

**August 19, 2019**

Medical Director Institute  
National Council for Behavioral Health  
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### **Position Statement on Generally Accepted Standards of Care for Behavioral Health**

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.

### **Approval History**

MDI review and approval: August 2019

*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.*

Policy expires on July 2020, unless the MDI determines the community standard of care changes prior to this date.

*If the policy remains active until July 2020, the MDI will review and vote to renew or terminate the statement at that time.*

### **About Medical Director Position Statements**

Position statements are developed based on expert understanding of current accepted standards of care in behavioral health. MDI members are uniquely qualified to develop position statements based on their ongoing clinical and operational leadership roles in the field. They are all board-certified psychiatrists with multiple specialty certifications, including general psychiatry, child and adolescent psychiatry, addiction psychiatry and emergency psychiatry. Members practice within organizations that include freestanding community mental health centers, addiction treatment centers, academic centers and large multihospital systems. They have specialized experience in health systems policy, practice, and financing (including commercial insurance, Medicaid and Medicare).

MDI members possess demonstrated skill 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, and guidelines and materials distributed by government agencies.