Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Secretary

Legislative Budget Committee
August 7, 2006

Level V and VI Services

Health Care Policy
Gary Daniels, Secretary

For additional information contact:
Kyle Kessler, Deputy Secretary
Public and Governmental Services
Docking State Office Building
915 SW Harrison, 6th Floor North
Topeka, Kansas 66612-1570
phone: 785.296.0141
fax: 785.296.4685
www.srs.ks.gov

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Level V and VI Services

Chairman Umbarger and members of the committee, I am Gary Daniels, Secretary of the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to discuss issues related to Level V and Level VI residential services for the youth.

The services provided in Level V and VI settings are part of a range of service options for youth in Kansas needing specialized mental health or behavioral health supports. The youth accessing these services typically have some of the most intensive support needs, yet not every youth needs the same type of structure and service and there is considerable variability in the behavioral, medical and supervision needs of each youth.

As we have previously discussed with you, starting in the Spring of 2004 the federal Centers for Medicare and Medicaid Services (CMS) notified SRS that substantial portions of the current Medicaid State Plan governing mental health/behavioral health/substance abuse services are now considered out of compliance with practice standards. Left unaddressed, these now-identified deficits in Kansas' CMS requirements and Medicaid program would render the state – and particularly the mental health/behavioral health and substance abuse service systems – vulnerable to negative funding decisions by CMS that would ultimately cripple our ability to provide these services to Kansans in the greatest need.

In order to comprehensively address the myriad issues CMS had expressed concern about – including but also well beyond Level V/VI services – throughout the first half of this year a collaborative and focused work group of staff from SRS and the Division of Health Policy and Finance (DHPF), assisted by consultants with CMS and state plan expertise, explored available responsive options. Guided by extensive prior stakeholder input, as well as the leadership guidance of state agencies and the legislature, a foundation for responding to CMS was developed.

One of the key issues CMS was concerned about related to services provided in Level V/VI settings, most of which are classified as Institutes for Mental Disease (IMDs) under federal regulations. For youth under the age of 22, the only Medicaid service available to youth residing in IMDs is Inpatient Psychiatric Services for Under Age 21. Facilities providing this service must have accreditation, and the payment rate must be all-inclusive, providing all services (including physical health care) necessary for the residents.

Because of the intense stakeholder interest in these services, and the obvious need for the services for Kansas youth, every possible option for resolution was carefully considered. As we worked through the options with our consultants, we continued to anticipate some type of residential or facility arrangement that would be less structured – both in programming and in funding – than the inpatient psychiatric service facilities governed by federal regulations. At the end of the analysis, with guidance from our consultants, we concluded that the only functional option – looking at the overall character, purpose and design of Level V and VI facilities – was to acknowledge that they are primarily IMDs, and to assist them in preparing to deliver services within that structure. A summary of the analysis related to such residential facilities is attached to this testimony.

Having developed the foundation for response to CMS, during June SRS sponsored a series of stakeholder meetings to fully review the pending issues, the core infrastructure we had built for responding, and discuss next steps. Hundreds of stakeholders participated in those meetings, and similar meetings are continuing with smaller interested groups.

Psychiatric Residential Treatment Facilities ~ Proposals Submitted to CMS

At the end of June, SRS and DHPF submitted to CMS these documents, designed to come into compliance with CMS requirements while being responsive to the service needs of Kansans:

- proposals to implement extensive amendments to the current state plan – including by the addition of Private Psychiatric Residential Treatment Facilities (PRTF) services to address the IMD issues associated with youth psychiatric residential services (the description of these services and the related rate methodology, as submitted to CMS, are attached to this testimony);
- application to amend the existing waiver for services to youth with serious emotional disturbance; and
- application for a selective services contracting waiver for all Medicaid mental health and substance abuse services.

With this submission, it was our purpose to comprehensively address pending CMS concerns; to signal clearly to CMS that we understand and will be responsive to their concerns in all affected service systems; and to identify future services that meet Kansans' needs in ways that allow us to continue access to critical Medicaid funding.

