WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

INFANT PRENATAL SUBSTANCE EXPOSURE: WYOMING DATA, POLICIES AND SERVICES

June 2022

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EXECUTIVE SUMMARY

Federal legislation enacted in 2016 requires states to establish policies and procedures for identifying infants with prenatal substance exposure (IPSE), developing plans of safe care to address the health and substance use disorder treatment needs of the infant, mother or caregiver, and reporting IPSE data. The Wyoming Department of Family Services (DFS) is currently collaborating with the Wyoming Department of Health and other stakeholders to establish policies and a statewide framework for identifying IPSE, and developing and implementing plans of safe care.

DFS data show 142 IPSE were reported to the Department's Child Protective Services system in 2021. Wyoming hospital discharge data from 2016-2021 show between 32 and 106 newborns were diagnosed with substance exposure or neonatal withdrawal symptoms each year. The counties reporting the highest numbers of substance-exposed infants were Campbell, Fremont, Laramie, and Natrona.

Wyoming Medicaid funds an average of 33 percent of births in the State each year and provides full benefits, including limited substance use disorder treatment services, to eligible pregnant women during the period of their pregnancy and for 60 days following delivery. The Department of Health estimates 100-150 Medicaid Pregnant Women seek treatment for drug abuse and 50 Medicaid Pregnant Women have an alcohol-related diagnosis at some point in their eligibility. At the end of the 60 day postpartum period, approximately 70 percent of Medicaid Pregnant Women fail to qualify for continued Medicaid coverage and are disenrolled.

Wyoming Medicaid covers three of the nine American Society of Addiction Medicine (ASAM) levels of care: Early Intervention, Outpatient Services, and Intensive Outpatient Services. Wyoming Medicaid does not provide coverage for the other six ASAM levels of care, including Residential and Inpatient services. To help fill this gap in treatment services, the Department of Health provides block grants to four community mental health and substance abuse treatment providers around the State to fund a total of 256 residential treatment beds. Less than 10 percent of these beds (21) are available to parenting women with small children. The 21 beds are distributed among three providers in Natrona, Sheridan, and Sweetwater counties. State-funded

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residential treatment services for parenting women are not available in three of the four counties (Campbell, Fremont, Laramie) reporting the highest incidence of substance-exposed infants.
In 2019, the U.S. Department of Health and Human Services issued guidance to states, pursuant to the 2018 SUPPORT Act, regarding opportunities to support family-focused substance abuse disorder residential treatment programs for pregnant and postpartum women. These opportunities include Medicaid program flexibilities to allow states to receive federal Medicaid funding, as well as available Title IV-E and Substance Abuse and Mental Health Services Administration funding to support family-focused treatment programs.

FEDERAL REQUIREMENTS RE INFANT PRE-NATAL SUBSTANCE EXPOSURE[1]

The key federal legislation addressing child abuse and neglect is the Child Abuse Prevention and Treatment Act (CAPTA), enacted in 1974. The Act provides formula grants and guidance to states in support of prevention, assessment, investigation, prosecution, and treatment activities. To be eligible for formula grants, states must submit a plan to the U.S. Department of Health and Human Services that provides assurances the state has in place a variety of laws, policies and programs regarding child welfare.

In 2016, Congress enacted the Comprehensive Addiction and Recovery Act (CARA), which amended CAPTA to require states to provide certification of state laws or a statewide program that include:[2]

- Policies and procedures to address the needs of infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a Fetal Alcohol Spectrum Disorder;
- A requirement that health care providers involved in the delivery or care of such infants notify the child protective services system. Such notification shall not be construed to establish a definition under federal law of what constitutes child abuse or neglect or require prosecution of any illegal action;
- A system for development of a post-discharge plan of safe care which addresses the health and substance use disorder treatment needs of the infant and affected family or caregiver; and
- A state monitoring system to determine whether and in what manner local entities are providing referrals to and delivery of appropriate services for the infant and affected family or caregiver.

The CARA Act also requires states to report to the Department of Health and Human Services National Child Abuse and Neglect Data System annual data that includes the number of:[3]

- Identified infants with prenatal substance exposure (IPSE);
- IPSE for whom a plan of safe care was developed; and
- IPSE for whom a referral was made for appropriate services, including services for the affected family or caregiver.

