ruling constitutes a statement of agency law which is binding upon those who participate in the hearing and may also be utilized by the Department of Public Health, on a case by case basis, in future proceedings before it.

January 26, 2020

Stacy Schulman, Esq.
Hearing Officer
Department of Public Health
Legal Office / Public Health Hearing
Office
410 Capitol Avenue, MS# 13PHO
PO Box 340308
Hartford, CT 06134-0308

Department of Social Services

Notice of Proposed Medicaid State Plan Amendment (SPA)

SPA 21-K: Private Psychiatric Hospital Reimbursement for Inpatient Services

The State of Connecticut Department of Social Services (DSS) proposes to submit the following Medicaid State Plan Amendment (SPA) to the Centers for Medicare & Medicaid Services (CMS) within the U.S. Department of Health and Human Services (HHS).

Changes to Medicaid State Plan

Effective on or after March 4, 2021, SPA 21-K will amend Attachment 4.19-A of the Medicaid State Plan to specify the reimbursement methodology for inpatient services provided by newly licensed private psychiatric hospitals. The reason for this SPA is to set forth a payment methodology for newly licensed private psychiatric hospitals that is not currently set forth in the state plan.

Specifically, the per diem rates for a newly licensed private psychiatric hospital will temporarily be the lower of: (1) the hospital's budgeted cost per day based on available data at the time of licensure or (2) \$814.65 for adult days 1–29 and \$829.96 for child acute days, with the adult days 30+ and child discharge delay day rates set at 85% of the respective adult and child rates.

After such hospital files its first Medicare cost report as a psychiatric hospital, its per diem rates will be calculated at the lower of: (A) 75% of cost per day from the Medicare cost report (as detailed below) for adult days 1–29 and acute child days with the adult days 30+ and child discharge delay day rates set at 85% of the respective adult and child rates or (B) the temporary amounts set forth in (2) above. Cost per day is calculated as the sum of hospital inpatient routine and ancillary service costs from worksheet B, part I, column 26 and provider-based physician costs from worksheet A-8-2, column 4, divided by total days from worksheet S-3, part I, column 8. Such rates shall be effective for dates of service on or after the first day of the second month following the due date of the hospital's first Medicare cost report as a psychiatric hospital. For example, the rates calculated using a cost report due February 28th will be effective April 1st of the same year.

Fiscal Impact

DSS estimates that this SPA will decrease annual aggregate expenditures by approximately \$6,000 in State Fiscal Year (SFY) 2021 and \$19,000 in SFY 2022.

Compliance with Federal Access Regulations

In accordance with federal regulations at 42 C.F.R. §§ 447.203 and 447.204, DSS is required to ensure that there is sufficient access to Medicaid services, including services where payment rates are proposed to be reduced or where payment rates or methodologies are being restructured in a manner that may affect access to services. As described above, this SPA is making changes to specify a reimbursement methodology for inpatient services provided by newly licensed private psychiatric hospitals and to avoid reimbursing in excess of budgeted or calculated cost, as applicable.

Those federal regulations also require DSS to have ongoing mechanisms for Medicaid members, providers, other stakeholders, and the public to provide DSS with feedback about access. In addition to other available procedures, anyone may send DSS comments about the potential impact of this SPA on access to inpatient services provided by private psychiatric hospitals as part of the public comment process for this SPA. Contact information and the deadline for submitting public comments are listed below.

Obtaining SPA Language and Submitting Comments

This SPA is posted on the DSS web site at this link: <http://portal.ct.gov/dss>. Scroll down to the bottom of the webpage and click on “Publications” and then click on “Updates.” Then click on “Medicaid State Plan Amendments”. The proposed SPA may also be obtained at any DSS field office or the Town of Vernon Social Services Department, or upon request from DSS (see below).

To request a copy of the SPA from DSS or to send comments about the SPA, please email: Public.Comment.DSS@ct.gov or write to: Medical Policy Unit, Department of Social Services, 55 Farmington Avenue, 9th Floor, Hartford, CT 06105 (Phone: 860-424-5067). Please reference “SPA 21-K: Private Psychiatric Hospital Reimbursement for Inpatient Services”.

Anyone may send DSS written comments about the SPA. Written comments must be received by DSS at the above contact information no later than March 4, 2021.

