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STATE OF WISCONSIN
Department of Children and Families, Division of Safety and Permanence
Department of Health Services, Division of Mental Heath and Substance Abuse Services

To: DCF and DHS Area Administrators/ Human Services Area Coordinators
DCF and DHS Bureau Directors
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Indian Child Welfare Directors
DCF Section Chiefs/Licensing Chiefs
Tribal Chairpersons/Human Services Facilitators

From: Fredi Bove, Administrator Fredi-Ellen Bove
Division of Safety and Permanence

Linda Harris, Administrator
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Re: Use of Out-of-Home Care for Mental Health Crisis Stabilization

This memo provides guidance regarding the use of out-of-home care (OHC) providers licensed under Chapter 48 for mental health crisis services to children. The memo explains how OHC providers may be used under current statutes and administrative rules, and offers recommendations for how crisis services should be delivered in an OHC setting.

Background

Chapter 51 specifies the mental health services that can be provided to children, while Chapter 48 specifies the types of OHC providers that are licensed to care for children, including foster care (FC), group home (GH), residential care center (RCC), and shelter care (SC). Children may be placed in OHC through voluntary placement agreements or court order under Chapters 48 and 938, Wis. Stats. A voluntary placement agreement under Chapter 48 is considered an OHC placement subject to state and federal requirements, and the county child welfare or juvenile justice agency making the placement has placement and care responsibility for the child.

Chapters 48 and 51 provide authority to place children in hospitals or treatment facilities for mental health evaluation and treatment services. Section 51.15 Wis. Stats. authorizes involuntary emergency detentions of children in approved treatment facilities. Subsection 51.01(19) defines an approved treatment facility as any publicly or privately operated facility (or unit thereof) which provides treatment to persons who are mentally ill, alcohol, drug dependent or developmentally disabled including, but not limited to, inpatient and outpatient treatment programs, community support programs and rehabilitation programs. Emergency mental health service programs certified under DHS 34 subchapter III as meeting the standards established by DHS are approved treatment facilities.

For crisis services provided to children, per DHS 34 guidelines services must include a crisis assessment and crisis response plan which is approved by a mental health professional within 14 days, and follow all other guidelines found in ForwardHealth Updates 2006-55 and 2010-06. All approved services must be medically necessary. It is important that the county/tribal mental health agency provide a screening mechanism to ensure that children who are served in such a program do not need hospital-level inpatient services. The program staff needs to assess the child's level of risk of dangerousness to determine whether a lesser degree of treatment than a psychiatric hospitalization is appropriate. There must be sufficient observation, monitoring, evaluation, treatment and supervision of the child to provide safety and security. Arrangements for transportation to an inpatient hospital must be made available if the child's level of risk of dangerousness is assessed to require a more restrictive setting.

OHC providers are an important resource for crisis stabilization services, and many placements of children are made under Chapters 48/938 to address mental health needs. ForwardHealth Update memos 2006-55 and 2010-06 provide policy guidelines for DHS 34 crisis stabilization programs. Changes in the mental health services available through the state mental health institutes and hospitals have raised questions about how OHC providers can be used more extensively for mental health crisis services. Specific questions have been raised about the need for child welfare/juvenile intake involvement with crisis services to children in OHC due to the “placement” of the child if involvement by child welfare/juvenile intake would otherwise not be necessary. To address these questions, the Divisions of Safety and Permanence and Mental Health and Substance Abuse Services are issuing new guidance to update the 1996 memo, based on the current statutes and administrative rules.

Current Policies

Mental health crisis services include initial assessment and planning, crisis linkage and follow up, and optional crisis stabilization. Crisis programs also provide evaluation for involuntary emergency detentions. Department of Health Services (DHS) Administrative Rule Chapter 34 subchapter III provides specific direction regarding mental health crisis services. County/tribal agencies must be DHS 34 certified and service providers must be included in the certification plan to receive Medicaid reimbursement for crisis services. Agencies may provide crisis services without being DHS 34 certified, but such services are not eligible for Medicaid reimbursement.

The requirements for Medicaid reimbursement of crisis services are specified under ForwardHealth Update memos 2006-55 and 2010-06, as well as the Medicaid Online Handbook. These memos indicate the specific types of crisis stabilization services that qualify for Medicaid reimbursement and the requirements for response plans and crisis plans.

Section 48.63 Wis. Stats. authorizes the voluntary placement of children in OHC. The statute specifically authorizes the use of FC, and GH providers on a voluntary basis. The statute does not allow the use of SC for voluntary placements and does not reference RCC providers.

