Regulatory Report

North Carolina Healthcare Association

August 3, 2018

TO: Hospital CEOs, Government Relations Officers

FROM: Mike Vicario, Vice President of Regulatory Affairs
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SUBJECT: Proposed Regulations: DMA Clinical Coverage Policy No. 2A-1/NC Register

1. Proposed Policy Change: Medicaid and NC Health Choice

   The NC Division of Medical Assistance has proposed changes to its Acute Inpatient Hospital Service Clinical Coverage Policy 2A-1 *(See July 12 Regulatory Report).* That policy includes proposed changes for reimbursement of behavioral health services provided to patients awaiting an inpatient psychiatric bed when they are admitted as inpatients. See the proposed policy at https://dma.ncdhhs.gov/get-involved/proposed-medicaid-and-nc-health-choice-policies.

   NCHA is developing comments on the proposed policy to submit by the Aug. 24 deadline. Curtis Venable of Ott, Cone and Redpath PA has submitted the attached comments (next page to the Division on behalf of his health system clients, which we are considering in our preparation of NCHA's comments.

   Comments on the proposed policies should be submitted to dma.webmedpolicy@dhhs.nc.gov in accordance with the deadlines established on the Division's website. Members are asked to contact NCHA if you have questions or comments, and to share a copy of your submission with mvicario@ncha.org.

2. July 16, 2018 NC Register – VOLUME 33 ● ISSUE 02

   The issue contains no rules directly affecting hospitals.

3. Aug. 1, 2018 NC Register – VOLUME 33 ● ISSUE 03

   Proposed Rule: Convert the existing Temporary rules for the criteria and standards for Surgical Services and Operating Rooms to Permanent rule status. (Page 137)

Public Hearing Date:	Sept. 27, 2018
Public Comment period ends:	Oct. 1, 2018
Proposed Effective Date:	Dec. 1, 2018

   Approved Rules: Emergency Medical Service Requirements (Page 191), NC Division of Medical Assistance (Page 201)

(Ott, Cone and Redpath Comments on Clinical Coverage Policy 2A-1)

Please receive this comment concerning proposed changes to Clinical Coverage Policy 2A-1 ("Acute Inpatient Hospital Service") on behalf of my clients:

- Mission Health,
- Cone Health,
- Wake Forest Baptist Health,
- Duke Health,
- WakeMed Health and Hospitals,
- Atrium Health,
- Cape Fear Valley Health System,
- New Hanover Regional Medical Center, and
- Vidant Health.

Thank you for the opportunity to comment upon the proposed changes to Policy 2A-1. This comment shall address the modifications proposed for Section 3.2b ("Outpatient Hospital Observation Status") and Attachment B, Section C ("Behavioral Health Claims").

Commenter reminds the Department that the statute authorizing the binding nature of clinical coverage policies, N.C. Gen. Stat. § 108A-54.2 narrowly defines coverage policies. Many of the elements listed in 2A-1 fall outside the parameters of 54.2. Commenter presumes these elements are included for illustrative or interpretive purposes and are not intended as controlling or binding.

Section 3.2b ("Outpatient Hospital Observation Status")
Commenter would encourage the Department to address behavioral health patients' difficulties with Outpatient Observation status. In contrast to Medical/Surgery patients, behavioral health patients are commonly marooned in Outpatient Observational status due to limited behavioral health resources (both inpatient and outpatient). The Department presently discourages LMEs from paying hospitals for outpatient observation services and care provided to behavioral health patients beyond 30 hours. As a result, health systems are forced to absorb the cost of care for patients running beyond 30 hours of outpatient observation solely due to the unavailability of other appropriate placements. The Department can ameliorate this by issuing guidance to LMEs that makes clear that existing State Plan limits on outpatient observation are inapplicable to managed care settings.

Attachment B, Section C ("Behavioral Health Claims")
The proposed wording of this section could result in confusion for both hospitals and LMEs. To more clearly communicate the LME billing requirement, it is suggested that the wording be changed to:

> For Medicaid beneficiaries who are receiving psychiatric care in any ~~general~~ hospital setting, with a psychiatric Diagnosis Related Group (DRG) or primary diagnosis code~~, while waiting for an inpatient psychiatric bed,~~ submit claims to the Prepaid Inpatient Health Plan (PIHP) for reimbursement for emergency, observation or inpatient services. This includes instance of hospitals providing psychiatric care to patients while such patients await transfer to other settings, including to a hospital inpatient psychiatric unit.

None of the suggested modifications change the purpose or intend of the original but eliminate questions as to specific hospital settings or billing codes.