[1] **DHHS Children's Bureau, About CAPTA: A Legislative History fact sheet, February 2019**.
[2] 42 USC 5106a(b)(2)(B)(ii)-(iii).
[3] 42 USC 5106a(d)(18).

Wyoming appears to be several years behind the majority of states in the development of policies to meet the above-listed CARA requirements. The Department of Health and Human Services Children's Bureau reports, as of August 2019, 42 states had passed laws or implemented policies requiring health care providers to notify the state child protective services system of substance-exposed infants and 33 states had passed laws or implemented policies to require the state child protective services agency to develop a plan of safe care to address the needs of the identified infant and the mother, caregiver or family.[4] To date, Wyoming has not passed legislation to address CARA requirements. The Wyoming Department of Family Services reports the Department, along with the Wyoming Department of Health and other stakeholders, is currently participating in the National Center for Substance Use and Child Welfare In-Depth Technical Assistance Program to develop policies and procedures and build a statewide framework for the identification of substance exposed infants and the development and implementation of plans of safe care.[5]

WYOMING POLICIES REGARDING INFANT PRENATAL SUBSTANCE EXPOSURE

Identification of Substance-Exposed Infants[6]

Wyoming currently lacks a process for healthcare providers to provide notification to the Department of Family Services (DFS) of infant prenatal substance exposure other than to make a report of child abuse or neglect. Under Wyoming's mandatory reporting statute, any person who knows or has reasonable cause to believe or suspect that a child has been abused or neglected or who observes any child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, shall immediately report the abuse or neglect to DFS or the local law enforcement agency.[7]

DFS provided the following distinction between "notification" and "report":

> A *report* to Child Protection Services (CPS) occurs when there are safety concerns for the infant. After a report is received by CPS, further assessment by Family Services Specialists may be initiated to include a plan of safe care developed by DFS.
>
> A *notification* occurs when a newborn is prenatally exposed to substances and there are no other child protection concerns. When notifications occur, a family is referred to an outside provider, not to CPS, and a plan of safe care is developed by the outside provider. Examples of outside providers are Parents as Teachers and Public Health Nursing.

DFS is working with the Wyoming Department of Health and the National Center for Substance Use and Child Welfare In-Depth Technical Assistance program to build a statewide standardized framework of procedures for all healthcare providers and hospitals to follow when a substance-exposed infant is identified. Once these procedures are implemented, health care providers will be

[4] DHHS Children's Bureau, Plans of Safe Care for Infants with Prenatal Substance Exposure and Their Families, August 2019.
[5] Information provided by DFS, May 2022.
[6] Information provided by DFS, May 2022.
[7] W.S. 14-3-205.

able to provide notification of infant prenatal substance exposure (IPSE) to DFS through the use of a statewide centralized notification system.

Plan of Safe Care for Substance-Exposed Infants[8]

In May 2020, the Department of Family Services (DFS) and the Wyoming Department of Health (WDH) Public Health Division entered into a memorandum of understanding (MOU) outlining each Department's responsibilities with regard to coordinating federal Comprehensive Addiction and Recovery Act (CARA) requirements for identifying substance-exposed infants and developing and coordinating Plans of Safe Care. The MOU states DFS and WDH will work collaboratively to ensure that Plans of Safe Care can be delivered to Wyoming home-visited families in an effective manner. Under the MOU, WDH will be responsible for providing trained nurses to identify and visit infants born with and affected by prenatal drug or fetal alcohol exposure. The trained nurses will complete a Plan of Safe Care for all referred or identified infants whose mothers agree to services as part of voluntary enrollment in the Public Health Nursing Healthy Baby Home Visitation program. WDH will also be required to provide quarterly summaries to DFS that include:

- the number families served through Plans of Safe Care;
- the number and type of resources that were used as referrals;
- the number of families that accessed the referral resources; and
- the number of families who declined to participate in a Plan of Safe Care.