The s.48.63 requirements for voluntary placements include: limits on the lengths of stay in a voluntary placement, seeking a court order to continue the placement beyond the time limits, placements be in a non-secure setting, and the voluntary agreement can be terminated at any time. Voluntary placements in FC settings are limited to 180 days. Voluntary placements in GH settings are limited to 15 days. DCF 52 limits respite care in a RCC to 9 days. The voluntary agreement must be signed by the child’s parent or guardian, and if the child is 12 years or older, the child must consent to the agreement. See DCFS Numbered Memo 2006-13 for more information about child consent to child welfare voluntary placement agreements.

Shelter care (SC) may be used only for the purpose of seeking a court order. Per statute and DCF Administrative Rule Chapter 59, only the court or authorized juvenile intake worker can place children in shelter care and placement is only for the purpose of pending court action. Shelters cannot be used for voluntary placements, including crisis stabilization services.

New Guidance

This memo uses the existing authority for voluntary child welfare placements to support voluntary stays in OHC for purposes of providing mental health crisis stabilization services. The intent is to allow the use of OHC settings for initiating voluntary crisis services without requiring the intervention of child welfare/juvenile intake processes. The memo provides guidance for crisis stabilization services. Crisis services provided by mental health agencies for children in OHC settings remain subject to other DHS mental health and Medicaid requirements and OHC providers remain subject to DCF OHC requirements.

Crisis Stabilization Services
Per DHS 34, crisis stabilization services are short term, intensive services to children undergoing a mental health crisis to stabilize a child's behavior. Crisis stabilization services are part of a county/tribal crisis program and must include an initial assessment, crisis response plan, be medically necessary, and must be approved by a mental health professional within 14 days, as outlined in ForwardHealth Update memos 2006-55 and 2010-06 and DHS 34. Medicaid-approved crisis stabilization settings are limited to: licensed CBRF, licensed children's group home, and licensed children's foster home.

NOTE: Voluntary placements being made under the s.48.63 process continue to require child welfare/juvenile intake involvement as an OHC placement with the child welfare agency having placement and care responsibility.

This memo defines short-term crisis stabilization services in an OHC setting as a mental health treatment service, not an OHC placement. Children receiving crisis stabilization services delivered with the voluntary consent of the family at an appropriate OHC provider are not subject to permanency planning, ICWA and IV-E requirements. Although the children are not considered to be in OHC placement, the OHC provider remains subject to child welfare licensing requirements regarding operation of the foster home, GH or RCC.

Child welfare/juvenile intake involvement is not required to arrange the crisis stabilization service, but mental health staff shall consult with child welfare/juvenile intake staff to determine whether particular OHC providers have the capability of serving youth in a mental health crisis. The determination of provider capacity shall take into account other children present in the home/facility and the impact of crisis stabilization service delivery on those other children. To the extent possible, child welfare/juvenile staff shall be consulted on crisis stabilization for individual children to advise whether use of an OHC provider is appropriate at that time given the needs of the particular child and other children currently residing in the home/facility. FC providers shall be used only if the licensing agency has approved the provider as an appropriate setting for crisis stabilization and other children in the home will not be adversely affected. GH and RCC providers licensed to provide respite care can accept children for crisis stabilization service if the provider has the capability to offer crisis stabilization services and the provider can assure that other children in the facility will not be adversely affected. Note: RCC is not a Medicaid allowable crisis stabilization setting.

OHC providers shall notify agencies that have placed other children in the home/facility of new crisis stabilization admissions so that the agencies are aware of the crisis stabilization service delivery and can consult with the provider regarding care of the other children.

A crisis services admission agreement evidencing the informed consent of family must be used to authorize the crisis stabilization service so the OHC provider can accept the child. DHS recommends the attached agreement be used for initiating crisis stabilization services. If agencies use their own crisis stabilization services agreement form, the agreement should clearly indicate that the stay is for crisis stabilization purposes, the child welfare agency does not have placement and care responsibility for the child, and the duration of the stay reflecting the maximum number of days recommended below. These components will distinguish the crisis services agreement from an OHC placement agreement, which must meet IV-E requirements.

If the crisis stabilization stay of the child will exceed the maximum number of days presented below and the child cannot return to his or her family, the child welfare agency must be notified and the Chapter48/938 requirements for OHC placements will apply from that point forward. Any decision to continue to have the child reside with an OHC provider must be done using a child welfare voluntary placement agreement or a temporary physical custody (TPC) action by the child welfare agency, with the specific action directed by state statute. The use of the placement agreement or TPC action will establish the child's removal date from home, begin an OHC placement for child welfare purposes, require permanency planning, and compliance with ICWA and IV-E requirements.

