



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

8.321.2 NMAC SPECIALIZED BEHAVIORAL HEALTH SERVICES

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

PROPOSED RULES

V. BACKGROUND SUMMARY

The Human Services Department (the Department) through the Medical Assistance Division (MAD), is proposing amendments to the New Mexico Administrative Code (NMAC) rule 8.321.2 *Specialized Behavioral Health Services*. The Department finalized Section 10 (*Applied Behavior Analysis*) of 8.321.2 NMAC January 1, 2014, with minimum detail as it developed the service. The service is specifically for eligible recipients with a diagnosis of Autism Spectrum Disorders (ASD) and a narrowly defined at-risk population. The Department has completed a lengthy study and discussion of Applied Behavior Analysis (ABA) services and is now promulgating amendments to this section of the rule. Throughout this section of the rule, the Department refers to ABA Billing Instructions. The Department is proposing to include more detailed information in the rule while continuing to have other information contained in the ABA Billing Instructions as appropriate. The Department will post for public comment the proposed amendments and the ABA billing instructions.

In addition, the Department is receiving comments on its proposed ABA fee schedule rates and State Plan Amendment 15-001, Attachment 4-19-B. The proposed ABA fee schedule is available for review at:

<http://www.hsd.state.nm.us/providers/fee-schedules.aspx>. At the page, accept the terms and conditions of using the site, scroll down to Proposed Fee Schedules or Rates, then see the posting titled: Applied Behavior Analysis (ABA) fee schedule rates 5.2015.

NMAC Highlights:

- The amendments provide for new services to eligible recipients under the age of 3 who meet an at-risk category which are not offered under the current service of Adaptive Skills Building (ASB). The intent of this service is to ensure that eligible recipients, who meet the research-based at-risk criteria for being diagnosed with ASD, receive this intensive intervention. Research demonstrates a very young child who has an older sibling with a diagnosis of ASD or the child himself has a Fragile X Syndrome diagnosis has a substantially increased risk for being diagnosed with ASD.
- The amendments extend ABA services up to 21 years of age, a change from the current limitation of up to five years of age.
- The amendments support the intervention of Specialty Care Providers to assist ABA agencies render services to challenging eligible recipients who present with complex care needs. Research indicates that intensive services to complex behaviors assist eligible recipients to remain in their home and community instead of in institutional care facilities.
- The amendments require ASD trained professionals to render highly effective diagnostic evaluations and ABA services to receive a reimbursement rate that supports a provider's agency to offer more slots to eligible recipients. ABA's effective outcomes are possible by having highly trained and nationally certified ABA providers rendering ABA services. The rule and accompanying billing instructions provide opportunities for ABA interim practitioners to be hired and to receive reimbursed during a specific phase-in period.
- The amendments offer an eligible recipient ABA services as long as they are medically necessary, rather than ASB time-limited services. Eligible recipients with an ASD diagnosis will encounter multiple situations where ABA services can provide positive outcomes.
- The American Medical Association (AMA) released new Current Procedural Terminology (CPT) codes specific for ABA services late 2014. HSD's proposed ABA fee schedule provides reimbursement for all ABA AMA approved codes to support children and adolescents with a diagnosis of Autism Spectrum Disorder (ASD) and those who are at-risk of being diagnosed with ASD receive high quality services.

VI. RULES

The proposed rule will be contained in 8.321.2 NMAC. This register and the proposed changes are available on the HSD website at:

<http://www.hsd.state.nm.us/LookingForInformation/registers.aspx>.

or at:

<http://www.hsd.state.nm.us/public-notice-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>.

If you do not have internet access, a copy of the proposed rules or proposed fee schedule may be requested by contacting the Medical Assistance Division at 505-827-7743.

VII. EFFECTIVE DATE

The Department proposes to implement this rule effective May 1, 2015.

VIII. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held in Hearing Room One, Toney Anaya Building, 2550 Cerrillos Road Santa Fe, NM on April 14, 2015, 11 a.m. Mountain Daylight Time (MDT).

