AMERICAN PSYCHIATRIC ASSOCIATION

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August 29, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-3419-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Submitted at https://www.regulations.gov

RE: Docket No. CMS-2022-0112: Conditions of Participation (CoPs) for Rural Emergency Hospitals (REHs) and Critical Access Hospital (CAH) COP Updates dated July 6, 2022

Dear Administrator Brooks-LaSure:

On behalf the American Psychiatric Association (APA), the national medical specialty society representing over 37,000 psychiatric physicians who treat mental health and substance use disorders, I am pleased to submit APA's comments in response to the *Conditions of Participation (CoPs) for Rural Emergency Hospitals (REHs) and Critical Access Hospital (CAH) COP Updates (*Proposed Rule*)*. We support expanding efforts to improve access to care for individuals in rural areas, and support endeavors to foster a more equitable healthcare landscape. If implemented in the most favorable way for beneficiaries in rural areas, this proposed rule supports APA's position on Mental Health Equity and the Social and Structural Determinants of Mental Health in providing healthcare systems a way to improve their capabilities to screen, understand, and address the structural and social determinants of mental health in communities of need.[1] **Our comments generally support CMS in the establishment of the Conditions of Participation for Rural Emergency Hospitals and provide some options to address the concern that beneficiaries living in rural communities require the same standards of care of those living in non-rural communities, especially as it pertains to mental health and substance use treatment.**

The REH was established via the consolidated Appropriations Act of 2021. These providers will furnish emergency department and observation care and other

[1] A call to action to address rural mental health disparities, May 4, 2020. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7681156/

specified outpatient medical health services, if elected by the REH, that do not exceed an annual per patient average of 24 hours. REH's are expected to help address barriers in access to health care, particularly emergency services and other outpatient services that result from rural hospital closures and may help address observed inequities in health care in rural areas. Approximately one-fifth of the US population live in a rural area and about one-fifth of those living in a rural area, have a mental Illness. Moreover, those living in rural areas are more likely to experience serious mental illness in a given year.[2] Patients who face barriers (poverty, unemployment, lack access to healthcare, unstable housing, etc.) to reaching optimal social determinants of health are at an increased risk for non-compliance with their medication, relapse/readmission, and suicide. This can be further compounded by a lack of social safety nets and an insufficient continuum of care in the community. Through reviving rural community health settings, CMS can tailor solutions for communities that need equitable and quality mental health services.

II. Provisions of the Proposed Regulation

The APA supports the recommendation by prior commentors that the 24-hour average length of stay should be increased for patients in need of inpatient psychiatric services. CMS suggests that the need to keep patients over 24 hours will not occur at a frequency that will affect the REH's average length of stay. In a recent APA report titled *The Psychiatric Bed Crisis in the U.S. (*Report*),* it was found that the number of psychiatric beds across private and public sectors has fluctuated and dropped significantly in the past 60 years.[3] The report continues to say that "too often, psychiatric inpatient beds are not available when needed and people with mental illnesses end up boarding in emergency departments or being discharged prematurely."[4] Barriers to providing care for patients in inpatient psychiatric settings include lack of insurance coverage, prior authorization requirements, utilization review techniques, the paucity of reimbursement for patients' care, lack of clinically appropriate level of care criteria and a lack of services in the outpatient setting. These barriers can result in delayed care, patients not being admitted, or being discharged too early. In a 2016 survey by the American College of Emergency Physicians, 38 percent of respondents stated that patients waited in an emergency department for one to five days before transferring to an inpatient bed.[5] The REH setting is a defecto emergency room, which means the delays will likely be occurring there as well. Putting an artificial average time on patient stay may affect the care the most vulnerable patients are getting, leading to potentially life-threatening decisions. APA is concerned it may lead to work arounds such as discharging the patient too early and readmitting to ensure that the average patient stay is under 24 hours. **We urge CMS to reconsider an exemption for patients needing inpatient psychiatric care until a bed in a facility that most meets the needs of a patient is available.**

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[2] National report Officers Solutions to Overcome the Three Major Obstacles to Rural Mental Health Care, November 18, 2021, https://psychiatry.org/news-room/news-releases/national-report-offers-solutions-to-overcome-the-t

