907 KAR 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

RELATES TO: KRS 205.520, 21 U.S.C. 823(g)(2), 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by residential crisis stabilization units.

Section 1. General Coverage Requirements.

(1) For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(a) Medically necessary; and

(b) Provided:

1. To a recipient; and

2. By a residential crisis stabilization unit that meets the provider participation requirements established in Section 2 of this administrative regulation.

(2)

(a) Direct contact between a practitioner and a recipient shall be required for each service.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(3) A service shall be:

(a) Stated in the recipient's plan of care; and

(b) Provided in accordance with the recipient's plan of care.

(4) A residential crisis stabilization unit shall establish a plan of care for each recipient receiving services.

Section 2. Provider Participation.

(1) To be eligible to provide services under this administrative regulation, a residential crisis stabilization unit shall:

(a) Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

(b) Except as established in subsection (3) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

(c) Be licensed as a residential crisis stabilization unit in accordance with 902 KAR 20:440;

(d) Comply with the requirements established in 902 KAR 20:440;

(e) Have:

1. For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;

2. Demonstrated experience in serving individuals with behavioral health disorders;

3. The administrative capacity to ensure quality of services;

4. A financial management system that provides documentation of services and costs; and

5. The capacity to document and maintain individual case records;

(f) Be a community-based, residential program that offers an array of services including:

1. Screening;
2. Assessment;
3. Treatment planning;
4. Individual therapy;
5. Group therapy;
6. Psychiatric services;
7. Family therapy at the option of the residential crisis stabilization unit;
8. Peer support at the option of the residential crisis stabilization unit;
9. Medically monitored withdrawal management if treating substance use disorders; or
10. Medication assisted treatment if treating substance use disorders;

(g) Provide services in order to:
1. Stabilize a crisis and divert an individual from a higher level of care;
2. Stabilize an individual and provide treatment for acute withdrawal, if applicable; and
3. Re-integrate an individual into the individual's community or other appropriate setting in a timely fashion;

(h) Not be part of a hospital;

(i) Be used when an individual:
1. Is experiencing a behavioral health crisis that cannot be safely accommodated within the individual's community; and
2. Needs overnight care that is not hospitalization;

(j) Except as established in subsection (2)(a) of this section, not contain more than sixteen (16) beds;

(k) Except as established in subsection (2)(b) of this section, not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate;

(l) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability;

(m) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the Act;

(n) Have the capacity to employ staff authorized to provide treatment services in accordance with this section and to coordinate the provision of services among team members;

(o) Have the capacity to provide the full range of residential crisis stabilization services as stated in Section 3(2) of this administrative regulation and on a twenty-four (24) hour a day, seven (7) day a week, every day of the year basis;

(p) Have access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year;

(q) Have knowledgeable staff regarding mental health, substance use, or co-occurring disorders based on the population being served; and

(r) For the treatment or stabilization of withdrawal management symptoms for substance use disorder or co-occurring disorders:
1. Meet all requirements established by the most recent version of the American Society for Addiction Medicine (ASAM) relating to level of care certification for medically monitored intensive inpatient services for adults and medically monitored high-intensity inpatient services for adolescents, currently described by ASAM as a 3.7 level of care; and
2. Have:
a. A planned and structured regimen of twenty-four (24) hour professionally directed evaluation, observation, medical monitoring, and addiction treatment;
b. Twenty-four (24) hour nursing care, including a comprehensive assessment at admission by a registered nurse;

c. Twenty-four (24) hour access to a psychiatrist, including availability within eight (8) hours by telephone and within twenty-four (24) hours in person;

d. Twenty-four (24) hour access to a physician, advanced practice registered nurse, or a physician assistant, to include:

(i) An assessment and physical examination in person within twenty-four (24) hours of admission, and after admission as medically necessary; and

(ii) Responsibility for overseeing the treatment of each recipient; and

e. Clinical staff:

(i) Knowledgeable about the biological and psychosocial dimensions of addiction and other behavioral health disorders with training in behavior management techniques and evidence-based practices; and

(ii) Able to provide twenty-four (24) hour professionally directed evaluation, care, and treatment services.

