Institution for Mental Diseases Transition Report

Report to the Legislature

STATE OF CALIFORNIA
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Legislative Mandate

Background

The 2021 Budget Act (in Provision 47 of Item 5180-151-0001, of Senate Bill (SB) 170, Section 2) requires that the California Department of Social Services (CDSS), in conjunction with the California Department of Health Care Services (DHCS) and county placing agencies, provide written updates to the appropriate policy and fiscal staff of the California Legislature on a quarterly basis including, but not limited to, information on youth that transition from short-term residential therapeutic programs (STRTPs) that are converting their facilities to 16 beds or less.

An STRTP is defined as a residential facility operated by a public agency or private organization and is licensed by CDSS, which provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term 24-hour care and supervision to children. In recent years, with the implementation of Continuum of Care Reform (CCR, implemented under Assembly Bill [AB] 403 [Chapter 773, Statutes of 2015] and AB 404 [Chapter 732 Statutes of 2017]), the child welfare system has applied the concept that children living apart from their biological parents thrive best when cared for in committed nurturing family homes. CCR required a shift in California's groups homes that existed prior to STRTPs.

An Institution for Mental Diseases (IMD) is defined as a hospital, nursing facility, or other institution with 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. Whether an institution is classified as an IMD is determined by if that facility is established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such.

The IMD exclusion refers to Medicaid law (Section 1905(a)(B) of the Social Security Act) which prohibits "payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases" except for "inpatient psychiatric hospital services for individuals under age 21." This was intended to ensure that states, rather than the federal government, would have principal responsibility for funding inpatient psychiatric services. Additional information on the determination of an IMD facility can be found in both the Legal Action Center and guidelines issued in Sections 4390.1 of the State Medicaid Manual from the Code of Federal Regulations.

The DHCS is responsible for conducting IMD determinations for all STRTPs in California. Since the Centers for Medicare and Medicaid Services (CMS) released its September 2019 guidance entitled, *Qualified Residential Treatment Programs and Serious Mental Illness and Serious Emotional Disturbance Demonstration Opportunity*

Technical Assistance Questions and Answers, DHCS actively worked to analyze the guidance and its application to California's STRTPs, resulting in a July 3, 2020 letter which DHCS submitted to CMS outlining why STRTPs are distinct from IMDs. The CMS did not agree with DHCS' interpretation. The DHCS then secured time extensions from CMS and promptly worked to complete a statewide assessment of STRTP facilities by the CMS deadline of December 31, 2022, to determine which STRTPs were or were not IMDs, and to take immediate action to cease claiming federal financial participation on behalf of residents of STRTPs determined to be IMDs.

For foster youth requiring a congregate-level of care placement, the federal Family First Prevention Services Act (FFPSA) narrowed the settings for which Title IV-E funds could be used. Title IV-E funding is permitted to be utilized for these settings only upon determination by a "Qualified Individual" that a foster youth requires placement in a Qualified Residential Treatment Program (QRTP). Pursuant to the FFPSA, CMS identified that some QRTPs may meet the definition of an IMD and would, therefore, fall under the IMD exclusion.

As a result of this clarification of long-standing federal law, in California, many of the existing STRTPs which were mostly equivalent to QRTPs under federal law, excluding the few programmatic revisions outlined in All County Information Notice (ACIN) I-84-21 and ACIN I-73-21, would also have fallen under the IMD exclusion, even without converting to QRTP standards. As a result, California's counties would have been unable to continue leveraging federal Medicaid funding for behavioral health services provided to children residing in STRTPs with more than 16 beds, and the State would have been unable to continue leveraging Medicaid funding for ancillary medical services provided to children placed in those facilities.

IMD Determination

As the single state agency responsible for administering the State's Medicaid program, DHCS is responsible for making IMD determinations, which may include consideration of factors beyond licensed capacity. To support providers, DHCS provided technical assistance, conducted webinars, and provided the IMD assessment tool utilized for IMD determinations. The DHCS created Frequently Asked Questions to aid STRTP providers in making a self determination as to whether their facility would be considered an IMD under federal CMS guidelines. The DHCS and CDSS reached out to STRTP providers who might require technical assistance around IMD determinations involving campus settings and larger facilities. When requested, DHCS met with providers individually and provided technical assistance navigating the IMD determination process. Additionally, DHCS developed a list of facilities deemed an IMD, which is updated quarterly.

