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Applied Behavior Analysis Policy Manual

eMedNY New York State Medicaid Provider Policy Manual

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2 Links and eMedNY Contacts

NYS Medicaid Updates
NYS Medicaid Updates are published monthly. Updates to Applied Behavior Analysis (ABA) policy may be made periodically and posted on the NYS Medicaid program's Medicaid Update website. NYS Medicaid Updates are available at:
https://www.health.ny.gov/health_care/medicaid/program/update/main.htm.

Provider Communications
Provider communications may periodically be posted on eMedNY's ABA Provider Manual website. Please follow the link provided and click on the *ABA Provider Communications* icon under "Featured Links" for further information visit:
https://www.emedny.org/ProviderManuals/ABA/

NYS Medicaid Fee-For-Service (FFS) ABA Provider Policy Manual
https://www.emedny.org/ProviderManuals/ABA/

NYS Medicaid FFS ABA Fee Schedule
The NYS Medicaid FFS ABA Fee Schedule is available at:
https://www.emedny.org/ProviderManuals/ABA/

NYS Medicaid General Policy Manual – Information for All Providers
General Medicaid Policy information and billing guidance is available at:
https://www.emedny.org/ProviderManuals/AllProviders/

New York Codes, Rules and Regulations, Title 18 (Social Services)
http://www.health.ny.gov/regulations/nycrr/title_18/

New York Codes, Rules and Regulations, Title 10 (Health)http://www.health.ny.gov/regulations/nycrr/title_10/

2.1 eMedNY URLs

- General eMedNY website: https://www.emedny.org/
- Provider Enrollment Forms: https://www.emedny.org/info/ProviderEnrollment/
- Change of Address for Enrolled Providers: https://www.emedny.org/info/ProviderEnrollment/changeaddress.aspx
- Provider Quick Reference Guide: https://www.emedny.org/contacts/telephone%20quick%20reference.pdf

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- The eMedNY LISTSERV® is a Medicaid mailing system that offers providers, vendors, and other subscribers the opportunity to receive a variety of notifications from eMedNY. The email notifications are provided as a free service to subscribers and may include information on provider manual updates, fee schedules, edit status changes, billing requirements and other helpful notices. Additional information regarding eMedNY LISTSERV® can be found at: https://www.emedny.org/Listserv/eMedNY_Email_Alert_System.aspx

- General Billing:
  - https://www.emedny.org/ProviderManuals/AllProviders/
  - Includes information on the following:
    - Frequently Asked Questions on Delayed Claim Submission:
    - Submitting Claims over 90 Days from Date of Service

- Guide to Timely Billing Information for all Providers – General Policy: https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers-General_Policy.pdf

- Timely Billing Information: https://www.emedny.org/info/TimelyBillingInformation_index.aspx

- Guide to Claim Denial Reasons: http://www.health.ny.gov/health_care/medicaid/program/update/2015/april_mu.

- Medicaid Eligibility Verification System (MEVS): https://www.emedny.org/ProviderManuals/5010/MEVS/MEVS_DVS_Provider_Manual_(5010).pdf

- Medicaid Managed Care (MMC) Plan Directory: https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers_Managed_Care_Information.pdf

2.2 ePACES Reference Guide

https://www.emedny.org/selfhelp/ePACES/PDFS/5010_ePACES_Professional_Real_Time_Claim_Reference_Guide.pdf

2.3 eMedNY Contact Information

Phone (800) 343-9000

eMedNY: Billing Questions, Remittance Clarification, Request for Claim Forms, ePACES Enrollment, Electronic Claim Submission Support (eXchange, FTP), Provider Enrollment, Requests for paper prior approval forms

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3 Document Control Properties

Control Item	Value
Document Name	Applied Behavior Analysis Policy Manual
Document Control Number	
Document Type	Policy Manual
Document Version	
Document Status	
Effective date	February 1, 2024

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4 Definitions

Applied Behavior Analysis – Article 167, Section 8801 of the New York State Education Law defines "applied behavior analysis" or "ABA" as the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

