



COMMONWEALTH OF MASSACHUSETTS

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BULLETIN 2021-07

To: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations; Hospital Providers; and Emergency Service Providers

From: Gary Anderson, Commissioner of Insurance
Brooke Doyle, Commissioner of Mental Health
Margret Cooke, Acting Commissioner of Public Health

Date: June 28, 2021

Re: Updated Protocols for Prevention of Emergency Department Boarding of Patients with Acute Behavioral Health and/or Substance Use Disorder Emergencies under Expedited Psychiatric Inpatient Admission ("EPIA") Protocols

The Division of Insurance ("Division"), the Department of Mental Health ("DMH"), and the Department of Public Health ("DPH"), collectively referred to as the "Agencies", jointly issue this Bulletin to provide information to Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations ("Insurance Carriers") offering insured health coverage in Massachusetts, Emergency Departments (EDs) and the ED Clinicians including emergency service providers and mobile crisis intervention providers (hereafter referred to as the "ED Evaluation Team"), and Inpatient Psychiatric Providers about the Agencies' expectations regarding the coordination of inpatient psychiatric admissions from EDs in accordance with EPIA Protocol 3.0. This bulletin updates and replaces Bulletin 2019-08.

Problems Exacerbated by the COVID-19 Public Health Emergency

The number of individuals in crisis needing inpatient psychiatric treatment during the Public Health Emergency increased at the same time that inpatient bed capacity was reduced as a result of facility closures and necessary infection control measures. Consequently there have been increases to the number of behavioral health patients who remain in EDs for unacceptable periods of time despite the EPIA protocols. Too frequently behavioral health patients who require inpatient hospitalization or other diversionary disposition have remained within EDs for extended periods of time, often many hours and sometimes days – referred to as ED Boarding – after the ED Evaluation Team has determined the appropriate discharge disposition. This has happened most often when the patient requires an inpatient psychiatric admission. The reasons for ED boarding and associated placement challenges vary, including but not limited to shortage of inpatient beds (particularly child and adolescent beds), high behavioral acuity (of the patient or the receiving units); specialty needs (most often for patients with intellectual or developmental disabilities,

substance use disorder, or co-occurring medical conditions); or age (most often children and youth) and workforces challenges that may cause a reduction in operational capacity within hospitals and units. The medical director and senior administrator escalation procedures outlined in EPIA Protocol 3.0 are intended to address the above challenges.

Despite prior EPIA protocols developed to address this problem, the increase in ED boarding stemming from the pandemic requires that more must be done to ensure that patients have timely access to inpatient care. For this reason, the Agencies issue this bulletin to Insurance Carriers, EDs and their Evaluation Teams, and Inpatient Psychiatric Providers to reinforce the importance of the EPIA process, as described below and incorporated by reference:

- ED Evaluation Teams provide timely notification at the 24-hour mark to the Insurance Carriers when their covered members are boarding and make necessary information available at the 24-hour mark for Insurance Carriers so that Insurance Carriers have what is needed to actively search for available beds;
- Insurance Carriers are involved as early as possible to assist ED Evaluation Teams to move their covered members into appropriate admissions for inpatient treatment;
- Insurance Carriers and Inpatient Psychiatric Providers have medical directors or designees serving as medical directors¹ available each day when decisions regarding admissions are being made so cases are elevated to Insurance Carrier and Inpatient Psychiatric Provider leadership to prevent bed denials being made by admission and/or nursing staff;
- Insurance Carriers shall provide for any necessary arrangements to provide for a patient's special care needs as determined by the Inpatient Psychiatric Provider and Insurance Carrier medical directors or designees serving as medical director, and
- Inpatient Psychiatric Provider medical directors or designees serving as medical director shall accept patients for open beds on the basis that Insurance Carriers will agree to reimburse for special care needs.

