August 19, 2019

Position Statement on Generally Accepted Standards of Care for Behavioral Health

The Medical Director Institute (MDI) advises members of the National Council for Behavioral Health on best clinical practices, current standards of care and addresses major priorities in care for mental illnesses and substance use disorders. Position statements of the MDI are passed by a two-thirds majority of the voting membership and require that more than 50 percent of MDI members register a vote.

On February 28, 2019, Judge Joseph Spero of the United States District Court for the Northern District of California issued the findings of fact and conclusions of law in *Wit v United Behavioral Health (UBH)*, a class action brought against the country's largest behavioral health insurer.

The class action was brought on behalf of a nationwide class of patients who were denied coverage to gain access to outpatient, intensive outpatient and residential treatment for mental health and substance use disorders. In deciding the case, the court enunciated eight general standards of care applicable to service intensity/patient placement selection for behavioral health care and applied those standards to the guidelines and practices of UBH operations. Members of the MDI reviewed and discussed the eight standards as enunciated by the court and concur with the court that the current generally accepted standard of care includes the following principles:

- Effective treatment requires treatment of the individual's underlying condition and is not limited to alleviation of the individual's current symptoms.
- Effective treatment requires treatment of co-occurring mental health and substance use disorders and/or medical conditions in a coordinated manner that considers the interactions of the disorders and conditions and their implications for determining the appropriate level of care.
- Patients should receive treatment for mental health and substance use disorders at the least intensive and restrictive level of care that is safe and effective. The least restrictive setting for treatment is that which not only addresses the patient's safety, but also promotes improvement in the patient's condition. The fact that a lower level of care is less restrictive or intensive does not justify selecting that level if it is also expected to be less effective. Placement in a less restrictive environment is appropriate only if it is likely to be safe and **just as effective** as treatment at a higher level of care in addressing a patient's overall condition, including underlying and co-occurring conditions.
- When there is ambiguity as to the appropriate level of care, treatment should be provided in the safer, higher level of care.
- Effective treatment of mental health and substance use disorders includes services needed to maintain functioning or prevent deterioration. Treatment services should continue if there is a

reasonable expectation that if treatment services were withdrawn, the patient's condition would deteriorate, relapse further or require hospitalization.

- The appropriate duration of treatment for mental health and substance use disorders is based on the individual needs of the patient; there is no specific limit on the duration of such treatment.
- The unique needs of children and adolescents must be taken into account when making decisions regarding the level of care involving their treatment for mental health or substance use disorders.
- The determination of the appropriate level of care for patients with mental health and/or substance use disorders should be made on the basis of a multidimensional assessment that takes into account a wide variety of information about the patient.

Finally, the MDI concludes two further principles of the generally accepted standard of care for medical-necessity criteria and level-of-care/intensity selection.

First, medical-necessity criteria and level-of-care/intensity selection criteria must be transparent (e.g., design methodology, content developers, potential/actual conflicts of interests), publicly accessible and developed directly by independent clinical specialty organizations that do not service managed care organizations (MCOs) as primary clients. No set of criteria can establish and represent a generally accepted standard of care if they are not generally available to everyone.

Second, because the presence of co-occurring disorders and conditions is common, utilization management criteria should be designed with this expectation in mind throughout the continuum. Further, utilization management criteria should support the provision of appropriate co-occurring capable care at each level of care and type of service in the continuum.

About the National Council for Behavioral Health Medical Director Council

The **National Council for Behavioral Health** is the unifying voice of America's health care organizations that deliver mental health and addictions treatment and services. Together with our 3,000 member organizations serving over 10 million adults, children and families living with mental illnesses and addictions, the National Council is committed to all Americans having access to comprehensive, high-quality care that affords every opportunity for recovery.

The Medical Director Institute (MDI) advises members of the National Council for Behavioral Health on best clinical practices, current standards of care and addresses major priorities in care for mental illnesses and substance use disorders. The MDI is composed of medical directors of organizations who have been recognized for their outstanding leadership in shaping psychiatric and addictions service delivery and draws from every region of the country.

MDI members are uniquely qualified in understanding the current accepted standards of care in behavioral health based on their current ongoing clinical operational responsibilities delivering and

overseeing the quality of behavioral health on a daily basis. They are all board-certified psychiatrists with multiple specialty certifications including general psychiatry, child and adolescent psychiatry, addiction psychiatry and emergency psychiatry.

All MDI members practice within organizations that include freestanding community mental health centers, addiction treatment centers, academic centers and large multihospital systems. They possess demonstrated skill and experience in the leadership and operation of clinical programs with specialized experience with the policy and practice of multiple funders such as commercial insurance, Medicaid and Medicare.

MDI members are knowledgeable about and have direct experience in applying multiple sources of evidence that determine the generally accepted standard of care including peer-reviewed studies in academic journals, consensus guidelines from professional organizations, guidelines and materials distributed by government agencies including the following individual specific sources of the standard of care:

- The American Society of Addiction Medicine Criteria (ASAM Criteria)
- The American Association of Community Psychiatrist's (AACP) Level of Care Utilization System (LOCUS)
- The Child and Adolescent Level of Care Utilization System (CALOCUS) developed by AACP and the American Academy of Child and Adolescent Psychiatry (AACAP) and the Child and Adolescent Service Intensity Instrument (CASII)
- The Medicare benefit policy manual issued by the Centers for Medicare and Medicaid Services (CMS Manual)
- The American Psychiatric Association (APA) Practice Guidelines for the Treatment of Patients with Substance Use Disorders
- The APA Practice Guidelines for the Treatment of Patients with Major Depressive Disorder
- AACAP's Principles of Care for Treatment of Children and Adolescents with Mental Illnesses in Residential Treatment Centers