**Background on Systems Improvement Agreement (SIA)** Between Milwaukee County Behavioral Health Division and Centers for Medicare and Medicaid Services (CMS)

**Prepared for Milwaukee Mental Health Task Force 9/10/2019 meeting**

By Barbara Beckert

The Milwaukee County Behavioral Health Division has entered into a Systems Improvement Agreement with CMS. A copy of the agreement is in your packet.

**What Is CMS**

The Centers for Medicare & Medicaid Services (**CMS**) is part of the U.S. Department of Health and Human Services. **CMS** oversees many federal healthcare programs, including many hospitals, to ensure compliance with federal regulatory standards for hospitals. They conduct surveys of hospitals; in some cases CMS authorizes the Wisconsin DHS Division of Quality Assurance to conduct surveys on their behalf. Psychiatric **hospitals are** subject to additional regulations beyond basic **hospital** conditions of participation. BHD is accredited by CMS. Many hospitals chose instead to be accredited by The Joint Commission, an independent not-for profit organization.

**What is a Systems Improvement Agreement (SIA)**

A Systems Improvement Agreement (SIA) allows hospitals to continue receiving CMS funding while a third-party monitors its policies, facilities, and patient care until the serious problems that caused them to fall out of compliance are fixed.  The agreement grants the hospital additional time to make sustainable improvements in complex quality, cultural, policy, and procedural deficiencies.

The alternative to an SIA—Medicare Decertification—is to cut off CMS funding completely in as few as 23 days if the problem is not corrected. The SIA approach represents an intermediate step between full revocation of participation in Medicare/Medicaid and ongoing repeated surveys and corrective action responses. As such, it gives CMS a mechanism for prompting large-scale organizational change in the face of noncompliance without the drastic move of revocation.

(source: <https://www.compass-clinical.com/cms-systems-improvement-agreement-sia/>)

**What is the Timeline Leading up to the SIA?**

**August 9, 2018:** Wisconsin DHS identifies and Immediate Jeopardy (IJ) to patient health and safety at BHD following a complaint survey.

**September 25,2018**: BHD was notified of the Immediate Jeopardy finding which was based on failure to perform comprehensive medical screening exams or to stabilize and provide appropriate treatment prior to discharge for patients who presented to the Emergency Department (PCS) with psychiatric symptoms. CMS notified BHD that it was terminating BHD’s provider agreement. Note: as a result, BHD would no longer be eligible to receive Medicare funding.

**October 1, 2018**: CMS receives a plan of correction is found acceptable.

**November 26, 2018**: Wisconsin DHS conducts a revisit. This results in CMS removing the Immediate Jeopardy but found noncompliance in several areas under the Emergency Medical Treatment and Labor Act (EMTALA).

**December 12, 2019**: CMS notified BHD that is was extending the termination date to January 23, 2019.

**January 3, 2019**: CMS received an acceptable plan of correction.

**January 17, 2019**: Wisconsin DHS conducted a second revisit and found continued noncompliance under EMTALA.

**January 23, 2019:** CMS notified BHD that it would extend the termination date. On January 29, 2019, CMS notified BHD that the revised termination date would be March 9.

**February 22, 2019**: C<S received an acceptable plan of correction.

**March 5, 2019**: Wisconsin DHS conducted a third revisit which found continued non-compliance under EMTALA.

**March 7, 2019**: CMS notified BHD that it was extending the termination date to May 6, 2019

**March 13, 2019**: Surveyors from Wisconsin DHS contracted by CMS conducted a reverification survey which found BHD out of compliance with the Medicare Conditions of Participation at 42 C.F.R. § 482.13, Patient Rights; and 42 C.F.R § 482.61, Special Medical Record Requirements for Psychiatric Hospitals.

**April 25, 2019:** CMS notified BHD on that it was extending the termination date to May 21, 2019. CMS also offered BHD the option to enter into a System Improvement Agreement.

**August 5, 2019:** CMS signed Systems Improvement Agreement (SIA) with Milwaukee County BHD. Administrator Michael Lappen signed for BHD on August 1, 2019.

**Summary of Terms of the Systems Improvement Agreement (See SIA for additional detail)**

* The agreement is in effect from the date signed by CMS through July 1, 2021 unless voluntary withdrawal or termination occurs.
* CMS agrees to “stay” the scheduled termination of BHD’s Medicare Provider Agreement and to execute discretion in conducting surveys and enforcement activities with respect to BHD.
* BHD is required to retain an Independent Expert consultant to conduct an onsite review of BHD and to perform services and activities specified in Sections 4, 5, and 6 of the Agreement. (see document in packet)
* Within 90 days after the effective date of this agreement, BHD shall provide CMS with names and qualifications of at least three Expert Consultants.
* At minimum, the proposed Expert Consultant shall be an organization or individual with expertise in the design, implementation, management, and evaluation of psychiatric hospital services.
* **Written Report: Gap and Root Cause Analyses**.   
  The Expert Consultant will prepare a written report that includes a Gap Analysis that identifies areas of needed improvements in BHD's regulatory compliance; a Root Cause Analysis of process and system failures; and recommendations to achieve and sustain compliance based on the findings of the Gap and Root Cause analyses.
* The Gap Analysis will include a comprehensive hospital- wide analysis of BHD's current operations compared to industry-accepted standards of practice that achieve and maintain compliance with all applicable Medicare Conditions of Participation for Hospitals and Psychiatric Hospitals.
* After CMS has approved the written report, the Expert Consultant in consultation with BHD and Milwaukee County DHHS will develop and submit to CMS a detailed, written Corrective Action Plan (see page 8 of SIA for details) which must be approved by CMS and implemented.
* In addition to engaging an Independent Expert Consultant, BHD will contract with an independent fulltime onsite compliance Consultant to work closely with the Independent Expert Consultant and BHD Chief Nursing Officer to monitor implementation of the Corrective Action Plan.
* CMS will authorize two unannounced full Medicare certification surveys upon the completion of the Corrective Action Plan.

**Public Disclosure**. In the spirit of Open Government and transparency, CMS will disclose the final terms of this Agreement, and any amendments to the Agreement when executed, in accordance with written requests for the Agreement submitted under the Freedom of Information Act, 5 U.S.C. § 552. BHD and MCDHHS will not object or administratively or judicially challenge CMS's disclosure of the Agreement or any amendments to the Agreement.