Emergency Department Boarding

It is the Agencies' expectation that Insurance Carriers are proactively involved in bed searches when any of their covered members are behavioral health patients in EDs and that Insurance Carriers arrange payments for all medically necessary care for these patients admitted by Inpatient Psychiatric Providers, including such care as may be required to enable the facility to accept a patient with specialty needs (such as a 1:1 staff member/patient ratio, payment to convert a double-occupancy room into a single, high cost medications for complex co-morbid medical conditions,² etc.).

¹ The medical director's designee must be vested with the full range of the medical director's authority and responsibility in the medical director's absence.

² Medications which a provider is capable to administer in compliance with DMH requirements for clinical competencies. Carriers are permitted to require that such medications be obtained from a carrier's specialty pharmacy for prescription drugs.

In turn, and in accordance with EPIA 3.0, ED Evaluation Teams and Inpatient Psychiatric Providers are similarly expected to take all necessary action to ensure timely admissions for inpatient psychiatric treatment. DMH, in collaboration with MassHealth, the Division, DPH, Insurance Carriers, and Inpatient Psychiatric Providers, has developed regulations and guidelines that establish the expectation that any patient meeting the criteria for psychiatric hospitalization under M.G.L. c. 123, § 12 will be admitted by an appropriate Inpatient Psychiatric Provider within a reasonable period of time. Under these guidelines, Inpatient Psychiatric Providers are expected to admit all such patients, so long as they have the capacity (an available bed) and the capability (ability to meet the clinical needs of the patient) as provided in 104 CMR 27.05(3) (b) through (d).

It is the Agencies' expectation that Insurance Carriers and Inpatient Psychiatric Providers deliver better continuity of care for inpatient treatment in order to improve patient outcomes. Patients should be rehospitalized by the same Inpatient Psychiatric Provider to the maximum extent possible. The hospital where a patient is boarding should make every effort to procure a bed within its hospital system's network; similarly an Insurance Carrier for a boarding member should make every effort to procure a bed within its contracted hospital network. Inpatient Psychiatric Providers have no more than 2 hours to respond to an ED Evaluation Team, Insurance Carrier or EPIA with their decision whether to admit a boarding patient after they receive the complete admissions packet. A standardized admission packet should be used for bed searches and accepted by all Inpatient Psychiatric Providers.

To ensure timely communication needed for EPIA success, it is expected that ED Evaluation Teams and Insurance Carriers have a point person identified daily to communicate with each other and with the identified point persons for Inpatient Psychiatric Providers and use secured electronic means, where possible, to avoid excessive delays with telephone or fax machine communication methods.

Medical Necessity in Relation to ED Boarding

Despite the allowance under M.G.L. c. 176O for utilization review protocols, covered members requiring hospitalization should not spend extended periods of time in hospital EDs while waiting for admission to an Inpatient Psychiatric Provider. Insurance Carriers are expected to establish appropriate processes that do not cause inappropriate delays or denials of inpatient admissions for covered members with acute behavioral and substance use disorder needs after the Insurance Carrier has learned that the patient is in the ED and in need of inpatient treatment. The Insurance Carrier shall approve the patient's inpatient treatment unless the Insurance Carrier has secured alternative medically appropriate treatment for the patient which is agreed upon by the ED Evaluation Team.

Due to the nature of their behavioral health conditions, certain patients may need special resources or accommodations by the Inpatient Psychiatric Provider in order for treatment to be appropriate during the inpatient stay. As an example, some patients may present in the ED with such acute behavioral health and/or substance use disorder conditions that they may need an individual inpatient room or specially trained staff dedicated to their care, and including high cost medications for complex do-morbid medical conditions.

When the member meets the Insurance Carrier's medical necessity criteria for an individual

inpatient room or any other special services, then the Insurance Carrier shall arrange for these special services to be reimbursed when provided to a member including means to obtain payment. When the Insurance Carrier and the Inpatient Psychiatric Provider have agreed to reimbursement for needed special services, there is an expectation that the Inpatient Psychiatric Provider admit the patient without delay.

