Report of the

Crisis Services Workgroup

Submitted to the Governor of Virginia and members of the Health Insurance Reform Commission, pursuant to Chapters 186 and 187, Acts of Assembly – 2023 Session

September 1, 2023

COMMONWEALTH OF VIRGINIA

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The Honorable Glenn Youngkin
Governor
Commonwealth of Virginia

The Honorable George L. Barker
Chair, Health Insurance Reform Commission
Senate of Virginia

Members of the Health Insurance Reform Commission

Transmitted via Email

Dear Governor Youngkin, Senator Barker and Members of the Health Insurance Reform Commission:

Pursuant to Chapter 186 and Chapter 187 of the Acts of Assembly of 2023 (HB 2216 and SB 1347, respectively), the State Corporation Commission, in coordination with the Secretary of Health and Human Resources, submits this Report of the Mobile Crisis Response Services Workgroup on behalf of the participating stakeholders.

While the Bureau of Insurance of the State Corporation Commission staffed the workgroup and served as facilitators, this report represents the perspectives of the participating stakeholders.

Respectfully submitted,

Scott A. White
Commissioner of Insurance

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Executive Summary

During the 2023 Session, the General Assembly passed and the Governor signed into law HB2216 and SB1347 regarding coverage of mobile crisis response and short-term residential crisis stabilization services by commercial health insurance carriers. In particular, the bill clarifies that health insurance carriers must provide coverage for mobile crisis response services and crisis support and stabilization services provided in a residential crisis stabilization unit to the extent that such services are covered in other settings or modalities, regardless of any difference in billing codes. This law went into effect July 1, 2023, and will be in effect for the 2024 benefit year.

The General Assembly directed the State Corporation Commission (Commission) to convene a workgroup to examine the current availability of these services and make recommendations regarding standards of care, licensure, and cost-sharing for these crisis services.

The workgroup offers ten recommendations regarding mobile crisis response and short-term residential crisis stabilization services addressing a variety of policy issues including:

- coordination between state agencies and health insurance carriers on statewide efforts to establish and coordinate a comprehensive mental health crisis system;
- provider licensure and access to the crisis platform;
- information-sharing to allow carriers to coordinate care more effectively for their members; and
- commercial carrier service definitions.

The workgroup agreed on one recommendation for a statutory change related to balance billing. Federal law is ambiguous on whether these crisis services are considered "emergency services," so there is uncertainty whether providers could be allowed to balance bill individuals with commercial coverage. By classifying mobile crisis response and short-term residential crisis stabilization services as "emergency services" under Virginia law, it would ensure that individuals experiencing a crisis do not receive unexpected balance bills from providers related to the response and stabilization of that crisis.

The workgroup submits this report of its findings and recommendations to the Governor and members of the Health Insurance Reform Commission. While the Commission's Bureau of Insurance (Bureau) staffed the workgroup and served as facilitators, this report represents the perspectives and consensus of the participating stakeholders.

Introduction

Crisis response services are services provided to individuals experiencing acute mental health crises in order to stabilize the individual and transfer them to an appropriate level of care. Virginia is in the process of coordinating a variety of mental health services into a comprehensive system to ensure that individuals experiencing these crises can be connected to available support resources. Mobile crisis response and short-term residential crisis stabilization services are major components of that system. These efforts have included developing and funding mobile crisis response teams through a collaboration between the Department of Behavioral Health and Developmental Services and the Department of Medical Assistance Services, including the establishment of clinical standards for these teams and providing funding, both directly to establish the teams and indirectly by funding these services through Medicaid as a payor.

During the 2023 Session, the General Assembly passed HB2216 and SB1347 regarding coverage of mobile crisis response and short-term residential crisis stabilization services by commercial health insurance carriers. In addition, the General Assembly directed the Commission to convene a workgroup to examine network standards for mobile crisis response services and the current availability of mobile crisis response services in the Commonwealth. The workgroup was charged to make recommendations regarding:

(i) the definition and standards of care for mobile crisis response services and short-term residential crisis stabilization services as they apply to the commercial insurance market, including balance billing protections;

(ii) the licensure or accreditation required for such services in the Commonwealth; and

(iii) how cost-sharing and deductibles will be addressed as part of accessing such services for commercially insured individuals.

The statutorily designated members of the workgroup consisted of staff from the Department of Behavioral Health and Developmental Services (DBHDS), as well as representatives from the Virginia Association of Community Services Boards, the Virginia Association of Community-Based Providers, and the Virginia Association of Health Plans. In addition, representatives from the Department of Medical Assistance Services (DMAS) and advocates for individuals with mental health conditions were included in the workgroup. (A list of organizations participating in the workgroup is included as Appendix A.)

The Commission, through the Bureau and in consultation with the Secretary of Health and Human Resources, established an inclusive and transparent process, welcoming broad participation from more than forty individuals over three meetings. All were given the opportunity to participate in the discussions and submit suggested findings and recommendations.

