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TRANSMITTAL: 92 INF-55

TO: Commissioners of
 Social Services

DIVISION: Services and
 Community
 Development

DATE: December 16, 1992

SUBJECT: Protective Services for Adults (PSA):
 Model Hospital Agreement

SUGGESTED

DISTRIBUTION: Directors of Services
 Adult Services Staff
 Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be
 directed to your district's Adult Services Program
 Representative at 1-800-342-3715, as follows:
 Thomas Burton, ext. 432-2987
 Kathleen Crowe, ext. 432-2996
 Michael Monahan, ext. 432-2667
 Janet Morrissey, ext. 432-2997, or
 Irvin Abelman at 1-800-554-5391

ATTACHMENTS: Model Hospital Agreement (Available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-40 92 INF-4		457	Article 9-B		

The purpose of this release is to inform local social services districts of a model Protective Services for Adults (PSA)/Hospital Discharge Planning Agreement which was developed by the Department, in collaboration with the Hospital Association of New York State (HANYS).

The Department issued 90 ADM-40, which was effective on January 1, 1991, to clarify the eligibility criteria for PSA and to define the role of PSA for persons being served by other providers, including hospitals. This directive addresses the joint responsibilities of PSA and hospital discharge planning staff for individuals who may be in need of PSA upon their release from a hospital. This directive also requires local social services districts to initiate efforts to establish written agreements on discharge planning with local hospitals by June 30, 1991.

In the Spring of 1991, the Department conducted six regional technical assistance sessions to assist local social services district staff with the implementation of 90 ADM-40. In the technical assistance sessions and in subsequent discussions with local staff, we were informed that many hospitals were reluctant to enter into agreements on discharge planning with local social services districts. During this same period of time, representatives of HANYS advised us about the concerns of hospitals regarding some of the proposed agreements that were being presented to them by local social services district staff.

In response to the concerns of both local social services district and hospital discharge planning staff, the Office of Housing and Adult Services and HANYS have developed a model agreement, a copy of which is attached. This agreement reflects the input of both local PSA and hospital discharge planning staff and should be used as the basis for negotiating discharge planning agreements at the local level. Copies of the model agreement also have been sent to hospitals throughout the state, which have been encouraged by HANYS to work cooperatively with local social services districts in the development of written discharge planning agreements.

Peter R. Brest
Associate Commissioner
Office of Housing and Adult
Services

MODEL PSA/HOSPITAL AGREEMENT

PURPOSE:

This agreement is between _____ Hospital (Hospital) and the _____ County Department of Social Services Protective Services for Adults Program (PSA). The agreement sets forth the joint responsibilities of PSA and the Hospital for patients who are identified as being in need of PSA upon discharge to the community. The agreement also sets forth the responsibilities of PSA and the Hospital for active PSA clients who are admitted to the Hospital. The terms of this agreement are consistent with State Social Services Law and regulations governing PSA and State Health Department Law and regulations governing discharge planning.

PSA ELIGIBILITY:

PSA is available to all individuals 18 years of age or older who meet all of the following three (3) criteria:

- 1) are incapable of meeting their own basic needs or protecting themselves from harm due to mental and/or physical incapacity; and
- 2) are in need of protection from actual or threatened harm, neglect or hazardous conditions caused by the action or inaction of either themselves or other individuals; and
- 3) have no one else available who is willing and able to assist them responsibly.

Hospital inpatients and emergency room patients who are awaiting discharge to the community and who, upon discharge, can be expected to meet the above criteria for PSA eligibility, are eligible for PSA.

Active PSA clients who are admitted to the Hospital continue to be eligible for PSA throughout their hospitalization, with the following exceptions:

- 1) Another responsible or appropriate person or agency assumes responsibility for the patient; or
- 2) The patient's medical, social and financial situation is stabilized and a clinical determination has been made that the patient will be discharged to a residential care facility. If DSS is acting as the patient's conservator or committee, the case must remain active with PSA until DSS is relieved of its fiduciary responsibility by the appointing court. If PSA is acting as the patient's representative payee, the PSA case must remain open until PSA notifies the appointing agency that PSA will relinquish this responsibility; or
- 3) the patient regains the capacity for self care and protection.

Hospital inpatients and emergency room patients who will be discharged directly to supervised residential care settings, and who were not active PSA cases upon admission to the Hospital, are not eligible for PSA. These patients are considered to have other systems available to meet their basic needs for care and protection, namely the Hospital and the residential care facility.

PSA REFERRAL PROCESS:

A Hospital Discharge Planner may refer inpatients or emergency room patients who appear to meet the criteria for PSA eligibility by calling the PSA intake unit at _____ between 9AM and 5PM, Monday through Friday, and such other hours that have been agreed upon by both parties.