This definition is located at: https://www.op.nysed.gov/professions/licensed-behavior-analysts/laws-rules-regulations/article-167

5 Overview

ABA services provided by enrolled Licensed Behavior Analysts (LBAs) and/or Certified Behavior Analyst Assistants (CBAAs) will be covered for NYS Medicaid fee-for-service (FFS) and Medicaid Managed Care (MMC) members under 21 years of age with a diagnosis of Autism Spectrum Disorder (ASD) as defined by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) and/or Rett Syndrome. The NYS Medicaid member must be referred for ABA services by a NYS-licensed and NYS Medicaid-enrolled physician, psychologist, psychiatric nurse practitioner, pediatric nurse practitioner, or physician assistant.

Referring providers should follow the criteria for diagnosing ASD found in the DSM-5 and outlined in the NYS Department of Health's publication, *Clinical Practice Guideline on Assessment and Intervention Services for Young Children with Autism Spectrum Disorders (ASD)* available at: https://www.health.ny.gov/publications/20152.pdf.

Referrals for ABA services are valid for no more than two years and should include:

- age of the patient
- ASD or Rett Syndrome diagnosis
- date of initial diagnosis
- co-morbid diagnosis (if applicable)
- symptom severity level/level of support (if referral is from an ASD-diagnosing provider)
- statement the patient needs ABA services
- DSM-5 Diagnostic Checklist for ASD diagnoses

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6 LBA/CBAA Qualification Requirements

LBAs must be licensed, and CBAAs must be certified, by the NYS Department of Education (NYSED) to enroll and participate in the NYS Medicaid FFS program.

To be licensed/certified as an LBA/CBAA in NYS individuals must:

- be of good moral character;
- be at least 21 years of age; and
- meet education, examination, and experience requirements.

Specific education, examination, and experience requirements for LBA licensure and/or CBAA certification are contained in Title 8, Article 167, Section 8804 of NYS's Education Law and–Part 79 of the NYSED's Regulations of the Commissioner available at http://www.op.nysed.gov/prof/aba/article167.htm.

NYSED Regulations of the Commissioner Part 79, Subpart 79-17 (LBAs) are available at http://www.op.nysed.gov/prof/aba/subpart79-17.htm.

NYSED Regulations of the Commissioner Part 79, Subpart 79-18 (CBAAs) are available at http://www.op.nysed.gov/prof/aba/subpart79-18.htm.

7 LBA/CBAA Provider Enrollment

7.1 NYS Medicaid FFS Provider Enrollment

An LBA must be enrolled with the NYS Medicaid FFS program to receive reimbursement for ABA services provided to a NYS Medicaid FFS or MMC member.

CBAAs cannot bill the NYS Medicaid program directly for ABA services provided to NYS Medicaid members; however, the supervising LBA can bill for the ABA services provided by the CBAA. CBAAs must enroll as a NYS Medicaid OPRA provider to provide ABA services to NYS Medicaid or MMC members.

LBAs and CBAAs providing ABA services in an Article 28 facility must be enrolled in the

NYS Medicaid FFS program as an OPRA provider and must be affiliated with the Article 28 facility for the facility to be reimbursed for ABA services.

Provider enrollment information can be found at https://www.emedny.org/info/ProviderEnrollment/.

7.2 Medicaid Managed Care (MMC) Considerations

ABA services will be carved into the MMC benefit package effective January 1, 2023. ABA providers providing services to a MMC member must contact the MMC member's specific MMC plan for coverage, billing, and reimbursement guidance. A MMC plan directory can be found in the "*INFORMATION FOR ALL PROVIDERS - MANAGED CARE INFORMATION*" manual located at: https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers_Managed_Care_Information.pdf

7.3 Revalidation of Enrollment

Medicaid enrolled providers must revalidate information provided at the time of enrollment every 5 years from either the enrollment effective date as specified in their Medicaid Welcome Letter, or the Last Date revalidation was completed as indicated in their Successful Completion of Revalidation Letter.

Additional information on Revalidation of Enrollment is available at https://www.emedny.org/info/ProviderEnrollment/revalidation/.