Workgroup Activities

At the workgroup's first meeting on April 21, DBHDS and DMAS provided background on crisis services in Virginia. It included definitions of mobile crisis response and short-term residential crisis stabilization services, and the role of these services in the broader crisis system. In addition, DBHDS presented goals for expanded crisis care infrastructure in Virginia based on network standards set forth in the Crisis Now model. This plan included full funding of network standards for mobile crisis response services in fiscal year 2024.

The first meeting also addressed the definitions and standards of care for mobile crisis response and short-term residential crisis stabilization services. DMAS presented on Medicaid coverage of these services, including service definitions, required activities/service components, staff requirements, medical necessity criteria, and billing procedure codes and rates for each service. In addition, the DBHDS presented a coding structure for commercial coverage of mobile crisis response and short-term residential crisis stabilization services that was developed as a part of the Crisis Now model that is currently being implemented in Virginia.

At the second meeting on May 22, the DBHDS and its contractor for the 988 crisis call center demonstrated their crisis platform and process. This demonstration showed the process from the time an individual in crisis contacts the call center to the dispatch and response of mobile crisis response services to that individual. The presentation provided insight into how the process works and allowed workgroup members to better understand the information that is captured during a crisis assessment and response. The workgroup discussed how providers gain access to the crisis platform and how the platform can support care coordination by carriers.

At its third meeting on June 14, the workgroup focused on identifying its recommendations and reviewing the current memorandum of understanding (MOU) used by regional lead community services boards (CSB) to contract with crisis providers enabling the crisis providers to be dispatched by the crisis platform. This report provides background information regarding crisis services and identifies recommendations supported by all workgroup members.

Consensus Recommendations

Workgroup findings and recommendations fall into three major areas: (1) provider licensure and accreditation; (2) balance billing; and (3) standards of care. In each of these areas, this report provides background and context on the issues along with the workgroup recommendations. While the workgroup discussed cost-sharing and deductibles, stakeholders did not identify any issues or recommendations with regards to those areas.

Provider Licensure and Accreditation

The DBHDS licenses the providers offering mobile crisis response, short-term crisis stabilization, and community crisis stabilization under a single crisis license that has specific authorization for provision of those services. Some stakeholders questioned whether these services should each have separate and distinct licenses. The DBHDS

explained that, because each license requires a separate application and a separate annual inspection, combining licensure for the provision of these services under a single license is more administratively efficient – particularly for providers that offer either two or all three of these services.

Currently, to be reimbursed by Medicaid, a provider is also required to engage with the Virginia Crisis Connect data platform (crisis platform). This engagement involves, at a minimum, registering the case in the crisis platform and providing some basic information. Following statewide rollout of the crisis platform, most mobile crisis response dispatches will result from 988 calls routed through the crisis hub call centers and for dispatch through the crisis platform. For dispatches managed by the platform, a provider will also need to execute a memorandum of understanding with the regional lead community services board (CSB). The DBHDS discussed an evolution of this formal connection, with future agreements consisting of contracts between providers and either regional hubs or the DHBDS, which could include requirements such as:

- One hour response times;
- Coordination with hubs for 24/7 care;
- Engagement with ongoing training; and
- Completion of notes in the crisis platform within an hour of resolution.

Recommendation 1: The DBHDS may wish to pursue contracts directly with private providers of mobile crisis response and short-term residential crisis stabilization services. These contracts would allow providers the opportunity to be dispatched via the platform, provided that the providers meet and maintain critical criteria needed for consistent and quality provision of crisis services across Virginia.

Recommendation 2: The DBHDS and the regional lead CSBs should consult with Medicaid and commercial carrier representatives on the design of the FY 2025 contract to ensure the agreement addresses the needs of all payors. Earlier adoption of this contract should be pursued if possible.

Recommendation 3: The DBHDS should maintain a centralized resource of all the regional hub-provider MOUs and, if applicable, the DBHDS-provider contracts to help all payors understand the provider network for these services across the Commonwealth.

Recommendation 4: Commercial carriers may want to consider adopting Medicaid service definitions, medical necessity criteria, and billing codes for mobile crisis response and short-term residential crisis stabilization services to minimize provider confusion and billing errors.

Balance Billing

Crisis services are designed to connect any individual experiencing a mental health crisis to appropriate, qualified care as quickly as possible, regardless of their insurance coverage. To that end, the MOUs under which providers deliver these services specify that they will provide these services regardless of an individual's ability to pay. Virginia Medicaid, the only current payor covering these services, does not allow balance billing

by any providers under their Medicaid provider agreements.