In 2021, DFS applied for and was accepted into the National Center for Substance Use and Child Welfare In-Depth Technical Assistance Program to utilize a multidisciplinary approach to the development and implementation of Plans of Safe Care. Stakeholder participants include:

- DFS
- WDH (Public Health Nurses, Behavioral Health Division, and Medicaid)
- Wyoming Governor's Office
- Wyoming Early Childhood/Head Start
- Perinatal Quality Control Collaborative
- Wyoming Hospital Association
- Wyoming Children's Justice Project
- Wyoming Children's Trust Fund
- Parents as Teachers
- Representative Provenza
- Senator Nethercott

DFS reports the Technical Assistance Program work is currently underway to build out Plans of Safe Care at a state-wide level. In the meantime, DFS has also contracted with Parents as Teachers, a home visiting program that provides services in five Wyoming counties, to provide Plans of Safe Care to identified families. DFS states Department caseworkers will also be trained in developing Plans of Safe Care to cover current gaps.

[8] Interagency Agreement between DFS and WDH, Public Health Division, signed April 2020; and information provided by DFS, May 2022.

WYOMING IPSE DATA

The Legislative Service Office (LSO) identified two sources of data regarding infant prenatal substance exposure(IPSE): Department of Family Services data and discharge data reported by Wyoming hospitals to the Hospital Industry Data Institute as part of the national Healthcare Cost and Utilization Project.

Department of Family Services IPSE Data

As required by the Comprehensive Addiction and Recovery Act (CARA), Wyoming began reporting IPSE data to the National Child Abuse and Neglect Data System in 2018. DFS provided LSO with IPSE data for 2021 and explained the Department is unable to provide complete IPSE data for 2018- 2020 due to limitations of the DFS case management system. The system is able to collect only limited information related to IPSE "screened in" by DFS for investigation of child abuse or neglect; additional data can only be collected by conducting a manual review of all IPSE reports by health care professionals. Based on a manual review, DFS provided data for 2021 showing a total of 173 total reports to DFS regarding 142 substance-exposed infants. See **Table 1** for 2021 data.

Table 1. IPSE reported to DFS, Calendar Year 2021

Total number of IPSE reports	173
Number of families reported	140
Number of infants with prenatal substance exposure reported	142
Substances of concern	Tetrahydrocannabinol (THC): 50 Methamphetamine: 46 Polysubstance (Meth and THC the most common combination): 30 Opiates: 15 Alcohol: 7 Other (spice, acid, cocaine, etc.): 6
Number of CPS cases opened ("screened in") by DFS	113
Number of infants taken into protective custody by law enforcement or doctors	37

Source: Information provided by DFS, May 2022.

Wyoming Hospital Discharge Data[9]

In 2010, Wyoming hospitals began reporting data to the U.S. Department of Health and Human Services Agency for Healthcare Research and Quality as part of the national Healthcare Cost and Utilization Project (HCUP). The Wyoming Hospital Association contracts with the Hospital Industry Data Institute to collect and report HCUP data. The Association provided Wyoming hospital discharge data, for the period January 1, 2016, through December 31, 2021, for newborns

[9] Data provided by Wyoming Hospital Association, May 2022.

diagnosed with one of the following International Classification of Diseases, 10th Revision (ICD-10) codes:

P04.3: Newborn affected by maternal use of alcohol
P04.13: Newborn affected by maternal use of anticonvulsants
P04.14: Newborn affected by maternal use of opiates
P04.15: Newborn affected by maternal use of antidepressants
P04.16: Newborn affected by maternal use of amphetamines
P04.17: Newborn affected by maternal use of sedative-hypnotics
P04.41: Newborn affected by maternal use of cocaine
P04.42: Newborn affected by maternal use of hallucinogens
P04.49: Newborn affected by maternal use of other drugs of addiction
P04.81: Newborn affected by maternal use of cannabis
P96.1: Neonatal Withdrawal symptoms from maternal use of drugs of addiction

The data show the statewide total number of newborns diagnosed with one of the above codes ranged from 32 newborns in 2016 to 106 newborns in 2019. The counties reporting the highest number of substance-exposed newborns are Campbell, Fremont, Laramie, and Natrona. Three of these counties (Campbell, Fremont, and Natrona counties) are also counties with a high percentage of Medicaid-funded births.[10] See **Table 2**.

[10] Medicaid-funded births in Campbell, Fremont, and Natrona counties were 36%, 49%, and 38% of total births, respectively, in 2020. WDH Medicaid Birth Report, CY 2020.

