

Introduced by Senator EggmanFebruary 16, 2024

An act to amend Section 1374.724 of the Health and Safety Code, and to amend Section 10144.57 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1397, as introduced, Eggman. Behavioral health crisis services: reporting.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health and disability insurers by the Department of Insurance. Existing law requires a health care service plan contract or disability insurance policy to provide coverage for medically necessary treatment of mental health and substance use disorders, including behavioral health crisis services that are provided by an in-network or out-of-network 988 center, mobile crisis team, or other provider, as specified. Existing law requires a health care service plan or disability insurer to reimburse a 988 center, mobile crisis team, or other provider for emergency and nonemergency behavioral health crisis services and care pursuant to these provisions.

This bill would authorize a county to report to the Department of Managed Health Care or the Department of Insurance a complaint about a health care service plan's or a health insurer's failure to make a good faith effort to contract or enter into an agreement with the county to obtain reimbursement for behavioral health crisis services, or to timely reimburse the county for services the plan or insurer is required to cover

by state or federal law, and would require the respective department to timely investigate the complaint.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1374.724 of the Health and Safety Code
2 is amended to read:

3 1374.724. (a) Coverage of mental health and substance use
4 disorder treatment pursuant to Section 1374.72 includes behavioral
5 health crisis services that are provided to an enrollee by a 988
6 center, mobile crisis team, or other provider of behavioral health
7 crisis services, as set forth in Chapter 1 (commencing with Section
8 53000) of Part 1 of Division 2 of Title 5 of the Government Code,
9 regardless of whether the service is provided by an in-network or
10 out-of-network provider or facility. With respect to behavioral
11 health crisis services provided to an enrollee by a 988 center or
12 mobile crisis team, a health care service plan shall cover, at a
13 minimum, all items and services that are eligible for coverage
14 under the Medi-Cal program.

15 (b) (1) A health care service plan shall not require prior
16 authorization for behavioral health crisis stabilization services and
17 care provided by a 988 center, mobile crisis team, or other provider
18 of behavioral health crisis services to an enrollee pursuant to
19 Chapter 1 (commencing with Section 53000) of Part 1 of Division
20 2 of Title 5 of the Government Code.

21 (2) Notwithstanding any other law, payment for behavioral
22 health crisis stabilization services and care pursuant to this section
23 shall not be denied unless the health care service plan, or its
24 contracting medical provider, reasonably determines that the
25 services were never performed.

26 (3) If its prior authorization requirements comply with Section
27 1374.721, a health care service plan may require prior authorization
28 as a prerequisite for payment for medically necessary mental health
29 or substance use disorder services following stabilization from a
30 behavioral health crisis addressed by services provided through
31 the 988 system. If there is a disagreement between the health care
32 service plan and the behavioral health crisis service provider or
33 facility regarding the need for medically necessary mental health

1 or substance use disorder services following stabilization of the
2 enrollee, the plan shall assume responsibility for the care of the
3 enrollee by arranging for services for the enrollee pursuant to
4 Section 1374.72 at a level of care consistent with utilization review
5 criteria pursuant to Section 1374.721.

6 (4) A health care service plan shall not require, under any
7 circumstances, a behavioral health crisis services provider or
8 facility to discharge or transfer an enrollee before stabilization has
9 occurred or before utilization review consistent with Section
10 1374.721.

11 (c) (1) A health care service plan that is contacted by a 988
12 center, mobile crisis team, or other provider of behavioral health
13 crisis services shall, within 30 minutes of the time the provider
14 makes the initial telephone call requesting information, either
15 authorize poststabilization care or inform the provider that it will
16 arrange for the prompt transfer of the enrollee's care to another
17 provider.

18 (2) A health care service plan that is contacted by a 988 center,
19 mobile crisis team, or other provider of behavioral health crisis
20 services shall reimburse the provider for poststabilization care
21 rendered to the enrollee if any of the following occur:

22 (A) The health care service plan authorized the 988 center,
23 mobile crisis team, or other provider of behavioral health crisis
24 services to provide poststabilization care.

25 (B) The health care service plan did not respond to the provider's
26 initial contact or did not make a decision regarding whether to
27 authorize poststabilization care or to promptly transfer the
28 enrollee's care within the timeframe set forth in paragraph (1).

