HUMAN SERVICES DEPARTMENT[441]
Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These proposed amendments reflect the new accreditation standards in rule 441—24.21(225C) for crisis response services. Iowa Medicaid currently covers crisis response services; however, these amendments will clarify services covered and provide standards for operation for Medicaid crisis response service providers.

These amendments also establish the process by which the Department of Human Services’ Iowa Medicaid Enterprise (IME) will enroll and reimburse qualified subacute mental health facility providers.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 3439C on November 8, 2017. The Department received no comments during the public comment period. These amendments are identical to those published as Notice of Intended Action.

The Council on Human Services adopted these amendments on December 13, 2017.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).
After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective February 7, 2018.

The following amendments are adopted.

ITEM 1. Adopt the following new rule 441—77.55(249A):

441—77.55(249A) Crisis response services.

77.55(1) Definitions. The terms used in this rule shall have the same meaning as set out in 441—Chapter 24, Division II.

77.55(2) Eligible providers. Agencies which are accredited under the mental health service provider standards established by the mental health and disability services commission, set forth in 441—Chapter 24, Division II, are eligible to participate in the program by providing crisis response services, crisis stabilization community-based services, and crisis stabilization residential services.

77.55(3) Provider standards. All providers of crisis response services, crisis stabilization community-based services, and crisis stabilization residential services shall meet the standards criteria as set forth in 441—Chapter 24, Division II.

ITEM 2. Adopt the following new rule 441—77.56(249A):

441—77.56(249A) Subacute mental health services.

77.56(1) Definitions. The terms used in this rule shall have the same meaning as set out in Iowa Code section 135G.1.

77.56(2) Subacute mental health services. Subacute mental health services are intended to be short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health
condition.

77.56(3) Eligible provider. Subacute mental health care facilities which are licensed by the department of inspections and appeals in accordance with 481—Chapter 71 are eligible to participate in the program by providing subacute mental health services.

77.56(4) Provider standards. All providers of subacute mental health services shall meet the standards criteria as set forth in 481—Chapter 71.

ITEM 3. Adopt the following new rule 441—78.60(249A):

441—78.60(249A) Crisis response services. Payment will be made to providers (eligible pursuant to rule 441—77.55(249A)) of crisis response services, crisis stabilization community-based services, and crisis stabilization residential services delivered as set forth in 441—Chapter 24, Division II.

ITEM 4. Adopt the following new rule 441—78.61(249A):

441—78.61(249A) Subacute mental health services. Payment will be made to providers (eligible pursuant to rule 441—77.56(249A)) for the provision of subacute mental health care facility services that meet the standards outlined in 481—Chapter 71.

ITEM 5. Adopt the following new provider categories in subrule 79.1(2):

<table>
<thead>
<tr>
<th>Provider category</th>
<th>Basis of reimbursement</th>
<th>Upper limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crisis response services</td>
<td>Fee schedule</td>
<td>Fee schedule in effect 2/1/18.</td>
</tr>
<tr>
<td>Crisis stabilization community-based services</td>
<td>Fee schedule</td>
<td>Fee schedule in effect 2/1/18.</td>
</tr>
<tr>
<td>Crisis stabilization residential services</td>
<td>Fee schedule</td>
<td>Fee schedule in effect 2/1/18.</td>
</tr>
<tr>
<td>Subacute mental health</td>
<td>Fee schedule</td>
<td>Fee schedule in effect</td>
</tr>
</tbody>
</table>
ITEM 6. Adopt the following new subparagraph 79.3(2)“d”(44):

(44) Crisis response services, crisis stabilization community-based services and crisis stabilization residential services.

1. Physician orders or court orders.
2. Independent assessment.
3. Individual treatment plan.
4. Service notes or narratives (history and physical, therapy records, discharge summary).
5. Medication administration records (residential services).

ITEM 7. Adopt the following new subparagraph 79.3(2)“d”(45):

(45) Subacute mental health services.

1. Assessment.
2. Individual stabilization plan.
3. Service notes or narratives (history and physical, therapy records, discharge summary).
4. Medication administration records (residential services).
1. Give a brief summary of the rule changes:

These rules reflect the new accreditation standards in Iowa Admin. Code rr. 441.24.20 et seq. for crisis response services. These rules add Crisis Response services to Chapter 77, 78 and 79 to provide clarification of Medicaid coverage for crisis response services. Iowa Medicaid currently covers Crisis Response services; these rules will clarify services covered and provide standards for operation for Medicaid crisis response service providers.