DEPARTMENT OF SOCIAL SERVICES

Notice of Proposed Medicaid and Children's Health Insurance Program Substance Use Disorder Demonstration Waiver Pursuant to Section 1115 of the Social Security Act

The State of Connecticut Department of Social Services (DSS) proposes to submit the following Medicaid and Children's Health Insurance Program (CHIP) Substance Use Disorder (SUD) Demonstration Waiver Pursuant to Section 1115 of the Social Security Act to the Centers for Medicare & Medicaid Services (CMS) within the U.S. Department of Health and Human Services (HHS). **Note:** For more information, see below and DSS website at this link: <https://portal.ct.gov/DSS/Health-And-Home-Care/Substance-Use-Disorder-Demonstration-Project>. **Public comment and public hearing information are at the bottom of this notice.**

Description of Demonstration Waiver

Pursuant to section 17b-8 of the Connecticut General Statutes and 42 C.F.R. § 431.408, DSS provides notice that it intends to submit to CMS a SUD Demonstration Waiver pursuant to Section 1115 of the Social Security Act for Connecticut's Medicaid Program and CHIP (Demonstration). This Demonstration is the result of a collaborative effort among various state agencies and other partners, including the three partner state agencies of the Connecticut Behavioral Health Partnership (CTBHP): DSS, Connecticut's single state agency for Medicaid and CHIP; the Department of Children and Families (DCF), the lead state agency for children's behavioral health; and the Department of Mental Health and Addiction Services (DMHAS), the single state agency for adult behavioral health. Connecticut's Medical Assistance Program (CMAP) includes the state's Medicaid program and CHIP.

The Demonstration is intended to be effective on or after July 1, 2021 upon CMS approval and is a comprehensive project to enhance the state's SUD service system in accordance with federal guidance. Once approved, the Demonstration will enable federal financial participation (FFP) Medicaid and CHIP matching funds for individuals receiving SUD services residing in Institutions for Mental Diseases (IMDs) that would ordinarily not be covered under federal law. In accordance with CMS guidance, this Demonstration will ensure a complete American Society of Addiction Medicine (ASAM) levels of care (LOCs) service array is available as part of an essential continuum of care for Medicaid enrolled individuals with opioid use disorder (OUD) and other SUDs.

This Demonstration implements CMS guidance for SUD 1115 demonstration waivers, set forth in CMS State Medicaid Director Letter (SMD) # 17-003, Strategies to Address the Opioid Epidemic, posted on the CMS website at this link: <https://www.medicaid.gov/federal-policy-guidance/downloads/smd17003.pdf>. Additional information about SUD 1115 demonstrations, including a list of other states that have already established a SUD 1115 demonstration, is posted to the CMS website at this link: <https://www.medicaid.gov/medicaid/section-1115-demonstrations/1115-substance-use-disorder-demonstrations/section-1115-demonstrations-substance-use-disorders-serious-mental-illness-and-serious-emotional-disturbance/index.html>.

(A) The program description, goals, and objectives to be implemented or extended under the demonstration project, including a description of the current or new beneficiaries who will be impacted by the demonstration.

Program Description, Including Affected CMAP Members

CMAP enrollment is not expected to change as a result of this Demonstration. As detailed above, the Demonstration will enable CMAP coverage for individuals with SUD who are residing in IMDs for which coverage would otherwise be prohibited under federal law. This Demonstration will also ensure enhancements in the SUD service system to provide a full continuum of care in accordance with the latest version of ASAM LOCs.

Goals/Objectives

The Demonstration includes the following goals, all of which are designed to improve services and quality of life for CMAP members with SUD.

1. Increased rates of identification, initiation and engagement in treatment for OUD and other SUDs;
2. Increased adherence to and retention in treatment for OUD and other SUDs;
3. Reductions in overdose deaths, particularly those due to opioids;
4. Reduced utilization of hospital emergency departments (EDs) and inpatient hospital settings for OUD and other SUD treatment where the utilization is preventable or medically inappropriate through improved access to other continuum of care services;
5. Fewer readmissions to the same or higher level of care where the readmission is preventable or medically inappropriate for OUD and other SUDs; and
6. Improved access to care for physical health conditions among beneficiaries with OUD or other SUDs.

(B) To the extent applicable, the proposed health care delivery system and the eligibility requirements, benefit coverage and cost sharing (premiums, co-payments, and deductibles) required of individuals that will be impacted by the demonstration, and how such provisions vary from the State's current program features.

This Demonstration will not change the underlying program; in particular, it will not change the current CMAP fee-for-service delivery system, eligibility requirements, covered services, or cost-sharing. Connecticut's Medicaid program currently does not include any cost-sharing. Connecticut's CHIP includes specified cost-sharing for certain services.

The Demonstration will not change covered benefits, except that it will enable FFP to the state for individuals with SUD residing in IMDs. Separately, DSS intends to submit a Medicaid State Plan Amendment (SPA) in the future (for which public notice will be published when the draft SPA has been developed) to enable full implementation of this Demonstration to cover residential and inpatient treatment, as well as all levels of withdrawal management (ASAM levels 1 WM, 2-WM, 3.1, 3.2-WM, 3.3, 3.5, 3.7, 3.7 WM, 4).

(C) An estimate of the expected increase or decrease in annual enrollment, and in annual aggregate expenditures, including historic enrollment or budgetary data, if applicable. This includes a financial analysis of any changes to the demonstration requested by the State in its extension request.

