



June 10, 2022

The Honorable Jim Wood, DDS  
Chair, Assembly Health Committee  
State Capitol, Room 6005  
Sacramento, CA 95814

**SUBJECT: SB 1338 (Umberg) – Support, Amendments Requested**

Dear Assembly Member Wood:

Every day, hospitals across California care for an increasing number of individuals living with a serious mental illness, and they embrace the essential role they play in helping to address crises. Because hospitals' mission is to ensure the best possible care for those who turn to them, they are very concerned that an insufficient provision of community-based outreach, case management, and treatment services is leading to avoidable involuntary detentions and hospitalizations for too many Californians.

For that reason, the California Hospital Association — on behalf of its more than 400 hospital and health system members, including 162 hospitals that provide acute psychiatric inpatient treatment — supports Senate Bill (SB) 1338 but believes the bill requires some important amendments.

SB 1338 holds great promise for creating new pathways to treatment and housing for the many individuals hospitals see each day who, under the status quo, may otherwise continue to cycle needlessly through periods of crisis, homelessness, failing health, and hospitalization. In establishing the Community Assistance, Recovery, and Empowerment (CARE) Court Program, the bill creates a new mechanism to bring unserved or underserved individuals to the attention of our county partners to avoid more restrictive approaches, such as conservatorship.

However, we believe a substantial number of individuals who will be considered for CARE Court are likely to be receiving care in a hospital emergency department, freestanding inpatient psychiatric hospital, or psychiatric unit within a general acute care hospital. In fact, SB 1338 includes, among the criteria for CARE Court, individuals whose health and safety are at risk, individuals at risk of grave disability or serious harm under Welfare and Institutions Code (WIC) Section 5150, and individuals who were detained within the last 90 days for intensive treatment under WIC Section 5250.

**Therefore, we respectfully request that SB 1338 be amended to clearly require reimbursement for hospital services provided to individuals referred to CARE Court.** As you know, California hospitals continue to face serious challenges made more difficult by the COVID-19 public health emergency. For the first time in recent history, more than half of California's hospitals are operating in the red and have

collectively lost more than \$20 billion in 2020 and 2021. Even after accounting for more than \$8 billion in federal relief, hospitals experienced a \$12 billion loss. The financial devastation caused by this unprecedented crisis has already placed great strain on hospitals' ability to provide care for all who need it. Now is not the time to add to that strain, as all Californians deserve the best care they can get, in the best possible setting.

At the same time, our hospitals know firsthand that demand for behavioral health care has grown exponentially and outpaces available community options. Illustrative of this are the thousands of administrative days being claimed by counties unable to place their Medi-Cal Specialty Mental Health enrollees into a lower level of care, even when patients are ready for discharge. In 2020, counties claimed 35,000 administrative days for close to 2,000 adult Medi-Cal enrollees who continued to be psychiatrically hospitalized even when ready for discharge.<sup>1</sup> With a daily administrative day rate of \$660.66 in fiscal year 2019-20, this equates to \$23 million spent paying hospitals to maintain care for patients who needed a lower level of care than was unavailable in the community.

We implore you to ensure that hospitals are adequately compensated for the care we will provide to individuals referred to CARE Court. Currently, SB 1338 gives courts broad authority to order the provision of services and supports for respondents who are either being evaluated for or are participating in CARE Court. Additionally, the bill acknowledges the wide array of existing obligations and funding sources for counties to use for CARE Court participants. **CHA requests these provisions of SB 1338 clarify that all costs incurred by hospitals for emergency department and inpatient psychiatric services for CARE Court participants must be fully reimbursed.**

Hospitals should be reimbursed for emergency department and inpatient psychiatric hospital services during the initial 14-day period in which a patient could be awaiting a CARE Court clinical evaluation or initial hearing. Hospitals should also be reimbursed for care provided on days when a patient currently participating in CARE Court is awaiting a hearing, awaiting development and approval of a CARE plan, or awaiting the county to place them in appropriate housing. For individuals referred to or participating in CARE Court and receiving inpatient psychiatric hospital services, we request that hospitals receive the full inpatient per diem rate, not the administrative day rate. The current administrative day rate of \$726.86<sup>2</sup> is substantially lower than the average inpatient rate of \$1,792.<sup>3</sup> For your consideration, we offer the following suggested amendments to achieve these requests.