IMD Transition Funding

The SB 170 (Chapter 240, Statutes of 2021), the State Budget Act of 2021, made available a one-time General Fund allocation for State Fiscal Year (FY) 2021-22 of up to $10.38 million for CDSS to provide funding to eligible STRTP providers to support their transitions to a non-IMD impacted status in a way that still maintained sufficient capacity to meet the needs of foster care youth who were currently cared for in an STRTP. The STRTP providers that were notified by DHCS of a pending IMD designation were eligible to request this funding. These funds were used to pay for specific costs associated with the implementation of an approved transition plan designed to maintain sufficient capacity within the continuum of care to serve foster youth who were cared for in an STRTP at that point in time. Funding was released to 11 STRTP providers on September 9, 2022; these providers had one year from receipt of this funding to reduce their licensed capacity.

The AB 180 (Chapter 44, Statutes of 2022) provided a second General Fund allocation in the amount of $10.38 million for FY 2022-23 for CDSS to provide IMD Transition Funding to eligible STRTP providers potentially impacted by IMD determinations. The total funding amount that was available for the General Fund allocations for FY 2021-22 and for FY 2022-23 was $20.75 million. The final deadline for an eligible STRTP provider to have submitted a request for funding was December 1, 2022. The eligibility criteria used and the process to request IMD transition funding is outlined in Foster Care Audits and Rates Letter (FCARL) No. 2022-01.

To determine the amount of funding available for each provider, CDSS used the Aid to Families with Dependent Children Foster Care revenues that the providers received over the last two fiscal years for the care and supervision of foster youth. The specific funding amount was contingent upon providers submitting a transition plan that was approved by CDSS, following consultation with DHCS, and meeting additional requirements outlined in FCARL No. 2021-02. To receive funding, providers had to agree to specific conditions. The first round of funding included costs to cover staff retention, training, and capacity lost during transition. The second round added the allowance for brick-and-mortar costs.

Figure 1 shows the list of providers who requested funding, the amount requested for FY 2021-22 and FY 2022-23, the amount distributed for FY 2021-22 and FY 2022-23, and the total amount distributed for rounds one and two.

The 13 providers that received funding have facilities in the following counties (the numbers in parentheses indicate how many of the 13 providers have a facility in the specified county): Los Angeles (6), Orange (1), Riverside (1), San Bernardino (1), San Diego (2), San Joaquin (1), Stanislaus (1), and Ventura (1). A provider may have a facility in more than one county.

Some providers were approved for less funding than requested. This occurred when at least some of the activities for which providers requested funding were determined to be

unallowable under the statute. Unallowable costs were subtracted from the final approved amount.

Figure 1

Provider	FY 2021-22 Round 1 Requested	FY 2021-22 Round 1 Distributed	FY 2022-23 Round 2 Requested	FY 2022-23 Round 2 Distributed	Total Amount Distributed Round 1 & 2
Aspiranet	$2,844,155	$2,754,606	$0	$0	$2,754,606
Casa De Amparo, Inc.	$797,756	$797,756	$387,354	$193,677	$991,433
Casa Pacifica Centers for Children and Families	$1,970,889	$1,970,888	$3,126,721	$1,513,333	$3,484,221
Childhelp, Inc.	$4,708,741	$0	$868,620	$868,620	$868,620
Children's Home of Stockton	$677,200	$677,200	$581,069	$281,237	$958,427
Five Acres – The Boys' and Girls' Aid Society of Los Angeles	$0	$0	$1,930,936	$1,930,936	$1,930,932
Hathaway-Sycamores Child and Family Services	$488,546	$488,546	$645,015	$312,187	$800,733
Mckinley Children's Center, Inc.	$197,950	$197,950	$749,481	$362,749	$560,699
Rancho San Antonio Boys Home, Inc.	$427,587	$427,587	$4,608,348	$2,230,440	$2,658,027
San Diego Center for Children	$0	$0	$1,809,277	$1,809,277	$1,809,277
St. Anne's Family Services*	$1,090,830	$861,311	$883,687	$883,687	$1,744,998
Trinity Youth Services	$1,186,615	$1,183,525	$193,850	$93,823	$1,277,348
Vista Del Mar	$302,000	$424,704	$991,842	$480,051	$904,755

Total	$14,692,269	$9,784,073	$15,893,397	$10,960,017	$20,744,076

*Operates a pregnant and parenting teen program where DHCS' capacity determination is less than CDSS' due to capacity for the parenting teen's children.

