WHAT YOU NEED TO KNOW ABOUT INSTITUTES OF MENTAL DISEASE AND NURSING FACILITIES IN NEBRASKA

PRESENTATION BY NANCY SHANLEY
VP OF CONSULTING AND POLICY ANALYSIS
ASCEND MANAGEMENT INNOVATIONS

EMAIL: NSHANLEY@ASCENDAMI.COM
Agenda

Institute for Mental Disease (IMD)
- Why is “IMD-status” important?
- What is an IMD?
- How will I know if my facility is an IMD?
- Nebraska Medicaid’s role

PASRR
- Changes on Ascend’s PASRR web-page
  - Items
  - The look
- What remains the same: The overall Level I, Level II process

© Ascend Management Innovations
Submit Questions During Live Webinar

- Email questions to: IMD@ascendami.com
  - Only during live presentation
  - Send questions anytime during the live session

- Contact the Medicaid Inquiry Line with IMD questions
  - 877-255-3092

- Contact Ascend with PASRR or system questions
  - 877-431-1388 x3341
WHY LEARN ABOUT INSTITUTES FOR MENTAL DISEASE?
Why Learn About Institutes for Mental Disease?

- **Financial impact**: Knowing Medicaid Certified NF’s IMD-status is important because it can significantly impact the facility’s bottom line.

- **Recoupment**: All Federal Medicaid money paid for NF care can be recouped for every day an NF is found to be an “Institute for Mental Disease”.

- **Increased focus on IMDs**:
  - Centers for Medicare and Medicaid Services
  - Department of Justice
  - State Medicaid agencies
When a nursing facility is found in an audit to be an IMD:

- Federal Medicaid **does not pay** for services rendered to persons in an Institute for Mental Disease
- States must pay back Federal money received for every day of NF service rendered **from the date the facility became an IMD**
- States recoup these monies from the NF
- In some cases this could go back months, in some cases years
It is good to know what an IMD is because:

- There is **increased state and federal focus** on monitoring the IMD status of nursing facilities
  - DOJ and civil rights division actions
  - CMS and community integration actions
  - States/advocates and Olmstead actions

- The financial penalties for nursing facilities that inadvertently become an IMD are potentially very significant
WHAT IS AN IMD?

Definition and audit measures
The Federal Definition of an IMD is:

**Institution for mental diseases** means 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. [42 CFR 435.1010]

We will talk specifically about the things that auditors look for when deciding if a facility is an IMD as we move through the presentation.
Recoupment Mandated Under the SSA

- The Social Security Act 1950(i), 1950(a) provides that Federal Financial Participation is **not available** for **any** medical assistance under Title XIX (Medicaid) for individuals who are patients in an IMD, **including per diem** or any other costs.

- Unless the payments are for optional benefits expressly elected by the state through the state plan to individuals 65 or older or 21 and younger.
HOW DO YOU KNOW IF YOUR FACILITY IS AN IMD?
First IMD Criterion:

1. The facility has a minimum of 17 beds.
Whether a facility is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such.”

…every indication of any significance that a given facility is primarily engaged in an IMD activity needs to be marshaled…

A final determination on the institution’s status is based on its overall character.
How do Regulators Test the Overall Character of a Facility?

1. The facility is licensed as a psychiatric facility for the care and treatment of mental diseases
2. The facility is accredited as a psychiatric facility
3. The facility is under the jurisdiction of the State’s MH authority
4. The facility advertises or holds itself out as a facility for the care and treatment of individuals with mental diseases
5. The facility specializes in providing psychiatric care and treatment
6. More than 50 percent of the patients have serious mental illness
7. A large proportion of the patients in the facility has been transferred from a State mental institution for continuing treatment of their mental disorders
8. The average age in the facility is significantly lower than that of a typical nursing home
9. Part or all of the facility consists of locked wards
10. Any other common sense indicator

© Ascend Management Innovations

Questions during the live session? Email IMD@ascendami.com
Determining IMD Overall Character

1. Is the facility **licensed** as a psychiatric facility
2. Is the facility **accredited** as a psychiatric facility
3. Is the facility under the **jurisdiction** of the State’s MH authority
4. Does the facility **advertise or hold itself out** as a facility for the care and treatment of individuals with mental diseases
Determining IMD Overall Character

5. Does the facility specialize in providing psychiatric care and treatment
   - Atypical proportion of staff with specialized psychiatric or psychological training
   - Large proportion of the patients receiving psychopharmacological drugs

6. Are more than 50 percent of patients persons with serious mental illness or substance abuse diagnoses
   - Excludes primary or sole dementia
Determining IMD Overall Character

7. Are a large proportion of patients transferred from a psychiatric hospital or institution for continuing treatment of their mental disorders

8. Is the average age of residents in the facility significantly lower than that of a typical nursing home

9. Are part or all areas of the facility locked
Determining IMD Overall Character

10. Any other common sense indicator

Remember: Auditors are told that every indication of any significance that a nursing facility is an IMD needs to be marshaled...
Critical indicator: 51% of residents are persons with mental illness or substance abuse

To identify potential “51% facilities”, authorities may rely on history of reports or complaints, review of MDS data, research data, PASRR data, knowledge of a particular NF’s milieu, etc.

