



*Statement for the Committee on Children
Public Informational Forum Re: Albert J. Solnit Center
September 26, 2018*

Good morning Representative Urban, Senator Moore, Senator Suzio, and members of the Committee on Children. My name is Bill Halsey and I am the Director of Integrated Care within the Division of Health Services at the Department of Social Services (DSS).

One death, of any person but especially of a child or young adult, is too many.

Incidents of self-harm among children are deeply troubling and command careful scrutiny.

DSS is in complete support of careful examination, at every level, of services provided, communication and investigation protocols around, and corrective action taken to ensure appropriate identification of needs, care coordination, and protections for members of Medicaid who are served by Connecticut state agencies.

Overview of Behavioral Health Services Covered by Medicaid

DSS, as Connecticut's State Medicaid Agency, is deeply committed to ensuring that all members of HUSKY Health (Medicaid and the Children's Health Insurance Plan) have access to high quality services and supports that meet their needs on an individualized basis. A critical component of the array of Medicaid-covered services is support for individuals with behavioral health conditions.

Consistent with the aims of the Affordable Care Act, Connecticut HUSKY Health has focused on planning, funding and implementing new care delivery reforms to better identify individuals in need of behavioral health services, integrating such services with medical supports, and examining health and care experience outcomes.

DSS is party to a longstanding collaboration with sister state agencies, the Department of Children and Families (DCF) and the Department of Mental Health & Addiction Services (DMHAS), through which the three agencies lead the Connecticut Behavioral Health Partnership. Through this partnership, the three agencies oversee integrated management of Medicaid behavioral health services across the age continuum, in conjunction with the Medicaid program's behavioral health Administrative Services Organization (ASO), Beacon Health Options CT.

We are active partners with the Department of Public Health (DPH), Connecticut's state Survey Agency, which, on behalf of the federal Centers for Medicare and Medicaid Services (CMS) and DSS, performs surveys of licensed and other care settings to assess and ensure their compliance with conditions of participation in Medicare and Medicaid.

Medicaid is about health care coverage and furthering the capacity of members. Federal law provides that the purpose of Medicaid is to provide funds to states so that they can furnish 1) medical assistance to those whose income and resources are insufficient to meet the costs of necessary medical services and 2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care. Medicaid covers an extensive array of behavioral health supports, from screening to community-based services to more intensive acute services provided in residential and hospital settings. The service that is at issue in today's review is Psychiatric Residential Treatment Facility (PRTF).

Federal Medicaid Requirements for Psychiatric Residential Treatment Facilities

Implementing federal regulations, the CMS State Operations Manual provides that the following conditions apply in order for PRTFs to participate in Medicaid and receive Medicaid payments:

- A PRTF is defined as a facility other than a hospital, that provides psychiatric services . . . to individuals under age 21, in an inpatient setting.
- PRTFs must be accredited by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities (CARF), the Council on Accreditation of Services for Families and Children (COA), or by any other accrediting organization with comparable standards that is recognized by the State.
- PRTFs must also have either a current provider agreement with the State Medicaid Agency (in Connecticut, DSS) or, if enrolling as a Medicaid provider, must execute a provider agreement with the State Medicaid Agency.
- PRTFs must comply with the condition of participation for the use of restraint and seclusion.
- PRTFs are Medicaid only- (not Medicare-) funded facilities.

In Connecticut, there are both public and private PRTFs. Only private PRTFs are licensed in Connecticut.

DSS's General Role in Enforcing Federal Medicaid Requirements

In administering Connecticut's Medicaid Program, DSS is committed to doing its part to facilitate high quality health care services and supports to all members. As a health care payer, DSS does not directly provide any health care services. Our specific roles in administering

Connecticut's Medicaid program are to set coverage and payment policy, enroll and pay providers for performing services for Medicaid members, and monitor the medical necessity of services through various steps, including prior authorization for certain services. We actively monitor and promote quality of care for the Medicaid program overall in various ways, but we do not have the authority or expertise to license or inspect providers. Our jurisdiction over providers is limited to ensuring that providers comply with applicable state and federal Medicaid requirements.