NOTE: Providers can save time and money by coordinating their NYS Medicaid FFS program revalidation with Medicare, another state's Medicaid program, or the Child Health Plus (CHP) program. If revalidation with the NYS Medicaid FFS program is within 12 months of Medicare, CHP, or another state's Medicaid program enrollment, then the NYS Medicaid FFS program's application fee may be waived.

Please see the following form to apply for this application fee exemption: https://www.emedny.org/info/ProviderEnrollment/ProviderMaintForms/520101_Application_Fee_Exemption_Form.pdf.

8 LBA/CBAA Scope of Practice/Services

8.1 Scope of Practice/Services

The practice of ABA by a NYSED licensed LBA includes the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior, for the purpose of providing behavioral health treatment for Medicaid members under 21 years of age with a diagnosis of ASD as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) and/or Rett Syndrome.

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The NYS Medicaid member must be referred for ABA services by a NYS licensed and NYS Medicaid enrolled physician, psychologist, psychiatric nurse practitioner, pediatric nurse practitioner, or physician assistant. Referrals for ABA services are valid for no more than two years.

The practice of ABA by a CBAA means the services and activities provided by a person certified by the NYSED as a CBAA who works under the supervision of an LBA to perform such patient related ABA tasks as are assigned by the supervising LBA. Supervision of a CBAA by an LBA shall be in accordance with the NYSED Regulations.

LBAs and CBAAs may work in any legally authorized setting. Examples of such settings include private practice, settings where patients/clients reside full-time or part-time, clinics, hospitals, residences, and community settings.

Note: NYS Medicaid does not reimburse for ABA services in a school setting.

LBAs & CBAAs are prohibited from:

- Prescribing or administering drugs as a treatment, therapy, or professional service in the practice of his or her profession; or
- Using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For the purpose of this manual, “invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes, but is not limited to, surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

Section 8807 of Title VIII of the Education Law permits unlicensed persons, who may be identified as aides, to participate in a multi-disciplinary team. Services and activities provided by unlicensed persons may include:

- Performing tasks that do not require professional skill or judgment, such as recording progress and completing other routine and repetitive activities to assist in the implementation of an individual ABA plan
- Participating as a member of a multi-disciplinary team to implement an ABA plan, as long as the multidisciplinary team shall include one or more professionals licensed as physicians, psychologists, licensed clinical social workers, licensed master social workers, licensed mental health counselors, licensed psychoanalysts, licensed marriage and family therapists, licensed behavior analysts, certified behavior analyst assistant and licensed creative arts therapists as long as the activities performed by members of the team fall within the scope of practice for each team member licensed or authorized under Title VIII of the Education Law.

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For the purposes of this provider manual, an "unlicensed individual", also referred to as a "technician", supports an ABA service delivery team under the supervision of a LBA, but is not licensed, certified or registered by the State of New York as an ABA provider.

An LBA may not delegate to an unlicensed individual any tasks included in the scope of practice of applied behavior analysis even under the direct supervision of a LBA, however, an unlicensed individual may carry out the specific, scripted treatment plan activities/sessions created by an LBA to address a client's targeted behavior(s). The LBA's behavior treatment plan directs the unlicensed individual's interaction with the client and engages them as the objective recorder of that interaction. Unlicensed individuals may carry out supportive tasks as directed by their supervising LBA. These activities may include the following:

- meeting with the LBA to review the LBA's behavioral treatment plan for the client, including the scripted activities designed to address the client's needs;
- working directly with the client to carry out the behavior treatment plan designed by the supervising LBA;
- preparing the setting for the treatment plan's sessions/activities, such as arranging the environment and ensuring the required session materials are present;
- following the treatment plan session instructions as scripted by the supervising LBA;
- recording/entering data without interpretation, using the data collection system designed by the supervising LBA;
- making observations regarding communication skills and behaviors, conducting and recording assessments using protocols identified by the supervising LBA; and providing factual session notes for review by the supervising LBA.

