



# CAHP IMPLEMENTATION GUIDELINE

## AB 988 (Bauer-Kahan) Chapter 747, Statutes of 2022

---

*As a service to our members, the California Association of Health Plans produces guidelines designed to assist in the interpretation and implementation of new laws, and to promote full compliance with those laws. This document, however, is not intended to be authoritative. Any questions about official interpretations of the law should be directed to the appropriate state regulatory agency such as the Department of Managed Health Care or the Department of Health Care Services, as well as your legal counsel.*

---

### **MENTAL HEALTH: 988 SUICIDE AND CRISIS LIFELINE**

#### **BACKGROUND**

Assembly Bill 988 was introduced by Assemblymember Rebecca Bauer-Kahan (D-Orinda) relating to the 988 Suicide and Crisis Hotline. According to the author, the bill is intended to establish a comprehensive crisis response system to help prevent avoidable tragedies, save money, and increase access to the right kind of care. The measure requires the California Health and Human Services Agency to appoint and convene a state 988 policy advisory group to advise the implementation and administration of the five-year implementation plan for the 988 Suicide Prevention System. The bill follows the National Suicide Hotline Designation Act of 2020 which designated 988 as the new three-digit number for the national suicide prevention and mental health crisis hotline.

Initially, CAHP was only tracking and monitoring this bill. We became directly involved when the bill was amended in the last two weeks of the legislative session to include a coverage mandate specifying that coverage of mental health and substance use disorder treatment pursuant to existing law includes medically necessary behavioral health crisis services provided to an enrollee by a 988 center or mobile crisis team regardless of whether the service is provided by an in-network or out-of-network provider. The language restricts the use of prior authorization.

CAHP opposed the amendments to this bill for a variety of reasons and asked that the mandate be removed from the bill. The coverage mandate completely sidestepped the normal legislative process and was not analyzed by any policy committee or the California Health Benefits Review Program which reviews mandates for their premium impact. From a policy perspective, the language fails to address even the most fundamental implementation issues. The language does not define the scope of services to be covered, provides no guidance on what rates plans would reimburse for the services and is completely silent on how plans and providers would operationalize the requirements.

AB 988 was also opposed by the Service Employees International Union and the County Behavioral Health Directors Association for different reasons. Despite this opposition, the bill proved to be unstoppable or amendable. It was very popular in the Legislature garnering almost unanimous support in both houses.

When Governor Newsom signed the bill, he attached a signing message acknowledging that AB 988 “creates considerable confusion about how certain services will be financed and could severely limit the full potential of the behavioral health crisis response promised by the bill.” In the message he directs his administration to propose cleanup language as part of the 2023-24 Governor’s Budget.

## REQUIREMENTS

AB 988 adds Section 1374.724 to the Health and Safety Code, and adds Section 10144.57 to the Insurance Code, relating to emergency services.

Specifically, AB 988 does the following:

- 1) Enacts the Miles Hall Lifeline and Suicide Prevention Act, as specified.
- 2) Requires OES to verify that technology that allows for transfers between 988 centers as well as between 988 centers and 911 public safety answering points, is available to 988 centers and 911 PASPs throughout the state.
- 3) Requires OES, no later than 90 days after passage of this bill, to appoint a 988 director to implement and oversee the policy and regulatory framework for the technology infrastructure, coordination, and transfer of calls between 988, 911, and behavioral health crisis services.
- 4) Requires OES, no later than 90 days after passage of this bill to establish and convene the State 988 Technical Advisory Board for purposes of advising OES, as specified.
- 5) Requires OES, no later than July 1, 2024, to verify interoperability between and across 911 and 988, as specified.
- 6) Requires OES to consult with the NSPL and the Substance Abuse and Mental Health Services Administration on any technology requirement for 988 centers.
- 7) Requires CalHHS, no later than December 31, 2023, to create a set of recommendations to support a five-year implementation plan for a comprehensive 988 system, including recommendations about coordinating with the Department of Insurance and Department of Managed Health Care to verify reimbursement to 988 centers for medically necessary behavioral health crisis services by health plans and insurers.
- 8) Exempts regulations and other similar instruments made pursuant to the provisions of this bill by OES and CalHHS from the rulemaking provisions of the APA.
- 9) Requires health care service plans and insurers to cover medically necessary treatment of a mental health or substance use disorder, including behavioral health crisis services, provided by a 988 center or mobile crisis team, regardless of whether the service is provided by an in-network or out-of-network provider, at the in-network cost-sharing amount, as defined.
- 10) A health care service plan shall not require prior authorization for medically necessary treatment of a mental health or substance use disorder provided by a 988 center, mobile crisis team, or other provider of behavioral health crisis services to an enrollee.