[3] The Psychiatric Bed Crisis in the U.S.: Understanding the Problem and Moving Toward Solutions, pg 3, May 2022. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://psychiatry.org/getmedia/81f685f1-036e-4311-8dfc-e13ac425380f/APA-Psychiatric-Bed-Crisis-Report-Full.pdf

[4] *Ibid.*

[5] *Ibid, pg 30.*

Rural areas often lack the availability of mental health care services for two reasons: a shortage of behavioral health care clinicians, including psychiatrists and a higher proportion of people with serious mental illness that are covered by Medicaid or those dually-eligible for Medicare and Medicaid, further limiting the choice of clinician given lower reimbursement rates. **APA encourages the Secretary to use their authority to authorize coverage and reimbursement of mental health and substance use outpatient treatment services out of the REH to increase the availability of quality services in rural health communities**. There is an opportunity to shore up existing outpatient services and facilitate the implementation of additional services not currently available in the community. As outlined in our Report, there are a range of variables that impact the need for inpatient hospitalization. Ensuring access to a range of crisis related services, effective outpatient services (including partial hospitalization and intensive outpatient services) and models of care that focus of early identification and prevention to identify illness earlier and get patients into care before the illness progresses (Collaborative Care Model, Coordinated Specialty Care) will have an impact on the need for hospitalization and can improve transitions from inpatient care to the community to reduce future emergency services or hospitalizations. For example, the Collaborative Care Model has been shown to improve access to care and treatment outcomes, as well as reduce medical cost savings for patients receiving care for mental health and substance use disorders in the primary care setting. Providing a primary care home within the REH that offers the Collaborative Care Model, would serve dual purposes in ensuring access to a mental health clinician and reduces stigma or avoidance of seeking treatment due to the stigma that exists. The Collaborative Care Model service is already being reimbursed by Medicare and a growing number of state Medicaid Programs. **The need for adequate funding extends beyond the inpatient setting to include all care settings. Ensuring the full continuum of care is readily available and appropriately financed is critical to ensuring improved outcomes.** This is in line with the comments made by President Biden in his 2022 state of the Union Address where he stated that the administration's focus is on supporting our nation's mental health through increasing the capacity of services, connecting more people to care and attending to an environment that supports health and mental health.

APA supports CMS's decision to include REHs as an originating site and encourage all REHs to have agreements with partner facilities to have access to psychiatrists for consultative and evaluation services. Telehealth, specifically telepsychiatry, can help doctors reach some of the most vulnerable populations. REH's must have an agreement in place to conduct psychiatric evaluations via telehealth if there is not a trained staff in the facility. This evaluation would also include recommendations on the most appropriate level of care and acute treatment pending disposition. Telepsychiatry can also help to mitigate the stigma around seeking treatment for mental health conditions (in rural and urban locations alike) and be used to mitigate the lack of psychiatrists in certain treatment settings.

Conditions of participation: Patient's Rights

Patients presenting at an REH should not have a lesser standard of care when it comes to restraints and seclusion. **APA does not support less prescriptive policies and procedures for restraints and seclusion**. Patients presenting at an REH are as likely as any other person seeking care to be agitated or lack access to their needed medications. The same standards that other acute care facilities must abide by should be

used to prevent each REH from coming up with their own policies and procedures for a serious event. We encourage CMS to collect data on restraint and seclusion use at REHs to ensure that patient safety is not affected if non-prescriptive standards are used. Moreover, the same standards and planning must be used in the instance the patient must be transferred with restraints. Which includes, but not limited to, staffing, monitoring, which facility will complete the transfer with the resources available, and documentation.

Thank you again for the opportunity to comment. We appreciate the review of the guidelines and urge for improvements to access to care for individuals in rural areas. We would also be happy to talk with you more about our Report on inpatient beds and the algorithm associated with determining the number of needed beds in a community. If you have any further questions, please contact Brooke Trainum, Director of Practice Policy at btrainum@psych.org.

Sincerely,

Saul Levin, MD, MPA, FRCP-E, FRPsych
CEO and Medical Director
American Psychiatric Association