

**California Health & Human Services Agency  
Department of Health Care Services  
Department of Managed Health Care  
Department of Insurance**

**Proposed Trailer Bill Legislation  
988 Suicide and Crisis Lifeline (AB 988)**

**FACT SHEET**

**Issue Title: 988 Suicide and Crisis Lifeline Cleanup.** The California Health & Human Services (CalHHS) Agency, in collaboration with Department of Health Care Services (DHCS), Department of Managed Health Care (DMHC), and California Department of Insurance (CDI), proposes clean up language, per the Governor’s Chapter 747, Statutes of 2022 (AB 988) signing message which, among other things, 1) conforms the definition of AB 988 to with federal requirements, 2) extends the deadline for the five-year plan recommendations, end date for the advisory group to meet, and disbanding of the advisory group by one year, 3) allows the 988 surcharge revenue to be used to pay state departments for their costs in administering the 988 Suicide and Crisis Lifeline, 4) provides DHCS contract exemption, and 5) aligns commercial and Medi-Cal coverage.

**Background:** The National Suicide Hotline Designation Act of 2020 (NSHD) designated 9-8-8 as the new three-digit number for the national suicide prevention and mental health crisis hotline. The NSHD requires the Federal Communications Commission (FCC) to designate 9-8-8 as the universal telephone number for a national suicide prevention and mental health crisis hotline, which operates through the National Suicide Prevention Lifeline (NSPL). To adequately and sustainably fund the 9-8-8 system, NSHD authorized states to impose a fee on access lines for providing 9-8-8 related services. Revenue from the fee must be held in a designated account to be spent only in support of 9-8-8 services, and the FCC must submit an annual report on state administration of these fees. The fees may only be spent on: 1) supporting the efficient and effective routing of calls made to the 9-8-8 national suicide prevention and mental health crisis hotline to an appropriate crisis center; and 2) personnel and the provision of acute mental health crisis, outreach and stabilization by directly responding to the 9-8-8 national suicide prevention and mental health crisis hotline.

AB 988 establishes the 988 Suicide and Crisis Lifeline in compliance with existing federal law and standards governing the NSPL. In the Governor’s [signing message](#) for AB 988 he directed CalHHS to propose cleanup language as part of the 2023-24 Governor’s Budget.

**Justification for the Change:** To fulfill the Governor’s direction, CalHHS, in collaboration with DHCS and ,DMHC, proposes clean up language, including analogous language proposed by CDI. The proposed language primarily addresses the following outstanding issues:

*Definition of “988”*

The bill defines “988” as the three-digit telephone number designated by the FCC for the purpose of connecting individuals experiencing a behavioral health crisis with counselors trained in suicide prevention and behavioral health crisis and with the capacity to connect callers to behavioral health crisis services through the NSPL network (Government Code (GC) Section 53123.1(a)). The addition of “and with the capacity to connect callers to behavioral

health crisis services” goes beyond the federal 9-8-8 requirement. DHCS proposes to revise the definition of “9-8-8” to conform to the federal requirements.

#### *Prioritized Funding from Revenue Generated by the Surcharge*

AB 988 establishes the “988 State Suicide and Behavioral Health Crisis Services Fund” and requires the fund consist of the revenue generated by the 9-8-8 surcharge assessed on users, which revenue is to be used solely for the operations of the 9-8-8 center and mobile crisis teams. The fund must also consist of any other appropriations made to it by the Legislature (GC Section 53123.4 (b)). DHCS proposes to delete this provision as it causes concern and confusion with how mobile crisis services will be financed, which would be more appropriately addressed in CalHHS’ advisory group and planning activities. In addition, although there is no hard-line prohibition on using the 9-8-8 surcharge for mobile crisis teams responding to/dispatched directly by a 9-8-8 hotline call, the Federal Communications Commission (FCC) may promulgate regulations for the 9-8-8 statute in a similar manner for 9-1-1 fees, which could limit the 9-8-8 surcharge expenditures. Therefore, DHCS proposes to apply appropriate guardrails pending FCC rulemaking (GC Section 53123.4(b)(2)).

#### *Statewide Mobile Crisis Team Recommendations*

Existing law requires CalHHS and the advisory group to make specified recommendations, including to achieve statewide provision of mobile crisis that 1) are offered 24 hours per day, seven days a week; 2) can respond to individuals in crisis in a timely manner; and 3) are able to respond to clearly articulated suicidal or behavioral health contacts made or routed to 9-8-8 as an alternative law enforcement, except in as needed high-risk situations that cannot be managed without law enforcement (GC Section 53123.3(b)(9)). DHCS believes “behavioral health contacts made or routed to 9-8-8” is too broad and does not align with DHCS’ definition of mobile crisis. An individual who is not in crisis and calls 9-8-8 does not need a mobile crisis team to respond. Additionally, an individual in crisis who calls 9-8-8 do not always require a mobile crisis team to respond. Therefore, DHCS proposes clean up to these sections.

#### *Contract Exemption Language*

In order to avoid delays with executing contracts DHCS proposes contract exemption language. For example, there may be delays in executing the contract for the federal Substance Abuse Mental Health Services Administration (SAMHSA) Cooperative Agreement, which expands the capacity of the 13 Lifeline Centers in California to answer the increased number of calls received through 9-8-8. DHCS has multiple existing contracts with Didi Hirsch to support the Lifeline Centers, which may be delayed when those contracts expire. DHCS proposes to add contract exemption authority in newly proposed GC Section 53123.6.