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Medical Assistance Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-7743. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by MAD upon request by providing copies directly to a requestor or by making them available on the HSD website or at a location within the county of the requestor.

IX. ADDRESS

Interested persons may address written comments to:

Human Services Department
Office of the Secretary
ATTN: Medical Assistance Division Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at 505 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us Written mail, electronic mail and recorded comments must be received no later than April 14, 2015, 5 p.m. MDT. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

X. PUBLICATIONS

Publication of this rule and the notice of proposed fee schedules are approved by:



BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT

8.321.2.10

APPLIED BEHAVIOR ANALYSIS:

[MAD pays for medically necessary, empirically supported applied behavior analysis (ABA) for MAP-eligible recipients under 21 years of age who have a well-documented medical diagnosis of autism spectrum disorder (ASD), and for MAP-eligible recipients under three years of age who has a well-documented risk for the development of ASD. ABA is provided to a MAP-eligible recipient by MAD as part of a three-stage comprehensive approach to assessment and treatment which stipulates that ABA be provided in conjunction with other medically necessary services (e.g., occupational therapy, speech language therapy, medication management, etc.). Following a referral to an approved autism assessment provider (AAP) to confirm the presence of, or risk for, ASD (stage one), a behavior analytic assessment is conducted and a behavior analytic treatment plan is developed, as appropriate for the selected service model (stage two). Then, behavior analytic services are rendered by an approved behavior analytic provider in accordance with the MAP-eligible recipient's treatment plan (stage three). See MAD billing instructions for detailed and specific requirements for this service. A MAD provider must completely comply with all NMAC rules and billing instructions to be eligible for reimbursement of this service.]

MAD pays for medically necessary, empirically supported, applied behavior analysis (ABA) services for eligible recipients 12 months up to 21 years of age who have a well-documented medical diagnosis of autism spectrum disorder (ASD), and for eligible recipients 12 months up to three years of age who have well-documented risk for the development of ASD. ABA services are provided to an eligible recipient as part of a three-stage comprehensive approach consisting of evaluation, assessment, and treatment which stipulates that ABA services be provided in coordination with other medically necessary services (e.g., family infant toddler program (FIT) services, occupational therapy, speech language therapy, medication management, etc.). Following a referral to an approved autism evaluation provider (AEP) to confirm the presence of, or risk for ASD, utilizing a comprehensive diagnostic evaluation, and/or the production of an integrated service plan (ISP) (stage 1), a behavior analytic assessment is conducted and a behavior analytic treatment plan is developed as appropriate for the selected service model (stage 2). ABA services are then rendered by an approved ABA provider (AP) in accordance with the treatment plan (stage 3). A HSD MCO must provide intensive care coordination of services for members authorized for ABA services. See the ABA billing instructions for detailed information for eligible providers and practitioners, service requirements, prior authorizations, and reimbursement for ABA stages 1 through 3. In this section of this rule, members of a MCO are included in the term eligible recipients.

A. Eligible providers: ABA services are rendered by a number of providers and practitioners: an AEP; a behavior analyst (BA), a behavior technician (BT) through an AP; and an ABA specialty care provider. Each ABA provider and practitioner has corresponding enrollment requirements and renders unique services according to his or her provider type and specialty. As an example, a practitioner may be eligible to render services as an AEP, BA or an ABA specialty care provider when the specific ABA billing requirements are met. A BT may only render BT services. A BA may render BT services or possibly ABA specialty care services.

(1) stage 1 AEP: Completes the comprehensive diagnostic evaluation and develops the ISP for an eligible recipient who has been referred through the MAD approved screening process and the AEP has professional reason to believe the eligible recipient may be diagnosed with ASD. An AEP must:

(a) be a licensed, doctoral-level clinical psychologist or a physician who is board-certified or board-eligible in developmental behavioral pediatrics, pediatric neurology, or child psychiatry; and

(b) have experience in or knowledge of the medically necessary use of ABA and other empirically supported intervention techniques; and

(c) be qualified to conduct and document both a comprehensive diagnostic evaluation and a targeted evaluation for the purposes of developing an ISP; and

(d) have advanced training and clinical experience in the diagnosis and treatment of ASD and related neurodevelopment disorders, including knowledge about typical and atypical child development and experience with variability within the ASD population; and

(e) have advanced training in differential diagnosis of ASD from other developmental, psychiatric, and medical disorders; and

(f) sign an attestation form affirming that all provider criteria, as outlined above have been and will continue to be met.

