# CASE MANAGEMENT OUR RESPONSIBILITY AT DISCHARGE AND BEYOND

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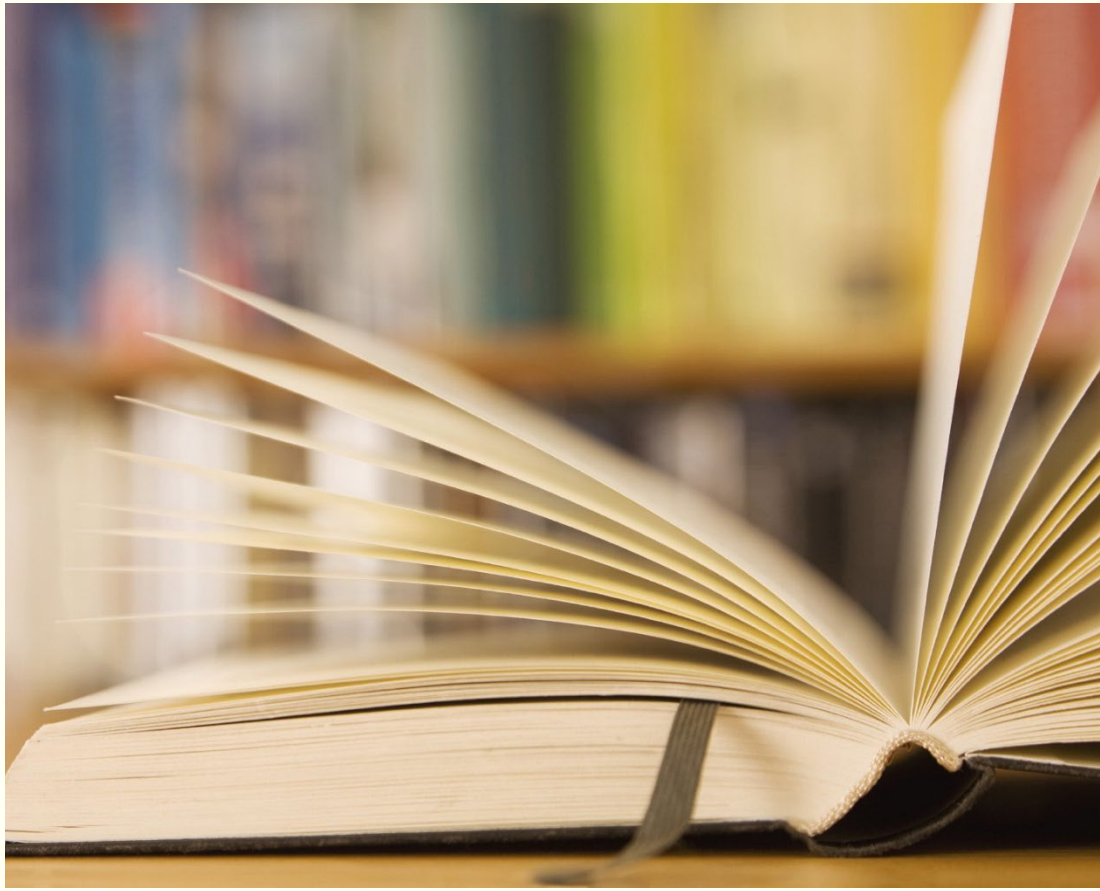

# Most Frequently Asked Question

I'm a Case Manger.

I work at a _____.

How long am I responsible for my client after they are discharged?

# BE CAREFUL WHAT YOU WISH FOR!

Case Managers are showing up in litigation from coast to coast.

# Can we agree?

The Best Discharge Plan starts at admission (or start of Case Management Services)

The Case Management Assessment is the Roadmap for transitions of care

- A living document with reassessment as needed
- Subject to change: new information, change is status, identified resources, loss of resource(s)

Who are the stakeholders?