#### *Align Commercial and Medi-Cal Coverage*

While both commercial health plans and Medi-Cal health plans cover some behavioral health services, Medi-Cal covers a wider array of behavioral health services. These discrepancies cause confusion for consumers trying to access necessary behavioral health services and creates disparities between public and private health care coverage. The DMHC proposes cleanup language to the Health and Safety Code to require parity between what AB 988 services are eligible for coverage under commercial and Medi-Cal plans. CDI also proposes amendments to primarily align the Insurance Code with DMHC’s proposed Health and Safety Code amendments.

### *Health Plan Coverage of Pre- and Post-Stabilization 988 Services*

Existing law requires commercial health plans to cover medically necessary services to treat a mental health or substance use disorder provided through the 988 system. This statutory framework scheme fails to answer essential operational questions including the following: 1) how to differentiate between 988 crisis services and other behavioral health services, and 2) what happens if a health plan determines that the crisis behavioral health services were not medically necessary. The DMHC proposes additional language which would address both these questions. First, the amended statute would adopt the distinction used in the context of current emergency medical coverage by categorizing behavioral health crisis services into pre- and post-stabilization services. These amendments would leverage an existing statutory framework scheme to provide operational clarity to plans and providers and would require there is parity between medical and 988 behavioral health crisis services. Second, the proposed language would clarify that plans must cover all 988 pre-stabilization services rendered regardless of medical necessity. This amendment would prevent retrospective utilization review denying coverage for 988 behavioral health crisis stabilization services.

### *Agency planning and reporting*

Delays the deadline to create a set of recommendations to support a five-year implementation plan, from December 2023 to December 2024, to allow CalHHS additional time to convene the advisory group and make recommendations specified in existing law. Further, the proposed language deletes the requirement for CalHHS to submit an annual legislative implementation status report beginning in December 2023 through December 2029. Ongoing oversight of AB 988 implementation may be addressed through existing budget oversight processes and briefings.

### **Specifically, this proposal would:**

- Conform the state definition of “988” with the federal definition (GC Section 53123.1.5(a)).
- Remove references to crisis “receiving and” stabilization because this term is not defined and does not align with existing services. In Medi-Cal, “crisis stabilization” is an existing defined service (GC Sections 53123.1.5 (d) and 53123.3(b)(6) and (b)(12)(D)).
- Replace “mobile crisis teams” with “behavioral health crisis services” in some sections to broaden service delivery (GC Section 53123.4(b)(2)(B)).
- Extend the deadline of the CalHHS five-year plan recommendations to December 31, 2024. (GC Section 53123.3(a)(1))
- Extend the requirement by which the advisory group shall meet from once per quarter until December 2023 to once per quarter until December 2024 and aligns the date the advisory group may be disbanded not before January 1, 2025. (GC Section 53123.3(a)(4) and 53123.3(a)(5))
- Clarify recommendation from CalHHS advisory group related to the statewide provision of mobile crisis (GC Section 53123.3(b)(9)).
- Remove annual CalHHS legislative implementation status reporting requirement from December 31, 2024 through December 31, 2029. (GC Section 53123.3(c)).
- Clarify the use of the 988 State Suicide and Behavioral Health Crisis Services Fund (GC Section 53123.4.(b))
- Authorize the 988 State Suicide and Behavioral Health Crisis Services Fund to pay state departments for their cost in administration of the 988 Suicide and Crisis Lifeline (Health & Saf. Section 41136)
- Remove the requirement that the expenditures and outcomes report, submitted to the

Office of Emergency Services include information regarding billing to and reimbursement of health care service plans or insurers and measures of system performance.(GC Section 53123.4(d)(6) and (7)).

- Make technical changes to bulletin authority language (GC Section 53123.5)
- Authorize DHCS to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis, and to implement changes to existing information technology systems (proposed GC Section 53123.6).
- Clarify that commercial health plans must cover the same scope of mental health and substance use disorder substances eligible for coverage by Medi-Cal health plans (Health & Saf. Section 1374.724(a) and (d)(2)).
- Distinguish between pre- and post-stabilization behavioral health crisis services for the purpose of prior authorization, coverage, and reimbursement rates (Health & Saf. Section 1374.724(b) – (d)).
- Clarify the applicability of existing law for health plan reimbursement of 988 services. (Health & Saf. Section 1374.724(f)).
- Amend the Insurance Code to primarily align with amendments to the Health and Safety Code. (Insurance Section 10144.57)

**Summary of Arguments in support:**

- The proposal provides clarity and supports the delivery of a fully operational and comprehensive 9-8-8 system in California.
- The proposal avoids delays related to executing contracts expeditiously related to the implementation of AB 988.
- The proposal provides the operational details necessary for commercial health plans implement the coverage mandate for 988 services.

**BCP # and Title:**

- 0530-011-BCP-2023-GB, 4150-027-BCP-2023-GB, 4260-092-BCP-2023-GB 988 Suicide and Crisis Lifeline (AB 988);
- 0690-027-BCP-2023-GB 988 Suicide and Crisis Lifeline (AB 988);
- 7600-030-BCP-2023-GB Mental Health - Crisis Hotline (AB 988)