(2) stage 2 BA practitioner: may render ABA stage 2-behavior analytic assessment, service model determination and treatment plan development and stage 3 services-implementation of ABA treatment plan. There are three possible avenues through which a stage 2 practitioner may qualify for BA provider enrollment: Certified BA, BA without certification, and interim ABA provider/supervisor-time limited.

(a) documented certification in behavior analysis by the BACB®:

(i) hold a professional credential issued by a licensing or certification board whose rules, regulations, and/or standards explicitly stipulate that the provision of ABA services is within the

scope of the profession's practice (e.g., behavior analyst certification board [BACB®], board of psychologist examiners of the New Mexico regulation and licensing department (RLD)); and

(ii) provide evidence that the provision of ABA services is within the scope of the practitioner's competence by providing documentation of certification as by the Behavior Analyst Certification Board (BACB®).

(3) **stage 2 psychologist with documented education and experience in behavior analysis without BACB® Certification:** holds a professional credential issued by RLD whose rules, regulations, and/or standards explicitly stipulate that the provision of ABA services is within the scope of the profession's practice. Provides documentation of training in behavior analysis comparable to that required to be eligible to take an examination for BCBA® or BCBA-D® certification, to include all of the following education, supervised experiential training, and continuing education requirements:

(a) possession of a minimum of a master's degree from an accredited university that was conferred in behavior analysis, education, or psychology, or conferred in a degree program in which the candidate completed a BACB® approved course sequence; and

(b) completion of graduate level instruction in the following behavior analytic content areas (b)(i) through (b)(x):

(i) ethical and professional conduct (at least 45 classroom hours);

(ii) concepts and principles of behavior analysis (at least 45 classroom hours);

(iii) measurement (at least 25 classroom hours);

(iv) experimental design (at least 20 classroom hours);

(v) identification of the problem and assessment (at least 30 classroom hours);

(vi) fundamental elements of behavior change and specific behavior change procedures (at least 45 classroom hours);

(vii) intervention and behavior change considerations (at least 10 classroom hours);

(viii) behavior change systems (at least 10 classroom hours);

(ix) implementation, management, and supervision (at least 10 classroom hours);

(x) discretionary coursework (at least 30 classroom hours); and

(c) supervised experience in the design and delivery of ABA services through supervised independent field work (non-university based) of at least 1500 hours, practicum experience (university based) of at least 1000 hours, or intensive practicum experience (university based) of at least 750 hours, supervised in accordance with the BACB®'s requirements for supervised experience. A significant portion (at least one third) of the supervised experience must have been accrued with an ASD or closely related population (e.g., Fragile X, Intellectual Disability); and

(d) Completion of at least 32 hours of continuing education in behavior analysis per two years.

(4) **stage 2 interim ABA provider/supervisor - (time-limited):** Up to and including June 30 2016, ABA services may be delivered and/or supervised by a clinician who has the minimum qualifications listed below; however, the provider may not refer to him/herself as a "Behavior Analyst" as this title is reserved for those meeting the criteria above. Rather, the provider, approved on a temporary basis only, may refer to him/herself as an "interim ABA supervisor" or "interim ABA practitioner." The AP must provide documentation of all of the following:

(a) a master's degree which the BACB® recognizes and would lead to certification as a BCBA :

(b) New Mexico licensure, as appropriate for degree and discipline; and

(c) clinical experience and supervised training in the evidence-based treatment of children with ASD, specifically ABA; and

(d) experience in supervising direct support personnel in the delivery and evaluation of ABA services.