- Client
- Family – in household or elsewhere- Resources or obstacles?
- Short and Long-Term needs
- Payers/Employers/ancillary service providers

Cost-effective is NOT COST DRIVEN

# If I don't live/work in a state with a reported case, *why should I care*?

- Legal Research crosses state lines
- When a new issue arises, states look to see what others have done with similar facts
- Legal argument in one state, can reference decision(s) elsewhere
  - The case must be provided to the Court
  - The case must be provided to the other side
  - The Court may or may not consider it, but:
    - Persuasive legal argument can help change the law
    - Even if rejected, the concept has been heard

# WHAT DO THE CASES SAY?

- ✓Remember most cases end in settlement
- ✓Only new/unique issues are reported

# SOMETIMES, IT'S THE SIMPLEST OF THINGS . . .

What is your responsibility as case manager?

# Allen v. Family Medical, *et al* *(__NJ. Super__ (App. Div. 2021)*

- Facts Karen suffered a stroke that led to her hospitalization and admission to a rehabilitation facility. As a result of her stroke, she was "weak on the left side" and could not stand up from a seated position without the assistance.
- According to Karen, the employee brought the box containing the raised toilet seat to the bathroom and "screwed [the toilet seat] down" "against the toilet," which took five minutes to complete
- The complaint sought damages for injuries Karen sustained in a fall that occurred as she attempted to stand up from a raised toilet seat with arm rests, which she used immediately after defendant's employee delivered and installed at plaintiffs' home

# What is your duty?

- **Ethics impact the simplest decisions made by the case manager.** (CMSA Standards of Practice Guiding Principle IVB) Critical thinking and ethical obligations identified in CCMC Code with §14 and 24)
- When you order/or follow an order to purchase a product for the client home use . . .
  - Ask questions (Home Assessment)
    - whether the client is comfortable/satisfied with the product. Using the product with/without assistance (CCMC Code of Conduct, Principles 1 and 2)
  - Select the product based on safety, reliability, ease of use
    - NEVER $$$ price alone (CCMC Code of Conduct, Principles 1 & 3, CDMS RPC 1.14, NASW 1.06)


# PROCESS

## OVER

## PROFESSIONAL RESPONSIBILITY

When did we forget about
Client-Centered
Professional Case Management?

# Negligent Referral

## Conflicts of Interest

(a) Social workers should be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. Social workers should inform clients when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the clients' interests primary and protects clients' interests to the greatest extent possible. In some cases, protecting clients' interests may require termination of the professional relationship with proper referral of the client. (NASW REVISED CODE OF ETHICS 1.06)

# Lessons Learned

- **DOCUMENT** who, what, when and results
  - (CCMC Code of Conduct: importance and reliability of the record they create consistent with CCMC Code §24.,
  - NASW Code of Ethics.04 Client Records (a) Social workers should take reasonable steps to ensure that documentation in electronic and paper records is accurate and reflects the services provided.)

TERMINATION OF CASE/RELATIONSHIP

Follow up by phone or other agreed upon method to determine:

- Products were delivered, installed, condition, client's satisfaction

# When is the case over?

## TERMINATION OF SERVICES – Case Closure

"Prior to the discontinuation of case management services, Board Certified Case Managers (CCMs) will document the notification of discontinuation of all relevant parties consistent with applicable statutes and regulations" (CCMC Code of Professional Conduct, §3, S11, 2017, pg. 8)

"Prior to the discontinuation of disability management services, Board-Certified Disability Management Specialists will document notification of discontinuation to all relevant parties consistent with applicable statutes and regulations" (CDMS RPC 2.05, 2019, pg. 7).

# CMSA Standards of Practice: 2016 Change

## Language does matter

"Communicate the closure of professional case management services and the case manager-client relationship instead of termination of services and/or the case management process.

This subtle change is better reflective of the reality that despite case closure, a client may continue to receive health care services however not in a case management context" (CMSA, 2016, pg. 10).

# BEWARE OF STATUTORY DEFINITIONS FOR OTHER PURPOSES

What does “Case Manager” mean in your state?

