

Medicare's coverage limits on stays in freestanding inpatient psychiatric facilities

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Today's presentation

- 1 Background on Medicare and inpatient psychiatric facilities (IPFs)
- 2 Beneficiaries affected by Medicare's limit on care in freestanding IPFs
- 3 Improving access to IPF care by removing the 190-day limit
- 4 Illustrative changes in Medicare spending from removing the limit in 2023
- 5 Chair's draft recommendation



Background

The Commission's prior work on Medicare's coverage limits in freestanding IPFs

- Examined behavioral health services in the Medicare program (June 2023)
 - Utilization and spending on behavioral health services provided by clinicians and outpatient facilities
 - Trends and issues in IPF services, including information on the 190-day lifetime limit
- Followed up with analyses of the types of care beneficiaries receive when they approach or exceed the 190-day limit (March 2024)
 - Commissioners wanted to explore a recommendation to eliminate the limit

Note: IPF (inpatient psychiatric facility).

Source: Medicare Payment Advisory Commission. 2024. *Update on trends and issues in Medicare inpatient psychiatric services*. <https://www.medpac.gov/wp-content/uploads/2023/10/IPF-monitoring-FINAL.pdf>; Medicare Payment Advisory Commission. 2023. *Report to the Congress: Medicare and the health care delivery system*. Washington, DC: MedPAC.

Inpatient psychiatric facility services

- Treatment for beneficiaries experiencing an urgent mental health or substance use-related crisis
- Provided by freestanding psychiatric hospitals or distinct units in acute care hospitals
 - 24-hour care in structured, intensive, and secure setting
 - Individual and group therapy, psychosocial rehabilitation, prescription drugs, electroconvulsive therapy
- Covered by Part A; services from clinicians are covered by Part B

Source: Centers for Medicare & Medicaid Services, Department of Health and Human Services. 2017. *Medicare benefit policy manual—Chapter 4: Inpatient psychiatric benefit days reduction and lifetime limitation*. Baltimore, MD: CMS. <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/bp102c04.pdf>; Medicare Payment Advisory Commission. 2024. *Update on trends and issues in Medicare inpatient psychiatric services*. <https://www.medpac.gov/wp-content/uploads/2023/10/IPF-monitoring-FINAL.pdf>.

Medicare's coverage limits on care in freestanding IPFs

- Lifetime limit: Maximum of 190 days in freestanding IPFs
- Limit on the initial benefit period: The number of IPF days available during the initial benefit period are reduced by the number of IPF days used in the prior 150 days
 - Applies to a small number of beneficiaries
- Implemented when Medicare was enacted in 1965, when inpatient psychiatric care was mostly provided by state and locally run freestanding IPFs

Note: IPF (inpatient psychiatric facility).

Source: Centers for Medicare & Medicaid Services, Department of Health and Human Services. 2017. *Medicare benefit policy manual—Chapter 4: Inpatient psychiatric benefit days reduction and lifetime limitation*. Baltimore, MD: CMS. <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/bp102c04.pdf>.

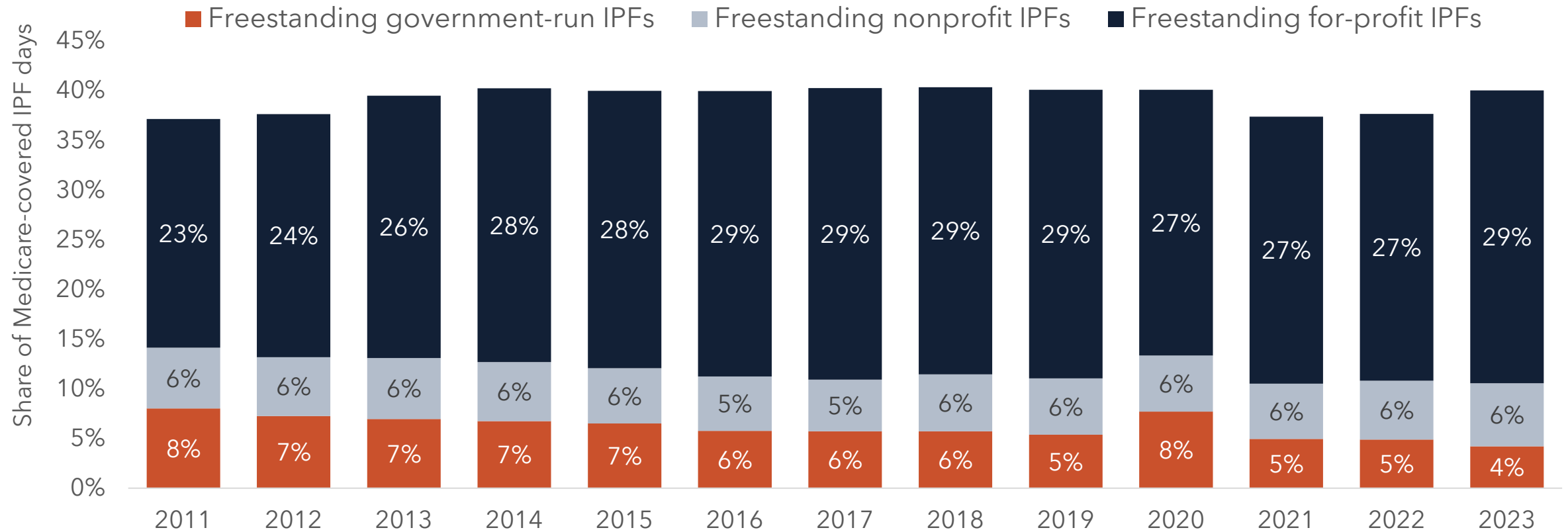
Provision of inpatient psychiatric services has shifted away from state and local governments

