

Medi-Cal Payments for Behavioral Health ED Visits

HFMA Northern California

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— LAW —

Topics

- Introduction of Players (County mental health plans [“MHPs”] and Medi-Cal plans [“MCPs”])
- Responsibility of MHPs and MCPs to cover behavioral health services, generally and from the EDs
- Coordination between MHPs and MCPs
- Case study
- Tips and strategies

Players in Medi-Cal Coverage for Mental Health Services: MHPs

- Each county has a MHP in which Medi-Cal recipients are enrolled, subject to a few exceptions
- MHPs are prepaid inpatient health plans, which means that they cover a subset of inpatient hospital or institutional services on a non-risk basis
- Not Knox-Keene licensed, but subject to contracts with state, state law and federal law

Scope of Financial Responsibility for MHPs

■ Specialty Mental Health Services

- Only services for adults and children meeting specified “medical necessity” criteria, as set forth in Cal. Code Regs., tit. 9, §§ 1820.205, 1830.205 or 1830.210
- Severe acuity
- Includes:
 - Rehabilitative mental health services
 - Psychiatric inpatient hospital services
 - Targeted case management
 - Psychiatrist services
 - EPSDT supplemental specialty mental health services
 - Psychiatric nursing facility services

Scope of Financial Responsibility for MHPs (cont.)

- “Medical Necessity”
 - Medical necessity criteria based on meeting one of several diagnoses and meeting other specified criteria
 - 1820.205 specifies medical necessity criteria for psychiatric inpatient service or emergency psychiatric condition
 - 1830.205 specifies medical necessity criteria for outpatient specialty mental health services
 - 1830.210 specifies medical necessity criteria for outpatient specialty mental health services for beneficiaries < 21 years of age

Medical Necessity Criteria for Psych Inpatient Service or Emergency Psychiatric Condition (Appx. A)

Has one of the following diagnoses in the DSM-IVE:

- Pervasive development disorders;
- Disruptive behavior and attention deficit disorders;
- Feeding and eating disorders of infancy or early childhood;
- Tic disorders;
- Elimination disorders;
- Other disorders of infancy, childhood, or adolescence, cognitive disorders (dementia with delusions or depressed mood);
- Substance induced disorders (with psychotic, mood, or anxiety disorder);
- Schizophrenia and other psychotic disorders;
- Mood disorders;
- Anxiety disorders;
- Somatoform disorders;
- Dissociative disorders;
- Eating disorders;
- Intermittent explosive disorder;
- Pyromania;
- Adjustment disorders;
- Personality disorders.

Cannot be safely treated at a lower level of care and

Requires psychiatric inpatient hospital services as the result of a mental disorder as the result of one of the following:

- **Has symptoms or behaviors due to a mental disorder that:**
 - Represent a current danger to self or others, or significant property destruction;
 - Prevent the beneficiary from providing for, or utilizing, food, clothing or shelter;
 - Present a severe risk to the beneficiary's physical health; or
 - Represent a recent, significant deterioration in ability to function.
- **Requires admission for one of the following:**
 - Further psychiatric evaluation;
 - Medication treatment; or
 - Other treatment that can reasonably be provided only if the patient is hospitalized.

Players in Medi-Cal Coverage for Mental Health Services: MCPs

- Generally Knox-Keene licensed Managed Care Organizations (except COHSs) that operate under comprehensive risk contracts
- Models include: two plan, geographic, rural regional, county operated health systems (“COHS”), and San Benito
- Subject to contracts with state, state law (to varying degrees), and federal law

MCP Coverage of Mental Health Services

- Required to cover “outpatient mental health services,” i.e., outpatient services for members with mild to moderate mental health conditions
- Includes individual or group mental health evaluation and treatment (psychotherapy), psychological testing when clinically indicated to evaluate a mental health condition, psychiatric consultation for medication management, and outpatient laboratory, supplies and supplements
- Does not overlap with specialty mental health services

Impact of Mental Health Parity?

- Federal law requires a Medicaid managed care plan to provide equivalent benefits for mental health/substance use disorders if it provides benefits for medical/surgical benefits
- Applied across a state's Medicaid program (i.e., considering both MCP and MHP programs)
- Does not mean that the same plan that might be liable for the medical/surgical benefit is necessarily liable for the mental health/substance use benefit

Federal Rules Governing Emergency/ Post-Stabilization Services

- MCPs and MHPs required to provide coverage for emergency and post-stabilization services in non-contracted situation
 - Though through contract, DHCS may not agree
- Emergency services are covered inpatient and outpatient services that are rendered by a provider qualified to furnish emergency services, and needed to evaluate or stabilize an emergency medical condition

Federal Rules Governing Emergency/ Post-Stabilization Services (cont.)

- Emergency medical condition (federal law) is a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: serious jeopardy to the health of the individual or, in the case of a pregnant woman, the health of the woman or her unborn child, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part
- DHCS has suggested that emergency services may also encompass “screening, examination, and evaluation to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric medical condition ...”

Federal Rules Governing Emergency/ Post-Stabilization Services (cont.)