(5) **stage 3 behavioral technician:** A BT, under supervision of a BA, may implement Stage 3 ABA treatment plan interventions/services. MAD recognizes two types of BTs:

(a) **documented credentialing in behavior analysis** by providing an written attestation, and when appropriate provide formal records, documenting that the BT meets the following requirements:

- (1) be at least 18 years of age; and
- (ii) possess a minimum of a high school diploma or equivalent; and
- (iii) successfully complete a criminal background registry check; and
- (iv) complete a minimum of four hours of training in ASD (prior to the BT billing for ABA services) including, but not limited to, training about prevalence, etiology, core symptoms, characteristics, and learning differences; and
- (v) complete 40 hours of training in ABA that meets the requirements for Registered Behavioral Technician® (RBT®) by the BACB®.
- (vi) At least 20 hours of RBT training (in addition) to the four hours of ASD training) must occur prior to the AP billing for BT services. The other 20 hours of RBT training must be accrued, and RBT® certification from the BACB must be secured, no more than 90 calendar days following the first submission of billing for BT services.

(b) **documented training in behavior analysis, without RBT® credential-(time-limited):** the BT may render services for up to six months while working towards his or her certification as a RBT® when the AP provides written attestation that the BT meets the following requirements:

- (i) be at least 18 years of age; and
- (ii) possess a minimum of a high school diploma or equivalent; and
- (iii) successfully complete a criminal background registry check; and
- (iv) complete a minimum of four hours of training in ASD including, but not limited to, training about prevalence, etiology, core symptoms, characteristics, and learning differences prior to the AP billing for BT services; and
- (v) complete 40 hours of training (provided by a BA as defined above) with at least 20 hours of training occurring prior to the AP billing for the BT's services, and the other 20 hours accrued no more than 90 calendar days following first submission of billing for the BT's services.

(6) **stage 3 ABA specialty care provider:** Eligibility requirements for ABA specialty care providers are practitioners who are enrolled as BAs and must provide additional documentation that demonstrates the practitioner has the skills, training and clinical experience to oversee and render ABA services to highly complex eligible recipients who require specialized ABA services.

B. **Eligible recipients:** MAD has established a level of care (LOC) (see ABA billing instructions for details) for an eligible recipient to receive ABA services that must be met in addition one of the two categories of eligibility below:

(1) **at-risk for ASD:** An eligible recipient may be considered 'at-risk' for ASD and therefore eligible for time-limited ABA services, if he or she does not meet full criteria for ASD per the latest version of the diagnostic and statistical manual of mental disorders (DSM) or international classification of diseases (ICD). ABA services are time limited; see ABA billing instructions for detailed time limits. The eligible recipient must meet all four criteria to meet the at-risk for ABA eligibility criteria:

- (a) is between 12 and 36 months of age; and
- (b) presents with developmental differences and/or delays as measured by standardized assessments; and
- (c) demonstrates some characteristics of the disorder (e.g., impairment in social communication and early indicators for the development of restricted and repetitive behavior); and
- (d) presents with at least one genetic risk factor (e.g., genetic risk due to having an older sibling with a well-documented ASD diagnosis; eligible recipient has a diagnosis of Fragile X syndrome).

(2) **diagnosed with ASD:** an eligible recipient 12 months up to 21 years of age who has a documented medical diagnosis of ASD according to the latest version of the diagnostic and statistical manual of mental disorders (DSM) or the international classification of diseases (ICD) is eligible for ABA services with no time limits if he or she presents a comprehensive diagnostic evaluation completed by either a MAD enrolled AEP or a practitioner meeting MAD's ABA billing instructions of an AEP when the eligible recipient's ISP states ABA services are medically necessary. Prior authorizations are set at periodic intervals.

