

State of Vermont House of Representatives



Montpelier, Vermont

Joint House Resolution

J.R.H. 46

Joint resolution urging Congress to modify the Medicaid exclusion

Offered by: Representatives O'Donnell of Vernon, Donahue of Northfield, Burke of Brattleboro, Deen of Westminster, Edwards of Brattleboro, Manwaring of Wilmington, Marek of Newfane, Milkey of Brattleboro, Moran of Wardsboro, Mrowicki of Putney, Obuchowski of Rockingham, Olsen of Jamaica, Partridge of Windham and Pugh of South Burlington

Whereas, in accordance with federal law, an institution for mental diseases (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,” and

Whereas, since the federal Medicaid program was established in 1965, there has existed, albeit not explicitly codified in the original Medicaid statute, a policy that excludes the Medicaid reimbursement of an IMD, with certain exceptions, for the rendering of medical services to patients between 22 and 64 years of age, and

Whereas, the origins of this exclusion possibly date to a 1963 finding in a judicially cited U.S. House of Representatives report that state mental institutions were simply warehouses and did not furnish treatment appropriate for coverage under the yet-to-be-enacted Medicaid program, and

Whereas, the services that IMDs, especially a treatment-centered facility such as the Brattleboro Retreat, now provide have evolved significantly since the 1960s, and

Whereas, the IMD exclusion discriminates against millions of low-income Americans by creating a major impediment to their access to emergency psychiatric care, and

Whereas, the IMD limits access to psychiatric care by denying individuals in crisis the right to receive services that are provided in some of the nation's best private psychiatric facilities, and the exclusion makes no distinction between IMDs based on the scope and quality of the care that is offered, and

Whereas, the public policy that psychiatric care should be integrated within general hospitals represents state of the art care today, but the many psychiatric hospitals already operating and providing excellent care should be recognized for their value in the system of care and should receive reimbursement equal to that received by any other inpatient psychiatric provider, and

Whereas, parity is explicitly provided for in Vermont law and in the recently adopted federal health care legislation, and

Whereas, under the federal Emergency Medical Treatment and Labor Act, both general and psychiatric hospitals are required to stabilize any individual who comes to an emergency room in a health crisis, regardless of ability to pay; however, under current law, the general hospitals receive reimbursement for Medicaid-eligible individuals while IMDs do not, and

Whereas, the 30-percent decrease in the number of inpatient beds nationally has placed an increased strain on general hospitals and their emergency rooms, many of which are not equipped to handle psychiatric crises, and

Whereas, the recently passed federal health care legislation contains language to create a pilot program to investigate eliminating the IMD exclusion, and

Whereas, 29 national organizations representing psychiatrists, nurses, hospitals, and consumer and advocacy groups have expressed support for this pilot study, and

Whereas, in the state of Vermont, 40 percent of adults receiving inpatient psychiatric care choose to receive that care at the Brattleboro Retreat, yet the Retreat, under the IMD exclusion, is not eligible for Medicaid reimbursement for care provided to most individuals ages 22 to 64, nor is the state allowed to receive matching federal monies to help defray the cost of this care, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to end the institution for mental diseases Medicaid reimbursement exclusion for existing psychiatric hospitals, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to President Obama and to the Vermont Congressional Delegation.