RESPONSIBILITIES OF PSA:

Upon receipt of a PSA referral from the Hospital, the PSA Intake Worker will immediately determine whether to accept the case for a PSA assessment, unless additional information is needed. If additional information is needed which is pertinent to the patient's potential eligibility for PSA, the PSA intake worker may need to request additional information from the Hospital or may need to contact other collateral sources before a decision is made whether to accept the case for a PSA assessment. In any case, a decision will be made whether to accept the case for assessment within 24 hours after the referral is received. If, on the basis of information supplied by the Hospital and any additional information obtained by the intake worker, it appears that the patient may be eligible for PSA, the case will be accepted for assessment.

A case will be rejected for assessment only if PSA eligibility can be conclusively ruled out. If any doubt remains about a patient's PSA eligibility, the case will be accepted for assessment.

Upon acceptance of a referral for PSA assessment, the assigned PSA caseworker will arrange to visit the client in the hospital as soon as possible, but within three business days, unless it is not possible to visit the client in the hospital. Any referral involving a patient who is at risk of leaving or being taken from the hospital against medical advice to return to a dangerous situation in the community will be considered life threatening, and PSA will make an effort to make an immediate visit to the client, but, in any case a visit will be made within 24 hours.

PSA staff will work with Hospital Discharge Planning staff to evaluate the client's situation and service needs in the community, the suitability of the individual's home environment, and the availability of family members and significant others to provide required care upon discharge.

PSA staff will notify Hospital Discharge Planning staff of the results of the PSA assessment. PSA staff will work collaboratively with Hospital Discharge Planning staff throughout the assessment process to insure a prompt, appropriate and safe discharge plan for the client. If necessary, PSA may request a reasonable postponement of discharge until necessary services are in place or until the client's safety can be assured in the community. PSA will support its determination that a client cannot be safely discharged to the community by specifying social and/or environmental conditions, or other circumstances, in the home which would be likely to cause serious harm to the client upon discharge.

If PSA requests postponement of a discharge, the Hospital may request payment for up to 30 days of emergency room and board in accordance with Section 457.1(c)(5) of State Department of Social Services regulations if each of the following conditions are met:

- 1) the patient is cleared for discharge, all of the patient's medical needs have been met and all other reimbursement sources for hospital care have been exhausted;
- 2) the patient would be at risk of serious harm in the community if the discharge takes place; and
- 3) additional time is needed by PSA to take steps to assure a habitable home environment for the patient which is free of any social or environmental conditions which would be likely to result in serious harm to the patient.

The Social Services District and the Hospital will negotiate a per diem rate for emergency room and board payments.

As soon as reasonably possible, but no later than 30 calendar days after the referral date, a determination will be made whether the case will be opened for PSA. In completing its assessment and making its eligibility determination, PSA will be as sensitive as possible to the projected discharge date. The Hospital Discharge Planner will be kept promptly and fully informed of the client's status and the results of the PSA eligibility decision.

If the case is accepted for services, PSA will keep the Hospital Discharge Planner informed of the PSA services plan as long as the client remains hospitalized. PSA will assist Hospital discharge planning staff to obtain all available services that are necessary to assure a safe environment for the client in the community. PSA will assume primary case management responsibility for the case at the time of the patient's discharge to the community.

If an adult receiving PSA in the community is hospitalized, PSA will remain involved in the case throughout the adult's hospitalization, or until the client's medical, social and financial situation is stabilized and the adult becomes ineligible for PSA, as set forth above.

PSA staff will be available for consultation and training to Hospital staff on PSA issues.

RESPONSIBILITIES OF THE HOSPITAL:

The Hospital will contact PSA as soon as possible after a patient's admission to the Hospital once the patient has been identified as being potentially in need of PSA upon discharge.

If the Hospital believes that a patient may have been receiving PSA at the time of hospitalization, the Hospital will notify PSA of the patient's admission as soon as possible after the admission. If the case is determined to be an active PSA case, the Hospital will immediately involve PSA in the discharge planning process.

The Hospital will include in its referrals to PSA all available information regarding the patients' medical, psychiatric and social condition which may be necessary in determining PSA eligibility and an appropriate PSA Services Plan.

Whenever circumstances require, the Hospital will invite PSA to participate in an interagency discharge planning conference.

The Hospital will arrange for all necessary post hospital services. The Hospital retains primary responsibility for case management until the patient is discharged from the hospital.

The Hospital ensures that consistent with Section 405.22 of State Health Department regulations pertaining to discharge planning, the following conditions will be present before a patient is discharged:

- o The patient must be determined by a physician to be medically ready for discharge.
- o A discharge plan must be in place which meets the patient's post-hospital needs.
- o All necessary post-hospital services must be in place or have been made reasonably available to the patient.
- o The patient must be returning to an environment which is free of social, environmental or other conditions which are likely to result in serious harm to the patient.