(2) If every recipient receiving services in the:

(a) Single unit is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in subsection (1)(j) of this section shall not apply; or

(b) Multiple units is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in subsection (1)(k) of this section shall not apply.

(3) In accordance with 907 KAR 17:015, Section 3(3), a residential crisis stabilization unit that provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

Section 3. Covered Services.

(1)

(a) Except as specified in the requirements stated for a given service, the services covered may be provided for:

1. A mental health disorder;
2. A substance use disorder; or
3. Co-occurring disorders.

(b) Residential crisis stabilization services shall be provided in a residential crisis stabilization unit.

(2) Residential crisis stabilization services shall include the services established in this subsection.

(a) A screening shall:

1. Establish the need for a level of care evaluation to determine the most appropriate and least restrictive service to maintain the safety of the individual who may have a mental health disorder, substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder;

3. Establish the need for an in-depth assessment of the number and duration of risk factors including:

a. Imminent danger and availability of lethal weapons;

b. Verbalization of suicidal or homicidal risk;

c. Need of immediate medical attention, including medically monitored withdrawal management needs;

d. Positive and negative coping strategies;

e. Lack of family or social supports;

f. Active psychiatric diagnosis; or

g. Current drug and alcohol use;

4. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and

5. Be provided by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision.

(b) An assessment shall:
1. Include gathering information and engaging in a process with the individual that enables the practitioner to:
a. Establish the presence or absence of a mental health disorder, a substance use disorder, or co-occurring disorders;
b. Determine the individual's readiness for change;
c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and
d. Engage the individual in developing an appropriate treatment relationship;
2. Establish or rule out the existence of a clinical disorder or service need;
3. Include working with the individual to develop a treatment and service plan;
4. Not include psychological or psychiatric evaluations or assessments;
5. If being made for the treatment of a substance use disorder, utilize a multi-dimensional assessment that complies with The ASAM Criteria, and shall address at a minimum:
a. Acute intoxication or withdrawal potential;
b. Biomedical conditions and complications;
c. Emotional, behavioral, or cognitive conditions and complications;
d. Readiness to change;
e. Relapse;
f. Continued use or continued problem potential; and
g. Recovery and living environment; and
6. Be provided by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision.

(c) Individual therapy shall:
1. Be provided to promote the:
a. Health and wellbeing of the individual; or
b. Restoration of a recipient to their best possible functional level from a substance use disorder, a mental health disorder, or co-occurring disorders;
2. Consist of:
a. A face-to-face, or via telehealth as appropriate pursuant to the most recent version of The ASAM Criteria and 907 KAR 3:170, one-on-one encounter between the provider and recipient; and
b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified crisis treatment plan;
3. Be aimed at:
a. Reducing adverse symptoms;
b. Reducing or eliminating the presenting problem of the recipient; and
c. Improving functioning;
4. Not exceed three (3) hours per day unless additional time is medically necessary; and
5. Be provided by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision.

(d)
1. Group therapy shall:
a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified crisis treatment plan;

b. Be provided to promote the:
(i) Health and wellbeing of the individual; or
(ii) Restoration of a recipient to their best possible functional level from a substance use disorder, a mental health disorder, or co-occurring disorders;
c. Consist of a face-to-face, or via telehealth as appropriate pursuant to the most recent version of The ASAM Criteria and 907 KAR 3:170, behavioral health therapeutic intervention provided in accordance with the recipient's identified crisis treatment plan;
d. Be provided to a recipient in a group setting:
(i) Of nonrelated individuals; and
(ii) Not to exceed twelve (12) individuals in size;
e. Focus on the psychological needs of the recipients as evidenced in each recipient's crisis treatment plan;
f. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;
g. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and
h. Not exceed three (3) hours per day per recipient unless additional time is medically necessary.
2. The group shall have a:
a. Deliberate focus; and
b. Defined course of treatment.
3. The subject of group outpatient therapy shall relate to each recipient participating in the group.
4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.
5. The group shall be provided by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision.