29 (C) There is an unreasonable delay in the transfer of the
30 enrollee's care to another provider, and the provider determines
31 that the enrollee requires poststabilization care.

32 (3) A health care service plan shall prominently display on its
33 internet website the specific telephone number for noncontracting
34 providers to obtain prompt authorization for the transfer of a
35 stabilized enrollee's care to another provider or authorization to
36 provide poststabilization care. The health care service plan shall
37 ensure the telephone number published on its internet website is
38 the correct telephone number for purposes of this paragraph. The
39 health care service plan shall update the telephone number on the
40 plan's internet website within one business day if the telephone

1 number changes. A health care service plan shall provide the
2 telephone number to the department, and the department shall post
3 the telephone number on its internet website.

4 (4) To the extent permissible under federal law, a health care
5 service plan shall not require a 988 center, mobile crisis team, or
6 other provider of behavioral health crisis services to make more
7 than one telephone call to the number provided in advance by the
8 health care service plan. The representative of the 988 center,
9 mobile crisis team, or other provider of behavioral health crisis
10 services that makes the telephone call may be, but is not required
11 to be, a physician or surgeon.

12 (5) A 988 center, mobile crisis team, or other provider of
13 behavioral health crisis services shall not bill a patient who is an
14 enrollee of a health care service plan for poststabilization care,
15 except for the in-network cost-sharing amount as defined in
16 paragraph (2) of subdivision (d). An enrollee who is billed in
17 violation of this section may report receipt of the bill to the health
18 care service plan and the department. The department shall forward
19 that report to the State Department of Public Health.

20 (d) (1) Notwithstanding subdivision (f) of Section 1371.4, a
21 health care service plan shall reimburse a 988 center, mobile crisis
22 team, or other provider of behavioral health crisis services for
23 emergency and nonemergency behavioral health crisis services
24 and care pursuant to this section, consistent with the requirements
25 of Section 1371.4 and any other applicable requirement of this
26 chapter.

27 (2) If an enrollee receives services and care pursuant to this
28 section from a 988 center, mobile crisis team, or other provider of
29 behavioral health crisis services outside the plan network, the
30 enrollee shall pay no more than the same cost sharing that the
31 enrollee would pay for the same services received from an
32 in-network provider. This amount shall be referred to as the
33 “in-network cost-sharing amount.” An out-of-network 988 center,
34 mobile crisis team, or other provider of behavioral health crisis
35 services shall not bill or collect an amount from the enrollee for
36 services subject to this section except for the in-network
37 cost-sharing amount.

38 (e) (1) *A county may report to the Department of Managed*
39 *Health Care a complaint about a health care service plan’s failure*
40 *to make a good faith effort to contract or enter into a single case*

1 agreement or other agreements with the county to obtain
2 reimbursement for behavioral health crisis services.

3 (2) A county may report to the department a failure by a health
4 care service plan to timely reimburse the county for services the
5 plan is required to cover by state or federal law, including, but
6 not limited to, Sections 1374.72 and 1374.721.

7 (3) Upon receipt of a complaint reported by a county pursuant
8 to paragraph (1) or (2), the department shall timely investigate
9 the complaint.

10 (e)

11 (f) For purposes of this section:

12 (1) “Behavioral health crisis services” has the same meaning
13 as set forth in Section 53123.1.5 of the Government Code.

14 (2) “Behavioral health crisis stabilization services” means the
15 services necessary to determine if a behavioral health crisis exists
16 and, if a behavioral health crisis does exist, the care and treatment
17 that is necessary to stabilize the behavioral health crisis within the
18 capability of the 988 center, mobile crisis team, or other provider
19 of behavioral health crisis services.

20 (3) “Poststabilization care” means medically necessary care
21 provided after a behavioral health crisis has been stabilized.

22 (4) An enrollee is “stabilized” or “stabilization” has occurred
23 when, in the opinion of the treating provider or facility, the
24 enrollee’s condition is such that, within reasonable medical
25 probability, both of the following criteria are satisfied:

26 (A) Material deterioration of the enrollee’s condition is unlikely
27 to result from, or occur during, the discharge or transfer of the
28 enrollee to the care of another provider.

29 (B) The enrollee is able to safely travel from the site of care
30 using nonmedical transportation or nonemergency medical
31 transportation. The health care service plan shall continue to cover
32 all services and care as behavioral health crisis stabilization services
33 and care until the enrollee is discharged or transferred.

