



State of Wisconsin

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DCTS Information Memo 2024-01
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To: Subscribers of the DCTS Action Memo Email Distribution List

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Handwritten signatures of Gynger Steele and John Elliott.

Use of Out-of-Home Care for Mental Health Crisis Stabilization

Summary

This memo provides guidance on the use of out-of-home care providers, licensed under Wisconsin's children's code (Chapter 48), for emergency mental health crisis stabilization services to children. This memo explains how out-of-home care providers may be used under current statutes and administrative rules and offers recommendations for how crisis stabilization services may be delivered in an out-of-home care setting. This memo replaces DCTS Information Memo 2017-05 and DSP Information Memo 2017-11i.

Background

Wisconsin Administrative Code Chapter DHS 34 describes emergency mental health service programs, also known as crisis intervention services. All counties are required by state law to provide crisis intervention services. Most counties are certified under DHS 34 Subchapter III. DHS 34.22(4) allows programs to provide optional stabilization services to an individual for a temporary transition period which aims to reduce or eliminate an individual's symptoms such that they can avoid inpatient hospitalization. Stabilization services are also defined as those which assist in the transition to a less restrictive placement when the crisis has passed. All crisis stabilization services are voluntary and should not be confused with involuntary emergency detentions.

Crisis stabilization services may be residential (overnight) or non-residential. For the purposes of this memo, all stabilization services referred to are residential. Locations for crisis stabilization services vary and include a variety of community-based settings. For youth, the [ForwardHealth Handbook Topic #6805](#) and [ForwardHealth Update 2020-22](#) define Medicaid-reimbursable crisis stabilization settings to include a licensed children's group home or foster home and youth crisis stabilization facilities.

Wisconsin's children's code (Chapter 48) specifies the types of out-of-home providers that are licensed to care for children, which include foster home, group home, residential care center, and shelter care. Children may be placed in a foster home, shelter care, or group home through a Chapter 48 Voluntary Placement Agreement or a court order under Chapter 48 or the juvenile justice code (Chapter 938). An out-of-home care placement using a voluntary placement agreement includes a child welfare or youth justice agency signatory which is granted placement and care responsibility for the child and is considered an out-of-home care placement subject to state and federal title IV-E requirements. Children

transitioning from an inpatient setting to an out-of-home care setting shall be entered as a placement. A voluntary placement agreement or court order needs to be enacted in these circumstances.

Absent a voluntary placement agreement or court order, if certain requirements are met, a youth may receive crisis stabilization services in a foster home, shelter care, group home, or residential care center for up to five days (a day is considered a consecutive 24-hour period) for crisis stabilization before a voluntary placement agreement or court order is required.

Crisis stabilization and use of out-of-home care providers

County crisis intervention services include initial assessment and planning, crisis linkage and follow up, and optional crisis stabilization. Crisis intervention programs also provide evaluation for involuntary emergency detentions, which require an assessment by a mental health professional. DHS 34, Subchapter III, provides specific direction regarding mental health crisis services. To receive third party reimbursement for services, Tribal nation and county agencies must be DHS 34 certified and service providers must be listed in the certification plan. Tribal nations and counties may provide crisis services without being DHS 34 Subchapter III certified, but such services are not eligible for Medicaid reimbursement. The requirements for Medicaid reimbursement of crisis services are specified in [ForwardHealth Update 2023 06](#), [ForwardHealth Update 2023-34](#), and the ForwardHealth Handbook.

State law (Wis. Stat. § 48.63) permits the voluntary placement of children in an out-of-home care setting such as a foster home, group home, or shelter care facility. The requirements for voluntary out-of-home care placements include limits on the lengths of stay in a voluntary placement; seeking a court order to continue the placement beyond the time limits; that placements must be in a non-secure setting; and the voluntary agreement may be terminated at any time. Voluntary placement in foster homes is limited to 180 days. Voluntary placement in a group home is limited to 15 days. Voluntary placement in shelter care is limited to 20 days. The voluntary placement agreement must be signed by the youth's parent or guardian and the child welfare or youth justice agency. If the youth age 12 or older, the youth must consent to the agreement. See [DCF Numbered Memo 2006-13](#) for more information about child consent to child welfare voluntary placement agreements.