- “Deinstitutionalization” policy shift led to downsizing and closure of many state- and locally-owned psychiatric hospitals
 - From 1970 to 2000, the nationwide share of psychiatric beds in these hospitals declined from 80% to 30%
 - Total number of residents in these hospitals declined by nearly 90% over the same period
- Private freestanding and hospital-based IPFs have grown
 - In 2023, 16% of Medicare-covered IPF days were in government-run hospitals, 84% were in private IPFs

Note: IPF (inpatient psychiatric facility).

Source: Lave, J. R., and H. H. Goldman. 1990. Medicare financing for mental health care. *Health Affairs* 9, no. 1 (Spring): 19-30; Lutterman, T. 2022. *Trends in psychiatric bed capacity*. Falls Church, VA: NRI. July. https://www.nasmhpd.org/sites/default/files/Ted_Lutterman_Presentation_7.26.22.pdf; Salinsky, E., and C. W. Loftis. 2007. *Shrinking inpatient psychiatric capacity: Cause for celebration or concern?* Issue brief, no. 823. Washington, DC: National Health Policy Forum. August 1.

Most Medicare-covered freestanding IPF days were in private IPFs, 2011-2023



Note: IPF (inpatient psychiatric facility). "Medicare-covered days" includes both fee-for-service and Medicare Advantage IPF days. The remaining (unshown) share of Medicare-covered IPF days are in hospital-based IPFs.
Source: MedPAC analysis of Medicare cost reports from CMS.



Beneficiaries affected by
Medicare's 190-day limit on care
in freestanding IPFs

Medicare beneficiaries who reached or were near the 190-day limit as of January 2024

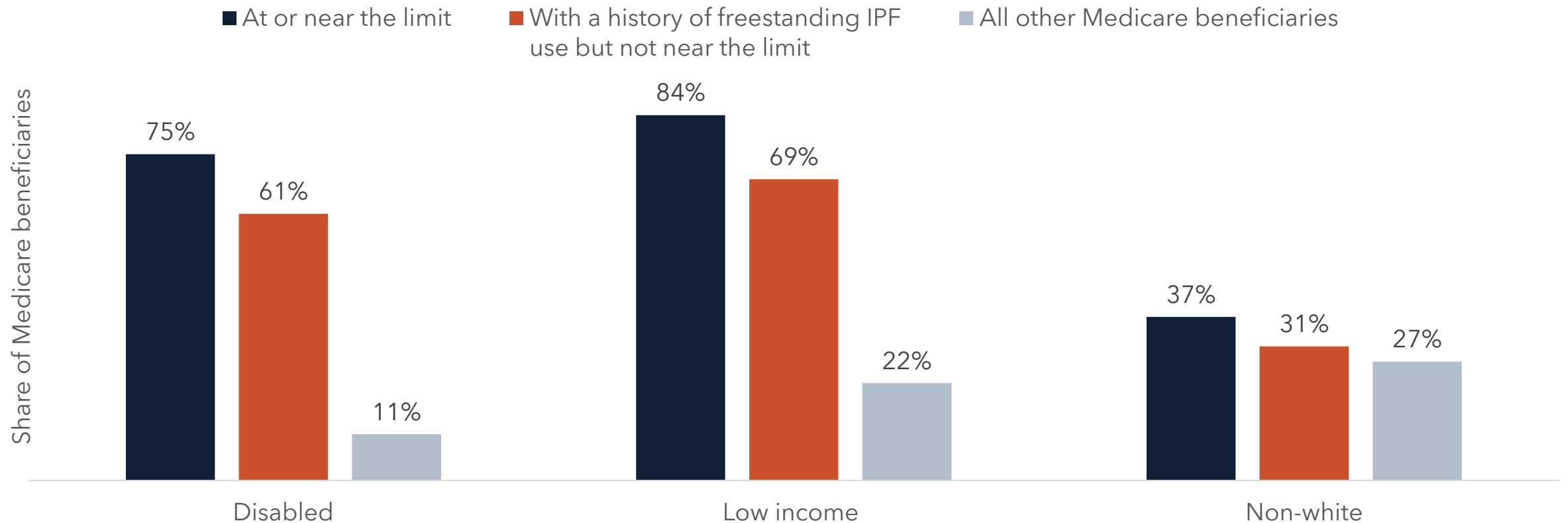
	Used any freestanding IPF days since Medicare enrollment	Reached limit	Within 15 days of limit
FFS	457,000	25,000	6,000
MA	357,000	14,000	4,000
Total	814,000	39,000	10,000