These amendments establish the process by which the Department of Human Services Iowa Medicaid Enterprise will enroll and reimburse qualified subacute mental health facility providers.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

Crisis Response
The 2014 Legislature passed HF 2379 requiring the Department to accredit or apply standards of review to crisis stabilization programs.

Subacute Mental Health Facility
The Iowa General Assembly created Iowa Code Chapter 135G for facilities to provide short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health condition.

3. What is the reason for the Department requesting these changes?

HF 2379 requires the Department to accredit crisis stabilization programs. These rules will set an expected standard Medicaid providers must meet for crisis response services.

Iowa Code Chapter 135G establishes the law for subacute care facilities. DIA is responsible for licensing subacute care facilities, and the Department must approve the licensing application based on the established process, which must identify the most qualified providers and geographically disburse no more than 75 beds.

4. What will be the effect of this rule making (who, what, when, how)?

The rules will affect providers that are in the process developing and/or currently operating crisis response services. These providers will be required to meet the accreditation standards as set forth in this rule.

These rules will set an expected standard Medicaid providers must meet for subacute mental health care facility services.
Medicaid members utilizing crisis response services can expect a standard of service, staff qualifications and quality from providers receiving a Chapter 24 accreditation.

5. Is the change mandated by State or Federal Law?

Yes. HF 2379 requires the Department to accredit crisis stabilization programs. These rules will set an expected standard Medicaid providers must meet for crisis response services.

Iowa Code Chapter 135G establishes the law for subacute care facilities. DIA is responsible for licensing subacute care facilities, and the Department must approve the licensing application based on the established process, which must identify the most qualified providers and geographically disburse no more than 75 beds.

6. Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person’s (organization’s) benefit or detriment?

The rules will affect providers that are in the process of developing and/or currently operating crisis response services. These providers will be required to meet the accreditation standards as set forth in this rule.

Providers with existing crisis response services may not want to change their service to meet the Chapter 24 accreditation standards in order to continue to bill Medicaid for those services. These crisis programs will provide individuals with other options for services prior to needing a higher level of service, such as in-patient psychiatric hospitalization, which should decrease the dependency on the higher level of services.

These rules will set an expected standard Medicaid providers must meet for subacute mental health care facility services.

7. What are the potential benefits of this rule?

The state can expect a standard of service, staff qualifications and quality from providers delivering crisis response and subacute mental health care services. Some of the crisis response services are Medicaid-funded services, so as providers develop these programs they will be able to offer these services to individuals eligible for Medicaid. These crisis programs will provide individuals with other options for services prior to needing a higher level of service, such as in-patient psychiatric hospitalization, which should decrease the dependency on the higher level of services.

Subacute services are one of the additional core services to be provided by Mental Health and Disability Services (MHDS) regions when public funds become available. Some MHDS regions and providers are interested in developing subacute services provided in a subacute care facility. These amendments will provide another option to provide and fund short-term, intensive mental health services to the citizens of Iowa.

8. What are the potential costs, to the regulated community or the state of Iowa as a whole, of this rule?
Crisis response and subacute services are expected to reduce the utilization of more costly inpatient hospitalizations and emergency room costs thereby resulting in an overall reduction of costs to Medicaid. A recent study by Wilder Research (2013) on crisis stabilization programs in the Minneapolis area found that the net benefit for crisis stabilization services was $.3 million, with a return of $2.16 for every dollar spent.

9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code sections apply?

- Iowa Department of Human Services, Mental Health and Disability Services, Iowa Admin. Code ch. 441-24
- Iowa Code Chapter 135G Subacute Mental health care facilities
- Iowa Department of Inspections and Appeals, Health Facilities Division, Iowa Admin. Code ch. 481-71.

10. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

There are no known alternatives to making these rules as required by Iowa Code.

11. Does this rule contain a waiver provision? If not, why?

No waiver provisions are included because intent is to have uniform services across the state.

12. What are the likely areas of public comment?

Providers with existing crisis response services may not want to change their service to meet the Chapter 24 accreditation standards in order to continue to provide the services.

13. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)

Yes, there is an opportunity for more qualified mental health care professionals and peer support specialists as the crisis response services and subacute mental health care facility develops and expands.
Summary of the rule:
These rules reflect the new accreditation standards in IAC 442.24 for crisis response services. These rules add Crisis Response services to Chapter 77, 78 and 79 to provide clarification of Medicaid coverage for crisis response services. Iowa Medicaid currently covered Crisis Response services; these rules will clarify services covered and provide standards for operation for Medicaid crisis response service providers. These amendments establish the process by which the Department of Human Services Iowa Medicaid Enterprise will enroll and reimburse qualified subacute mental health facility providers.