Table 2. Wyoming Hospital IPSE Data

Maternal County of Residence	2016	2017	2018	2019	2020	2021	County Total for all years
Albany	*	*	*	*		*	13
Big Horn		*				*	*
Campbell	*	12	*	14	14	10	66
Carbon		*	*	*	*	*	15
Converse					*	*	*
Crook	*			*	*		*
Fremont	*	13	*	17	20	15	75
Goshen		*	*	*	*		13
Hot Springs						*	*
Johnson	*						*
Laramie	*	14	27	28	16	*	91
Lincoln		*			*	*	*
Natrona	*	*	10	25	23	16	87
Park	*	*	*	*	*	*	20
Platte				*	*		*
Sheridan		*	*	*		*	*
Sweetwater		*	*	*	*	*	16
Uinta		*	*			*	*
Washakie		*	*	*	*		*
Weston					*		*
STATE TOTAL	**32**	**67**	**71**	**106**	**100**	**67**	**443**

* Values less than 10 are not reported.

Source: LSO compilation of information provided by Wyoming Hospital Association

WYOMING MEDICAID: IPSE DATA AND COVERAGE OF MATERNAL SUBSTANCE USE DISORDER TREATMENT

Wyoming Medicaid funds an average of 33 percent of births statewide, and 36 to 49 percent of births in Campbell, Fremont and Natrona counties—three of the four counties reporting the highest incidence of infant prenatal substance exposure.[11] For this reason, LSO sought data regarding the incidence of substance use disorder in the Medicaid Pregnant Women eligibility group and Infant Prenatal Substance Exposure (IPSE) in Medicaid-funded births. LSO also gathered information regarding Medicaid-funded substance use disorder treatment services available to Medicaid-eligible pregnant/postpartum women.

[11] WDH Medicaid Birth Report, CY 2020.

Estimates of Medicaid Pregnant Women with Substance Use Disorder and Infants with Substance Exposure[12]

The Wyoming Department of Health provided the following estimates of Medicaid Pregnant Women behavioral health needs and substance use disorders based on Medicaid claims data and Wyoming Client Information System data:

- 28 percent of the Medicaid Pregnant Women eligibility group have some form of behavioral health treatment needs.
- Five to eight percent of Medicaid Pregnant Women seek treatment for illicit substance abuse issues (excluding alcohol-and tobacco-related substance abuse diagnoses) at some point in their eligibility. WCIS data indicate the primary illicit substance abuse issues involved methamphetamine (approximately 35%), marijuana (approximately 30%), and opioids (approximately 12%).
- Three percent of Medicaid Pregnant Women have an identified alcohol-related diagnosis at some point in their eligibility.
- 50 to 75 newborns of Medicaid-funded births are diagnosed with some form of substance use withdrawal each year.
- Two to four newborns of Medicaid-funded births are diagnosed with alcohol-related exposure each year.

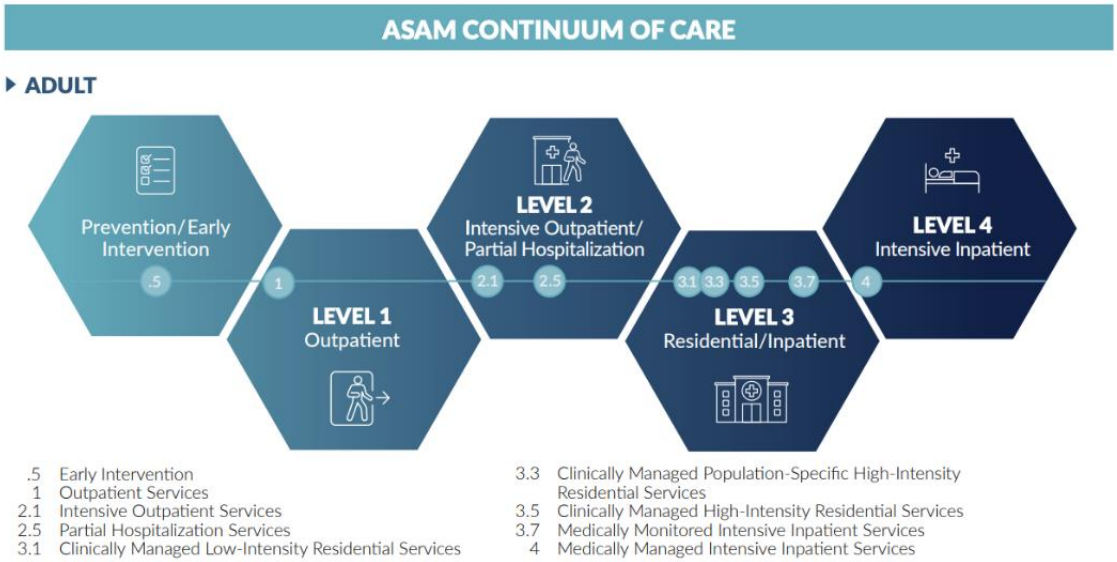
Medicaid Coverage of Substance Use Disorder Treatment