Utilizing the PRTF services has multiple incentives, including: continued federal financial participation in these critical services; cost-based, and in most cases enhanced, reimbursement for providers; and services for complex mental/behavioral health care that is professional and structured to meet the related needs. As we develop the operational details for the reimbursement methodology, it will include managing medical/physical health care costs in a way that will not put providers at risk, and also an acuity adjustment that will recognize the increased costs associated with people whose services needs are more intensive.

With the proposals submitted to CMS, we identified January 1, 2007, as the anticipated implementation date for PRTF services. CMS will have 90 days to initially review and respond to this proposal, and typically near the end of that time period a request for additional information is made, with a series of questions. Once we receive and respond to those questions, CMS will have an additional 90 days to make a final decision about the submission. Based upon feedback received from CMS, adjustments may be required in either the service description or the reimbursement methodology.

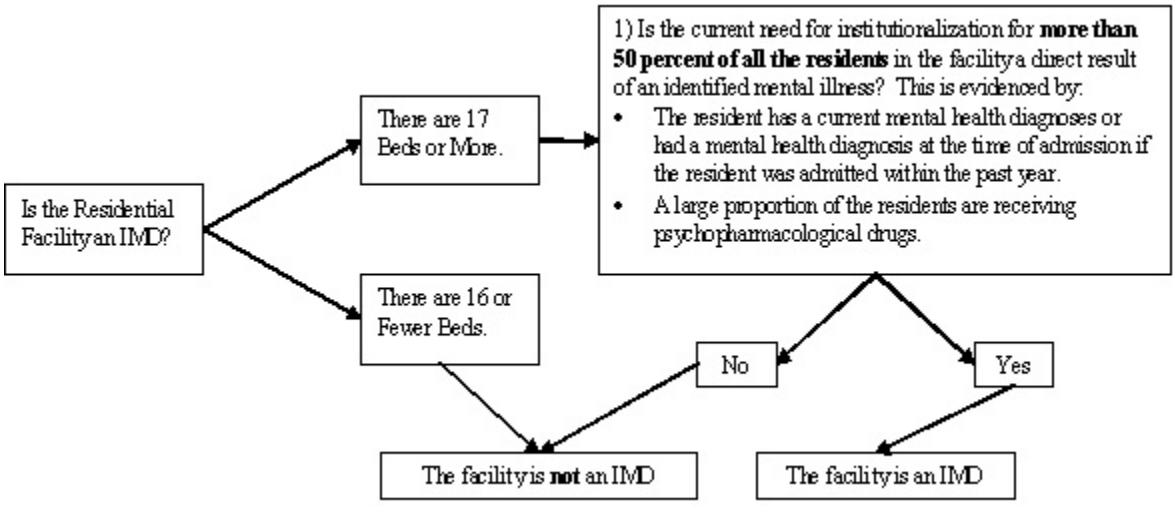
Pending transition to PRTF services, SRS and the Juvenile Justice Authority (JJA) are attempting to maintain status quo with existing Level V and VI service issues, so that providers can focus on preparing for the change. For example, providers continue to be paid with state general funds for services which exceed the Medicaid limitation for length of stay.

In the meantime, SRS and JJA are collaboratively engaged in implementation readiness for the conversion to PRTF services. This includes the development of access and service standards, creating specific reimbursement methodology and processes, and assisting providers to become accredited. In July, SRS and JJA jointly sponsored a two-day training program for all providers to fully understand and prepare to meet accreditation standards. Currently there are a total of 28 Level V or VI facilities. Of those, six organizations are not yet accredited, and at this time they have all selected the accrediting body they intend to use, participated in the training, and are on track to achieve timely accreditation. We will continue to work with providers and other stakeholders to fully develop readiness and implementation tools.

This concludes SRS's testimony regarding Level V and VI residential services for the youth. Thank you for the opportunity to present this information. I will be happy to stand for questions.

Attachment A
Determining Status of a Residential Facility ~ SRS ~ 06.19.06

Institution for Mental Disease (IMD) Exclusion --- Payment is not available for any medical assistance under Medicaid provided to any individual who is under age 65 and who is a patient in an IMD except for payment provided to a Psychiatric Residential Treatment Facility (PRTF) serving children under the age of 21. An institution is an IMD if it is over 16 beds and its overall character is that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases. The facility's overall character is not solely determined by mental health care being provided by or in the facility.