OHC Provider	Authority to use OHC	Maximum Length of Stay (Calendar Days)
FC – if approved for crisis stabilization services	Voluntary Crisis Services Agreement	Up to 5 days
GH – if license allows crisis stabilization services	Voluntary Crisis Services Agreement	Up to 5 days
RCC – if license allow crisis stabilization services (this setting is not reimbursable through Medicaid)	Voluntary Crisis Services Agreement	Up to 5 days
SC	Not allowed for voluntary crisis stabilization	N/A

Crisis programs are responsible for determining that particular OHC providers are an appropriate setting for crisis stabilization services and that providers have the capacity to serve youth in a mental health crisis or appropriate mental health services can be brought on –site. OHC providers offering crisis stabilization services must be included in the county or tribal DHS 34 subchapter III 34.22 Services (1) Plan for Coordination of Services. The OHC provider and caregiving staff must meet the pertinent standards under DHS 34 subchapter III (staff qualifications, supervision, training and backup). GH and RCC providers shall consult with DCF licensing staff to determine whether providing crisis stabilization services has implications for their GH or RCC licenses.

Agencies must be certified under DHS 34 subchapter III to provide crisis stabilization services in OHC settings, whether or not there will be a Medicaid claim for reimbursement. Agencies that are not DHS 34 Subchapter III certified are not permitted to provide crisis stabilization services. Medicaid reimbursement is not allowed for crisis stabilization services in an RCC.

The specific services billed to Medicaid must be in accordance with Forward Health Medicaid Provider Memos. There is no time limit on Medicaid reimbursement for crisis services, though if crisis stabilization services by an OHC provider extend beyond the 5 day limit provided in this memo, both Medicaid rules for crisis stabilization services and child welfare rules for out-of-home placement will apply concurrently.

The crisis stabilization service must include an assessment of the child's mental health needs which should be discussed with the family to determine the need for subsequent mental health services. OHC providers offering crisis stabilization services shall have qualified staff to conduct assessments and care for children with mental health crisis needs, or the mental health agency should arrange for qualified mental health staff to oversee the assessment and care of the child while on-site at the OHC provider. In accordance with DHS 34.21(4), 34.21(7) and 34.22(4)

FC providers may be used for crisis stabilization services only if appropriate mental health supports are available within the home or brought on-site and children in crisis can be effectively served without adversely affecting other children in the home. For shift-staffed FC providers, the licensing exception approved by DCF must specifically allow for crisis stabilization services. GH and RCC providers may be used for crisis stabilization services only if appropriately qualified staff or mental health supports in accordance with DHS 34.21(4), 34.21(7) and 34.22(4) are available within the facility or brought on-site and the children in crisis can be effectively served without adversely affecting other children in the facility. This may require special arrangements within a provider's facility.

Arranging Crisis Stabilization Stays at OHC Providers

Parental approval is necessary for voluntary mental health crisis stabilization admissions with OHC providers. Parents should understand that they retain all parental rights and responsibilities for the care of the children, including being financially responsible for all or a portion of the cost of the service as established by the mental health agencies billing policies and DHS 1. Since the crisis services agreement is voluntary, the parents can terminate the admissions agreement at any time during the crisis stay at the OHC provider. Children age 14 or older must consent to the admissions agreement for mental health services and the OHC provider will inform parents that the OHC provider cannot detain a child against his/her will should the child wish to leave the OHC setting. Families can sign admission agreements in advance so that crisis services can be provided in predictable crises as outlined in the child's crisis plan.

Parents shall consider the need for emergency medical care while children are staying with the OHC provider. Emergency medical services consent forms, such as the DCF CFS-0997 form, can be completed at the time the crisis services admission agreement is signed to authorize the OHC provider to obtain emergency medical services for children.

The OHC provider will inform parents that in the event that the child is not able to return home at the end of the crisis stabilization service, the child welfare agency will be notified and an OHC placement or other action will be necessary. The specific type of placement action necessary will depend on the situation and the child may need to be placed with a different OHC provider.

The county/tribal mental health agency is responsible for making arrangements with the parents for the transportation of children to the OHC provider for crisis stabilization services, and the return home following discharge. Mental health service providers acting under contract with the crisis program may make arrangements to provide crisis stabilization services to children, including transporting children to OHC providers, without being licensed as a child placing agency as long as the crisis program remains responsible for the safety of the children.

The mental health agency is responsible for payment to OHC providers for mental health crisis stabilization services. Payments for room and board of children should follow the limits in effect for child welfare OHC payments, including the regulation of TFC administrative payments, GH payments and RCC payments that will go into effect in CY 2011. Mental health agencies can make separate payments to OHC providers for additional crisis stabilization services. Medicaid reimbursement for crisis stabilization services does not include room and board.

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DHS Agreement for Crisis Services, F0035, https://www.dhs.wisconsin.gov/forms/index.htm

MEMO WEB SITE: https://dcf.wisconsin.gov/cwportal/policy

https://www.dhs.wisconsin.gov/aboutdhs/memos.htm