C. **Covered Services-Stage 1:** For an eligible recipient 12 months up to 21 years of age who is suspected of having ASD, stage 1 involves (a) screening, and if the results are positive, (b) referral to an AEP for diagnostic evaluation, ISP development, and the determination of medical necessity for ABA. For an eligible recipient who has an existing ASD diagnosis, as provided in accordance with the ABA billing instructions, stage 1

does not require diagnostic re-evaluation, but does require development of an ISP and the determination of medical necessity for ABA. Stage 1 entails that the AEP:

(1) ensures a screening and the referral is completed prior to the to AEP's services. For a detailed description of the requirements of screening and referral requirements refer to the ABA billing instructions;

(2) completes a comprehensive diagnostic evaluation once prior approval is received. The full requirements of a comprehensive diagnostic evaluation are detailed in the ABA billing instructions;

(3) conducts a targeted evaluation when the AEP determines a full comprehensive diagnostic evaluation is not appropriate. See the ABA billing instructions for details on when a targeted evaluation is appropriate;

(4) develops and issues the eligible recipient's evaluation report and ISP following the ABA billing instructions.

(5) develops and issues the eligible recipient's targeted evaluation report and ISP following the ABA billing instructions;

(6) develops and issues the eligible recipient's updated ISP following the ABA billing instructions.

E. Stage 2 BA Covered Services: For all eligible recipients, stage 2 involves the prior authorization process for behavior analytic assessment, ABA service model determination, and treatment plan development. Once the AP has received a prior authorization for the assessment and treatment plan development, as outlined below, the family, eligible recipient (as appropriate for age and developmental level), and the AP's supervising BA works collaboratively to make a final determination regarding the clinically appropriate ABA service model, with consultative input from the AEP as needed. Then a behavior analytic assessment addressing needs associated with both skill acquisition and behavior reduction is conducted, and an individualized ABA treatment plan, as appropriate for the ABA service model, is developed by the supervising BA.

(1) Essential practice elements: The BA is ultimately responsible for ensuring that all essential practice elements are apparent throughout service delivery as required in the ABA billing instructions.

(2) Service model determination: ABA treatment may vary in terms of intensity and duration, the complexity and range of treatment goals, and the extent of direct treatment provided. Many variables, including the number of behavioral targets, specific aspects of those behaviors, and the eligible recipient's response to treatment help determine which model is most appropriate. Although existing on a continuum, these models can be generally categorized as focused ABA or comprehensive ABA, both of which are MAD covered ABA stage 3 services. The ABA billing instructions provide the BA with details on each of these requirements. The BA is responsible for completing all of the following services:

(a) the eligible recipient's assessment;

(b) selection and measurement of goals; and

(c) treatment plan formulation and documentation.

(3) Clinical management and case supervision: In order to achieve the desired, medically necessary outcome, all cases require clinical management, and if a BT is tasked with implementing the treatment plan, the BT requires frequent, ongoing case supervision from the BA. Provision of both clinical management and case supervision allows for the individualization of treatment plans, careful and detailed collection and analysis of data, and timely modifications to treatment protocols, all of which are essential to ensuring treatment effectiveness. As such, MAD not only reimburses for, but requires both clinical management and case supervision. See the ABA billing instructions for detailed description of the requirements for rendering clinical management and case supervision.

F. ABA Specialty Care Services: While it is customary for MAD to limit rendering of a benefit to one provider to the same date of service and same time of service, MAD recognizes that there may be cases where the needs of the eligible recipient exceed the expertise of the AP and/or the logistical or practical ability of the AP to fully support the eligible recipient. In such cases, MAD allows the BA through his or her AP to refer the eligible recipient to a MAD approved, and as appropriate, a MCO contracted ABA specialty care provider.

G. Prior Authorizations-General Information:

(1) An eligible recipient's utilization review contractor (UR) must extend authorizations every six months including approving new requests for ABA services if the AEP's ISP or update indicates the medical necessity for the continuation of services and the corresponding treatment plan updates specify how these services will be delivered (e.g., service model, allocation of hours, etc.). During the 36-month service authorization period for focused ABA, services may or may not be continuously rendered depending on medical need, availability of service providers, and/or other factors. Prior authorization must be secured every six months until the end of the 36-month service authorization period. At each six month authorization point, the eligible recipient's UR will assess,

with input from the family and AP, whether or not changes are needed in the eligible recipient's ISP, as developed by the AEP. If so, the UR will facilitate contact with the AEP to modify the plan. Additionally, the family or AP may request ISP modifications prior to the MCO's six-month authorization point if immediate changes are warranted to preserve the health and wellbeing of the eligible recipient. See the ABA billing instructions for detailed description of prior authorization requirements.

