Illinois Health and Hospital Association

December 10, 2019

New Hospital Requirements for Child Reporting Effective January 1

On Nov. 14, Senate Bill (SB) 391 passed the General Assembly in Veto Session with additional child-related hospital care coordination required for compliance by Jan. 1, 2020. SB391 amended hospital requirements under the Children and Young Adult Mental Health Crisis Act (HB2154/PA101-0461), which became law this summer. Governor Pritzker is expected to sign SB391, as an agreed-upon solution between IHA, legislative sponsors and community stakeholders. IHA ensured that member hospitals have actionable mandates to avoid any unintended consequences for providers, patients and their families. A summary is included below.

SB391 Hospital Requirements

SB 391, sponsored by Rep. Sara Feigenholtz and Sen. Terry Link, modifies the Children and Young Adult Mental Health Crisis Act to require the following, effective Jan. 1, 2020:

- Upon a youth's, emerging adult's, or transition-age adult's (i.e., 18-25 years old) second psychiatric inpatient hospital admission, if a hospital is aware of the patient's prior psychiatric inpatient hospital admission, the hospital must ensure that the youth's parent, guardian, or caregiver, or the emerging adult or transition-age adult, has been notified of the Family Support Program (FSP) and the Specialized Family Support Program (SFSP) prior to discharge of their second psychiatric inpatient hospitalization.
    - Under PA101-0461 (305 ILCS 5/5-5.23(p)), the Dept. of Healthcare and Family Services (HFS) must create written materials, develop webinars and conduct outreach visits over a 12-month period beginning after Jan. 1, 2020. These materials may be used to supplement hospital notification of patients and their families, in addition to the webpages hyperlinked in the above paragraph.
- Prior to referring any youth to the Dept. of Children and Family Services (DCFS), to file a petition because the youth was left in a psychiatric hospital beyond medical necessity, a hospital must attempt to contact the youth and the youth's parents, guardian or caregiver about the FSP/SFSP and must assist with connections to the designated FSP coordinator in the service area by providing educational materials developed by HFS.
- As specified under PA101-0461, hospitals and state agencies must not coach a parent or guardian of a youth in a psychiatric hospital inpatient unit to lock out or otherwise relinquish custody of a youth to DCFS for the sole purpose of obtaining necessary mental health treatment for the youth. In the absence of abuse or neglect, a psychiatric lockout or custody relinquishment to DCFS must only be considered as the option of last resort. SB391 clarifies that this provision does not prohibit discussion of medical treatment options or a referral to legal counsel.
- A statewide association representing physicians has been added to a working group expected to be convened by HFS in 2020, which is tasked with establishing a plan to identify, notify and educate youth and their families about Medicaid programs that may prevent transitions to DCFS custody. Psychiatric hospitals and IHA were already included in this working group under PA101-0461.

Background on the Children & Young Adult Mental Health Crisis Act

The Children & Young Adult Mental Health Crisis Act (PA101-0461) was signed into law on August 23. Rep. Feigenholtz and Sen. Heather Steans sponsored the legislation. This law is effective Jan. 1, 2020, although there are multiple trigger dates throughout the law due to several state agency and stakeholder mandates. At IHA's request, the sponsors agreed to amend the effective date of this law to provide time for further negotiations related to hospitals' requirements under the law.

This law strengthens beneficiary eligibility for the FSP/SFSP under Medicaid, formerly known as Individual Care Grants, intended to stabilize a child and family facing serious mental illness and prevent a psychiatric lockout or custody relinquishment that leads to a hospital stay beyond medical necessity. Youth and adults under age 26 are eligible. The FSP/SFSP were created through a section of the Custody Relinquishment Prevention Act (20 ILCS 540/) that was enacted in 2018 and are intended to "stabilize the child and family and prevent a psychiatric lockout or custody relinquishment that leads to a hospital stay beyond medical necessity".

Under the new law, HFS must create publicly available education for the FSP/SFSP. Hospitals are among stakeholders that will provide input to a mandated working group (expected to convene in 2020) that will work with HFS on solutions related to youth lockout issues, occurring when a parent/guardian refuses to take their child home from a hospital because they do not have the resources to take care of complex, traditional behavioral health-related needs. HFS is tasked with using feedback from the working group to establish "a clear process by which a youth's or emerging adult's parents, guardian, or caregiver, or the emerging adult or transition-age adult, is identified, notified, and educated about the FSP/SFSP upon a first psychiatric inpatient hospital admission, and any following psychiatric inpatient admissions", which may prevent transitions to DCFS custody.

HFS is tasked with convening three other Medicaid working groups to:

- Expand residential treatment and a supportive housing model that can expand the FSP/SFSP benefits in the future for youth under 26;
- Develop a plan to improve access to substance use disorder treatment for youth under 26; and
- Find a solution to ensure mental health professionals can deliver and be reimbursed for services to youth under 21 without a mental health diagnosis, but with a mental health need, to ensure federal preventative service protections are being met. Currently, Medicaid will not reimburse without a diagnosis, which conflicts with the federal Early and Periodic Screening, Diagnostic and Treatment requirement.

Beginning Calendar Year 2021, the law mandates various commercial and employer-sponsored health insurers to cover new community-based mental health benefits for youth under 26, to treat serious mental illness, including:

- Coordinated specialty care for first episode psychosis;
- Assertive Community Treatment (ACT); and
- Community Support Team (CST) treatment.

These are not hospital-based services. Although outpatient mental health is involved in the first episode psychosis model the law cites, the coverage portion focuses on care coordination- not hospital reimbursement. Insurers required to comply with the new mandate will include state employee group health, county, school, municipal, health maintenance organizations, group or individual policies of accident and health insurance and managed care plans. In 2020, the Illinois Department of Insurance must convene insurers and providers that deliver this service in a mandated workgroup to help determine coding for future reimbursement. There is a conditional provision that would allow insurers to show after five years that this mandate costs too much, in order to repeal the mandate.

Questions and comments regarding these issues can be emailed to Lia Daniels at ldaniels@team-iha.org.