Assisting Inpatient Admission Process for ED Boarding Patients Under EPIA Protocol 3.0

Each Insurance Carrier and Inpatient Psychiatric Provider is expected to have an identified point person responsible to coordinate communications between the Insurance Carrier and the Inpatient Psychiatric Provider for patients requiring inpatient admission. Insurance Carriers and Inpatient Psychiatric Providers are to make medical directors or their designees serving as medical directors available each day when decisions regarding admissions are being made to address ED behavioral health admissions. Insurance Carriers and Inpatient Psychiatric Providers will maintain up-to-date and accurate lists of medical directors and senior administrators for all Massachusetts ED Evaluation Teams and admissions staff to use when barriers are encountered and escalation is required.

When an individual being evaluated by an ED Evaluation Team is determined to require inpatient psychiatric care and is waiting for an inpatient bed, the ED Evaluation Team shall make an update to the patient's record using an appropriate code that properly records that the patient is waiting for admission by an Inpatient Psychiatric Provider and shall notify the relevant Insurance Carrier that one of its members is waiting for an inpatient admission by an Inpatient Psychiatric Provider within 24 hours of arrival in the ED.

Each Insurance Carrier will proactively begin the bed search when it becomes aware that a member is waiting for admission by an Inpatient Psychiatric Provider. In cases where a patient is covered by an Insurance Carrier and MassHealth, the Insurance Carrier is primary and is responsible for proactively coordinating the bed search. ED Evaluation Teams shall make an Insurance Carrier aware of clinical information about the individual, including: *barriers to admission, evidence of the bed searches to date, and a summary of responses from hospitals who have denied admission.* All clinical information about the individual shall be maintained in the patient record.

Once the Insurance Carrier learns about a covered patient waiting admission by an Inpatient Psychiatric Provider, the Insurance Carrier is to initiate a bed search on behalf of the patient. The Insurance Carrier will provide the ED Evaluation Team with the name of the person who is coordinating the Insurance Carrier's search for an acceptable hospital bed for the individual.

When contacting the ED Evaluation Team, the Insurance Carrier will request information from the ED Evaluation Team, including the following, to assist with its bed search:

- Specific Inpatient Psychiatric Providers who may be willing to take the individual but who require additional supports or resources
- A specific Inpatient Psychiatric Provider who does not have an immediate bed but who will have one within the next 24 hours
- Authorization issues for successful admission are required
- Out of network requests
- Notification that the Insurance Carrier needs to call specific Inpatient Psychiatric Providers for bed availability

Once it initiates its bed search, the Insurance Carrier is expected to provide active assistance, working with the ED Evaluation Team to avoid duplication of efforts procuring the appropriate inpatient bed with appropriate additional supports or resources needed to allow for admission. Insurance Carriers will be expected to arrange payments for all medically necessary care for these patients by the Inpatient Psychiatric Provider, including such care as may be required to enable the Inpatient Psychiatric Provider to accept a patient with specialty needs (such as a 1:1 staff member/patient ratio, payment to convert a double-occupancy room into a single, high cost medications for complex co-morbid medical conditions, etc.). Insurance Carriers will be expected to respond promptly regarding the Inpatient Psychiatric Provider's requests to address a patient's specialty needs. Insurance Carriers will provide written documentation of all specialty-need approvals and will provide clear instructions for the ways the Inpatient Psychiatric Provider may submit billing for these approved specialty services.

The Insurance Carrier will be expected to use its own internal escalation process in an active and strategic advocacy process, including senior leadership and/or medical directors where appropriate, when engaging with appropriate high-level clinical and administrative leadership within network. Inpatient Psychiatric Providers are expected under EPIA protocols to make medical directors or designees serving as medical directors available each day when decisions regarding admissions are being made to allow for coordination with Insurance Carrier medical directors.