# Illinois Defines "Case Management" for other purposes

- Case Management Provider Responsibilities, L Admin. Code 89.686.910 Case Management Provider Responsibilities § 686.910
- a) Case Management (1) The case management agency (hereafter referred to as provider) shall receive Customer referrals from hospitals, the Illinois Department of Public Health's AIDS Hotline, HSP AIDS Unit, other State and local agencies, and other referral services (e.g., doctors and individuals). The provider shall assign a case manager to each Customer.
- 2) There shall be two levels of case managers: provisional case managers and case managers.
- A) The case manager shall have full responsibility for the determination of HSP eligibility including assessment and implementation of services to be provided. The case manager shall develop services with Customer participation that are provided in a manner that reflects the Customer's choices, when applicable, and address his/her strengths, needs and desired goals. Assessments, service plans and reassessments completed by case managers may be implemented without consultation with the HSP AIDS Unit.

# To bring a Professional Malpractice case the Plaintiff **must** produce an Expert Witness (FRE701, et seq.)

- This is an appeal from a district court order dismissing a complaint against a medical treatment center for failure to attach a medical expert affidavit (Nevada RS 41A.071).
- A social worker documented that Szymborski (Pt's father) directed a case manager not to release Sean to his home upon discharge and that the case manager would help Sean find alternative housing
- According to the Social Worker (MA), supervised by a LCSW, Sean had arranged to live elsewhere, and informed Sean that they would only give him enough money to take a taxi to his father's home. Spring Mountain did not inform Szymborski that they were releasing Sean, nor did they inform him that they were sending Sean to his residence that day. After being dropped off, Sean vandalized Szymborski's home, causing $20,000 in property damage, then disappeared until his arrest three weeks later. SZYMBORSKI v. SPRING MOUNTAIN, (403 P.3d 1283, 2017)

# Applicable Law: Nevada Administrative Code449.332(4)

An evaluation of the needs of a patient relating to discharge planning must include, without limitation, consideration of:

- (a) The needs of the patient for *postoperative* services and the availability of those services;
- (b) The capacity of the patient for self-care; and
- (c) The possibility of returning the patient to a previous care setting or making another appropriate placement of the patient after discharge.
- NOTE: REMEMBER “CAPACITY” is a medical determination by a qualified physician or other permitted licensee (APRN, NP, DO, etc. as defined by that state’s law.

# DOCUMENTATION IS A DOUBLE-EDGED SWORD

If you say you're going to do it, **DO IT** or document why not . . .

# Harvey v. Mohammed, 841 F. Supp. 2d 164 (D. D.C. 2012)

- "case manager had an obligation to make quarterly visits to Mr. S and to ensure that all medical appointments and other appropriate care was provided"
- "did not schedule the evaluation at this time, and although the IDT recognized Mr. Suggs's inability to feed himself due to his loss of motor function, Mr. S's IHP neglected to include UCP's continued recommendation for a neurology consult to address this…
- Conclusion: "The case manager's duty to monitor care of Mr. S included ensuring completion of his neurological evaluation. As the lengthy inaction by Mr. S's case manager makes clear, no reasonable juror could find that the District of Columbia's monitoring of the case manager's care for Mr. Suggs was anything but negligent"

# SZYMBORSKI v. SPRING MOUNTAIN TREATMENT CENTER; and Darryl Dubroca, in his official capacity (Nevada, 2017).

- A social worker documented that Szymborski (Plaintiff/Father) directed a case manager not to release Sean (pt.) to Szymborski's home upon discharge and that the case manager would help Sean find alternative housing.
- On the day of Sean's release, an MA met with Sean to confirm the address of the apartment where Sean planned to live upon discharge. The MA noted, and Sean's continuing patient care plan confirmed, that Sean was vague about the apartment's address and wanted to stop at his father's house first to retrieve his debit card before going to his own apartment. The MA and case manager never verified that Sean had arranged to live elsewhere, and informed Sean that they would only give him enough money to take a taxi to his father's home. Spring Mountain did not inform Szymborski that they were releasing Sean, nor did they inform him that they were sending Sean to his residence that day.