In 2017, the Centers for Medicare and Medicaid (CMS) published guidance for states working to reform their Medicaid substance use disorder delivery systems.[13] According to the CMS guidance, treatment services should provide a continuum of interventions capable of meeting various types of needs, including various levels of care. As individuals move through the continuum on their recovery from substance use disorder, they may need to transition to levels of care of greater or lesser intensity, depending upon their clinical needs.[14] The CMS guidance cites the *American Society of Addiction Medicine Treatment Criteria for Addictive Substance-Related, and Co-Occurring Condition* (ASAM Criteria) as the most recent set of industry guidelines on substance use disorder and recommends that states compare their Medicaid benefits with the American Society of Addiction Medicine care continuum in order to identify gaps in substance use disorder coverage.[15]

The ASAM criteria comprise a set of guidelines for assessing and making treatment decisions for individuals with addiction and co-occurring conditions, and identify nine levels of care grouped into five broad levels of service across the substance use disorder treatment continuum: early intervention, outpatient treatment, intensive outpatient services or partial hospitalization, residential inpatient services, and medically managed intensive inpatient services.[16] See **Figure 1**.

[12] Information provided by WDH, April 2022.
[13] CMS Medicaid Innovation Accelerator Program, Overview of Substance Use Disorder (SUD) Care Clinical Guidelines: a Resource for State Developing SUD Delivery System Reforms, April 2017.
[14] Ibid.
[15] Ibid.
[16] **ASAM Criteria webpage**, accessed May 2022.

Figure 1.



Source: ASAM website.

State Medicaid programs vary in their coverage of substance use disorder treatment services.[17] A majority of states cover eight of the nine American Society of Addiction Medicine levels of care:

- Early Intervention (43 states + DC)*
- Outpatient Services (49 states + DC)*
- Intensive Outpatient Services (43 states + DC)*
- Partial Hospitalization Services (33 states)
- Clinically Managed Low-Intensity Residential Services (26 states + DC)
- Clinically Managed High-Intensity Residential Services (33 states + DC)
- Medically Monitored Intensive Inpatient Services (29 states)
- Medically Managed Intensive Inpatient Services (44 states)

