



## POLICY MEMO

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<b>Title:</b> Joint Agency Policy Memo on Law Enforcement in Mobile Crisis Response	<b>Topic:</b> Behavioral Health Crisis
<b>Audience:</b> Mobile Crisis Response Providers and Law Enforcement	<b>Sub-Topic:</b> Mobile Crisis Response
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<b>Memo Author:</b> Emily Holcomb	
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<b>Approved By:</b> Kim Bimestefer	

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### **Audience:**

This memo provides guidance regarding Law Enforcement (LE) agencies that want to enroll with Medicaid to provide Mobile Crisis Response (MCR) services with a Behavioral Health Administration (BHA) endorsement. HCPF and the BHA are issuing this joint guidance to MCR stakeholders in Colorado, including those who intend to enroll as Medicaid Providers with a BHA endorsement for MCR. This guidance does not apply to providers outside of the scope of MCR.

The Department of Health Care Policy & Financing (HCPF) administers Health First Colorado (Colorado's Medicaid program), and covers an array of crisis services, including MCR services for all Medicaid members. The BHA is responsible for regulating the provision of behavioral health services, such as MCR, by developing and monitoring reasonable and proper standards, rules, and regulations. The BHA contracts with Administrative Services Organizations (ASOs) to provide a network of

walk-in crisis centers, crisis stabilization centers, respite, and mobile crisis services in their regions known as the Colorado Crisis Services (CCS) continuum. CCS fits into a larger behavioral health response and safety net system, within which co-responder and other justice diversion programs play an essential role.

### **Information:**

HCPF and the BHA have collaborated to develop MCR services and standards in alignment with federal statute and practice guidance in order for the State to be eligible for enhanced federal matching funds ([42 CFR 447.15](#)). These include federal definitions in the [American Rescue Plan Act of 2021 H.R.1319 section 9813](#), national best practices including Substance Abuse and Mental Health Services Administration (SAMHSA) and Centers for Medicare & Medicaid Services (CMS) guidance, state of Colorado legislation including House Bill [22-1278](#) establishing the BHA, the behavioral health secure transport benefit authorized through House Bill [21-1085](#), and extensive Colorado stakeholder engagement. MCR is a community-based mobile crisis intervention service covered under Medicaid for individuals experiencing a behavioral health crisis, including mental health and substance use disorders. HCPF and the BHA will begin reimbursing for MCR services that meet the updated service definition effective July 1, 2023. This memo clarifies that:

1. Local law enforcement agencies, fire, and emergency medical services teams may enroll as Medicaid providers and be reimbursed for mobile crisis services that meet these new definitions.
2. MCR providers may bill for the defined crisis response services provided by the clinical team, such as assessments, safety planning and admission planning, as outlined in the billing guidance.
3. Agencies (law enforcement, fire, or BH provider) may not bill for any on-duty law enforcement staff as a part of the MCR team and on-duty law enforcement cannot perform MCR assessments.
4. The presence of on-duty law enforcement at the site of a mobile crisis response is not prohibited but should be limited to specific circumstances related to addressing immediate safety concerns consistent with law enforcement responsibilities, examples include if someone is wielding a weapon, or a person is experiencing domestic violence.

### Mobile Crisis Response Policy

The MCR standards support trauma-informed and evidence-based practices with the goal of reducing reliance on criminal justice and hospital emergency departments for behavioral health needs. These updated standards also help address inappropriate use

of state-only funds to ensure that Medicaid is reimbursing for crisis services for their members, and the BHA is reimbursing for uninsured and underinsured Coloradans.

1. The updated MCR requirements are specifically designed to provide clinical and evidence-based services to all people in Colorado in crisis, responding to crises while helping people remain in their communities as often as possible. The state encourages local leaders to consider the value of updating their behavioral health MCR capacity to include Emergency Medical Technicians (EMT), Emergency Medical Services (EMS), peer support professionals, and others to best utilize this opportunity for sustainable crisis supports that reduce reliance on emergency departments and law enforcement to provide behavioral health crisis response services.
2. The enhanced benefit standards will be supported by federal and state funds through Medicaid reimbursement and BHA reimbursement through the Colorado Crisis System.
3. The BHA has secured \$1.75M in American Rescue Plan Act funds granted by HCPF to assist crisis providers in meeting the new MCR standards by June 30, 2023. These funds have been distributed through an interactive process between the state agencies, ASOs and their contracted providers across Colorado in all seven ASO regions. So far, funds have been administered for:
  1. Level setting provider access to telehealth technology, assistive communication and interpretation technology, harm reduction/Naloxone training and tools, other required training, DocuSign, and telehealth platforms.
  2. Covering the cost of certifying new Peer Support Professionals through one of the Colorado peer training organizations if requested.
  3. Supporting ASO recruitment efforts for their contracted providers, and
  4. Supporting ASOs to develop a regional approach to contracting with priority population providers who MCR teams can access during or directly after a crisis response to support members. This includes providers serving individuals with intellectual and developmental disabilities, traumatic brain injuries, serious mental illnesses, as well as ensuring cultural competence in serving and language access for individuals who are deaf, hard of hearing or deaf blind, and other priority populations.

