Section for Psychiatric &
Substance Abuse Services

To: Members, AHA's Section for Psychiatric & Substance Abuse Services
From: Rebecca Chickey, Director, Section for Psychiatric & Substance Abuse Services
Subject: Update on Key Issues in the Behavioral Health Care Field: June 2015

AHA Advocacy Update

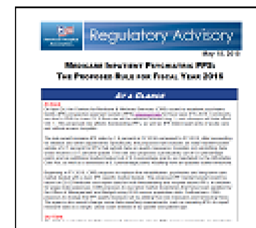
Support for Expansion of IMD Demonstration Increases: New co-sponsors have been added to the AHA-backed S.599, the *Improving Access to Emergency Psychiatric Care Act of 2015*. Sens. Jeff Sessions (R-AL) and Barbara Mikulski (D-MD) have signed onto the legislation introduced earlier this year by Sens. Ben Cardin (D-MD), Patrick Toomey (R-PA) and Susan Collins (R-ME). The total number of cosponsors is now 10. The bipartisan bill would extend and expand the Medicaid Emergency Psychiatric Demonstration Project which is set to expire this year.

Observation Stays & the Two-Midnight Rule: Last month the Senate Special Committee on Aging held a hearing to examine "solutions to the hospital observation stay crisis." Testifying for the AHA, Jyotirmaya Nanda, M.D., system medical director for informatics and physician compliance at the Center for Clinical Excellence and Corporate Responsibility at St. Louis-based SSM Health Care, emphasized that the distinction between inpatient and observation services is a payment distinction set forth by the Centers for Medicare & Medicaid Services (CMS), not a clinical distinction. However, Medicare audit contractors continuously second guess physician judgment, sometimes years after a patient was seen and often with additional retrospective information on the patient's condition, undermining the physician's medical judgment at the time. This has led the CMS to adopt a new "time-stamp" inpatient payment policy called the "Two-Midnight Rule – which does apply to inpatient psych facilities." He said the AHA-supported Medicare Audit Improvement Act (H.R. 2156) would go a long way toward ensuring the RAC program "is more accurate and fair for the Medicare program, providers and beneficiaries." Recently, the Senate Finance Committee passed the Audit & Appeal Fairness, Integrity, and Reforms in Medicare (AFIRM) Act of 2015, an original bill to improve the Medicare audit and appeals process. AHA considers it a "good start."

Revised Mental Health Bill Introduced: Reps. Tim Murphy (R-PA) and Eddie Bernice Johnson (D-TX) yesterday reintroduced a revamped Helping Families in Mental Health Crisis Act, H.R. 2646, which would make a number of changes to the nation's mental health system. The bill seeks to promote more scientific research into behavioral health treatment, expand access and improve treatment for patients with serious mental illness, develop strategies to increase the mental health and substance abuse workforce, and impose greater controls over the federal grant-making process. In addition, the bill would create an Assistant Secretary for Mental Health and Substance Use Disorders within the Department of Health and Human Services to coordinate programs across different agencies; eliminate the 190-day lifetime limit on inpatient psychiatric hospital services under Medicare; amend the Medicaid institution for mental disease exclusion, allowing states to use Medicaid funding to cover IMD services; revise Health Insurance Portability and Accountability Act standards on the release of personal mental health information in emergency situations; and require the Government Accountability Office

to study health plans' compliance with mental health parity laws. Murphy and Johnson introduced similar legislation in December 2013.

AHA Regulatory Update


Regulatory Advisory

Proposed FY 2016 Inpatient Psychiatric Facility Rule: As reported last month, CMS has issued its inpatient psychiatric facility proposed rule for fiscal year 2016. AHA held a member call on June 2 to share details on the proposed rule and obtain member input to help shape our comment letter. AHA's Regulatory Advisory provides additional detail. AHA will submit comments, which are due June 23, and welcome your input and suggestions. Please email your suggestions to Evelyn Knolle, AHA senior associate director, Policy, eknolle@aha.org, by June 12.

AHA Urges Greater Oversight of Mental Health Parity in Medicaid, CHIP: AHA recently urged CMS to "exert greater oversight" to ensure that both state governments and Medicaid managed care organizations operating in the states comply with mental health parity standards. In comments to the agency, AHA Executive Vice President Rick Pollack called the April proposed rule to bring Medicaid and Children's Health Insurance Program plans into compliance with the Mental Health Parity and Addiction Equity Act "an important step" but urged CMS to ensure it is applied equally across the states. "Ensuring parity standards apply across all types of Medicaid and CHIP health plan benefit designs will help safeguard access to and the affordability of [mental health/substance use disorder] care for our nation's most vulnerable," he said. The law requires commercial health plans that offer mental health or substance use disorder benefits to provide them at parity with their medical/surgical benefits, thereby removing barriers to care and limitations on coverage affecting many patients. AHA held a member call on May 6 to share details on the proposed rule and obtain member input that shaped our comment letter; our Regulatory Advisory provides more detail.