* Services covered by Wyoming Medicaid

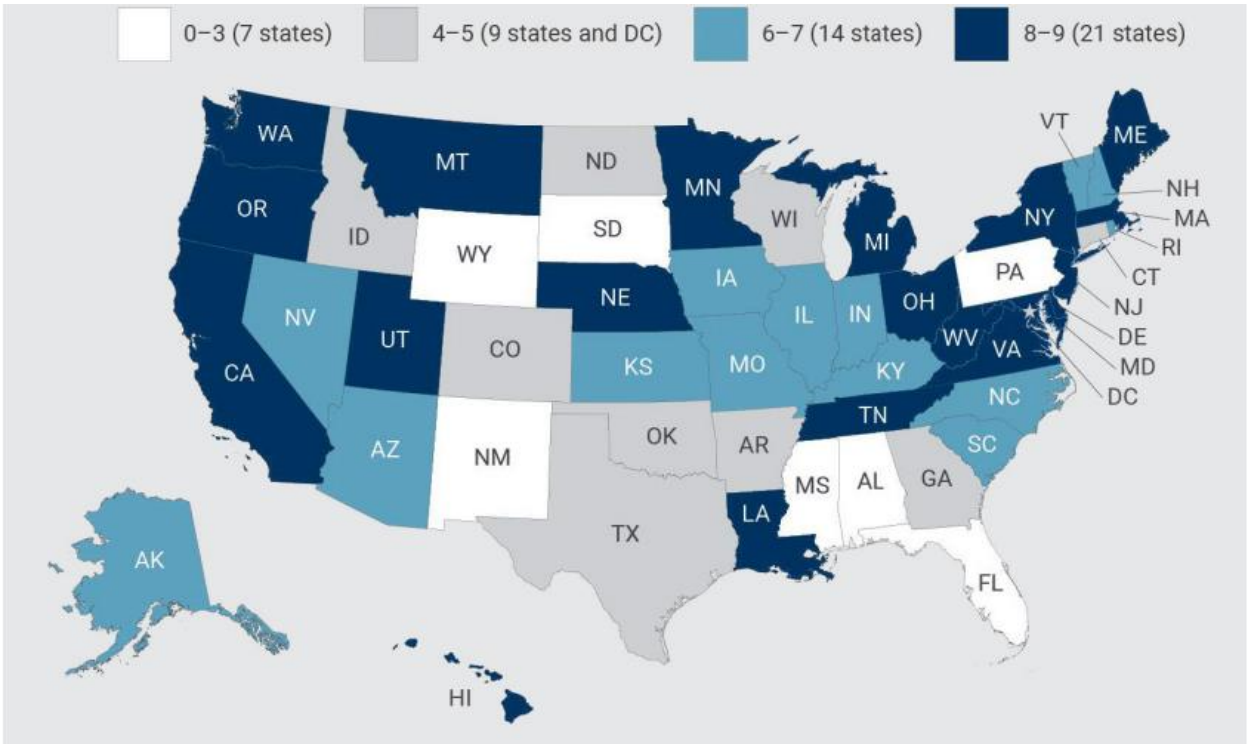
See **Appendix A** for a chart of ASAM Levels of Care.

Twelve states (California, Delaware, Hawaii, Maine, Massachusetts, Michigan, New Jersey, New York, Oregon, Utah, Virginia, and Washington) cover all nine ASAM levels of care, including Clinically Managed Population-Specific High-Intensity Residential Services. By contrast, Wyoming is one of seven states (Alabama, Florida, Mississippi, New Mexico, Pennsylvania, South Dakota, Wyoming) whose state Medicaid plan covers three or fewer ASAM levels of care for substance use disorder treatment.

See **Figure 2** for a map of state Medicaid coverage of substance use disorder treatment levels of care.

[17] **Medicaid and CHIP Payment and Access Commission (MACPAC) Report to Congress, June 2018.**

Figure 2. State Medicaid Program Coverage of ASAM Criteria Levels of Care, as of 2018.



Source: MACPAC Report to Congress, June 2018

Wyoming Medicaid Pregnant and Postpartum Coverage

Wyoming Medicaid provides full benefits, including coverage for early intervention, outpatient, and intensive outpatient substance use disorder treatment services, to eligible pregnant women during the period of their pregnancy and 60 days postpartum.[18] At the end of the 60 day postpartum period, the woman's eligibility for Medicaid is re-evaluated based on Medicaid adult income eligibility criteria which are much stricter than Medicaid pregnant women income eligibility requirements.[19] For example, a woman with a family income below $1653 per month (154 percent of the federal poverty level) for a family size of one is eligible for Medicaid as a pregnant woman. However, for that woman to continue Medicaid coverage beyond 60 days postpartum, she must have a family income below $737 per month (1996 Family Care income standard) for a family size of two (mother plus infant).[20] As a result, approximately 70 percent of Wyoming Medicaid-eligible pregnant women lose Medicaid eligibility and are disenrolled at the end of the 60-day postpartum period.[21]

The American Recovery and Rescue Plan Act (ARPA), enacted March 2021, allows states the option of submitting a state plan amendment to extend Medicaid postpartum coverage to 12 months for a five-year period, April 1, 2022, through March 31, 2027. As of May 2022, 27 states have acted to extend postpartum coverage to 12 months. For further information on the ARPA

[18] Information provided by Wyoming Department of Health (WDH), April 2022.
[19] 42 CFS Section 435.170.
[20] WDH, Medicaid Annual Report, SFY 2021.
[21] Information provided by WDH, April 2022.

option and other state actions, see **LSO Fact Sheet 22FS016, Medicaid Postpartum Coverage Extension**, in the June 2022 Labor, Health, and Social Services Committee meeting materials.