- Post-stabilization services are covered services that are related to an emergency medical condition; provided after an enrollee is stabilized; and provided either to maintain the stabilized condition, or under certain circumstances, to improve or resolve the enrollee's condition
- MCP or MHP financially responsible for non-network post-stabilization services that:
 - Are pre-approved by a plan provider or other plan representative; or ...

Federal Rules Governing Emergency/ Post-Stabilization Services (cont.)

- Are not pre-approved by a plan provider or other plan representative, but are administered to maintain the enrollee's stabilized condition within one hour of a request to the MA plan for pre-approval of further post-stabilization care; or
- Are not pre-approved by a plan provider or other plan representative, but administered to maintain, improve, or resolve the enrollee's stabilized condition if:
 - Plan does not respond to a request for pre-approval within one hour;
 - Plan cannot be contacted; or
 - In certain instances where plan and physician cannot agree on enrollee's care

State Regulations Governing MHP Coverage of Emergency Psychiatric Conditions

- Coverage of services for emergency psychiatric conditions received by a beneficiary from providers, whether or not the provider has a subcontract with the MHP
- “Emergency psychiatric condition” likely a condition meeting 1820.205 medical necessity criteria when the beneficiary with the condition, due to a mental disorder, is:
 1. A current danger to self or others, or immediately unable to provide for or utilize, food, shelter, or clothing, and
 2. requires psychiatric inpatient hospital or psychiatric health facility services
- Also required to comply with federal laws governing emergency and post-stabilization services

DHCS Plan Letters (Appx. C)

DHCS has issued several plan letters to clarify this already confusing state of affairs:

- Medi-Cal Managed Care Policy Letter 00-01, rev.
March 16, 2000
(www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/PL2000/MMCDPL00001REV.pdf)
- All Plan Letter 13-021
(www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2013/APL13-021.pdf)
- Dual Plan Letter 15-006 (for Cal MediConnect)

DHCS' Likely Understanding of MHP Responsibilities for Emergency Psychiatric Services

MHPs:

- Emergency/Inpatient Services:
 - Emergency/inpatient services if the member:
 - Has an included diagnosis;
 - Cannot be safely treated at lower level of care; and
 - Requires inpatient hospital services due to one of the several reasons as a result of an included mental disorder

DHCS' Likely Understanding of MHP Responsibilities for Emergency Psychiatric Services (cont.)

■ Emergency/Inpatient Services

- Facility charges for emergency services when the patient meets medical necessity criteria and is admitted for psychiatric inpatient services at the same facility that provided the emergency services
- Facility charges directly related to the professional services of a mental health specialist provided in the emergency room when the services do not result in an admission of the member for psychiatric inpatient hospital services in the same or another facility
- Professional services of a mental health specialist provided in an emergency room of any hospital to a patient whose condition meets medical necessity criteria or when required to assess whether medical necessity is met

DHCS' Likely Understanding of MHP Responsibilities for Emergency Psychiatric Services (cont.)

■ Outpatient Services

- If the member: (1) has an included mental health diagnosis; (2) has a significant impairment in an important area of life function, or a reasonable probability of deterioration in an important area of life function, or a reasonable probability of not progressing developmentally as individually appropriate; (3) the focus of treatment is to address impairment; (4) the expectation that proposed treatment will significantly diminish impairment, prevent significant deterioration; and (5) the condition would not be responsive to physical health care-based treatment

DHCS' Likely Understanding of MCP Responsibilities for Emergency Psychiatric Services (cont.)

■ Emergency Services

- All professional services except the professional services of a mental health specialist when required for the emergency services and care of a member, regardless of whether the condition meets MHP medical necessity criteria
- All facility and professional charges for emergency services and care of a patient when such services do not result in the admission of the member; this includes patients with an excluded diagnosis or whose condition does not meet medical necessity criteria

DHCS' Likely Understanding of MCP Responsibilities for Emergency Psychiatric Services (cont.)

■ Outpatient Services

- When the member has been diagnosed with a mental health disorder as defined by the DSM resulting in mild to moderate distress or impairment of mental, emotional or behavioral functioning

Last but Not Least: Contracts with Providers

- To the extent that a hospital is contracted with a plan (MHP or MCP), that contract will define the obligations of the plan to reimburse the hospital
- In other situations, courts and DHCS have acknowledged that a plan's private contract can impose financial liability on a plan beyond what it is obligated provide under the governmental managed care plan
 - E.g., terminated providers, benefit coverage

Emergency/Post-Stabilization Service Dilemma

Scenario: Patient presents to a hospital ED complaining of suicidal ideation with a specific plan. The hospital does not provide acute inpatient psychiatric services. The patient is determined by the ED physician or other professional to have an emergency psychiatric condition. Both physician and county staff agree that patient requires inpatient psychiatric placement. Hospital can find no acute inpatient psychiatric placement, nor does MHP move the patient despite daily visits to assess patient. Contracts issues 5150 multiple times to cover the stay. MHP contracts with zero inpatient psych facilities (none in county). Patient stays at hospital in inpatient bed until his condition is resolved for discharge.

Strategies and Tips

- If non-contracted, wise to give notice when treating a MHP patient who presents in emergency department
- Review applicable MOU (should be available via Public Records Act)
- If contracted with either plan, review contracts to assess obligations
- If pursuing payment from both plans, be transparent to avoid double dipping

Questions?



Thank You

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