

SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT
LCSC01: Changes to the 72-Hour Presumptive Eligibility Program

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SCEG
MAY 15, 2012
EXHIBIT 1

Background

The Select Committee on Efficiency in Government authorized the drafting of a bill to change two elements of the 72-hour presumptive eligibility program for mental health crisis stabilization services. The program pays for mental health services that are provided for up to 72 hours to stabilize a person who is in psychiatric crisis.

Under the program, mental health practitioners may provide the care without verifying a person's insurance coverage. If a person has insurance or is covered by Medicaid, the provider bills the insurer. The presumptive eligibility program pays the costs for individuals who are uninsured or underinsured.

The proposed changes would allow for payment of two psychiatric diagnostic interviews during the 72-hour period, rather than one interview and remove the prohibition on payment of crisis stabilization services that are provided within seven days of a patient's previous discharge from crisis services.

Reason for the Recommendation

Stakeholders said the changes would ensure that practitioners would be reimbursed for providing services whenever a person is in crisis and for providing assessments that may better reflect the status of a person's mental health during the 72-hour presumptive eligibility period.

Cost Considerations

The proposed changes may increase program costs by \$20,775 to \$72,700. The change in costs would depend on the degree to which usage of the program changes. The assumptions used to calculate the estimated increases are detailed below.

Increased Psychiatric Diagnostic Interviews: Information from the Department of Public Health and Human Services shows that providers were paid for 602 psychiatric diagnostic interviews in fiscal year 2011. Reimbursement rates were \$98.82 per interview for licensed clinical social workers and licensed clinical professional counselors and \$155.67 for psychiatrists. DPHHS paid \$59,490 for psychiatric diagnostic interviews in FY 2011.

The cost of paying for two interviews, rather than one, could range from \$14,873 to \$59,490, depending on the number of additional interviews that are conducted.

That range is based on assumptions that:

- the number of diagnostic interviews could increase by anywhere from 25% to 100%;
- the reimbursement rate for interviews remains unchanged from FY 2011; and
- the proportion of interviews conducted by psychiatrists and by social workers and professional counselors remains unchanged from FY 2011.

The potential costs are shown below.

% Increase in Interviews	Number of Interviews	Cost of Interviews	Increase over Current Law
0%	602	\$59,490	\$0
25%	753	\$74,363	\$14,873
50%	903	89,235	\$29,745
75%	1,054	\$104,108	\$44,618
100%	1,204	\$118,980	\$59,490

Payment for Services Provided Within Seven Days of Discharge: DPHHS records show the agency denied 27 claims for services in fiscal year 2011 because other crisis services had been provided within the previous seven days. Providers asked the agency to review 12 of those denials. In addition, the agency approved 82 claims for services provided within the previous week. The cost of services for a 72-hour period averaged \$487.83 in FY 2011.

The costs of paying for services provided within seven days of a previous discharge may range from about \$5,900 to about \$13,200. The range is based on the assumption that:

- anywhere from 12 to 27 instances of additional reimbursements may occur; and
- the FY 2011 average cost of \$487.83 per episode of services remains unchanged.

Changes to administrative rules: DPHHS will need to change some of the administrative rules governing the program and may include those costs in a fiscal note. The Secretary of State's Office charges agencies \$50 per page to publish proposed and adopted rules. Agencies sometimes include in their fiscal notes the cost of attorney time devoted to administrative rule development, at \$90 per hour.

The cost of the rule changes would depend on the number of pages published and the amount of attorney time attributed to rule development.

Additional Considerations

The Medicaid subcommittee also discussed whether the definition of "crisis" should be changed to expand the instances in which a person may be eligible for services.

Administrative rule currently defines a crisis as "a serious unexpected situation resulting from an individual's apparent mental illness in which the symptoms are of sufficient severity, as determined by a mental health practitioner, to require immediate care to avoid:

- (a) jeopardy to the life or health of the individual; or
- (b) death or bodily harm to the individual or to others."

If the full committee wants to change the definition, it should provide direction to staff at the May meeting so that the change can be incorporated into a final draft for the committee's review. Making the definition more expansive may allow more people to qualify for services and, as a result, may increase the costs of the program.

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**** Bill No. ****

Introduced By *****

By Request of the Select Committee on Efficiency in Government

A Bill for an Act entitled: "An Act establishing in statute the 72-hour presumptive eligibility program for adult crisis services that is provided for in administrative rule; revising the rule requirements in order to allow for payment of two psychiatric diagnostic interviews in a 72-hour period and to allow for payment of crisis stabilization services provided within 7 days of a person's previous discharge from crisis stabilization services; providing rulemaking authority; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 5], the following definitions apply:

- (1) "Adult" means an individual who is 18 years of age or older.
- (2) "Crisis" means a serious unexpected situation resulting from an individual's apparent mental illness in which the individual's symptoms are of sufficient severity, as determined by a mental health practitioner, to require immediate care to avoid:
 - (a) jeopardy to the life or health of the individual; or
 - (b) death or bodily harm to the individual or to others.