DHS and DCF require children using out-of-home care settings for crisis stabilization services to have a voluntary crisis stabilization agreement in place. A voluntary crisis stabilization agreement is different from a voluntary placement agreement. A voluntary crisis stabilization agreement allows for a residential crisis stabilization service for up to five days. Voluntary placement agreements are used for when the child needs placement beyond five days. The intent of a voluntary crisis stabilization agreement is to allow the use of out-of-home care providers for crisis stabilization services without requiring the intervention of child welfare/juvenile intake processes for time limited stays. Residential crisis stabilization services provided by mental health agencies for children in out-of-home care settings remain subject to other DHS mental health and Medicaid requirements, and out-of-home care providers remain subject to DCF regulations and policies.

Roles and responsibilities of crisis intervention and child welfare regarding use of out-of-home care settings for crisis stabilization services for youth

Under DHS 34, crisis intervention services are short-term, intensive services to address an individual's needs during a mental health crisis. A mental health crisis is defined in DHS 34.02(5) as "a situation caused by an individual's apparent mental disorder which results in a high level of stress or anxiety for

the individual, persons providing care for the individual or the public which cannot be resolved by the available coping methods of the individual or by the efforts of those providing ordinary care or support for the individual.” Crisis services are delivered by a Tribal nation or county crisis intervention program and must include an initial assessment, crisis response plan, be medically necessary, and must be approved by a qualified mental health professional.

This memo defines short-term crisis stabilization services in an out-of-home care setting as a mental health treatment service, not an out-of-home care placement. See the chart on page 4 for timeframes allowed in each setting. Children who are not under a voluntary placement agreement or court order under Chapter 48 or Chapter 938 but are receiving residential crisis stabilization services delivered with voluntary consent of the family through a voluntary crisis stabilization agreement at an appropriate out-of-home care provider are not subject to permanency planning and other Title IV-E requirements. Although the children are not considered to be in out-of-home care placement, the out-of-home care provider remains subject to child welfare licensing requirements regarding operation of the foster home, group home, shelter care, or residential care center.

Child welfare/juvenile intake approval is not required for the provision of crisis stabilization services, but crisis intervention staff shall consult with child welfare/juvenile intake staff to determine whether the licensed out-of-home care providers have the capability to serve youth in a mental health crisis. The determination of provider capacity shall consider other children present in the home/facility and the impact of crisis stabilization service delivery on those other children. To the extent possible, child welfare/juvenile staff shall be consulted on crisis stabilization for individual children to advise whether use of an out-of-home care provider is appropriate at that time given the needs of the particular children currently residing in the home/facility. Out-of-home care settings shall be used only if the licensing agency has approved the provider as an appropriate setting for crisis stabilization services and approves of the child receiving crisis intervention services in the home. Out-of-home care providers shall notify referring agencies that crisis stabilization services are offered in the setting.

A voluntary crisis stabilization agreement evidencing the informed consent of the parent or guardian must be used to authorize the crisis stabilization service so the out-of-home care provider can accept the youth. DHS recommends use of the [Voluntary Agreement for Crisis Stabilization Services, F-00335](#), for initiating crisis stabilization services. If agencies use their own crisis stabilization services agreement form, the agreement should clearly indicate that the service is for crisis stabilization purposes, the child welfare or youth justice agency does not have placement and care responsibility for the youth, and the maximum number of days allowed (up to five days). These components will distinguish the voluntary crisis services agreement from an out-of-home care voluntary placement agreement, which must meet Title IV-E requirements.

If the crisis stabilization service of the youth will exceed the maximum number of days presented below for crisis stabilization services or the youth cannot return to his or her family or another authorized placement, the child welfare or youth justice agency must be notified and the Chapter 48 or Chapter 938 requirements for out-of-home care placements will apply from that point forward. Any decision to continue to have the youth reside with an out-of-home care provider must be done using a Chapter 48 voluntary protection agreement, a temporary physical custody action, or other appropriate order as required by law. The use of a voluntary protection agreement, temporary physical custody, or court order establishes the youth’s removal date from home, the begin date of the out-of-home care placement,

the requirements for permanency planning, and compliance with all other applicable child welfare or youth justice requirements.