When will services be reimbursed by Medicaid?

For an IMD:

If the facility meets the IMD criteria listed above, Medicaid will only reimburse for services (both physical and mental healthcare) provided through a PRTF. Services provided through a PRTF are reimbursed using a daily rate that is regularly adjusted based on the actual costs accrued by the facility.

Services provided in a PRTF must be needed as certified by a mental health practitioner independent of the facility, and once admitted the need for continued services must re-certified on a regularly scheduled basis.

The PRTF must provide active treatment in accordance with an individualized treatment plan.

Services must be furnished by or under the direction of a physician and all staff must meet applicable licensure and certification requirements.

A psychiatric residential treatment facility must meet the requirements and standards of state certification or licensure, and a national accrediting organization recognized by the state.

For a Non-IMD:

If the facility has 16 or fewer beds, the facility is not an IMD can choose one of two reimbursement methods:

1. Choose to meet the PRTF criteria listed above – services will be reimbursed using a daily rate that is regularly adjusted based on the actual costs accrued by the facility.
2. Choose not to meet the PRTF criteria listed above – in order to provide mental health services the facility would have to associate with the local CMHC. Medically necessary services would be provided in accordance with Medicaid requirements and reimbursed on a FFS basis.

If the facility has 17 or more beds but the overall character of the facility is not that of an IMD as described above, mental health services can be reimbursed using the following method:

1. In order to provide mental health services, the facility would have to associate with the local CMHC. Medically necessary services would be provided in accordance with Medicaid requirements and reimbursed on a FFS basis.

*** All substance abuse providers will need to enroll with the designated Managed Care Organization regardless of IMD status.**

Attachment B
KANSAS MEDICAID STATE PLAN

Attachment 3.1-A #16

Private Psychiatric Residential Treatment Facility (PRTF)

These programs are intended to provide active treatment in a structured therapeutic environment for children and youth with significant functional impairments resulting from an identified mental health diagnosis, substance abuse diagnosis, and/or a mental health diagnosis with a co-occurring disorder (i.e. substance related disorders, mental retardation/developmental disabilities, head injury, sexual misuse disorders, or other disabilities which may require stabilization of mental health issues). Such services are provided in consideration of a child's developmental stage.

Services must be provided in accordance with an individualized treatment plan under the direction of a physician. The activities included in the service must be intended to achieve identified treatment plan goals or objectives and be designed to achieve the recipient's discharge from inpatient status at the earliest possible time. Services to be provided must be in accordance with 42 CFR 441.154 - 441.156.

Recipients of these services must be assessed by a Licensed Mental Health Practitioner (LMHP) who is independent of the treating facility, utilizing an assessment consistent with state law, regulation and policy. The LMHP must certify in writing the medical necessity of the psychiatric residential treatment, and after admission must re-certify in writing the need of continued treatment on a regularly scheduled basis as defined by state law, regulation, and/or policy.

The need for services is evidenced by:

- a substantial risk of harm to self or others, or a child who is so unable to care for his or her own physical health and safety as to create a danger to their life; and
- the services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed; and
- all other ambulatory care resources available in the community have been identified and if not accessed determined to not meet the immediate treatment needs of the youth.

Services furnished in a psychiatric residential treatment facility must satisfy all requirements in subpart G of 42 CFR 483 governing the use of restraint and seclusion.

Provider Qualifications:

A psychiatric residential treatment facility must meet the requirements and standards of state certification or licensure, and national accreditation by the Joint Commission on Accreditation of Healthcare Organizations, the Council on Accreditation of Services for

Families and Children, the Commission on Accreditation of Rehabilitation Facilities, or by any other accrediting organization, with comparable standards, that is recognized by the State.

Services must be furnished by or under the direction of a physician and all staff must meet applicable licensure and certification requirements and adhere to scope of practice definitions of licensure boards.

Limitations:
All Medicaid services furnished to individuals residing in a PRTF are considered content of the service. Federal financial participation is not available in expenditures for any other service to a PRTF resident. An individual under age 22 who has been receiving this service is considered a resident of the PRTF until he is unconditionally released or, if earlier, the date he reaches age 22.

Reserve days, for periods of absence from a PRTF, will be reimbursed to providers with prior approval.