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## STATEMENT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES' RECENT PROPOSAL TO INCREASE INSTITUTIONALIZATION

The Judge David L. Bazelon Center condemns the Department of Health and Human Services' (HHS) announcement earlier this week that it plans to approve new mental health Medicaid demonstration waivers to fund the institutionalization of people with psychiatric disabilities. The proposed demonstration waivers would provide federal funding for "short stays" in psychiatric institutions, but there are few limits on what counts as a "short stay." The statewide average length of stay is expected to be 30 days—more than three times as long as the national average psychiatric hospital stay of 8 days.

The demonstration waivers will waive Medicaid's "Institutions for Mental Disease (IMD) rule," which bars the use of federal funds for people aged 22-64 served in large psychiatric institutions. The Medicaid law's provisions concerning demonstration waivers do not give HHS the authority to waive this rule, which was designed in part to discourage state reliance on psychiatric institutions.

HHS's plan to approve the new demonstration waivers ignores the real problem with mental health services systems today: an underfunded and inadequate community-based system that frequently leaves people with mental health needs cycling between hospitals, emergency rooms, shelters, and jails. Investing more money in psychiatric hospitals does nothing to address these problems, which are the root cause of pressures on psychiatric hospitals. Expanding community-based services such as supported housing, mobile crisis services, assertive community treatment, peer support services, and supported employment would dramatically reduce psychiatric hospital admissions and help people thrive in their communities. While the new demonstration conditions reimbursement for institutional care on some additional community investment, that investment is likely to be small. Moreover, the Centers for Medicare and Medicaid Services (CMS) has failed to hold states to similar conditions in the past.

It is extremely disappointing to see the Trump Administration investing in this failed strategy, especially since the federal government has already conducted a demonstration to test the same rationale offered in support of the waivers—that federal reimbursement for short-term stays in IMDs would increase access to inpatient care. The Medicaid Emergency Psychiatric Services Demonstration Evaluation, which ran from 2012 through 2015, found that federal reimbursement did not increase access to inpatient care or decrease the number of emergency room visits or the length of emergency department boarding. However, "one of the most consistent findings [of that demonstration] was the existence of significant shortages of community-based outpatient services. Both beneficiaries and facility staff almost universally reported difficulties in obtaining needed aftercare services from community providers." When Congress instructed HHS in Section 12003 of the Cures Act to innovate in their mental health service systems, it highlighted the need to improve "systems for providing community-based services"—not to invest billions in perpetuating a broken system.