These blanket protections from balance billing, however, do not exist the same way in the commercial market. Instead, pursuant to the Federal No Surprises Act and state law, particular categories of services, such as emergency services, are protected from balance billing. Federal law does not specifically address crisis services – a point that is explicitly acknowledged in the preamble to a recently proposed federal Mental Health Parity and Addiction Equity Act rule. As such, it is unclear if these protections would extend to these crisis services unless Virginia law explicitly defines them as emergency services.

Recommendation 5: The General Assembly may want to amend § 38.2-3438 of the Code of Virginia to expressly classify mobile crisis response and short-term residential crisis stabilization services as "emergency services" to clarify that balance billing for these services is not allowed.

Recommendation 6: Absent legislative change, future contracts between providers and either regional hubs or the DBHDS could explicitly prohibit balance billing for individuals covered by commercial plans in the same way that it is prohibited under Medicaid.

Standards of Care

Mobile crisis response and short-term residential crisis stabilization services providers work to stabilize individuals so they can be transferred to appropriate care to address their health needs. Carriers expressed a desire to be notified as quickly as possible when their members have accessed crisis services to allow them to assist in care coordination or provide additional support, including recommendations for step down care and services.

Within the Virginia Medicaid program, where many individuals are enrolled through capitated arrangements with carriers called managed care organizations (MCO), a "registration" process facilitates this notification. The registration consists of a form submitted by the provider that DMAS routes to the MCO, notifying them that their member has accessed crisis services. While this process could work for commercial plans, it would be a large workload for the DMAS. Instead, the DMAS is working to automate their current process so their care management data system would connect directly to the crisis portal and notify MCOs when their members have contact with the crisis system. DMAS noted that, alternatively, the crisis data portal could communicate directly with each MCO. There appears to be an opportunity to leverage the crisis platform to ensure that carriers quickly receive notification when their members experience a crisis and engage in care coordination as early as possible. The DBHDS indicated that they have already begun work to establish data connections with hospitals and other entities as a part of the emergency department care coordination program.

In addition to care coordination, carriers are also interested in understanding which crisis platform data elements can be shared with carriers to facilitate post-service audits to ensure accurate billing and that standards of care are being met. This sharing could involve geospatial records of mobile crisis response providers to verify service delivery, information on individual service providers to substantiate the service level being submitted for payment, and records of treatment delivered during the episode to ensure

appropriate standards of care are being followed.

The contractor operating the crisis platform indicated that everything is done on the crisis platform is monitored and available for reporting. Data elements related to call intake, dispatch, request for responders, responder acceptance, and responder arrival are available, including the date and times that each of those elements occurred. In addition, information regarding provider credentials is available. The DBHDS indicated that the crisis platform will be able to show coverage areas and utilization over time, allowing targeted solutions in the areas of highest need. In terms of network sufficiency, they are capturing a variety of metrics to establish a baseline, determine what is needed and evaluate how well the state is moving towards those needs.

The Virginia Association of Health Plans and its members expressed concern about the adequacy of the existing provider network available to offer these crisis services when they must begin covering them on January 1, 2024. The Virginia Association of Community Service Providers and the DBHDS stated that their goal is to ensure an adequate provider network, and that regional lead CSBs are diligently executing MOUs with all qualified providers. The DBHDS indicated that they are currently working towards standards put forth in the Crisis Now model, and that funding in the Governor's proposed budget supports a rollout of mobile crisis teams in all regions by the end of 2023. The Governor's plan is to designate funding to support the build out of 70 mobile crisis teams to ensure there is a baseline network of providers available to respond. The ability of the DBHDS to meet this threshold is contingent on the 2023 General Assembly passing a budget that includes these funds.

Recommendation 7: The DBHDS should coordinate with the Virginia Association of Health Plans to provide a demonstration of the crisis platform and the assessment process to commercial carrier behavioral health directors and provide an opportunity to provide feedback. (Note: This recommendation was accomplished on July 24, 2023.)

Recommendation 8: Commercial payors may want to include requirements in provider contracts that address credentialing, self-referral policies, and post-payment auditing among other elements to ensure high quality care.

Recommendation 9: The DBHDS planning meetings related to crisis services, the crisis platform, integration with the Emergency Department Care Coordination system, and other related activities should include Medicaid MCOs and commercial carrier representatives to ensure there is adequate coordination with those payors.

Recommendation 10: The DBHDS should work with Medicaid MCOs and commercial carriers to identify useful data elements from the crisis platform and determine an appropriate manner to share access to that information to facilitate carrier care coordination and post-service auditing.

Appendix A

Workgroup Participants

State Government Resources

State Corporation Commission
Virginia Secretary of Health and Human Resources
Virginia Department of Behavioral Health and Developmental Services
Virginia Department of Medical Assistance Services

Stakeholder Organizations Represented

Virginia Association of Health Plans
Health Insurance Carriers
Behavioral Health Providers
Virginia Association of Community-Based Providers
Virginia Association of Community Service Boards
ChildSavers
NAMI Virginia
Behavioral Health Link
VOCAL Virginia