Out-of-home care provider	Authority to use out-of-home care for crisis stabilization	Maximum length of stay (calendar days) crisis stabilization	Out-of-home care placement maximum length of stay voluntary placement agreement
Foster home approved for crisis stabilization services	Voluntary crisis stabilization agreement	Up to 5 days	Up to 180 days
Group home approved for crisis stabilization services	Voluntary crisis stabilization agreement	Up to 5 days	Up to 15 days
Residential care center if license allows crisis stabilization services (this setting is not Medicaid reimbursable)	Voluntary crisis stabilization agreement	Up to 5 days	Not applicable
Shelter care (this setting is not Medicaid reimbursable)	Voluntary crisis stabilization agreement	Up to 5 days	Up to 20 days

Crisis programs are responsible for determining that out-of-home care providers are an appropriate setting for crisis stabilization services and that providers have the capacity to serve youth in a mental health crisis or appropriate mental health services can be provided on-site. Out-of-home care providers offering crisis stabilization services must be included in the Tribal nation or county services under DHS 34.22(1). The out-of-home care provider and crisis stabilization staff must meet the pertinent standards under DHS 34, Subchapter III (staff qualifications, supervision, training and backup) and be recorded on the DHS 34 program staff roster. Group home, shelter care, and residential care center providers are required to consult with DCF licensing staff to determine whether providing crisis stabilization services will have implications for their group home, shelter care, or residential care center licenses prior to providing crisis stabilization services. Agencies wanting to provide crisis stabilization services at their facilities must obtain approval from DCF child welfare licensing authority in order to include crisis stabilization as one of the services the licensee is authorized to provide.

Foster home providers may be used for crisis stabilization services only if the licensing agency has approved the provider as an appropriate setting for crisis stabilization, appropriate mental health supports are available within the home or brought on-site, and children in crisis can be effectively served

without adversely affecting other children in the home. For foster homes with a Level of Care 5 Certification, the licensing exception approved by DCF must specifically allow for crisis stabilization services. Group home, shelter care, and residential care center providers may be used for crisis stabilization services only if appropriately qualified staff or mental health supports in accordance with DHS 34.21(4), DHS 34.21(7), DHS 34.21(8), and DHS 34.22(4) are available within the facility or brought on-site and the children in crisis can be effectively served without adversely affecting other children in the facility. This may require special arrangements within a provider's facility.

Arranging crisis stabilization stays at out-of-home providers

Parent or guardian approval is necessary for voluntary mental health crisis stabilization admissions with out-of-home care providers. Additionally, youth age 14 or older must consent to the admissions agreement for mental health services. The out-of-home care provider will inform parents that the out-of-home care provider cannot detain a youth against their will should the youth wish to leave the out-of-home care setting. Parents or guardians can sign admission agreements in advance so that crisis services can be provided when there is a high risk of a recurrent mental health crisis, as outlined in the youth's crisis plan. In the case of an alcohol or drug condition, minors age 12 or older are able to be provided some limited treatment without the parent or guardian's consent or knowledge (see Wis. Stats. § 51.47).

Parents or guardians should understand they retain all parental rights and responsibilities for the care of children, including being financially responsible for all or a portion of the cost of the service as established by the provider agency's billing policies and DHS 1. Since the crisis services agreement is voluntary, the parents can terminate the admissions agreement at any time during the stay.

Parents or guardians shall consider the need for emergency medical care and medications while children are staying with the out-of-home care provider. Emergency medical services consent forms, such as form DCF CFS-0997, can be completed at the time the crisis services admission agreement is signed to authorize the out-of-home care provider to obtain emergency medical services for children.

The out-of-home care provider will inform the parents or guardian that in the event that the youth is not able to return home at the end of the crisis stabilization service, the child welfare agency will be notified and an out-of-home care placement or other action will be necessary. The specific type of placement action necessary will depend on the situation and the youth may need to be placed with a different out-of-home care provider.

The Tribal nation or county mental health agency and crisis intervention program is responsible for planning with the parents or guardian for the transportation of children to the out-of-home care provider for crisis stabilization services, and the return home following discharge. Mental health service providers acting under contract with the crisis program may provide crisis stabilization services to children within the parameters of this memo, including transporting children to out-of-home care providers, without being licensed as a child placing agency as long as the crisis intervention program remains responsible for the safety of the children and is not placing children into out-of-home care.

The crisis intervention agency is responsible for payment to out-of-home care providers for mental health crisis stabilization services. Payments for room and board of children should follow the reimbursement in effect for child welfare out-of-home care payments, including the regulation of foster

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care administrative payments, group home payments and residential care center payments that go into effect annually. Mental health agencies can make separate payments to out-of-home care providers for additional crisis stabilization services. Medicaid reimbursement for crisis stabilization services does not include room and board.

If you have a question or concern about this memo, contact the out-of-home care managers at the Department of Children Families at 608-422-6933 or the children youth and families section manager at the Department of Health Services at 608-266-2861.