34 (f)

35 (g) This section does not excuse a health care service plan from
36 complying with Section 1374.72 or any other requirement of this
37 chapter.

38 (g)

39 (h) This section does not apply to Medi-Cal managed care
40 contracts entered pursuant to Chapter 7 (commencing with Section

1 14000), Chapter 8 (commencing with Section 14200), or Chapter
2 8.75 (commencing with Section 14591) of Part 3 of Division 9 of
3 the Welfare and Institutions Code between the State Department
4 of Health Care Services and a health care service plan for enrolled
5 Medi-Cal beneficiaries.

6 SEC. 2. Section 10144.57 of the Insurance Code is amended
7 to read:

8 10144.57. (a) Coverage of mental health and substance use
9 disorder treatment pursuant to Section 10144.5 includes behavioral
10 health crisis services that are provided to an insured by a 988
11 center, mobile crisis team, or other provider of behavioral health
12 crisis services, as set forth in Chapter 1 (commencing with Section
13 53123.1) of Part 1 of Division 2 of Title 5 of the Government
14 Code, regardless of whether the service is provided by an
15 in-network or out-of-network provider or facility. With respect to
16 behavioral health crisis services that are provided to an insured by
17 a 988 center or mobile crisis team, a health insurance policy shall
18 cover, at a minimum, all items and services that are eligible for
19 coverage under the Medi-Cal program.

20 (b) (1) An insurer shall not require prior authorization for
21 behavioral health crisis stabilization services and care provided
22 by a 988 center, mobile crisis team, or other provider of behavioral
23 health crisis services.

24 (2) Notwithstanding any other law, payment for behavioral
25 health crisis stabilization services and care pursuant to this section
26 shall not be denied unless a health insurer reasonably determines
27 that care was not rendered.

28 (3) If its prior authorization requirements comply with Section
29 10144.4, a health insurer may require prior authorization for
30 poststabilization care. If there is a disagreement between a health
31 insurer and behavioral health crisis services provider or facility
32 regarding the need for poststabilization care, an insurer shall
33 assume responsibility for care of the insured by promptly arranging
34 for care pursuant to Section 10144.5 at a level of care determined
35 in accordance with utilization review criteria under Section
36 10144.52.

37 (4) An insurer shall not require, under any circumstances, a
38 behavioral health crisis services provider or facility to discharge
39 or transfer an insured before stabilization has occurred or before

1 it has conducted utilization review in accordance with Sections
2 10144.5 and 10144.52.

3 (c) (1) If prior authorization is required for poststabilization
4 care, a health insurer that is contacted by a 988 center, mobile
5 crisis team, or other provider of behavioral health crisis services
6 shall, within 30 minutes of the time the provider makes the initial
7 contact, either authorize poststabilization care or inform the
8 provider that it will arrange for the prompt transfer of the insured's
9 care to another provider.

10 (2) A health insurer that is contacted by a 988 center, mobile
11 crisis team, or other provider of behavioral health crisis services
12 shall reimburse the provider or facility for poststabilization care
13 rendered to the insured if any of the following occur:

14 (A) The health insurer authorized the 988 center, mobile crisis
15 team, or other provider of behavioral health crisis services to
16 provide poststabilization care.

17 (B) The health insurer did not respond to the provider's initial
18 contact or did not make a decision regarding whether to authorize
19 poststabilization care or to promptly transfer the insured's care
20 within the timeframe set forth in paragraph (1).

21 (C) There is an unreasonable delay in the transfer of the
22 insured's care to another provider, and the provider determines
23 that the insured requires poststabilization care.

24 (3) A health insurer shall prominently display on its internet
25 website the specific telephone number for noncontracting providers
26 to obtain prompt authorization for the transfer of a stabilized
27 insured's care to another provider or authorization to provide
28 poststabilization care. The health insurer shall ensure the telephone
29 number published on its internet website is the correct telephone
30 number for purposes of this paragraph. The health insurer shall
31 update the telephone number on its internet website within one
32 business day if the telephone number changes. A health insurer
33 shall provide the telephone number to the department.