- About 1,300 beneficiaries reached the 190-day limit in 2023

Note: IPF (inpatient psychiatric facility), FFS (fee-for-service), MA (Medicare Advantage). Table includes Medicare beneficiaries who were enrolled in FFS Medicare or MA in 2023 and had at least one day in a freestanding psychiatric hospital as of January 2024. Components may not sum to totals due to rounding.

Source: Medicare enrollment data from CMS.

Medicare beneficiaries at or near the 190-day limit were more likely to be disabled and have low incomes, 2023



Note: IPF (inpatient psychiatric facility). "Near or at the limit" includes fee-for-service (FFS) Medicare and Medicare Advantage (MA) beneficiaries within 15 days of exhausting the 190-day limit or had already exhausted the limit. "With a history of freestanding IPF use but not near the limit" includes FFS and MA beneficiaries who had between 16 and 189 days remaining. "All other Medicare beneficiaries" includes beneficiaries who had not used any days in a freestanding IPF (but could have used a hospital-based IPF or received psychiatric services in a general acute care hospital). "Low income" includes beneficiaries with full or partial dual eligibility or were enrolled in the Part D low-income subsidy in the year; these are proxies for low-income status.

Source: MedPAC analysis of Medicare enrollment data from CMS.

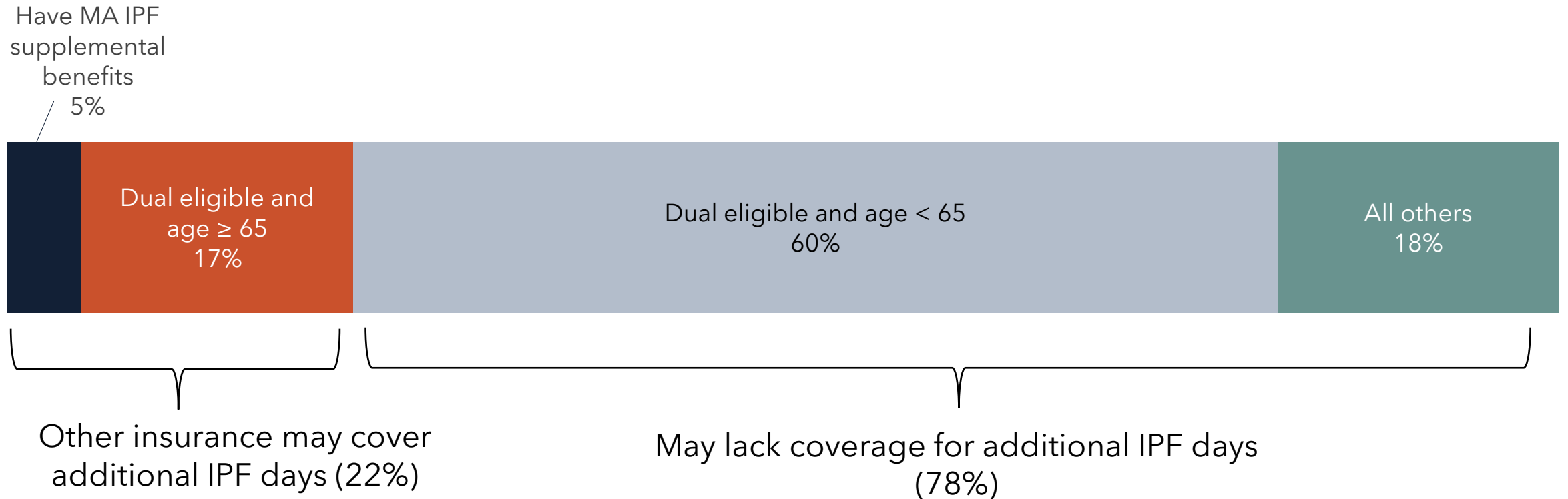
Beneficiaries who exhaust the 190 days may have some additional coverage through MA or Medicaid