(3) "Crisis stabilization" means development and implementation of a short-term intervention to respond to a crisis in order to:

(a) reduce the severity of an individual's symptoms of mental illness; and

(b) attempt to prevent the individual from receiving services in a more restrictive environment.

(4) "Crisis stabilization services" means the services allowed under [section 3].

(5) "Presumptive eligibility" means a period of up to 72 hours after an individual is found to be in crisis and during which the individual is presumed to be eligible for crisis stabilization services that will be reimbursed by the department.

NEW SECTION. **Section 2. Purpose -- limitations.** (1) (a) The purpose of [sections 1 through 5] is to establish a program through which enrolled providers may be reimbursed by the department when they provide mental health services during a 72-hour period to stabilize an adult who:

(i) is in a mental health crisis situation; and

(ii) is uninsured or whose insurance does not adequately cover the cost of the services.

(b) Reimbursement of services provided during a presumptive eligibility period is intended to reduce the need for the individual to receive more intensive services in a more restrictive setting.

(2) [Sections 1 through 5] are not intended to establish an

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entitlement:

(a) for an individual to receive any services under the program; or

(b) for a provider to be reimbursed for services delivered to any individual.

(3) The department shall determine on an individual basis the payment for covered services including but not limited to:

(a) the category of services;

(b) the provider of services; and

(c) the duration of services.

(4) The department or its designee may restrict payment based on:

(a) the medical necessity of the services;

(b) availability of appropriate alternative services;

(c) the relative cost of services; or

(d) other relevant factors.

(5) (a) Subject to available funding, the department may suspend or eliminate reimbursement for services or otherwise limit services, benefits, or provider participation in the presumptive eligibility program.

(b) The department shall provide notice of changes to the program at least 10 days in advance of the date that the changes will be made by:

(i) publishing notice in Montana daily newspapers; and

(ii) providing written notice to crisis stabilization providers and other interested parties.

NEW SECTION. **Section 3. Crisis stabilization services -- requirements.** (1) In order to qualify for reimbursement under [sections 1 through 5], crisis stabilization services must be delivered in a safe environment to an individual in crisis as required under this section:

(2) Crisis stabilization services must:

(a) be delivered by an individual or facility that is enrolled with the department to provide services under [sections 1 through 5];

(b) be provided in accordance with a plan for crisis stabilization that meets requirements established by the department by rule;

(c) include a plan for appropriate followup care; and

(d) be medically necessary mental health services that:

(i) are delivered in direct response to a crisis in an effort to stabilize the individual in crisis;

(ii) provide diagnostic clarity;

(iii) are designed to treat symptoms that can be improved during the presumptive eligibility period; and

(iv) provide an appropriate alternative to psychiatric hospitalization.

(3) Crisis stabilization services include but are not limited to:

(a) two psychiatric diagnostic interview examinations during the crisis stabilization period;

(b) coordination of care as defined by the department by rule;

- (c) individual psychotherapy;
- (d) family psychotherapy conducted with or without the patient;
- (e) one-to-one community-based psychiatric rehabilitation and support; and
- (f) crisis management services as defined by the department by rule.

(4) (a) Except as otherwise provided in [sections 1 through 5], the department may adopt rules to establish limits on the scope and duration of crisis stabilization services.

(b) The department may not deny payment for medically necessary mental health services that are provided within 7 days of an individual's previous discharge from crisis stabilization services provided under [sections 1 through 5] unless the denial is made pursuant to [section 2] or [section 4].

NEW SECTION. Section 4. Claims and reimbursement -- exceptions. (1) The department shall adopt and make available a fee schedule for crisis stabilization services.

(2) Claims for crisis stabilization services provided pursuant to [sections 1 through 5] must be submitted to the department as provided by rule.

(3) Providers must accept the amounts payable under this section as payment in full for services delivered to eligible individuals during the presumptive eligibility period.

(4) Services delivered to an individual in crisis may not be reimbursed if:

(a) the services delivered were not approved for reimbursement by the department; or

(b) the provider is not enrolled with the department.

NEW SECTION. **Section 5. Rulemaking authority.** The department may adopt rules establishing:

(1) limits on the scope and duration of services;

(2) requirements for participating providers and their enrollment in the program;

(3) the scope of services that may be reimbursed because they involve coordination or management of care;

(4) the elements of the required plan for crisis stabilization;

(5) procedures for submitting claims for payment of services provided during the presumptive eligibility period;

(6) procedures for the department's review and audit of claims and for recovery of overpayments;

(7) record-keeping and confidentiality requirements; and

(8) any other requirements as needed to carry out the purpose of [sections 1 through 5].

NEW SECTION. **Section 6. {standard} Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [sections 1 through 5].

NEW SECTION. **Section 7. {standard} Effective date.** [This

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act] is effective July 1, 2013.

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