Fill in this box if the impact meets these criteria:

___ No fiscal impact to the state.
___ Fiscal impact of less than $100,000 annually or $500,000 over 5 years.
X Fiscal impact cannot be determined.

Brief explanation:
Crisis Services
Iowa Medicaid currently reimburses for crisis response services. With the clarification in rules, the department will be adding new procedure codes for hourly crisis stabilization and crisis observation/holding. The crisis stabilization per diem rate will also be increasing to align with the provider qualifications. In addition, two Level II HCPCS Modifiers will be added to enable paraprofessionals and peer specialists to provide several of the crisis response services.

It is anticipated there will be new Medicaid expenditures for crisis response services as the state clarifies Medicaid participation and reimbursement. However, these services are expected to reduce the utilization of more costly inpatient hospitalizations and emergency room (ER) visits thereby resulting in an overall reduction to Medicaid costs. These new crisis services range from $50 per hour up to $416 per day while the cost for inpatient hospitalizations and ER visits can be over $1,000 per day.

Neither the cost of the crisis services nor the offsetting hospital savings are known with certainty. Therefore, the fiscal impact cannot be determined. However, the expectation of savings is supported by economic impact analyses summarized in the 2014 report published by the federal Substance Abuse and Mental Health Services Administration (SAMHSA) titled “Crisis Services: Effectiveness, Cost-Effectiveness, and Funding Strategies.”

Subacute Services
Subacute mental health care facility services will be a new cost to Medicaid. Similar to crisis services, these services will provide a short-term, intensive mental health service option with the goal of reducing the utilization of more costly inpatient hospitalizations and ER visits. The cost for this service is expected to be $400 per day whereas the cost for inpatient hospitalizations and ER visits can be over $1,000 per day.
Neither the cost of the subacute services nor the offsetting hospital savings are known with certainty. Therefore, the fiscal impact cannot be determined. Any potential impact will be limited by the availability of beds. There are currently no licensed subacute facilities in the state and only one application has been sent to the department for review. If approved, that facility will provide up to nine subacute beds.

**Fill in the form below if the impact does not fit the criteria above:**

___ Fiscal impact of $100,000 annually or $500,000 over 5 years.

**Assumptions:**

**Describe how estimates were derived:**

<table>
<thead>
<tr>
<th>Estimated Impact to the State by Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue by each source:</strong></td>
</tr>
<tr>
<td>General fund</td>
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<tr>
<td>Federal funds</td>
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<tr>
<td>Other (specify):</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
</tr>
<tr>
<td><strong>Expenditures:</strong></td>
</tr>
<tr>
<td>General fund</td>
</tr>
<tr>
<td>Federal funds</td>
</tr>
<tr>
<td>Other (specify):</td>
</tr>
<tr>
<td><strong>TOTAL EXPENDITURES</strong></td>
</tr>
<tr>
<td><strong>NET IMPACT</strong></td>
</tr>
</tbody>
</table>

This rule is required by state law or federal mandate.

**Please identify the state or federal law:**

- Crisis Responses
  - The 2014 Legislature passed HF 2379 requiring the Department to accredit or apply standards of review to crisis stabilization programs.
  - Subacute Mental Health Facility
The Iowa General Assembly created Iowa Code Chapter 135G for facilities to provide short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health condition.

| Funding has been provided for the rule change. |
| Please identify the amount provided and the funding source: |

| Funding has not been provided for the rule. |
| Please explain how the agency will pay for the rule change: |
| These services are expected to reduce the utilization of more costly inpatient hospitalizations and ER visits thereby resulting in an overall reduction to Medicaid costs. |

**Fiscal impact to persons affected by the rule:**
The rules will affect providers that are in the process of developing and/or currently operating crisis response services. These providers will be required to meet the accreditation standards as set forth in this rule.

These rules will set an expected standard Medicaid providers must meet for subacute mental health care facility services.

Medicaid members utilizing crisis response services can expect a standard of service, staff qualifications and quality from providers receiving a Chapter 24 accreditation.

**Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):**
Mental Health and Disability Services Regions currently funding crisis response services should see a decrease in expenditures in this service.

Agency representative preparing estimate: Jason Buls
Telephone number: 515-281-5764