



**Qualified Residential Treatment Program (QRTP) Reimbursement:
Family First Prevention Services Act (FFPSA) Requirements
Q & A
October 19, 2021**

1. What is CMS notifying partners of today?

CMS is releasing this set of “Questions and Answers” to inform states that they can seek to modify the terms of an existing Medicaid section 1115 demonstration opportunity to allow title IV-E beneficiaries to receive coverage in a qualified residential treatment program (QRTP) that is an institution for mental disease (IMD) for longer than that demonstration model currently allows.

The Family First Prevention Services Act (FFPSA) of the Bipartisan Budget Act of 2018 amends Title IV-E of the Social Security Act to limit foster care maintenance payments (FCMPs) (payments for room, board, and certain other costs for children in foster care) to 14 days for children placed in child care institutions (CCIs). One exception to this limitation is for children placed in facilities designated as QRTPs. As described below, a QRTP over 16 beds may meet the Medicaid definition of an IMD¹. Federal Medicaid law prohibits states from receiving federal financial participation (FFP) (i.e., the federal government’s share of a state’s Medicaid expenditures) for services delivered to individuals residing in an IMD, except in very limited circumstances, such as the inpatient psychiatric services for individuals under 21 benefit (the “psych under 21 benefit”). This is a requirement that precedes the FFPSA.

As a result, states may be prohibited from claiming FFP for Medicaid services delivered to children while they reside in a QRTP that has more than 16 beds. CMS addressed this issue in Technical Assistance Questions and Answers² dated September 20, 2019.

The FFPSA amended Title IV-E to create limitations on title IV-E FCMPs for children placed in non-foster family home settings known as CCIs longer than 14 days, effective October 1, 2019. Agencies were allowed to request up to a two-year delay for implementation of the FFPSA limitations until October 1, 2021. A QRTP is a type of CCI placement where a child could possibly receive more than 14 days of title IV-E funded FCMPs.

¹ Section 1905(i) of the Social Security Act defines an IMD 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”.

² <https://www.medicare.gov/federal-policy-guidance/downloads/faq092019.pdf>

2. What can states do to receive federal Medicaid funds for QRTPs with more than 16 beds that meet the IMD definition?

While placement of foster care children in foster and kinship families and smaller settings is an important goal, a serious mental illness/serious emotional disturbance (SMI/SED) Medicaid 1115 demonstration initiative³ exists under authority in section 1115(a)(2) of the Social Security Act that allows CMS to authorize federal Medicaid funding for services provided to individuals in an IMD, where appropriate, when states also commit to ensuring a comprehensive, coordinated system of community-based care. To date, CMS has approved IMD expenditure authority under the SMI/SED demonstration initiative in six states (Idaho, Indiana, Oklahoma, Utah, Vermont, and Washington), and the District of Columbia. This demonstration opportunity could provide states the authority to receive FFP for Medicaid services provided to children in QRTPs with more than 16 beds. Typically, the demonstration initiative requires adherence to a statewide average length of stay of 30 days. It also limits FFP for coverage of Medicaid services to stays of no more than 60 days. For a limited time (not to exceed two years from the effective date of the new demonstration or demonstration amendment), states may propose a SMI/SED 1115 demonstration that also includes an exemption from the foregoing limitations on length of stays for foster care children residing in QRTPs that are IMDs. Read more about the SMI/SED 1115 demonstration in a [September 2019 CMS Technical Assistance Questions and Answers](#).

As a condition of approval for the exemption, states will be required to provide CMS with a plan, including key milestones and timeframes, for transitioning children out of QRTPs that are IMDs. This transition plan will take into account the up-to-two-year period during which children residing in QRTPs are exempt from the typical length of stay parameters; those parameters will apply to children residing in QRTPs at the expiration of this up-to-two-year period.

3. How fast can an 1115 SMI/SED demonstration be made available to states?

Six states and the District of Columbia already have approved 1115 SMI/SED demonstrations. These states would need to submit an amendment to take advantage of this opportunity, and CMS is available to provide technical assistance accordingly.

For those states that do not currently have the demonstration, approval of new demonstrations will depend on the details of state applications submitted and whether they can meet the current requirements of the SMI/SED 1115 demonstration. CMS stands ready to provide technical assistance to states, as needed. States that do not currently have a section 1115 SMI/SED demonstration should review the guidance available in SMD # 18--011: *Opportunities to Design Innovative Service Delivery Systems for Adults with a Serious Mental Illness or Children with a Serious Emotional Disturbance*.

4. Why is CMS unable to reimburse for services provided to beneficiaries in large QRTPs and IMDs for all states without an 1115 demonstration?

When a facility is defined as an IMD, and does not meet one of the allowable facility types identified under the psych under 21 benefit for children, there generally is no authority to provide federal Medicaid funds for services provided to individuals residing in the IMD, per Medicaid statute. Nothing in the FFPSA amended Medicaid statute to exempt QRTPs with more than 16

³ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18011.pdf>

beds from this IMD exclusion. Therefore, except in very limited circumstances, CMS relies on demonstration authority under section 1115(a)(2) to provide Medicaid funding to individuals residing in IMDs, such as through the current SMI/SED 1115 initiative. CMS does not have the authority to utilize general enforcement discretion or compliance action to authorize reimbursement of services provided to children residing in QRTPs that the state has assessed as meeting the definition of an IMD.

5. What is the difference between an IMD and QRTP facility?

A QRTP is a CCI that provides a trauma-informed model of care designed to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances. A QRTP that is a private CCI can accommodate any number of children, though some QRTPs (those that are a public CCI) are limited to 25 children. An IMD is 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. An IMD facility has more than 16 beds. Therefore, given the interconnectedness of these two definitions, a QRTP facility with more than 16 beds will most likely qualify as an IMD.

6. Who determines whether a QRTP facility with more than 16 beds qualifies as an IMD?

States make an IMD assessment and determination on a facility-by-facility basis according to the statute, CMS regulation, and sub-regulatory guidance.

7. If a child has placement in a QRTP that is an IMD after October 1, 2021, can that child be disenrolled from Medicaid?

No. Placement in a QRTP that is an IMD does not impact Medicaid eligibility. CMS is committed to ensuring that vulnerable children are receiving high-quality care in smaller settings, but the Medicaid statute prohibits states from receiving FFP for services delivered to individuals residing in an IMD.