(e)
1. Service planning shall:
a. Involve assisting a recipient in creating an individualized plan for services needed;
b. Involve restoring a recipient's functional level to the recipient's best possible functional level; and
c. Be performed using a person-centered planning process.
2. A service plan:
a. Shall be directed by the recipient;
b. Shall include practitioners of the recipient's choosing; and
c. May include:
(i) A mental health advance directive being filed with a local hospital;
(ii) A crisis plan; or
(iii) A relapse prevention strategy or plan.
3. A service plan shall be completed by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision.

(f) Family therapy shall:
1. Consist of a face-to-face, or via telehealth as appropriate pursuant to the most recent version of The ASAM Criteria and 907 KAR 3:170, behavioral health therapeutic intervention provided:
a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment;

2.

a. Be provided to promote:

(i) The health and wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder, a mental health disorder, or co-occurring disorders; and

b. Not exceed three (3) hours per day per individual unless additional time is medically necessary; and

3. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(g)

1. Peer support services provided by a peer support specialist working under the supervision of an approved behavioral health practitioner shall:

a. Be social and emotional support that is provided by an individual who is experiencing a mental health disorder, a substance use disorder, or co-occurring mental health and substance use disorders to a recipient by sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided by a self-identified consumer, parent, or family member:

(i) Of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services; and

(ii) Who has been trained and certified in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

f. Be coordinated within the context of a comprehensive, individualized treatment plan developed through a person-centered planning process;

g. Be identified in each recipient's treatment plan; and

h. Be designed to directly contribute to the recipient's individualized goals as specified in the recipient's treatment plan.

2. To provide peer support services, a residential crisis stabilization unit shall:

a. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 2:230, or 908 2:240;

b. Have the capacity to coordinate the provision of services among team members;

c. Have the capacity to provide on-going continuing education and technical assistance to peer support specialists;

d. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

e. Require peer support services provided to recipients in a group setting to not exceed eight (8) individuals within any group at one (1) time.

(h)

1. Medically monitored withdrawal management services for substance use disorder shall:

a. Meet the service criteria for medically monitored inpatient services in accordance with the most current version of The ASAM Criteria; and

b. Comply with services pursuant to the requirements of 902 KAR 20:440.

2. A recipient who is receiving withdrawal management services shall:

a. Meet the current dimensional admissions criteria for medically monitored inpatient withdrawal management as found in the most current version of The ASAM Criteria; and

b. Not require the full resources of an acute care hospital or a medically managed inpatient treatment program.

3. Medically monitored withdrawal management services shall be provided by:

a. A physician or psychiatrist;

b. A physician assistant;

c. An advanced practice registered nurse; or

d. Any other approved behavioral health practitioner or nurse with oversight by a physician, advanced practice registered nurse, or a physician assistant.

(i)

1. Medication assisted treatment shall be available per patient choice for the treatment of a substance use disorder or co-occurring disorders.

2. Medication assisted treatment shall be provided by a provider who:

a. Is:

(i) A physician licensed to practice medicine under KRS Chapter 311;

(ii) An advanced practice registered nurse (APRN); or

(iii) A physician assistant licensed to practice medicine under KRS Chapter 311;

b. Meets standards in accordance with 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C 823(g)(2) to prescribe buprenorphine products, including any waiving or expansion of buprenorphine prescribing authority by the federal government; and

d. Has experience and knowledge in addiction medicine.

(3) For those recipients being treated for a substance use disorder, care coordination shall include at minimum:

(a) Referring the recipient to appropriate community services;

(b) Facilitating medical and behavioral health follow-ups;

(c) Linking to appropriate levels of substance use treatment within the continuum in order to provide on-going support; and

(d) Facilitating medication assisted treatment as necessary, per patient choice.

(4) The extent and type of a screening shall depend upon the problem of the individual seeking or being referred for services.

(5) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

(6) After July 1, 2022, if treating substance use disorders, the facility shall possess an appropriate ASAM level of care certification for medically monitored intensive inpatient service in accordance with the most current version of The ASAM Criteria.

