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Governor

**Department  
of Health**

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner of Health, DOH

**Office of  
Mental Health**

**Anne Marie T. Sullivan, M.D.**  
Commissioner of Mental Health, OMH

April 16<sup>th</sup>, 2018

Dear Chief Executive Officer/Medicaid Managed Care Plan Administrator:

The Department of Health and the Office of Mental Health (OMH), collectively New York State (NYS), are providing clarification on prior authorization and reimbursement requirements for Comprehensive Psychiatric Emergency Programs (CPEP) and CPEP Extended Observation Beds (EOB). CPEPs are OMH-licensed programs designed to directly provide a full range of psychiatric emergency services, twenty-four hours a day, seven days a week, for a defined geographic area. CPEP EOBs are intended to provide CPEP recipients a safe environment where staff can continue to observe, assess, diagnose, treat, and develop care plans for continued treatment as needed in the community, hospital, or other setting. Recipients can remain in the EOB for up to seventy-two hours.

NYS has found a high denial rate of 56% for payment of these services from the period of July 2017-December 2017. Medicaid Managed Care Plans (MMCP), including mainstream Medicaid Managed Care, Health and Recovery Plans and HIV Special Needs Plans, are responsible to reimburse for CPEP and EOB services provided by participating or non-participating providers. Further, it has come to NYS's attention that some MMCPs, or their delegates, use editing features in their claims systems that automatically deny CPEP services based on a diagnosis code. Under no circumstances may MMCPs deny emergency CPEP claims based on admitting diagnosis.

This is a reminder that:

- In accordance with Section 10.13 of the Medicaid Managed Care/Health and Recovery Plan/HIV Special Needs Plan Model Contract (Model Contract) and NYS PHL §4902(1)(h), medical or behavioral health services, including Crisis Intervention, provided in an emergency setting, are not subject to prior authorization requirements.
- Under federal regulation at 42 CFR 438.114, NYS PHL Article 49 and the MMC Model Contract, an emergency medical condition means a medical or behavioral health condition that manifests itself by acute symptoms of sufficient severity such that a prudent layperson would reasonably believe it is an emergency. This "prudent layperson" standard effectively prohibits emergency claim denials based on diagnosis code alone. In addition, the Model Contract at Section 10.13 and Appendix G requires payment for emergency services provided by participating or non-participating providers, without regard to whether the definition of emergency medical condition has been met.

- As per Appendix K (29)(a) of the Model Contract, inpatient mental health services also include treatment in a CPEP or EOBs in a CPEP. When an individual is admitted to a CPEP, it is not always clear whether the presenting diagnosis is a psychiatric illness, a substance use disorder, or physical health ailment.

MMCPs must ensure that automatic claiming edits and retrospective reviews are consistent with regulatory and Model Contract requirements. MMCPs delegating benefit management to a vendor retain responsibility to ensure the vendor is compliant with these requirements. Regulatory action may result where MMCPs or their delegated vendor inappropriately deny CPEP and EOB.

If you have any questions regarding this guidance, please send one email to: [bmccsmail@health.ny.gov](mailto:bmccsmail@health.ny.gov) and [bho@omh.ny.gov](mailto:bho@omh.ny.gov) , with the subject line: CPEP Guidance.

Sincerely,



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Director  
Bureau of Managed Care Certification and  
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