If a specific hospital that is deemed most appropriate for the patient does not have an immediate bed, but will have one within 24-48 hours, the Insurance Carrier will seek priority for this bed. If there are not any network hospital beds anticipated to be available within the 24-48 hours after receipt of the Request for Assistance, the Insurance Carrier will seek admission in appropriate out-of-network facilities and will arrange appropriate reimbursement including Single Case Agreements for these facilities.

Once an Insurance Carrier has exhausted its network options and has explored all appropriate out-of-network options, or the patient has been boarding for 60 hours and an admission with an Inpatient Psychiatric Provider has not been secured, the Insurance Carrier must escalate to DMH for assistance per the EPIA Protocol. The Insurance Carrier is also responsible for informing the Inpatient Psychiatric Providers deemed appropriate to admit the individual that the process is being escalated to DMH.

When an Insurance Carrier contacts DMH, the Insurance Carrier is to use a standardized template to initiate an EPIA referral to DMH to explain the clinical status of the patient, all the actions that the ED Evaluation Team and the Insurance Carrier have taken to secure inpatient treatment, and any barriers that have prevented the patient from obtaining such admission.

The Insurance Carrier's medical director or designee serving as a medical director should contact DMH to discuss ongoing collaboration with DMH in continued coordination of the bed search process until an admission with an Inpatient Psychiatric Provider has been made. If ever an EPIA admission is being held up due to a question of reimbursement to an Inpatient Psychiatric Provider, a discussion between the Insurance Carrier and the Division shall take place in order to resolve such barrier to allow for the appropriate admission for the patient.

Network Adequacy and Insurance Carriers' Coordination of Inpatient Admissions

Managed care plans are expected under 211 CMR 52.03 to have networks of providers that provide adequate and available access to covered health services within a reasonable time. Managed care disclosure materials are required under M.G.L. c. 176O, §6(a)(4) to clearly explain "the locations where, and the manner in which, health care services and other benefits may be obtained, including: (i) an explanation that whenever a proposed admission, procedure or service that is a medically necessary covered benefit is not available to an insured within the carrier's network, the carrier shall cover the out-of-network admission, procedure or service and the insured will not be responsible to pay more than the amount which would be required for similar admissions, procedures or services offered within the carrier's network...."

When the Division determines that an Insurance Carrier's provider network does not provide adequate and available access to facilities/practitioners to deliver certain types of care, an Insurance Carrier is required to cover treatment at the in-network benefit level for medically necessary services even when delivered by out-of-network providers until such time as the Insurance Carrier re-establishes what the Division considers to be adequate and available access to those certain types of providers.

When an Insurance Carrier's network is found to be inadequate and the Insurance Carrier's member is admitted to an out-of-network Inpatient Psychiatric Provider, the Insurance Carrier is obligated to pay all inpatient hospital costs at the out-of-network Inpatient Psychiatric Provider's rate until the member is discharged or until it is legally permissible and clinically appropriate to transfer the patient to an Inpatient Psychiatric Provider that is part of the Insurance Carrier's network.

Please note that this Bulletin is in no way intended to create any barrier that could limit or jeopardize access to behavioral health and substance use disorder treatment. Instead, these directives are intended to protect members for whom the normal emergency admissions process may break down. Insurance Carriers are advised that they should implement the directives in this Bulletin as of the date of this Bulletin.

Insurance Carriers Acting As Administrators

When Insurance Carriers are acting as administrators for employment-sponsored non-insured health benefit plans, the Division expects Insurance Carriers to encourage plan sponsors to take steps that are consistent with the provisions of Bulletin 2021-07. Plan sponsors should be made aware of the EPIA protocols, and Insurance Carriers should do all they can to encourage plan sponsors to agree to follow these protocols for non-insured health benefit coverage in Massachusetts.

If you have any questions about this Bulletin, please contact the Division's Kevin Beagan, Deputy Commissioner for Health Care Access, at 617-521-7323 or Niels Puetthoff, Director of Bureau Managed Care, at 617-521-7326.