February 12, 2020

NAMI Maryland – Letter of Information – HB 317

Dear Chair Pendergrass, Vice Chair Pena-Melnyk, and members of the Health and Government Operations Committee,

NAMI members – our family advocates and individuals living with mental illness could spend all day in your committee testifying to the need for easier access to care. Especially for the sickest among us. In-patient beds for psychiatric care are extraordinarily tough to come by. And, they're virtually non-existent for children.

When an individual is in a mental health crisis, time is of the essence. Studies show that the earlier an individual is stabilized, the more likely they can stay on their treatment journey and return to living well with mental illness. Extended stays in places like hospital emergency departments or even local jails can cause individuals in crisis to spiral down even further, making their path to treatment even more perilous.

However, there are potential consequences of this bill that may outweigh the laudable goal – which is access to timely treatment in times of crisis. One is a financial hit to the individual facing IVA – as we see it, many insurers aren't required to cover inpatient stays on "observation status." In COMAR 10.21.01.02 B(18) "Observation status" means the status of an individual between the time the individual is initially confined in an inpatient facility on the basis of application and certificates for IVA and the time the individual is either admitted, voluntarily or involuntarily, to the inpatient facility or is released by a physician or by an administrative law judge (ALJ) from the inpatient facility without being admitted.

This is especially problematic now that Medicare (and other insurance companies) deny inpatient benefits on observational status and considering that a commitment hearing need not take place for 10 days after confinement, or longer if postponed. If an individual is in crisis but also held on "observation status," would they then be required to pay for their stay since they aren't technically admitted to the hospital? We don't believe the proposal as drafted creates timely access to affordable treatment. We are deeply concerned that this may be an expensive administrative maneuver that holds the individual financially responsible and creates the potential that they could get kicked out of the hospital within 24 hours without the right to consult with a physician or psychiatrist before they're removed from treatment.

To alleviate the financial impact to mental health consumers, here are a few suggested changes. NAMI Maryland recommends language that requires involuntary hospital "admission" at the start of involuntary confinement. If this is done, language in §10–632 (a) and (e) (2) would need to be changed to conform.

In §10–632 (a), change "admitted" to "retained" and delete "released without being admitted."

(a) Any individual proposed for involuntary admission under Part III of this subtitle shall be afforded a hearing to determine whether the individual is to be admitted to a facility or a Veterans' Administration hospital as an involuntary patient or released without being admitted.

In §10–632 (e) (2) change "admission" to "retention".

NAMI Maryland opposes forcing the hospital to make a reevaluation of this decision in 24 hours after the patient was confined. A doctor can already discharge a patient at any time they believe the patient does not meet the involuntary admission criteria. The language in the bill could just encourage more premature discharges before appropriate stabilization. If any exam is required, then that statute number requiring the exam, should be added to the list of statutes in 10-632 (g) that cannot be used as a basis for denial of commitment at the hearing.

NAMI Maryland questions IVA release based on the evaluation of a single nurse practitioner or psychologist. Two medical professionals, including at least one doctor, are required for the initial evaluation for involuntary admission and we believe it makes sense that at least one doctor should be required for release.

For additional information, please do not hesitate to contact our Policy and Advocacy Consultant, Moira Cyphers at Compass Government Relations. She can be reached at MCyphers@compass-gr.com or (301) 318-4420.