- About 9% of MA plans offered additional IPF coverage as a supplemental benefit in 2023
- Medicaid may provide additional coverage for dually eligible Medicare beneficiaries, but it is limited by the “IMD exclusion”
 - Prohibits federal matching funds for services in IMDs received by Medicaid beneficiaries ages 21–64
 - Many states use Section 1115 waivers and other exceptions to provide coverage

Note: MA (Medicare Advantage), IPF (inpatient psychiatric facility), IMD (institutions for mental diseases). IMDs are institutions with more than 16 beds that primarily treat mental health conditions or substance use disorders. Section 1115 waivers are limited-time demonstration projects or experimental pilots that allow states the flexibility to design and improve their programs, subject to approval by CMS.

Source: MA plan benefit package data from 2023; Congressional Budget Office. (2023). *Budgetary effects of policies to modify or eliminate Medicaid's institutions for mental diseases exclusion*; KFF. (2024). *Medicaid waiver tracker: Approved and pending Section 1115 waivers by state*.

Many Medicare beneficiaries at or near the limit may lack alternative coverage, 2023



Note: MA (Medicare Advantage), IPF (inpatient psychiatric facility). “Dual eligible and age ≥ 65 or older” beneficiaries may have Medicaid coverage of additional IPF days beyond the 190-day limit, while “dual eligible and age < 65 ” beneficiaries are subject to the institutions of mental diseases exclusion and may have limited coverage beyond the 190-day limit through Medicaid, though many states have exceptions. “All others” are composed of non-dual-eligible Medicare beneficiaries who are not enrolled in an MA plan with IPF supplemental benefits. For about 5% of beneficiaries at or near the limit, Medicare is not the primary insurer; thus, additional IPF coverage from those beneficiaries’ primary insurance is a possibility.

Source: MedPAC analysis of Medicare enrollment data and MA plan benefit package data from CMS.



Improving access to IPF care by removing the 190-day limit

Medicare's 190-day limit may exacerbate challenges in accessing IPF care

- Patients needing long-term IPF care may have difficulty accessing it
 - Demand for public IPFs outstrips supply
 - Private IPFs may be less willing and able to take patients who have reached the 190-day limit and lack coverage
- IPFs interviewed last year pointed to challenges in treating patients after they reach the limit
- Beneficiaries may obtain inpatient psychiatric care from hospital-based IPFs not subject to the limit, but the number of these IPFs has declined

Note: IPF (inpatient psychiatric facility).

Source: L & M Policy Research. 2023. *Interviews with inpatient psychiatric facilities*. Report prepared by L&M Policy Research LLC for the Medicare Payment Advisory Commission. Washington, DC; Medicare Payment Advisory Commission. 2023. *Report to the Congress: Medicare and the health care delivery system*. Washington, DC: MedPAC.

Examining effects of 190-day limit on use of inpatient psychiatric services

- Beneficiaries were "affected by the limit" if they had reached or were within 15 days of reaching the 190-day limit
- Comparison beneficiaries were those with 16–90 days remaining
- To enhance comparability, we examined only FFS beneficiaries who had at least one freestanding IPF stay in the prior five years
- The two groups were relatively similar in shares of disability, low-income status, and non-White race/ethnicity.

Note: FFS (fee-for-service), IPF (inpatient psychiatric facility).

