

Briefing for Behavioral Health Agency Providers

E2SHB 1688 – Aligning the No Surprises Act & the Balance Billing Protection Act

December 2022

Overview

E2SHB 1688 (Chap. 263, Laws of 2022) protects consumers from charges for out-of-network emergencies by addressing coverage of emergency services, including behavioral health emergencies. The law also aligns with the Washington state Balance Billing Protection Act and the federal No Surprises Act.

The law requires private health insurance carriers to cover emergency behavioral health services, including post-stabilization services, provided to a covered person if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Prior authorization cannot be required. The law became effective March 31, 2022.

What is included under behavioral health emergency services?

Emergency services include screening, stabilization, and post-stabilization care provided by:

- Mobile crisis response teams
- Crisis stabilization units or crisis triage facilities
- Evaluation and treatment (E&T) facilities, including Secure Withdrawal Management Services (SWMS)
- An agency certified by DOH under RCW 71.24 to provide outpatient crisis services
- Withdrawal management provided by an agency certified by DOH under RCW 71.24 to provide medically managed or monitored withdrawal management


Which insurance carriers does this apply to?

The requirement to cover emergency services in E2SHB 1688 applies to fully insured state regulated private health plans, including the Washington state public and school employee health benefit plans (PEBB/SEBB). This includes approximately 19 carriers. Self-funded group health plans are required to comply with the changes in the coverage of emergency behavioral health services provided by facilities under RCW 48.43.093. Under the federal No Surprises Act, the state cannot require self-funded plans to cover non-facility services, such as services provided by mobile crisis response teams.

What do behavioral health agencies need to know?

A small workgroup was recently facilitated by OneHealthPort and had representation from behavioral health providers, BH-ASOs, private carriers, Office of the Insurance Commission, and Health Care Authority. This workgroup reviewed implementation options, with a thoughtful consideration towards minimizing provider administrative burden.





The workgroup has made the following recommendations:

1. **Role of the regional Behavioral Health Administrative Service Organizations (BH-ASO) - For Mobile Crisis Response Services** - Private carriers will work with each regional BH-ASO to contract for mobile crisis response services, with the goal of finalizing contracting agreements no later than January 1, 2024. In the interim, mobile crisis response providers may submit claims to private carriers as out-of-network providers.
2. **For all other services (i.e., crisis triage, evaluation and treatment, withdrawal management, outpatient crisis or stabilization services) –**
For 2023, private carriers are encouraged to contract with behavioral health providers to ensure services are available to their members. Behavioral health providers may choose to contract as an in-network provider or submit claims as an out-of-network provider. BH-ASOs, private carriers, providers, and other key stakeholders will continue to work collaboratively to determine the BH-ASOs' future role in contracting.
3. **Billing codes** -
Private carriers will adopt the billing codes outlined in the Service Encounter Reporting Instructions (SERI) guide.

Learn more

OIC Fact Sheet and bill summary:

<https://www.insurance.wa.gov/sites/default/files/documents/e2shb-1688-oic-fact-sheet-final.pdf>

https://www.insurance.wa.gov/sites/default/files/documents/e2shb-1688-as-passed-legislature-summary-table-3-8-22_1.pdf

OIC Memo to Providers:

<https://www.insurance.wa.gov/sites/default/files/documents/e2shb-1688-behavioral-health-crisis-providers-memo.pdf>

Office of the Insurance Commissioner (OIC) website:

<https://www.insurance.wa.gov/surprise-billing-and-balance-billing-protection-act>

For providers newly contracting with private carriers, please see information on appeals:

Under [RCW 48.43.055](#) every carrier must have a process for providers to submit complaints, inclusive of appealing denied claims. If a provider feels that the carrier is breaking the law, then they can [file a complaint](#) with the Office of the Insurance Commissioner (OIC).

Questions

- Mobile crisis team providers should relay questions to their regional Behavioral Health Administrative Service Organization.
- Additional questions may be sent to HCAMHDBHRProviderHelp@hca.wa.gov and matthew.gower2@hca.wa.gov