



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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GARY D. ANDERSON
COMMISSIONER OF INSURANCE

BULLETIN 2022-08

To: All Commercial Insurers, Blue Cross and Blue Shield of Massachusetts, Inc.,
and Health Maintenance Organizations

From: Gary D. Anderson, Commissioner of Insurance 

Date: September 13, 2022

Re: Reimbursing Acute Care Hospitals for Services Provided to Behavioral Health Patients
Awaiting Psychiatric Inpatient Admissions

The Division of Insurance (“Division”) issues this Bulletin 2022-08 to Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations (“Carriers”) to identify the Division’s expectations regarding the need to address reimbursement for behavioral health services provided to certain behavioral health patients awaiting inpatient psychiatric admissions. The Division issues this Bulletin pursuant to Section 78 of Chapter 177 of the Acts of 2022.

Problems Exacerbated Over the Past Few Years

Although the reasons for boarding situations vary, including high behavioral acuity (of the patient or the receiving units); specialty needs (most often for patients with an intellectual or developmental disability, substance use disorder, or co-occurring medical conditions); or age (most often children and youth), these were addressed by the Expedited Psychiatric Inpatient Admissions (“EPIA”) doctor-to-doctor protocols that were identified in Bulletin 2018-01 and updated in Bulletins 2019-08 and 2021-07.

The number of individuals in crisis needing inpatient psychiatric treatment during the past two years has 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 emergency departments (“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 – known as ED boarding – after the ED has determined the appropriate discharge disposition. ED boarding has happened most often when the patient requires an inpatient admission.

Despite the EPIA protocols developed to address this problem, **more needs to be done to ensure there is timely access to care, especially appropriate behavioral health care while a patient is awaiting a psychiatric inpatient admission (EPIA patients).**

Behavioral Services Provided Within Acute Care Hospitals for EPIA Patients

Due to the current significant short-term staffing and capacity constraints that have caused a significant number of EPIA patients to remain awaiting placement in an inpatient psychiatric bed, and pursuant to Section 78 of Chapter 177 of the Acts of 2022, the Division expects that Carriers will reimburse acute care hospitals for appropriate behavioral health care delivered to patients in order to treat and stabilize their conditions.

For an interim period following the issuance of this Bulletin, for members awaiting appropriate inpatient psychiatric placement from the ED, an observation unit, or a non-psychiatric inpatient floor, Carriers are expected to reimburse acute care hospitals for ongoing monitoring and stabilization at a rate that is “at a level at least equivalent to crisis intervention mental health services as reimbursed by MassHealth.” Carriers are to take steps to forego prior authorization, concurrent, and retrospective medical necessity reviews for all ongoing monitoring and stabilization services that have been documented as being provided to EPIA patients, provided that nothing shall eliminate the requirements of EDs to comply with the most recent EPIA protocol, including all notification requirements and 24-hour mental health status updates. Nothing in this Bulletin shall preclude the Carrier from retrospective utilization management in the instances of suspected fraud.

The Division and other Administration Agencies continue to work with Carriers and other stakeholders regarding reimbursement for appropriate behavioral health care provided in the ED, observation unit, or non-psychiatric inpatient floors to those awaiting inpatient admission to a psychiatric bed. Carriers should thus be aware of the possibility of future updates to the information in this Bulletin 2022-08.

Carriers Acting As Administrators

When Carriers are acting as administrators for employment-sponsored non-insured health benefit plans, the Division expects Carriers to encourage plan sponsors to take steps that are consistent with the provisions of this Bulletin 2022-08.

If you have any questions about this Bulletin, please contact Kevin Beagan, Deputy Commissioner for the Health Care Access Bureau, at (617) 521-7323.