

**American Hospital Association
Federation of American Hospitals
National Association of Psychiatric Health Systems**

December 15, 2004

Mr. Joe L. Tilghman, Regional Administrator
Centers for Medicare and Medicaid Services
Region VII
Richard Bolling Federal Building
601 East 12th Street, Room 235
Kansas City, MO 64106

Dear Mr. Tilghman,

On behalf of the American Hospital Association, Federation of American Hospitals, and the National Association of Psychiatric Health Systems, **we want to bring to your attention a very serious situation that currently exists with the fiscal intermediary Mutual of Omaha regarding the Local Coverage Determination (LCD) for Psychiatric Inpatient Hospitalization.** We have attempted to work with Mutual of Omaha in a variety of ways and have not been successful. We are writing to ask that you intervene with Mutual and ask them to suspend enforcement of the LCD until proper consultation and dialogue can occur between the provider community and Mutual.

Mutual of Omaha posted a draft copy of the LCD for comment on its Web site in June 2004. Most providers were not aware of this posting in a timely way and were not able to submit comments before the closing date. At our request, Mutual extended the comment period, which gave providers the opportunity to share with Mutual their very serious concerns about the LCD. There has been no response from Mutual to those comments.

On August 11, 2004, the American Hospital Association, the American Psychiatric Association, and the National Association of Psychiatric Health Systems sent a joint letter to Carol Richards, Medicare policy coordinator for Mutual, outlining our clinical and procedural concerns with the draft LCD. We have had no response from Mutual to any of our concerns. We understand that the LCD is now final. None of the issues we raised are addressed in the final version. No changes were made in the LCD. We repeat now, as we stressed then, that enforcement of the current LCD could jeopardize the delivery of inpatient psychiatric services to beneficiaries across the country.

Throughout this process, there has been virtually no outreach to the provider community nor acknowledgement of or discussion about the concerns that we raised. There has been no opportunity for structured dialogue with affected parties. We feel at a loss as to how to deal effectively with Mutual of Omaha.

While Mutual may feel it has complied with the letter of the law in terms of posting the proposed LCD and receiving comments, we do not feel it has complied with a spirit of outreach and consensus building with the professional provider community. Mutual has a reputation of being a responsive FI, and we are very troubled by our current experience. Because Mutual is a national FI, its decisions affect providers in 49 states.

We have, in collaboration with providers and professional communities, had notable success in working through the process of developing an LCD for Psychiatric Inpatient Hospitalization with AdminaStar and Associated Hospital Service. We have been given the opportunity to address our concerns item by item with the medical directors of both these intermediaries. Changes and clarifications were made to the proposed LCDs that were satisfactory to both the intermediaries and the providers. We feel these changes are clearly in the best interest of beneficiaries.

No such communication has been possible with Mutual of Omaha. The consistent response has been that the LCD is final and that the formal reconsideration process has been concluded with the decision to not make any revision to the now-effective LCD, again with no opportunity for discussion.

Due to the fact that the LCD is technically in effect, we urge your prompt attention to this matter. We look forward to your earliest response to our request. Please contact Mark Covall at NAPHS (phone: 202/393-6700, ext. 100, or mark@naphs.org).

Sincerely,

Rick Pollack, Executive Vice President

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cc: Manuel Pubillones, MD, Medical Director
Rick Reeves, Vice President and Director of Operations
Andrew Whitman, American Psychiatric Association

ATTACHMENT