34 (4) A health insurer shall not require a 988 center, mobile crisis
35 team, or other provider of behavioral health crisis services to make
36 more than one telephone call to the number provided in advance
37 by the health insurer. The representative of the 988 center, mobile
38 crisis team, or other provider of behavioral health crisis services
39 that makes the telephone call may be, but is not required to be, a
40 physician or surgeon.

1 (5) A 988 center, mobile crisis team, or other provider of
 2 behavioral health crisis services shall not bill a patient who is an
 3 insured of a health insurer for poststabilization care, except for the
 4 in-network cost-sharing amount as defined in paragraph (2) of
 5 subdivision (d). An insured who is billed in violation of this section
 6 may report receipt of the bill to the health insurer and the
 7 department. The department shall forward that report to the State
 8 Department of Public Health.

9 (d) (1) An insurer shall reimburse a 988 center, mobile crisis
 10 team, or other provider of behavioral health crisis services for
 11 emergency or nonemergency behavioral health crisis services and
 12 care pursuant to this section, consistent with the requirements of
 13 Sections 10123.13, 10123.147, and any other applicable
 14 requirement of this part.

15 (2) If an insured receives behavioral health crisis services and
 16 care pursuant to this section from a 988 center, mobile crisis team,
 17 or other provider of behavioral health crisis services that is an
 18 out-of-network provider, the insured shall pay no more than the
 19 same cost sharing that the insured would pay for the same items
 20 or services received from an in-network provider. This amount
 21 shall be referred to as the “in-network cost-sharing amount.” An
 22 out-of-network 988 center, mobile crisis team, or other provider
 23 of behavioral health crisis services shall not bill or collect an
 24 amount from the insured for services subject to this section except
 25 for the in-network cost-sharing amount.

26 (e) (1) *A county may report to the Department of Insurance a*
 27 *complaint about a health insurer’s failure to make a good faith*
 28 *effort to contract or enter into a single case agreement or other*
 29 *agreements with the county to obtain reimbursement for behavioral*
 30 *health crisis services.*

31 (2) *A county may report to the department a failure by a health*
 32 *insurer to timely reimburse the county for services the insurer is*
 33 *required to cover by state or federal law, including, but not limited*
 34 *to, Sections 10144.5 and 10144.52.*

35 (3) *Upon receipt of a complaint reported by a county pursuant*
 36 *to paragraph (1) or (2), the department shall timely investigate*
 37 *the complaint.*

38 (e)

39 (f) For purposes of this section:

1 (1) “Behavioral health crisis services” has the same meaning
2 as set forth in Section 53123.1.5 of the Government Code.

3 (2) “Behavioral health crisis stabilization services” means health
4 care items and services that are necessary to determine if a
5 behavioral health crisis exists and, if a behavioral health crisis does
6 exist, the care and treatment that is necessary to stabilize the
7 behavioral health crisis, within the capability of the 988 center,
8 mobile crisis team, or other provider of behavioral health crisis
9 services.

10 (3) “Poststabilization care” means medically necessary care
11 provided after a behavioral health crisis has been stabilized.

12 (4) An insured is “stabilized” or “stabilization” has occurred
13 when, in the opinion of the treating provider or facility, the
14 insured’s condition is such that, within reasonable medical
15 probability, both of the following criteria are satisfied:

16 (A) Material deterioration of the insured’s condition is unlikely
17 to result from, or occur during, the discharge or transfer of the
18 insured to the care of another provider or facility.

19 (B) The insured is able to travel safely from the site of care
20 using nonmedical transportation or nonemergency medical
21 transportation. The health insurer shall continue to cover all
22 services and care as behavioral health crisis stabilization services
23 until the insured is discharged or transferred.

24 ~~(f)~~

25 (g) This section does not excuse a disability insurer from
26 complying with Section 10144.5 or any other requirement of this
27 part.

28 ~~(g)~~

29 (h) This section does not apply to Medicare supplement,
30 dental-only, or vision-only health insurance policies.

31 ~~(h)~~

32 (i) The commissioner may promulgate regulations subject to
33 the Administrative Procedure Act (Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code) to implement this section, and Section 10144.4, 10144.5,
36 10144.51, or 10144.52 of this code. This subdivision shall not be
37 construed to impair or restrict the commissioner’s rulemaking

- 1 authority pursuant to another provision of this code or the
- 2 Administrative Procedure Act.

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