(7) The department shall not reimburse for a service billed by or on behalf of an entity or individual who is not a billing provider.

Section 4. Additional Limits and Non-covered Services or Activities.

(1) The following services or activities shall not be covered under this administrative regulation:

(a) A service provided to:

1. A resident of:

a. A nursing facility; or
b. An intermediate care facility for individuals with an intellectual disability;
2. An inmate of a federal, local, or state:
a. Jail;
b. Detention center; or
c. Prison; or
3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;
(b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the residential crisis stabilization unit;
(c) A consultation or educational service provided to a recipient or to others;
(d) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of "face-to-face";
(e) Travel time;
(f) A field trip;
(g) A recreational activity;
(h) A social activity; or
(i) A physical exercise activity group.
(2) Residential crisis stabilization services shall not include:
(a) Room and board;
(b) Educational services;
(c) Vocational services;
(d) Job training services;
(e) Habilitation services;
(f) Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;
(g) Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;
(h) Recreational activities;
(i) Social activities; or
(j) Services required to be covered elsewhere in the state plan.
(3)
(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation.
(b) A third party contract shall not be covered under this administrative regulation.

Section 5. No Duplication of Service.
(1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the service is covered, during the same time period.
(2) For example, if a recipient is receiving a residential crisis stabilization service from a community mental health center, the department shall not reimburse for the same service provided to the same recipient during the same time period by a residential crisis stabilization unit.

Section 6. Records Maintenance, Documentation, Protection, and Security. A residential crisis stabilization unit shall maintain a current health record for each recipient in accordance with 902 KAR 20:440.

Section 7. Medicaid Program Participation Compliance.
(1) A residential crisis stabilization unit shall comply with:
(a) 907 KAR 1:671;
(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)

(a) If a residential crisis stabilization unit receives any duplicate payment or overpayment from the department, regardless of reason, the residential crisis stabilization unit shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

(3)

(a) When the department makes payment for a covered service and the residential crisis stabilization unit accepts the payment:

1. The payment shall be considered payment in full;
2. A bill for the same service shall not be given to the recipient; and
3. Payment from the recipient for the same service shall not be accepted by the residential crisis stabilization unit.

(b)

1. A residential crisis stabilization unit may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:
   a. Recipient requests the service; and
   b. Residential crisis stabilization unit makes the recipient aware in advance of providing the service that the:
      (i) Recipient is liable for the payment; and
      (ii) Department is not covering the service.
2. If a recipient makes payment for a service in accordance with subparagraph 1. of this paragraph, the:
   a. Residential crisis stabilization unit shall not bill the department for the service; and
   b. Department shall not:
      (i) Be liable for any part of the payment associated with the service; and
      (ii) Make any payment to the residential crisis stabilization unit regarding the service.

(4)

(a) The signature of the residential crisis stabilization unit's staff or representative shall indicate that the residential crisis stabilization unit attests that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;
2. Cabinet for Health and Family Services, Office of Inspector General or its designee;
3. Kentucky Office of Attorney General or its designee;
4. Kentucky Office of the Auditor for Public Accounts or its designee; or
5. United States General Accounting Office or its designee.

(c) If a residential crisis stabilization unit receives a request from the department or its designee to provide a claim, related information, related documentation, or record for auditing purposes, the residential crisis stabilization unit shall provide the requested information to the department within the timeframe requested by the department.

(d)

1. All services provided shall be subject to review for recipient or provider fraud or abuse; and compliance with this administrative regulation and state and federal law.

2. Willful abuse by a residential crisis stabilization unit shall result in the suspension or termination of the residential crisis stabilization unit from Medicaid Program participation.

Section 8. Third Party Liability. A residential crisis stabilization unit shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A residential crisis stabilization unit that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the residential crisis stabilization unit's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the residential crisis stabilization unit's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 10. Auditing Authority. The department shall have the authority to audit any:

(1) Claim;

(2) Medical record; or

(3) Documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 12. Appeals.

(1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

(41 Ky.R. 970; Am. 1807; eff. 3-6-2015; 1121, 1769, 1996; eff. 6-16-2021.)