- 11) Requires CalHHS to convene a state 988 advisory group, as described, for purposes of advising the agency on the set of recommendations.
- 12) Requires CalHHS to report annually, as specified, to the Legislature on the status of 988 implementation in the state, as described.
- 13) Establishes the 988 State Suicide and Behavioral Health Crisis Services (Fund) in the state treasury and requires the fees to be deposited along with other specified moneys into the Fund, as specified.
- 14) Creates a 988 surcharge, beginning January 1, 2023, on each access line for each month or part thereof for which a service user subscribes with a service supplier.
- 15) Sets the 988 surcharge for the 2023 and 2024 calendar year at \$0.08 per access line per month and, for years beginning January 1, 2025, at an amount based on a specific formula, but no greater than \$0.30 per access line per month.
- 16) Makes applicable relevant provisions of the Emergency Telephone Users Surcharge Act to the 988 surcharge, as provided, including existing surcharge exemptions.
- 17) Provides that monies in the Fund shall be used, upon appropriation by the Legislature
- 18) Requires revenue generated by the 988 surcharge shall be prioritized to fund the following: (a) First, the 988 centers, including the efficient and effective routing of telephone calls, personnel, and the provision of acute mental health services through telephone call, text, and chat to the 988 number; and (b) second, the operation of mobile crisis teams, as specified.
- 19) Provides that the revenue generated by the 988 surcharge shall be used to supplement and not supplant federal, state, and local funding for 988 centers and mobile crisis services.
- 20) Provides that revenue generated by the 988 surcharge may only be used to fund service and operation expenses that are not reimbursable through Medicaid federal financial participation, Medicare, health care service plans, or disability insurers.
- 21) Requires OES to require an entity seeking funds available through the Fund to annually file an expenditure and outcomes report containing specified information.
- 22) Appropriates \$300,000 from the General Fund to the Fund for expenditure by the California Department of Tax and Fee Administration in the 2022-23 fiscal year for purposes of implementing amendments to the Emergency Telephone Users Surcharge Act.
- 23) Contains an urgency clause.

### COMPLIANCE DATES

The urgency clause makes this law effective immediately.

## IMPLEMENTATION ISSUES

### Applicability:

This bill applies to commercial health plans and health insurers. As written, the bill does not apply to Medi-Cal managed care plans, but it requires DHCS to be included in the Advisory Group and will affect Medi-Cal managed care plans.

### Implementation Issues:

The Governor's signing message directs CalHHS to issue further cleanup guidance and will require plans to review and potentially implement such guidance. As written, there are several provisions which will require plans to begin implementation planning.

This bill requires plans to cover medically necessary mental health and substance use disorder treatment, including medically necessary treatment provided by a 988 center or mobile crisis team which creates a new mandate on plans. A plan shall not require prior authorization and the enrollee shall pay no more than the in-network cost-sharing amount regardless of whether the provider is in or out-of-network.

Plans may need to be prepared to contract with 988 centers and mobile crisis teams including rate, billing, and credentialing considerations. Regardless of whether the provider is in or out-of-network, plans are obligated to cover the services required by the bill. Plans will also need to update operational processes to allow for claims processing, customer service training, and reimbursement.

Plans may need to review their existing Policies and Procedures (P&P), especially those related to utilization management (UM) practices, to ensure medically necessary treatments provided by a 988 center or mobile crisis team are not subject to prior authorization or any other UM requirements.

Plans should review member handbooks/Evidence of Coverage (EOC) to verify that the materials provide information to enrollees regarding coverage of these medically necessary services.

This bill requires CalHHS to create an advisory group to advise of the set of recommendations to support the five-year implementation plan and shall not be disbanded before January 1, 2024. Plans will need to prepare to track and participate in the advisory group and to implement the applicable recommendations.