

Mental Illness Issues experienced by Lincoln County

The number of patients placed on Involuntary Illness Holds that commence here or that come from other counties keeps increasing. Total holds filed in Lincoln County in 2017: 614

Total holds filed in 2018 through July: 433. Of the holds in 2018, 73 (only 17%) are Lincoln County residents. 27 (6%) of these holds were on patients who do not reside in South Dakota.

Because HSC does not have capacity to take patients from across the state, the patients are treated at ABH which is a Lincoln County facility. A majority of the out of state resident holds start in Sioux Falls due to its close proximity to Iowa and Minnesota or they come to Sioux Falls to receive medical care here.

Issue #1: Nonresident Holds

Currently SDCL 27A-10-2 partially provides: If the alleged mentally ill person is a nonresident of the state, the Human Services Center may be used as an appropriate regional facility. If a nonresident of the state is transported to the Human Services Center, the State of South Dakota shall pay any expenses and costs provided for in this title as the responsibility of the county of residence, subject to any right of reimbursement. If the Human Services Center is not utilized for a nonresident of the state, the referring county shall pay any expenses and costs provided for in this title as the responsibility of the county of residence, subject to any right of reimbursement.

The statute needs to provide that State of South Dakota pays all expenses for any non-resident placed on a hold, regardless of whether they get transported to HSC or not. It is not fair on the local county who places the hold to be responsible for those costs. In addition, the county has no jurisdiction or authority to get reimbursed by another state.

Another issue that comes along with the non-residents is that SDCL 27A-11A-5 provides that the local mental illness chair shall send findings to the AG of their non-residency and a summary of the evidence to prove that nonresidency. This statute also needs to be amended as a lot of the patients do not end up going to a hearing so no findings are being entered by the Mental Illness Board. Therefore, the residency should be determined by the information set forth in the mental illness file which could be the address set forth in the petition or the certification by the QMHP if it does not go to a hearing.

Issue #2. Transfers from other counties.

SDCL 27A-10-2 also provides for referrals from other counties: If the facility to which the person is transported is in a county served by another board of mental illness, a copy of the petition shall be forthwith filed with the chair of such board. The referring county shall pay any expenses incurred in apprehension and transportation of the person, subject to reimbursement by the county ultimately proven to be the county of residence. No lien may be placed against the person for the costs incurred in the apprehension or transportation of the person.

South Dakota statutes do not define "Referring County." A petition may be started in Hughes County, the patient is transferred to Lincoln County facility and then Lincoln County transfers the patient to Human Services Center. HSC treats Lincoln County as the referring County instead of the initial county

were the hold was placed.” Therefore, a statute should be drafted that defines the referring county as the county where the petition and hold was initiated.

In addition, the statute only requires the referring county to pay the transportation costs and not the costs of the hospitalization or the costs incurred by the local board of mental illness including the evaluations. Lincoln County ends up paying for all of these costs and then is required to bill the referring county to get reimbursed.

Issue #3. Tribal Members

Another issue is getting reimbursed for tribal members that are placed on a hold. Lincoln County will seek reimbursement from the county that placed the hold, but that county will deny payment as the patient is not a resident of that county as they reside on tribal land. There needs to be more clarification and guidance in the statutes on who is responsible to pay for all of those cost of hospitalization and mental illness evaluation and board expenses of tribal members.

The statute either needs to require the referring county to pay all expenses associated with a mental illness hold or the state of South Dakota, which has the better opportunity to get reimbursed by IHS.

Issue #4. Change of Venue. The other issue is that there is no statute that sets forth that there is a change of venue when a patient on a hold is transferred from one county facility to another. When a patient gets transferred to ABH, a copy of the same petition that started in another county is also filed with the Lincoln County clerk so this board has a file to enter its orders. If the patient is ultimately transferred to HSC in Yankton, than the Yankton County Board files the petition again. The result is that there are several open court files regarding the same hold. If the hold ends up getting dismissed prior to a Commitment Order, the dismissal Order which seals the record is only filed in the last county that had jurisdiction of the patient.