### MCR Team Requirements

Each MCR team shall include multidisciplinary professionals and paraprofessionals with appropriate skills and expertise to respond to any individual in need of MCR. An initial MCR shall be a paired response from any two members of the MCR team, both of whom are defined as a Crisis Professional having undergone the curriculum on the BHA Learning Management System (LMS), available in FY24. If dual in-person response is not

possible, one responder may appear via telehealth while the other attends in person. Follow-up visits to continue stabilization efforts, coordinate care and make referrals can be performed by any one or more member of the MCR team.

The following professionals and paraprofessionals may be included on a MCR team and are eligible for the BHA Crisis Professional LMS training:

1. Clinical Social Worker/Professional Counselor/Marriage and Family Therapist/Psychologist (Ph.D./Psy.D.)/Addiction Counselor (LAC) who are licensed by the State of Colorado,
2. Unlicensed Master's Level /Ph.D./Psy.D.,
3. Bachelors level clinician or case manager,
4. Registered Nurse (RN)/ Licensed Vocational Nurse (LVN)/ Licensed Practical Nurse (LPN),
5. Advanced Practice Registered Nurse (APRN)/Advanced Practice Registered Nurse with Full Prescriptive Authority (RxN),
6. Emergency Medical Technicians, including Paramedics with Community Paramedic endorsement (EMT-P CP),
7. Adult or transition age youth peer support professional or family advocate,
8. Mobile crisis case manager, and
9. Other trained crisis response staff members, as identified by the contract.

Organizations that are not crisis endorsed, eligible for endorsement, and eligible to be a Health First Colorado Medicaid provider may not be MCR providers.

#### Policy on Law Enforcement as Medicaid Providers

HCPF will not reimburse for any services provided by active law enforcement personnel in alignment with federal guidance specific to the Social Security Act Section 1902(a)(4), requiring proper and efficient state plan operation and with 42 CFR 447.15 which requires that Medicaid payments must be accepted as payment in full. MCR teams must have a BHA endorsement to enroll as mobile crisis response specialty type Medicaid provider, and consist of multidisciplinary professionals and paraprofessionals staff who are BHA crisis professionals. MCR teams and individual staff must provide services within their scope of practice as defined by BHA and respective regulatory agencies.

Neither BHA nor HCPF will reimburse for billed MCR services performed by an active-duty law enforcement, or any encounter that ends in arrest. Active-duty law enforcement may serve a public safety function, but not as part of the reimbursed MCR team.

#### Active-Duty Law Enforcement and Mobile Crisis Response

The BHA is not able to endorse mobile crisis teams that include both law enforcement and clinical personnel as MCR providers. MCR teams must meet the new federal and state standards and pass a readiness review conducted by the BHA to become endorsed as a MCR provider and eligible to enroll in Medicaid. BHA will endorse any community agency with teams that meet the MCR federal criteria, including law enforcement agencies with civilian-only units. Additionally, teams must accept dispatches from Colorado Crisis Services to be eligible to contract with the ASO. The BHA does not have regulatory oversight over law enforcement acting in their role ensuring public safety and will not prohibit the presence of law enforcement during a mobile crisis response. Federally supported best practices include limiting their role to law enforcement related activities such as when there is a crime in progress, an ongoing medical emergency, or imminent harm or threat to the person in crisis or others. Any mobile crisis response that includes an arrest of the person in crisis cannot be reimbursed and is considered a public safety and not clinical intervention.

#### BHA and HCPF Relationship to Co-Responder Programs

Co-responder models that include an active-duty law enforcement and a behavioral health specialist or a clinician, are still eligible for funding through Criminal Justice Services at the BHA, which is a funding line separate from Crisis Services. This is how most co-responder programs are currently funded.

HCPF and the BHA are supportive of both MCR and co-responder models and want to clarify that these are distinct and separate services. The new benefit standards allow HCPF to reimburse for the first time for the clinicians or and multidisciplinary clinical teams from law enforcement agencies (but not law enforcement officers) if they choose to enroll. This is an expanded opportunity for state and federal funding.

#### **Attachment(s):**

None

#### **HCPF Contact:**

##### Legislative and Government Affairs Contacts

1. Casey Badmington, Legislative Affairs Officer, BHA, at [casey.badmington@state.co.us](mailto:casey.badmington@state.co.us)
2. Iris Hentze, Senior Legislative Analyst, HCPF, at [iris.hentze@state.co.us](mailto:iris.hentze@state.co.us)

Program Contacts

1. Megan Lee, Crisis Program Manager, BHA, at [megan.lee@state.co.us](mailto:megan.lee@state.co.us)
2. Emily Holcomb, Mobile Crisis Policy Advisor, HCPF, at [emily.holcomb@state.co.us](mailto:emily.holcomb@state.co.us)