# Sometimes the case manager is just wrong . . .

Aguilera was injured in a work-related accident when he was struck by an electric fork -lift in 1999. Inservices provided Workers Compensation services to the employer of Aguilera; a complex colostomy case, where urine and blood were comingled.

“A new case manager was assigned to Aguilera's case, defendant Ms. Heath, who rejected Aguilera's request that a general surgeon perform immediate emergency surgery on his fistula. She insisted on a 2d opinion and the administration of tests which, according to Aguilera, were painful and contraindicated by his medical condition. Heath thereafter sent Aguilera to a gastroenterologist.

Inservices Inc. (FKA: Managed Care Services, Inc. USA) v. Aguillera, 837 So.2d 464 (Florida App. 2002)

# Workers Compensation is Typically and Excusive Remedy

- The history and objectives of the workers' compensation laws and expressed our concerns that "if delay in providing services could become the subject of an independent suit, the legislatively designed exclusivity of the act would be destroyed." Old Republic Ins. Co. v. Whitworth, 442 So.2d at 1079 (citing Sullivan v. Liberty Mut. Ins. Co., 367 So.2d 658 (Fla. 4th DCA 1979), cert. denied, 378 So.2d 350 (Fla.1979)).

- Aguilera does not argue that he is without remedies under the Act. And we note the Act does contain provisions addressing his allegations that the defendants lied to him concerning available benefits, refused to schedule appointments with physicians, wrongfully attempted to deprive or ignored his request for medical treatment and insisted upon tests to evaluate his medical condition which were contradicted by his medical condition.

# Marks v. Watters, 322 F.3d 316 (4th Cir. 2003) West Virginia

- In this case, Mainstay designated Shelley Watters as the case manager to perform utilization review services in connection with Cleavenger's treatment.
- **Watters,** who had learned that Cleavenger was being released, **sent Cleavenger a letter, introducing herself as his case manager and indicating that she would continue to follow his treatment after discharge and contact him by telephone to assess his post-hospitalization status**. She also learned that Sharpe Hospital had set up an appointment for Cleavenger at University Associates for October 12.
- After October 12, Watters called Cleavenger to determine whether he had kept his appointment at University Associates, but Cleavenger never returned her call. Watters' **October 15 notes indicate that University Associates told her that Cleavenger kept his first appointment**, although University Associates doubts that they would have communicated that information, as Cleavenger never showed up.

# Facts of Marks v. Watters
## (Defendant case manager)

- After his release from an inpatient mental healthcare facility, Robert Cleavenger murdered his wife and daughter, injured his son, and then committed suicide.
- The representatives of Cleavenger and his family filed a broad complaint for damages against all of the healthcare providers involved in Cleavenger's care, as well as against the companies insuring and managing Cleavenger's healthcare benefits provided by his employer.
- Their complaint, filed in a West Virginia State court, alleged medical malpractice, negligent supervision, negligent monitoring, negligent healthcare management, and vicarious liability, all under the State law of West Virginia.

# Turner v. Wash. State Dept. of Soc. & Health Services, 493 P.3d 117 (Wash. 2021)

- Question: scope of any duty owed by the DSHS and area agencies on aging (AAAs) to individuals who qualify for and receive state long-term care services. Kent Turner suffered from multiple sclerosis (MS), which caused loss of his motor skills
- Kent moved into Puget Sound Healthcare Center (PSHC). About 2 weeks after he was admitted, Kent met with DSHS nurse case manager, who described her role as assisting "people … who have a right to discharge and go to a lesser level of care or something that could meet their needs, because it's **very expensive to live in a nursing home.**"

# DOCUMENT HANDOFFS !!!!!!

- Handoff to another Professional
  - Licensed Professional - Appointment Made and Confirmed
  - Discharge to another facility - confirm safe and complete transfer
  - Discharge home with homecare/confirm they showed
  - Discharge home to a responsible party/confirm
  - Who was there, what was said, what instructions were given, who accepted them?
  - Treat others the way you would like to be treated.