An audit of the specific facility could then be triggered
Sounds Straightforward, But…

- The 51% is not of available beds, but of filled beds
- And is usually determined specifically day by day rather than by an overall “typical” or “average” census
- Auditors may vary slightly in interpretation of the individuals that might “count” toward the 50% criterion
- Let’s look at this more closely…
Critical Indicator: 51% Census

- 51% of the FILLED versus available beds are occupied by persons that have a substance or mental health related diagnosis.
- “Persons with a MH diagnosis” for this purpose excludes persons with advanced or primary dementia.
How to Determine 51% Census

51% of the **FILLED** beds are occupied by a person with a substance abuse or MH diagnosis

Example Diagnoses
- Substance related
- Schizophrenia & other psychotic disorders
- Mood disorders
- Anxiety disorders
- Dissociative disorders
- Sexual & gender identity disorders
What Auditors Look for in 51% Criterion

Auditors also **consider** the **reason for the need for an NF stay** when determining if a person counts toward this IMD criterion.

1. Person has a *physical problem requiring NF care* & no mental disability

2. Person has a *mental disability and physical problem*, either of which would independently require NF care

3. Person has a *mental disability necessitating NF care* & no significant physical problem

4. Person has a physical problem that independently would not necessitate NF care, but with a *mental disability that prevents proper handling of the physical problem outside the NF*. Thus NF care is required because of the mental disability in functioning.
The need for NF stay is primarily due to:

3. A mental disability that necessitated NF care where there was no significant physical problem or treatment needs

4. A physical problem that independently would not necessitate NF care, but with a mental disability that prevents proper handling of the physical problem outside the NF. Thus NF care is required because of the mental disability in functioning.
To Track These Admissions, Changes to the Level I Screening Form Have Been Made...

- Two changes have been made to Nebraska’s web-based Level I form
- These changes provide data that the Nebraska Medicaid authority can use to indicate potential nursing facility IMD risks
- The Level I Form now asks:
  - The reason an NF stay is needed (physical, mental, substance abuse)
  - Expanded questions about substance abuse issues

© Ascend Management Innovations
Questions during the live session? Email IMD@ascendami.com
Noting a Conundrum: What is Considered a Facility in an IMD Review?

- In determining whether an entity is appropriate for consideration as a distinct facility as opposed to being part of a larger entity, auditors look at:
  - governance
  - medical direction
  - administrative control
  - licensure
  - organizational operation
  - an ability of several operating components within a larger unit to independently meet conditions of participation
  - And any other common sense indicator

© Ascend Management Innovations  Questions during the live session? Email IMD@ascendami.com
Federal money:

- Cannot pay for care of residents ages 64 and under in an NF designated as IMD regardless of the diagnoses of such residents

- Can pay for care of residents 65 and older only if the state’s Medical Assistance plan covers IMD services for that age group

- Can pay for care of residents under age 21 only if inpatient psychiatric services are provided in a qualifying psychiatric hospital, hospital program, or facility (e.g., not a nursing facility)
ROLES AND PLAYERS

Stakeholder Roles
Medicaid Certified NFs are advised to self-monitor potential IMD risk status and to take measures to avoid becoming an IMD.

- If your NF becomes an IMD, the federal share of pay you received for services for the whole period you were an IMD can be recouped.
- The NF might retain full federal share for services that are in the state’s medical assistance plan that were provided to persons over age 65. All else... recouped.
Regulators Creed: Trust but Verify

- Nationally, on the part of Federal agencies and states, there seems to be an uptick in active interest to identify nursing facilities that are IMDs
  - Rooted in Olmstead, civil rights and HCBS initiatives as well as cost containment activities
- Several federal agencies have the potential to initiate/instigate an investigation of a nursing facility’s IMD status
- The state Medicaid authority is charged to ensure that Medicaid Certified nursing facilities are not IMDs
  - They are expected to monitor and verify
Using PASRR Data: Clues to Possible IMD Risk

**The Level I Screen**

- PASRR Level I Screens identify persons with possible mental illness and possible substance abuse problems who seek to enter Medicaid Certified nursing facilities.

**The Level II Evaluation**

- PASRR Level II Evaluations identify residents of nursing facilities who have a confirmed serious mental illness and/or substance abuse diagnosis.

- Regardless of their original reason for admission, persons with qualifying conditions will count toward the 51% census benchmark and could tip the scales toward IMD status.
ASCEND’S WEB-BASED PASRR INFORMATION SYSTEM:
COMING CHANGES YOU WILL NOTICE
Ascend’s PASRR Data System

- New look
  - New logo
  - Changed layout
- Same functionality
  - Submit your screens
  - View your “two week history”
  - Communicate with Ascend
Two Week History Page

The page displays a section for PASRR Activity for the Past 2 Weeks. The table contains columns for Last Name, First Name, SSN, Medicaid#, Assessment Date, Status, Additional Info Request Date, Additional Info Requested, Additional Info, and View/Edit. There is a logo for Ascend Management Innovations at the top left of the page.