(1) Add the following to Section 2 pertaining to health care service plans and Section 3 pertaining to insurers:

*A health care service plan [An insurer] shall provide for reimbursement of all hospital emergency department services and inpatient hospitalization services provided to any enrollee for whom a petition to initiate CARE proceedings has been filed pursuant to Section*

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<sup>1</sup> California Health and Human Services Open Data Portal, Adult SMHS Utilization, online at: [https://data.chhs.ca.gov/dataset/49531961-ce22-4401-b8f0-76c4e06ea967/resource/cbd12741-5df9-439f-8a3f-fe8cedaa6e45/download/adult\\_perf\\_dash\\_util\\_12.09.2021.csv](https://data.chhs.ca.gov/dataset/49531961-ce22-4401-b8f0-76c4e06ea967/resource/cbd12741-5df9-439f-8a3f-fe8cedaa6e45/download/adult_perf_dash_util_12.09.2021.csv).

<sup>2</sup> The current rate has a temporary COVID-related increase over the usual rate of \$660.66. Behavioral Health Information Notice No: 21-070, Department of Health Care Services, online at: <https://www.dhcs.ca.gov/formsandpubs/Documents/BHIN-21-070-Admin-Day-Rate-for-2021.pdf>

<sup>3</sup> FY 2022-23 County Interim Rate Table, Department of Health Care Services, online at: <https://www.dhcs.ca.gov/services/MH/Documents/MedCCC/Library/FY-22-23-County-Interim-Rate-Table.xlsm>

5974, regardless of whether the court subsequently determines the enrollee meets CARE criteria. Without respect to medical necessity, reimbursement shall be provided for hospital services during any days when the enrollee is awaiting completion of any CARE processes or hearings pursuant to Section 5977, including but not limited to:

(1) a court ordered evaluation

(2) an initial hearing, case management hearing, progress hearing, clinical evaluation hearing, status hearing, or a hearing continuance

(3) development and approval of a CARE plan

(4) discharge to appropriate housing

(2) Add the following to Chapter 2 of Section 7 pertaining to counties:

Except for individuals enrolled in a health care service plan or covered by a health care insurer, the county behavioral health agency shall provide for reimbursement of all hospital emergency department services and inpatient hospitalization services provided to any enrollee for whom a petition to initiate CARE proceedings has been filed pursuant to Section 5974, regardless of whether the court subsequently determines the enrollee meets CARE criteria. Without respect to medical necessity, reimbursement shall be provided for hospital services during any days when the enrollee is awaiting completion of any CARE processes or hearings pursuant to Section 5977, including but not limited to:

(1) a court ordered evaluation

(2) an initial hearing, case management hearing, progress hearing, clinical evaluation hearing, status hearing, or a hearing continuance

(3) development and approval of a CARE plan

(4) discharge to appropriate housing

We look forward to participating in productive conversations about SB 1338 and sharing hospitals' perspectives on CARE Court's practical implementation, as well as the broader policy issues it raises for Californians living with untreated or undertreated severe mental illness.

We urge you to consider our requested amendments to SB 1338 and would be happy to answer any questions you may have. Please do not hesitate to contact me at [Leah@LeahBarros.com](mailto:Leah@LeahBarros.com) or (916) 521-6878.

Sincerely,



Leah Barros  
Consulting Lobbyist, California Hospital Association

cc: The Honorable Tom Umberg  
The Honorable Susan Talamantes Eggman  
The Honorable Members of Assembly Health Committee  
Judy Babcock, Consultant, Assembly Health Committee  
Gino Folchi, Consultant, Assembly Republican Caucus