# THANK YOU FOR YOUR TIME & ATTENTION

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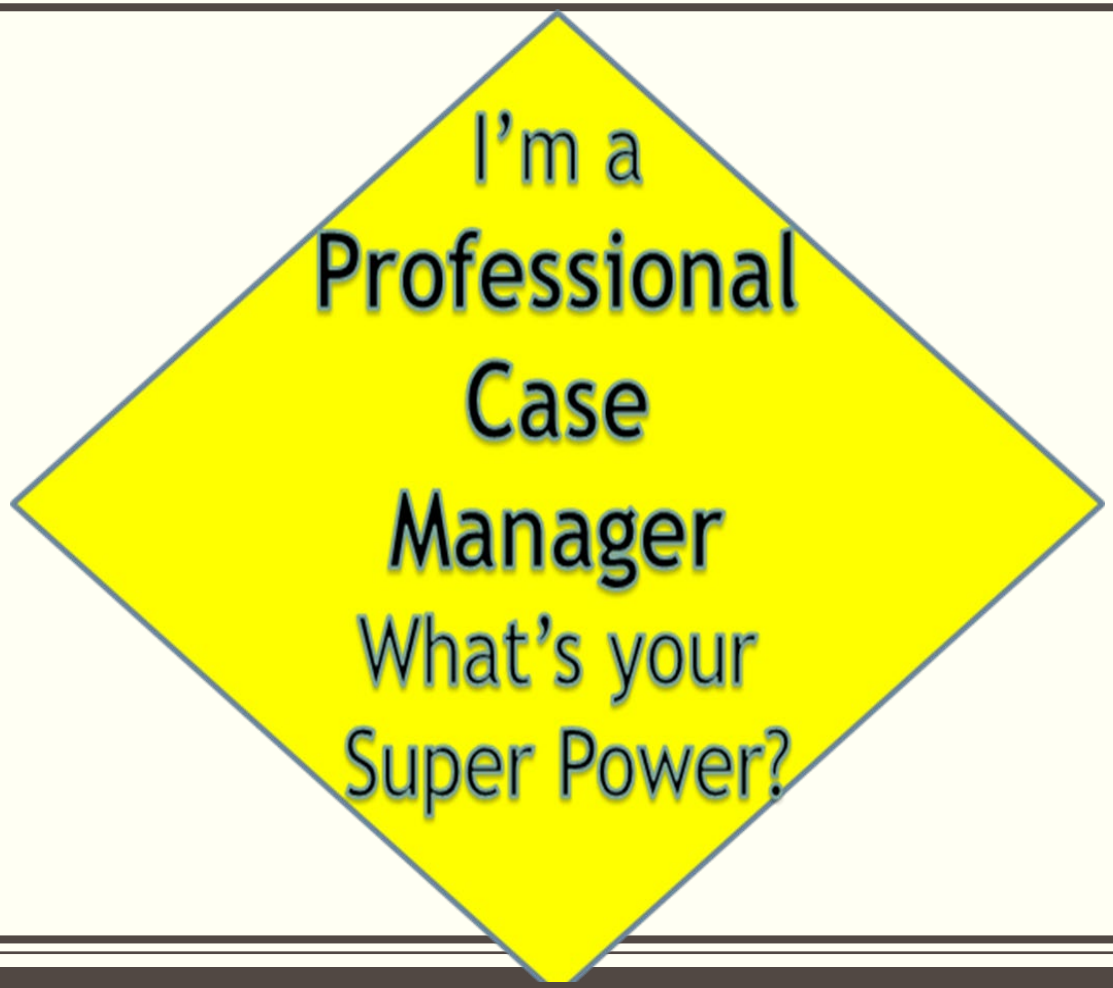

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