DSS's Specific Role in Enforcing Public PRTFs' Compliance with Federal Medicaid Requirements

In most situations, health care facilities are required by state law to be licensed and DSS ensures that the license is valid before enrolling the provider in Medicaid and making payments. Consistent with this, Connecticut statutes and regulations require privately operated PRTFs to be licensed by DCF. Publicly operated PRTFs, including Solnit, however, are not required by state statute to obtain a license. The only clinical requirements that DSS is authorized to enforce for publicly operated PRTFs are the federal Medicaid conditions of participation for PRTFs. **These conditions of participation for PRTFs are limited only to specifically defined provisions, which primarily relate to care planning regulations regarding the application and utilization of restraint and seclusion.**

Within these constraints, DSS takes its role of overseeing PRTF conditions of participation very seriously. DSS enforces these conditions of participation in collaboration with DPH, which is the designated State Survey and Certification Agency. DSS has always accepted DPH's findings and works collaboratively with DPH to recommend improvements to clinical care.

Section 17b-262-806 of DSS' regulations require all PRTFs to comply with "applicable licensing, accreditation and certification requirements" as well as "departmental enrollment requirements." . The certification/conditions of participation are the plan of care, accreditation and other requirements in federal regulations at 42 CFR Part 441, Subpart D and 42 CFR Part 483, Subpart G. As Connecticut's State Medicaid Agency, DSS has the following responsibilities related to ensuring that all PRTFs (including Solnit South) comply with the federal Medicaid conditions of participation:

- receiving routine, periodic surveys of PRTFs that are conducted by the state's Survey and Certification Agency (which, in Connecticut, is DPH);
- receiving and forwarding to DPH, for investigation through surveys, all Serious Occurrence Report Forms that it receives from PRTFs;
- receiving findings of deficiency, including, but not limited to, immediate jeopardy to health and safety, from DPH;

- sending notices of the deficiencies that have been identified by DPH to the involved PRTF;
- being notified by DPH if a PRTF meets or does not meet required plans of correction for deficiencies; and
- confirming that DPH has determined that a PRTF continues to meet, or has corrected deficiencies related to, all conditions of participation, in order to 1) maintain the PRTF as a Medicaid-enrolled provider and reimburse the PRTF for services; or 2) terminate the PRTF's Medicaid provider agreement for failure to meet one or more conditions of participation.

Overview of Specific Obligations and Processes for DSS Overseeing Public PRTF Compliance with Federal Medicaid Requirements

Federal regulation at 42 C.F.R. § 483.374(b) requires PRTFs to send reports of serious occurrences to the State Medicaid Agency (in Connecticut, DSS) and the State-designated Protection and Advocacy system (in Connecticut, Disability Rights Connecticut, Inc.). PRTFs are required to use the "Serious Occurrence Report Form" for this purpose. "Serious occurrences" include:

- a resident's death that occurs for any reason
- any resident's serious injury that occurs for any reason
- any resident suicide attempt

Consistent with the CMS State Operations Manual, DSS forwards all Serious Occurrence Report Forms that it receives from DCF to DPH.

Section 2833A.2 of the CMS State Operations Manual (relevant sections posted here: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107c02.pdf>), which is a CMS sub-regulatory guidance document that is binding on states, provides as follows:

"The SMA [State Medicaid Agency] must report all serious occurrences, as defined in 42 CFR 483.374(b), to its SA [state Survey Agency] and the SA must conduct both recertification and complaint surveys based on regulations established by the 42 CFR 483 subpart G and further discussed within the interpretive guidelines as established in Appendix N."

DPH then performs a site visit at the PRTF. In performing survey visits, DPH is acting on behalf of DSS, Connecticut's State Medicaid Agency. Excerpting from a CMS Q&A document (<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-17-28-.pdf>):

10. Question: Please clarify the distinctions between the roles and responsibilities of Medicare and Medicaid agencies [as it relates to PRTFs].

Answer: Medicaid is a joint State and federal program that provides health coverage to low income individuals and families. Medicaid health benefits can vary from State to State depending on which services are included in the State Plan. Medicaid eligibility criteria can also vary from State to State. The SMA [State Medicaid Agency] oversees the administration of PRTF services to Medicaid beneficiaries. State Survey Agencies (SA) perform surveys of PRTFs on behalf of the SMA. See SOM section 2832E.1.

Medicare is a federally administered program for the aged and disabled [and has no role related to certification of PRTFs].

The timeline on the last page of my testimony provides an illustrative example of the sequence of actions taken by DSS and DPH related to Solnit South.

Thank you for the opportunity to participate in this informational forum. I would be happy to answer any questions that Committee members may have.

PRTF Serious Occurrence Report and Investigation Timeline: An Illustrative Example of DSS and DPH Roles