IMD Flexibility Proposed

IMD Flexibility Included in Proposed rule for Medicaid, CHIP Managed Care Plans: Late last month, CMS released a proposed rule that would update Medicaid and Children's Health Insurance Program managed care regulations to better align them with existing commercial, Marketplace and Medicare Advantage regulations. The proposed rule, which is the first major update to Medicaid and CHIP managed care regulations in more than a decade, includes updates to managed care provider networks, quality measures, external quality review and beneficiary rights and protections. In addition, CMS proposes to provide managed care organizations (MCOs) flexibility to address the Medicaid Institutions for Mental Disease (IMD) exclusion, which currently prevents adult Medicaid beneficiaries from accessing short-term acute care in psychiatric hospitals. Specifically, CMS proposes to add a new paragraph "to permit MCOs and PIHPs [prepaid inpatient health plans] to receive a capitation payment from the state for an enrollee aged 21 to 64 that spends a portion of the month for which the capitation is made as a patient in an Institution for Mental Disease (IMD) so long as the facility is a hospital providing psychiatric or substance use disorder (SUD) inpatient care or sub-acute facility providing psychiatric or SUD crisis residential services and the stay in the IMD is for less than 15 days in that month." CMS said that "our proposal seeks to address the specific concerns about ensuring access to and availability of inpatient psychiatric and SUD services that are covered by Medicaid" (and in particular, short-term stays). Additional information is available from AHA's Special Bulletin, and on Medicaid.gov at: http://medicaid.gov/medicaid-chip-program-information/by-topics/delivery-systems/managed-care/managed-care-site.html . AHA will be submitting comments, due on July 27.

AHA Strengthens Ties with Joint Commission Behavioral Health Leaders: Nancy Foster, AHA vice president, Quality & Safety Policy, and Evelyn Knolle, AHA senior associate director, Policy joined colleagues from the National Association of Psychiatric Health Systems, the Federation of American Hospitals (FAH) and America's Essential Hospitals (AEH) in a meeting with The Joint Commission's new executive vice president for healthcare quality evaluation. The discussion with David W. Baker, M.D., M.P.H., FACP, covered a wide range of quality issues, including behavioral health quality measurement. As a member of The Joint Commission's senior management team, Dr. Baker has administrative responsibility for The Joint Commission Departments of Quality Measurement, Health Services Research and Standards and Survey Methods. In a separate meeting with AHA's CEO Relations Team, Tracy Collander, executive director, Behavioral Health Care Accreditation, updated staff on recent and future standards updates, and new Joint Commission Certification Programs – including the programs for Behavioral Health Homes, Primary Care Medical Homes and Integrated Care Certification.

AHA Legal Update

States not Expanding Medicaid have 'Most to Lose' in King Decision: If the Supreme Court rules against the government in King v. Burwell, an additional 5.6 million people could lose health coverage in the 20 states that have a federally facilitated health insurance marketplace and have not expanded Medicaid, according to a new report by the Urban Institute and Robert Wood Johnson Foundation. That's on top of 4.2 million residents who will be uninsured in 2016 because these states have opted not to expand Medicaid eligibility under the Affordable Care Act, many of whom have behavioral health disorders. "States that have not expanded Medicaid have the most to lose in the King v. Burwell decision if they are not already running their own marketplaces, because people with incomes between 100% and 138% of the [Federal Poverty Level] would not get any assistance in affording health care," the report states. "The adverse effects of both not expanding Medicaid and losing access to financial assistance for marketplace coverage would affect state residents, health care providers, insurers and state governments." For more on the impact of these and other health coverage issues, visit www.aha.org/coveragematters.

AHA Constituency Section Member Best Practice Webcasts

Save the Date for the Next Section Webcast & Discussion:
Community-based Behavioral Health Solutions: Spartanburg Regional Healthcare System
– Tuesday, July 7, 2015, 2:00-3:00 p.m. Eastern Time
Speaker: Renée Romberger, VP Community Health Policy and Strategy, Spartanburg Regional Healthcare System. Learn about the Spartanburg Behavioral Health Initiative -- a partnership of hospitals, community agencies and not-for-profit organizations who have successfully taken on the management of care for patients with complex mental health and/or substance abuse issues. Watch for more detail and registration instructions coming soon.

If you missed any of the recent Section webcasts and discussions, you can access the PowerPoint presentation and a webcast recording via the links below.

- *Reducing the Impact of Addiction & Substance Abuse: Greater Bangor's Community Health Leadership Board*
- *School Based Health Centers: Integrating Physical and Mental Health – Meeting and Treating Students Where They Are*

- *Improving 24/7 Access to Behavioral Health – Via an Outpatient Assessment Center, ED Telehealth & Video Home Visits*

- *Psychiatric Patient Boarding Problems in the Emergency Department: Improving Timeliness, Access, and Quality; Lowering Costs and Re-Hospitalizations*

The June Behavioral Health Update includes, among other items, an AHRQ report: *Mental Health Costs Rising Faster than for Other High-cost Conditions;* Edition 7.0 of the Design Guide for the Built Environment of Behavioral Health Facilities; and, of course, the announcement of the great news that Rick Pollack has been named the next President and CEO of the American Hospital Association.
For additional resources on issues, like the AHRQ final report on Management Strategies to Reduce Psychiatric Readmissions; or the Centers for Disease Control and Prevention's report that adults with serious psychological distress are up to 10 times more likely to have limitations in their daily living activities, four times more likely to have chronic obstructive pulmonary disease and twice as likely to have heart disease or diabetes as other adults, go to the Section's website at www.aha.org/psych.

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