An LBA can supervise no more than six CBAAs/unlicensed individuals at a time (e.g., one CBAA and five unlicensed individuals or two CBAAs and four unlicensed individuals, etc.).

Questions related to the scope of practice of LBAs, CBAAs and the role of "unlicensed individuals" (also referred to as "technicians") in providing Applied Behavior Analysis related services must be directed to the NYSED, Office of the Professions via e-mail to ababd@nysed.gov.

8.2 LBA Supervising CBAA Requirements

Education Law and Regulations of the Commissioner of Education require that certified behavior analyst assistants (CBAAs) receive direct supervision. CBAAs must work under the supervision of a licensed behavior analyst (LBA). An LBA cannot supervise more than

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six CBAAs at a time. CBAAs should receive supervision in all aspects of their work, including but not limited to, carrying out initial assessments, treatment, and assessments to terminate services. The LBA supervisor must meet with and observe the CBAA supervisee on a regular basis to review the implementation of treatment plans and to foster the CBAA supervisee's professional development. The amount and type of supervision provided should be based on the ability level and clinical experience of the CBAA supervisee and the setting in which he or she is providing the services.

Additionally, the supervisor should assess each patient's/client's progress at least every 6 months or as needed, and review and sign treatment notes and reports prepared by the CBAA supervisee.

For additional information regarding NYSED scope of practice and supervision requirements for LBAs and CBAAs visit http://www.op.nysed.gov/prof/aba/abapa2.

8.3 Documentation Requirements

In addition to the "Record Keeping Requirements" found in the "Information to All Providers General Policy" guidelines available at https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers-General_Policy.pdf, clinical documentation of ABA services provided or supervised by LBAs should include, but may not be limited to:

- The treatment plan, which includes assessment and goals
- Specific goals and associated data to determine progress
- Total hours of service per week, and provision of services by LBA/CBAA/etc. (including caregiver training)
- Location(s) of services (such as office, residence, community)

8.3.1 Treatment Plan

The Licensed Behavior Analyst (LBA) is responsible for developing an individualized treatment plan for Applied Behavior Analysis (ABA) that will guide recommendations for treatment goals, treatment intensity, and service delivery for an individual diagnosed with ASD as defined by DSM-5 and/or Rett Syndrome. The treatment plan should include the following:

- Reason for referral
- Background information, including client strengths
- Behavioral assessment method and results
- Treatment setting
- Treatment goals
- Plan for coordination with other providers
- Plans for transition and discharge of services

Background information should include the following:

- Relevant psychosocial, family, educational, and medical history
- Current educational, therapeutic, and care coordination services being provided, including response to current services and barriers to treatment

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- Current diagnosis(es)

Behavioral assessment method and results should include the following:

- Assessment methodology (e.g., antecedent-behavior-consequence log, behavioral observation/sampling, functional behavior assessment, self-monitoring/self-report, inventory, etc.)
- Results of assessment
- As appropriate, identify standardized assessment used (e.g., adaptive behavior scales, symptom inventories, aggression ratings) and results of assessment

8.3.2 Treatment goals

The treatment plan should identify the objective and measurable treatment goals to address problem areas that were identified through the assessment process and are targeted for intervention. The treatment goals should be directly related to the diagnosis of ASD or Rett Syndrome and should be defined appropriate to proposed treatment intensity and service delivery. They should include:

- Operationally defined target behaviors or skills for increase/decrease based on behavioral assessment (including maintenance of mastered targets as appropriate)
  - Conditions/context for performance
  - Instructional procedure
  - Criterion for mastery
  - Maintenance and generalization criteria
- Data associated with treatment goal
  - Date of introduction of goal
  - Baseline data reported in objective terms (e.g., frequency, intensity, duration, etc.)
  - Sampling method for ongoing data collection, including expected frequency
  - Current data expressed by the same data collection method as the baseline data so that progress can be measured.
- As appropriate, identification of parent/caregiver training goals to ensure generalization of skills

LBAs will update the treatment plan at least every 6 months or as needed. Updates should include:

- updated goals and data
- relevant changes in psychosocial, family, educational, or medical history

For coordination of care purposes, initial treatment plans and updates to the treatment plan should be shared with the referring provider and, as necessary, other care providers (e.g., primary care, physical, speech, and occupational therapists).