WYOMING STATE-FUNDED SUBSTANCE USE DISORDER RESIDENTIAL TREATMENT BEDS FOR PREGNANT/PARENTING WOMEN[22]

In addition to Medicaid-funded substance use disorder treatment services, the Wyoming Department of Health provides block grants to community mental health and substance use treatment providers around the state to fund residential treatment beds. In 2022, the Department provided grants to four providers to fund a total of 256 residential beds.

The Wyoming Association of Mental Health & Substance Abuse Centers (WAMHSAC) reports 21 of those 256 beds are available for parenting women (pregnant or with small children). The number of state-funded residential beds for parenting women (21) is much less than the number of families of substance-exposed infants (140) reported to DFS in 2021. In February 2022 testimony to the House Judiciary Committee, WAMHSAC reported the 21 parenting women beds were full and one facility (Volunteers of America, Sheridan) had a wait list of 16 women and a wait time of approximately six months.

The 21 state-funded beds available to parenting women are distributed among three counties: Natrona, Sheridan, and Sweetwater. As stated previously, Natrona County is one of four counties which report the highest number of substance-exposed newborns. State-funded residential treatment for parenting women is not available in the other three counties (Campbell, Fremont, Laramie) reporting high numbers of substance-exposed newborns. See **Table 6.**

Table 6. State-funded Substance Use Disorder Residential Treatment Beds

County	Community MHSA Facility	Total State-Funded Beds	Parenting Women Beds
Park	Cedar Mountain Center	6	0
Natrona	Central Wyoming Counseling Center	62	4
Sheridan & Laramie	Volunteers of America	118	8 (Sheridan only)
Sweetwater	Southwest Counseling Service	70	9
TOTAL		**256**	**21**

Source: LSO compiled information from WDH and WAMHSAC

FEDERAL OPPORTUNITIES FOR STATES TO SUPPORT FAMILY-FOCUSED RESIDENTIAL TREATMENT PROGRAMS

In 2018, Congress enacted the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act. The SUPPORT Act comprises multiple provisions to address the opioid crisis, including the following Medicaid specifications:[23]

[22] Information provided by Wyoming Department of Health and WAMHSAC, May 2022.
[23] U.S. Congress, Summary of P.L. 115-344 (H.R. 1318), enacted December 2018.

- State Medicaid programs must establish drug-review and utilization requirements, including safety measures for subsequent prescription of opioids (Section 1004).
- State Medicaid programs may cover residential pediatric recovery center services for infants with neonatal abstinence syndrome (Section 1007).
- States may receive federal payment under Medicaid for outside services provided to pregnant and postpartum women who are substance use disorder patients at institutions for mental diseases (Section 1012).
- State Medicaid agencies, to the extent permitted under state law, may also access prescription drug monitoring programs (Section 1016).

In addition, the Act requires state Children's Health Insurance Program (CHIP) plans to cover mental health and substance-use disorder services (Section 5022).[24]

Pursuant to the Act, the U.S. Department of Health and Human Services developed and, in October 2020, issued guidance to states regarding opportunities to support family-focused substance use disorder residential treatment programs for pregnant and postpartum women that allow children to reside with their parent during treatment.[25] These opportunities include the following:

- Flexibility under the Medicaid program, including waivers, for states to receive federal Medicaid funding for the provision of substance use disorder treatment for pregnant and postpartum women and their children in family-focused residential treatment programs;
- Use and coordination of Medicaid, Title IV-E, and other funding, such as Substance Abuse and Mental Health Services Administration (SAMHSA) grant programs targeting pregnant and postpartum women, to support services provided by a family-focused residential treatment facility; and
- Use and coordination of Medicaid and Title IV-E funding to support placing children with their parents in family-focused residential treatment programs.

[24] Ibid.
[25] **CMS and Administration for Children & Families Informational Bulletin, October 2020**.

Figure 1. ASAM Levels of Care