This Demonstration is not anticipated to change annual CMAP enrollment because this Demonstration does not change CMAP eligibility requirements. This Demonstration is not expected to change to annual aggregate Medicaid and CHIP expenditures because it will comply with federal budget neutrality requirements for SUD 1115 demonstration waivers. Utilization of Medicaid State Plan covered services for individuals who receive SUD treatment services in an IMD will be authorized only if DSS or its designee, determines the admission to a residential setting is medically necessary, which includes consideration of consistency with ASAM placement criteria and all other applicable requirements. Changes in Medicaid State Plan covered services and reimbursement will be set forth in a separate SPA, as noted above, and any fiscal impact of those changes will be part of that SPA, not this Demonstration.

Federal law in section 1115 requires the Demonstration to be budget-neutral to the federal government. In SMD # 18-009, Budget Neutrality Policies for Section 1115(a) Medicaid Demonstration Projects, posted on the CMS website at this link: <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18009.pdf>, CMS set forth budget neutrality guidance for section 1115 demonstration waivers. CMS notes in SMD # 18-009 (p. 6) that it has approved Medicaid payments for services to individuals residing in an IMD primarily to receive treatment for SUD, which would otherwise be coverable by Medicaid but for the federal law exclusion on Medicaid coverage for services in an IMD, as hypothetical expenditures. CMS applies hypothetical expenditures to a budget neutrality test in which with-waiver and without-waiver costs are treated as the same, which means that the state is not required to account for separate savings to offset costs that would already be federally coverable under Medicaid but for the IMD exclusion.

DSS anticipates that federal budget neutrality for this Demonstration will be determined using per-member per-month (PMPM) CMAP expenditures for SUD IMD services for the following Medicaid Eligibility Groups (MEGs) within CMAP: HUSKY A (children and caretaker adult coverage groups), HUSKY B (CHIP), HUSKY C (aged, blind and disabled coverage groups), and HUSKY D (low-income adult Medicaid expansion coverage groups).

(D) The hypothesis and evaluation parameters of the demonstration.

The Demonstration will evaluate whether the CMAP SUD treatment system is more effective through a provision of a complete coordinated continuum of care using ASAM placement criteria and standards, including SUD residential treatment services. Through a contract with an independent contractor, the state will conduct an independent evaluation to measure and monitor the outcomes of the Demonstration in accordance with CMS guidance, focusing on the key goals and milestones of the Demonstration. The researchers will assess the impact of providing the full continuum of SUD treatment services, particularly residential treatment, on hospital ED utilization, inpatient hospital utilization and readmission rates.

(E) The specific waiver and expenditure authorities that the State believes to be necessary to authorize the demonstration.

The specific waiver and expenditure authorities necessary to implement this demonstration are those that allow for the state to receive Medicaid and CHIP FFP for otherwise covered services furnished to otherwise eligible individuals, who are receiving treatment and withdrawal management services for SUDs in an IMD, which, absent this waiver, are not coverable in accordance with federal law.

Where the Demonstration is Posted

The Demonstration and related materials, including the Demonstration Waiver Application, Implementation Plan, and Budget Neutrality Summary are posted on the DSS

website at this link: <https://portal.ct.gov/DSS/Health-And-Home-Care/Substance-Use-Disorder-Demonstration-Project>. The proposed Demonstration and related materials may also be obtained upon request from DSS (see below), at any DSS field office, or the Town of Vernon Social Services Department.

Where and When to Submit Written Comments

To send comments about the Demonstration, please email: Public.Comment.DSS@ct.gov or write to: Department of Social Services, Medical Policy Unit, 55 Farmington Avenue, 9th Floor, Hartford, CT 06105. In any correspondence, please reference “SUD 1115 Demonstration Waiver”. Please also send any other questions about the Demonstration to this contact information, including requests for a copy of the Demonstration (and/or related materials).

Anyone may send DSS written comments about the Demonstration. Written comments must be received by DSS at the above contact information no later than March 5, 2021 (which is more than 30 days after the date of the publication of this notice in the Connecticut Law Journal). Please note that comments received will also be posted to the same website referenced above.

Public Hearings

In addition to the opportunity for submitting written comments (see above), DSS will also seek input from the public on the Demonstration at the following public hearings, both of which will include opportunities for members of the public to have an opportunity to provide comments:

1. Public Hearing at a meeting of the Behavioral Health Partnership Oversight Council on Wednesday, February 10, 2021, from 2:00 to 4:00 p.m., with electronic link and call-in information to be posted on the DSS website at the link below.
2. Public Hearing before DSS, on Thursday, February 18, 2021, from 10:00 a.m. to 12:00 p.m., with electronic link and call-in information to be posted on the DSS website at the link below.

For the latest information on the public hearing date, time, and the link/call-in information for each public hearing, please go to the DSS website at this link: <https://portal.ct.gov/DSS/Health-And-Home-Care/Substance-Use-Disorder-Demonstration-Project> and **please check that website regularly for updates before logging onto the public hearing.**

As a result of restrictions and guidelines to protect public health due to the Coronavirus Disease 2019 (COVID-19) pandemic and ongoing state and federal public health emergency declarations, the public hearings referenced above are being convened only using electronic means, with opportunity for individuals to participate by electronic device, telephone, or both.