9 Billing

9.1 Billing Guidance

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LBAs enrolled in the NYS Medicaid FFS program can bill the NYS Medicaid FFS program for ABA services rendered using the procedure codes identified in the tables below and found in the *ABA Procedure Codes & Fee Schedule* available at https://www.emedny.org/ProviderManuals/ABA/.

CBAAs cannot bill the NYS Medicaid FFS program directly. LBA's enrolled in the NYS Medicaid FFS program can bill the NYS Medicaid FFS program for ABA services rendered by enrolled CBAAs under their supervision using the procedure codes identified in the *ABA Procedure Codes & Fee Schedule*.

LBAs billing for ABA services provided by CBAAs under their supervision will bill using the LBA's National Provider Identification (NPI) number for the "Billing" provider and/or "Supervising" provider. The NPI number of the CBAA that provided the ABA service should be reported as the "Rendering" provider" on each claim. LBAs can bill for services and/or activities provided by non-enrolled unlicensed aides in their multi-disciplinary team under their supervision using the LBA's NPI number for the "Billing", "Supervising" and "Rendering" provider. LBAs can bill for services and/or activities provided by non-enrolled LBA limited permit holders, as defined by NYSED, under their supervision using the supervising LBA's NPI number for the "Billing", "Supervising" and "Rendering" provider.

LBAs enrolled in the NYS Medicaid FFS program can bill the NYS Medicaid FFS program for ABA services rendered using the following procedure codes:

CPT Code	Code Description
97151	**Behavior identification assessment**, administered by a physician or other qualified health care professional, each 15 minutes of the physician's or other qualified health care professional's time face to face with patient/or guardian(s)/caregiver(s) administering assessments and discussing findings and recommendations, and non-face-to-face analyzing past data, scoring/interpreting the assessment, and preparing the report/treatment plan.
97152	**Behavior identification-supporting assessment**, administered by one technician under the direction of a physician or qualified health care professional, face-to-face with the patient, each 15 minutes.
97153	**Adaptive behavior treatment by protocol, administered** by a technician under the direction of a physician or other qualified healthcare professional, face-to-face with one patient, every 15 minutes.
97154	**Group adaptive behavior treatment by protocol,** administered by technician under the direction of a physician or other qualified health care professional, face-to-face with two or more patients, each 15 minutes
97155	**Adaptive behavior treatment with protocol modification**, administered by a physician or other qualified health care professional, which may include simultaneous direction of a technician, face-to-face with one patient, every 15 minutes.

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97156	**Family adaptive behavior treatment guidance,** administered by physician or other qualified health care professional (with or without the patient present), face-to-face with guardian(s)/caregiver(s), each 15 minutes.
97157	**Multiple-family group adaptive behavior treatment guidance**, administered by physician or other qualified health care professional (without the patient present), face-to-face with multiple sets of guardians/caregivers, each 15 minutes
97158	**Group adaptive behavior treatment with protocol modification,** administered by physician or other qualified health care professional, face-to-face with multiple patients, each 15 minutes.

Notes:
CPT code **97156** & **97157** can only be billed when the service is delivered in concert with care of the patient as part of the child's treatment plan.

CPT code **97158** & **97154** can only be billed for a group treatment session of no more than 8 individuals.

9.2 Article 28 Facilities

An Article 28 facility can bill for ABA services using the Ordered Ambulatory Fee Schedule for services provided by NYS Medicaid enrolled LBAs/CBAAs affiliated with the Article 28 facility. The Ordered Ambulatory Fee Schedule is available at https://www.emedny.org/ProviderManuals/OrderedAmbulatory/

To view the ABA Procedure Codes & Fee Schedule, please visit https://www.emedny.org/ProviderManuals/ABA/

Additional NYS Medicaid billing guidance is available at https://www.emedny.org/ProviderManuals/AllProviders/

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