Use of inpatient psychiatric care differed for FFS Medicare beneficiaries affected by the limit in 2023

	Average covered days per FFS beneficiary		
	Affected by the limit (≤15 days remaining)	Comparison group (16–90 days remaining)	Difference in number of days
Freestanding IPF	2.4	7.6	5.2
Hospital-based IPF	5.0	2.8	-2.2
Psychiatric stay in a general ACH	2.0	1.3	-0.8
<i>All inpatient psychiatric stays</i>	9.4	11.7	2.2

Note: FFS (fee-for-service), IPF (inpatient psychiatric facility), ACH (acute care hospital). The population of FFS Medicare beneficiaries included in this table had at least one stay at a freestanding IPF in the past five years. “Affected by the limit (≤15 days remaining)” includes 14,590 FFS Medicare beneficiaries; “Comparison group (16–90 days remaining)” includes 17,770 FFS Medicare beneficiaries. All differences were statistically significant at the 1% level.

Source: MedPAC analysis of Medicare enrollment and Medicare Provider Analysis and Review data from CMS.



Illustrative change in Medicare spending from removing the 190-limit in 2023

Illustrative change in per beneficiary FFS Medicare spending if the 190-day limit were eliminated, 2023

Inpatient psychiatric service setting	Average change in number of covered days per beneficiary	Average per diem FFS Medicare payment	Average change in FFS Medicare payments per beneficiary
Freestanding IPF	5.2	\$800	\$4,200
Hospital-based IPF	-2.2	\$900	-\$2,000
General acute care hospital	-0.8	\$1,200	-\$930
Total	2.2	N/A	\$1,260

Note: FFS (fee-for-service), IPF (inpatient psychiatric facility), N/A (not applicable), MA (Medicare Advantage). Components may not sum to totals due to rounding.

Source: MedPAC analysis of Medicare enrollment and Medicare Provider Analysis and Review data from CMS.

- Assuming an increase of \$1,260 for FFS beneficiaries at or near the limit, Medicare FFS spending would increase by approximately \$40 million
- Payments to MA plans would also increase

Actual change in federal spending may be higher or lower

- Medicare spending on other services such as Part B clinician services and Part D prescription drugs may also change
- Freestanding IPFs may accept more Medicare patients and keep them for longer periods
- Federal Medicaid matching payments would decrease for dually eligible beneficiaries who exceed the 190-day limit and receive additional IPF coverage by Medicaid

Note: IPF (inpatient psychiatric facility).

Existing Medicare criteria and benefit structure for IPF and Part A hospital services would not change

- IPF “active treatment” eligibility criteria: Eligible Medicare patients must have a psychiatric principal diagnosis and require active treatment of an intensity that can be provided appropriately only in an inpatient hospital setting
- Part A hospital benefit periods: Coverage in each benefit period is limited to 90 days (with deductible and copayment) and 60 nonrenewable lifetime reserve days. A new benefit period starts only when the beneficiary has been discharged for at least 60 days.

Note: IPFs (inpatient psychiatric facilities).

Source: Centers for Medicare & Medicaid Services, Department of Health and Human Services. 2018. *Medicare benefit policy manual*. Baltimore, MD: CMS.

More work to be done to address the needs of Medicare beneficiaries with severe mental illness

- Concerns about the quality of care
 - Certain freestanding IPFs investigated by the Department of Justice
- Greater transparency needed to understand services provided by IPFs
 - Lack of information on the mix and type of staffing in IPFs and how time is spent across tasks

Note: IPF (inpatient psychiatric facility).

Source: Department of Justice. 2024. *Acadia Healthcare Company Inc. to pay \$19.85M to settle allegations relating to medically unnecessary inpatient behavioral health services*. Washington, DC: DOJ. September 26. <https://www.justice.gov/opa/pr/acadia-healthcare-company-inc-pay-1985m-settle-allegations-relating-medically-unnecessary>; Department of Justice. 2020. *Universal Health Services Inc. and related entities to pay \$122 million to settle False Claims Act allegations relating to medically unnecessary inpatient behavioral health services and illegal kickbacks*. Washington, DC: DOJ. July 10. <https://www.justice.gov/opa/pr/universal-health-services-inc-and-related-entities-pay-122-million-settle-false-claims-act>.

Forthcoming improvements to the IPF prospective payment system and quality reporting program

- Greater enforcement of requirements for reporting ancillary services (FY 2025)
- Collection and reporting of patient experience survey data (FY 2026)
- Collection of patient assessment information (FY 2028)

We will continue to monitor use, spending, and quality of care in IPFs

Note: IPF (inpatient psychiatric facility), FY (fiscal year).

Source: Centers for Medicare & Medicaid Services, Department of Health and Human Services. 2024. Medicare program; FY 2025 inpatient psychiatric facilities prospective payment system—rate update. Final action. *Federal Register* 89, no. 152 (August 7): 64582–64675.

Discussion

- Questions
- Feedback