Questions during the live session? Email IMD@ascendami.com
## Level I Screen: Additions and Changes

### Why is this individual seeking admission to or continued stay in a nursing facility?
- Physical problems require NF care, and mental illness or substance abuse disorder, if present, has no impact on the need for NF care.
- Mental illness or substance abuse disorder requires NF care, but no significant physical problems are present.
- NF care is primarily required because the individual’s mental illness or substance abuse disorder prevents proper handling of physical problem(s) outside a NF setting. Without a mental illness or substance abuse disorder, the individual’s physical problem(s) would not require NF care.

### Section 1: MENTAL ILLNESS

<table>
<thead>
<tr>
<th>Question</th>
<th>Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the individual have any of the following Serious Mental Illnesses (SMI)?</td>
<td>Yes (check all that apply):</td>
</tr>
<tr>
<td></td>
<td>Schizophrenia</td>
</tr>
<tr>
<td></td>
<td>Schizoaffective Disorder</td>
</tr>
<tr>
<td></td>
<td>Major Depression</td>
</tr>
<tr>
<td></td>
<td>Psychotic/Delusional Disorder</td>
</tr>
<tr>
<td></td>
<td>Bipolar Disorder (manic depression)</td>
</tr>
<tr>
<td></td>
<td>Paranoid Disorder</td>
</tr>
<tr>
<td>2. Does the individual have any of the following mental disorders?</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Yes (check all that apply):</td>
</tr>
<tr>
<td></td>
<td>Personality Disorder</td>
</tr>
<tr>
<td></td>
<td>Anxiety Disorder</td>
</tr>
<tr>
<td></td>
<td>Panic Disorder</td>
</tr>
<tr>
<td></td>
<td>Depression (mild or situational)</td>
</tr>
<tr>
<td>3a. Does the individual have a diagnosis of a mental disorder that is not listed in #1 or #2 (do not list dementia here)</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Yes, if yes, enter the diagnoses below:</td>
</tr>
<tr>
<td></td>
<td>Diagnosis 1:</td>
</tr>
<tr>
<td></td>
<td>Diagnosis 2:</td>
</tr>
<tr>
<td>3b. Does the individual have a substance related disorder?</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Yes, if yes, complete the remaining questions below:</td>
</tr>
<tr>
<td></td>
<td>3b. 1 List substance related diagnosis(es):</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>3b. 2 Is NF need associated with this diagnosis?</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>3b. 3 When did the most recent substance abuse occur?</td>
<td>Up to 7 Days</td>
</tr>
<tr>
<td></td>
<td>8 to 14 Days</td>
</tr>
<tr>
<td></td>
<td>15 to 28 Days</td>
</tr>
<tr>
<td></td>
<td>29 days to 2 months</td>
</tr>
<tr>
<td></td>
<td>2 to 3 months</td>
</tr>
<tr>
<td></td>
<td>Unknown</td>
</tr>
</tbody>
</table>
New Tracking Form for PASRR Residents
What Stays the Same?

- The Nebraska PASRR Process
  - Level I electronic submissions
  - Level I clinical review and determination process
  - Level I screen rapid turnaround times
  - Level II evaluation process
  - Requirement that NFs address all Level II recommendations in the resident’s plan of care
  - Level I and Level II required notifications
  - Current hospital, NF requirements for PASRR activities

© Ascend Management Innovations

Questions during the live session? Email IMD@ascendami.com
Follow up Q&A Conference Calls

- 4 WebEx Sessions
  - Register at: [https://ascendami.webex.com](https://ascendami.webex.com)
  - Select the **Upcoming** Tab:
  - Register for your preferred session:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Session</th>
<th>Presenter</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 7, 2013</td>
<td>1:00 pm</td>
<td>IMD Q&amp;A</td>
<td>Nancy Shanley</td>
<td>1 hour</td>
</tr>
<tr>
<td>May 8, 2013</td>
<td>11:00 am</td>
<td>IMD Q&amp;A</td>
<td>Nancy Shanley</td>
<td>1 hour</td>
</tr>
<tr>
<td>May 10, 2013</td>
<td>1:30 pm</td>
<td>IMD Q&amp;A</td>
<td>Nancy Shanley</td>
<td>1 hour</td>
</tr>
<tr>
<td>May 14, 2013</td>
<td>10:00 am</td>
<td>IMD Q&amp;A</td>
<td>Nancy Shanley</td>
<td>1 hour</td>
</tr>
</tbody>
</table>

- Emailed session link

Note: these sessions do have limited slots. Registration is required.
THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MEDICAID AND LONG TERM CARE THANKS YOU FOR PARTICIPATING