The Hospital will establish procedures to train Hospital staff to assure the identification of appropriate PSA referrals as early as possible in the discharge planning process. The Hospital will notify PSA of any training opportunities offered by the Hospital which might benefit PSA staff.

CAPACITY OF PATIENTS TO CONSENT:

Both PSA and the Hospital recognize that unless a patient lacks decision making capacity, the patient has a right to choose a discharge plan that either the Hospital or PSA, or both, deem to be unwise, or to leave the Hospital Against Medical Advice (AMA).

The Hospital agrees to try to secure a psychiatric evaluation prior to discharge for any patient who is choosing a potentially dangerous course of action if there is any reasonable doubt about the patient's capacity to make and understand care related decisions. The Hospital agrees to share the results of the psychiatric evaluation with PSA, insofar as it may be pertinent to the patient's PSA eligibility or PSA services plan.

If a psychiatric evaluation concludes that a patient does not have the capacity to make care related decisions and the patient will be at risk of harm upon discharge, the Hospital will take necessary action to postpone the discharge in order to obtain necessary services to ensure that the patient will be returning to a safe environment. If it is determined that court authorization is required to obtain placement of a patient in a residential care facility, the Hospital will assume responsibility for initiating the appropriate legal intervention if the patient was not an active PSA case upon admission to the hospital.

PSA will initiate appropriate legal interventions on behalf of patients who were active with PSA upon admission to the Hospital and patients who are eligible for PSA and have a community discharge plan in accordance with requirements set forth in Section 405.22 of State Department of Health discharge planning regulations.

If an inpatient or emergency room patient of the Hospital, including a PSA client, is incapable of giving informed consent for medical treatment, the Hospital is responsible for proceeding in accordance with appropriate provisions of law to provide the necessary treatment.

When involuntary legal intervention is initiated by the Hospital on behalf of a PSA client or applicant, PSA will provide assistance and consultation on legal issues to the Hospital as long as such intervention is determined by PSA to be in the best interest of the patient. Such assistance may include providing supporting documentation, legal affidavits and testimony by PSA staff to support a legal intervention initiated by the hospital on behalf of a PSA client or applicant. PSA will also provide consultation to the Hospital on legal issues involving patients who are not PSA clients.

CONFLICT RESOLUTION:

In cases of disagreement between Hospital and PSA staff about a patient's eligibility for PSA or the appropriateness of a discharge plan, every effort shall be made to resolve the conflict at the practitioner level. If resolution cannot be achieved at that level, supervisory staff in each agency will confer to reach an acceptable resolution.

If a dispute cannot be achieved at the supervisory level, the dispute will be referred to the Director of PSA (Director of Social Services) and Director of Social Work of the Hospital, for resolution.

Both parties agree to make every effort to resolve disputes through the internal conflict resolution process discussed above. If a dispute cannot be resolved by the two parties, each party reserves the right to pursue an equitable resolution of the matter through one the complaint resolution mechanisms discussed in the paragraph below.

If PSA believes that a proposed discharge plan for a PSA client is inappropriate, and resolution of the matter cannot be achieved in bilateral discussions with the Hospital, PSA may initiate a request for a Discharge Review with the appropriate Discharge Review Agent. If a discharge occurs which PSA believes to have been inappropriate, PSA may initiate a formal complaint to the appropriate Regional Office of the New York State Health Department. The Hospital may contact the New York State Department of Social Services about any dispute pertaining to PSA eligibility which cannot be resolved locally.

If either PSA or the Hospital submits a dispute to an outside agency for resolution, the party bringing the matter to an outside agency will notify the other party in writing of the details of the complaint. Notification to the other party shall be made as promptly as possible, preferably prior to the submission of the complaint.

COMMUNITY REFERRALS:

Hospital outpatients and patients in the community served by other Hospital programs who meet the criteria for PSA eligibility set forth above are eligible for PSA. Community referrals by Hospital staff may be made to the PSA intake unit during the hours set forth above.

Upon acceptance of a community referral for PSA assessment, the assigned PSA caseworker will arrange to make a home visit to the client within three working days, unless a life threatening situation exists. If a life threatening situation appears to exist, PSA will commence an immediate investigation and a home visit will be made within 24 hours if the patient remains in the community. A determination will be made whether the case will be opened for PSA no later than 30 calendar days after the referral date. PSA will promptly notify Hospital staff of its determination of the patient's eligibility or ineligibility for PSA.

TERMS OF AGREEMENT:

PSA and the Hospital will review of the terms of this agreement at least annually.

Changes in the agreement may be made at any time by mutual consent of PSA and the Hospital.

Either party may terminate this agreement by giving 30 days written notice to the other party.