Capacity Changes

As of June 1, 2023, only one provider who received funding had yet to implement the transition plan for their IMD impacted facility. The table in Attachment 1 includes a list of the 32 providers that had at least one facility with a licensed capacity greater than 16 beds on September 1, 2021. It shows the total licensed capacity for all their facilities, the number of foster care placements on that date, and the percentage of their total capacity used for foster youth. The table also shows the same information for April 15, 2024. Between September 1, 2021, and April 15, 2024, the total licensed capacity for those 32 providers went from 1,971 to 841 (a 57 percent reduction) and the number of foster youths placed in those facilities went from 798 to 404 (a 49 percent reduction). Following the IMD transition, out of the total licensed capacity used in STRTPs, there was an increase of 7.5 percent for foster youth placements when compared to capacity prior to the transition. During the same timeframe, the capacity of all STRTPs was reduced by 36 percent and placements reduced by 37 percent. While this reduction in youth placed appears directly correlated with the reduction in capacity, this report does not capture the reasons for the reduction in foster youth placed in those facilities.

Conclusion

The CDSS provided two rounds of funding to eligible STRTP providers to support their transitions to a non-IMD status. Funding was made available to maintain sufficient capacity to meet the needs of foster care youth who were currently cared for in STRTPs. To receive funding, providers were required to agree to specific conditions. The total amount of funding was $20.75 million, which was distributed between FYs 2021-22 and 2022-23 to a total of 13 providers. Twelve of the 13 providers that have received this funding have completed their transition. According to DHCS, of the three facilities impacted by the IMD determination, one facility has been restructured and is no longer determined as an IMD, while the remaining two STRTPs have closed.

Institution for Mental Disease (IMD) Transition Report

Attachment 1

Point in Time Reports: September 1, 2021, and April 15, 2024

Provider Group IMD	Received Funding (R1 or R2)	Licensed Capacity (9/1/2021)	Placements (9/1/2021)	% Licensed Capacity Used (9/1/2021)	Licensed Capacity (4/15/2024)	Placements (4/15/2024)	% Licensed Capacity Used (4/15/2024)
ASPIRANET	Y	52	18	35%	28	11	39%
CASA DE AMPARO, INC.	Y	50	27	54%	32	20	63%
CASA PACIFICA CENTERS FOR CHILDREN & FAMILIES	Y	42	13	31%	14	5	36%
CHILDHELP INC.	Y	102	60	59%	*	*	*
CHILDREN'S HOME OF STOCKTON	Y	34	30	88%	16	14	88%
FIVE ACRES	Y	90	44	49%	36	24	67%
HATHAWAY-SYCAMORES CHILD AND FAMILY SERVICES	Y	43	19	44%	16	10	63%
MCKINLEY CHILDREN'S CENTER, INC.	Y	28	23	82%	16	12	75%
RANCHO SAN ANTONIO BOYS HOME, INC	Y	106	40	38%	32	34	106%
SAN DIEGO CENTER FOR CHILDREN	Y	80	11	14%	*	*	*
ST. ANNE'S FAMILY SERVICES	Y	50	28	56%	30	12	40%

TRINITY YOUTH SERVICES	Y	135	53	39%	32	26	81%
VISTA DEL MAR CHILD AND FAMILY SERVICES	Y	24	21	88%	16	11	69%
BOYS REPUBLIC	N	152	54	36%	68	36	53%
CATHOLIC CHARITIES - CYO	N	83	31	37%	16	1	6%
CHILDREN'S RECEIVING HOME OF SACRAMENTO INC.	N	60	3	5%	16	4	25%
COURAGE TO CHANGE	N	42	12	29%	16	11	69%
EDGEWOOD - THE SAN FRANCISCO PROTESTANT ORPHANAGE	N	48	2	4%	*	*	*
FATHER'S HEART RANCH	N	24	22	92%	16	15	94%
HAYNES FAMILY OF PROGRAMS, INC.	N	72	15	21%	*	*	*
HILLSIDES	N	50	27	54%	6	6	100%
HOPE REFUGE, INC	N	24	6	25%	*	*	*
MARYS SHELTER	N	30	14	47%	28	15	54%
NEW ALTERNATIVES, INC.	N	140	56	40%	122	31	25%
OAK GROVE INSTITUTE FOUNDATION, INC.	N	76	14	18%	76	7	9%
OAKENDELL CORPORATION	N	18	7	39%	16	10	63%
OPTIMIST BOYS HOME AND RANCH	N	59	16	27%	8	4	50%
PROJECT SIX	N	24	4	17%	*	*	*
PROMESA BEHAVIORAL HEALTH	N	67	34	51%	67	22	33%
RITE OF PASSAGE ATCS, INC.	N	104	70	67%	86	50	58%

SACRAMENTO CHILDREN'S HOME	N	30	14	47%	16	8	50%
VALLEY TEEN RANCH	N	32	10	31%	16	5	31%
Total	**13**	**1971**	**798**	**40.5%**	**841**	**404**	**48.0%**

*These cells' values are "0" as the provider has closed their facilities; therefore, values for licensed capacity nor placements are not applicable.

Note: The licensed capacity information includes the total capacity of all facilities for each provider.