



Equity in Emergency Services: Utilizing the No Surprises Act and MHPAEA to Ensure Coverage of 988 Crisis Care Continuum

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988 Behavioral Health “Crisis” Continuum

988 is central to the BH emergency services continuum

Key components include:

- 24/7 Crisis Call Centers – “Someone to talk to”
- Mobile Crisis Teams – “Someone to respond”
 - Staffed mental health professionals, including peers
- Crisis stabilization programs – “Somewhere to go”
 - Short-term observation and stabilization with “warm hand-off” to follow-up services (both more and less intensive)

Potential funding sources:

- Federal funding (include block grants), Medicaid, state general funds, 988 telephone user fees (authorized by federal law)
- *Why isn't commercial insurance part of the conversation?*

Coverage of BH Emergency Services

- Under No Surprises Act, coverage of behavioral health emergency services in a state-licensed facility is **required** (i.e. crisis receiving and stabilization)
 - “Emergency medical condition” includes mental health and substance use disorders.
 - “Emergency services” are essentially services needed to stabilize the patient (though, NSA expands further to some post-stabilization services).
 - “Independent freestanding emergency department” is “a health care facility that— (i) is geographically separate and distinct and licensed separately from a hospital under applicable State law; and (ii) provides any of the emergency services...”
 - If behavioral health crisis receiving/stabilization facilities are licensed in your state and if they are providing “emergency services,” insurers must cover these services:
 - Without prior authorization
 - Without regard to network status
 - Limiting enrollee’s obligations to in-network cost sharing
- Thus, federal law requires facility-based BH emergency services to be reimbursed – a key piece of the 988 continuum of care.

Coverage of BH Mobile Crisis Response

- NSA doesn't touch services provided outside a facility
- But what about MHPAEA?
 - Certainly MHPAEA applies and any NQTLs applied to mobile crisis response services must meet its requirements.
 - But what classification? Only "emergency" makes sense for mobile crisis response services.
 - Ambulance services are pre-stabilization and always classified as "emergency."
 - Plan cannot apply different classification standard for BH.
 - Plan cannot apply separate NQTL that applies only to BH within the classification.
 - Washington State released MHPAEA memo on new surprise billing law (HB1688) that demonstrates that the law's coverage requirement for BH emergency services ensures plans are complying with MHPAEA because "any restriction on coverage of behavioral health emergency and crisis services where there exists coverage for medical emergency and urgent care services would be in violation of MHPAEA."
- MHPAEA can be powerful tool to ensure appropriate mobile crisis response coverage (though, WA made requirements explicit in statute).