(1) To secure prior authorization, the BA through the AP must submit the prior authorization request, specifically noting:

(a) the prior authorization request must be submitted with the comprehensive diagnostic evaluation report and ISP from the AEP (developed in stage 1) along with the ABA treatment plan (developed in stage 2 by the AP).

(b) the requested treatment model (focused or comprehensive), maximum hours of service requested per week; and

(c) the number of hours of case supervision requested per week, if more than two hours of supervision per 10 hours of intervention is requested. See the ABA billing instructions for detailed requirements for case supervision; and

(d) the number of hours of clinical management requested per week, if more than two hours of clinical management per 10 hours of intervention is requested. See ABA billing instructions for detailed requirements for case supervision; and

(e) the need for collaboration with an ABA specialty care provider, if such a need has been identified through initial assessment and treatment planning. After services have begun, the AP may refer the eligible recipient to a ABA specialty care provider who may then request prior authorization to render ABA specialty care stage 2 assessment and stage 3 ABA services. See the ABA billing instructions for detailed requirements to access ABA specialty care services.

(2) The request must document hours allocated to other services (e.g., early intervention through FIT) that are in the eligible recipient's ISP in order for the eligible recipient's UR to determine if the requested intensity (i.e., hours per week) is feasible and appropriate.

(3) When an eligible recipient's behavior exceeds the expertise of the AP and/or logistical or practical ability of the AP to fully support him or her, MAD allows the AP to refer the eligible recipient to his or her UR for prior authorization to allow an ABA specialty care provider to intervene. The UR will approve a prior authorization to the ABA specialty care provider to complete a targeted assessment and provide the primary AP with, or to implement itself, individualized interventions to address the behavioral concerns for which the referral is based on medical documentation.

(4) Services may continue until the eligible recipient ages out of eligibility for comprehensive ABA services as described in the ABA billing instructions.

I. Noncovered services:

(1) The eligible recipient's comprehensive or targeted diagnostic evaluation or the ISP and treatment plan updates recommend placement in a higher, more intensive, or more restrictive level of care and no longer recommends ABA services.

(2) The eligible recipient is in a residential facility that either specializes in or has as part of its treatment modalities MAD ABA services. The facility should render ABA services as detailed in the ABA billing instructions, such as they would general outpatient services of individual, family and group therapy.

(a) The eligible recipient's UR may authorize time limited ABA services while he or she remains in the facility for transition when ABA services are approved to be rendered upon his or her discharge from the facility to a community ABA provider.

(b) Specifically for an eligible recipient who meets admission criteria for ABA services and who is in a treatment foster care placement, he or she is not considered to be in a residential facility and may receive full ABA services.

(3) The referral for the comprehensive diagnostic evaluation did not utilize a MAD ABA specific screening tool as the basis of the referral. The eligible recipient's family or the referring agency must provide a MAD recognized positive screening result to an AEP. At that time, the AEP may request a prior authorization to complete a MAD ABA comprehensive diagnostic evaluation.

(4) The eligible recipient has reached the maximum age range for ABA services.

(5) Activities that are not designed to accomplish the objectives delineated in covered services and that are not included in the treatment plan.

(6) Activities that are not based on the principles and application of behavior analysis.

(7) Activities that take place in school settings and/or have the potential to supplant educational services.

(8) Activities that are better described as another therapeutic service (e.g., speech language therapy, occupational therapy, physical therapy, counseling, etc.), even if the provider has expertise in the provision of ABA.

(9) Activities which are better characterized as staff training or certification/licensure supervision requirements, rather than ABA case supervision.

J. Reimbursement Stage 1 – AEP Comprehensive Diagnostic Evaluation and ISP: MAD supports reimbursement for a comprehensive diagnostic evaluation and development of an ISP from an AEP through three situations listed in Section 10 Subsection C of this rule. See the ABA billing instructions for a detailed description of specific requirements in order to be reimbursed for AEP services.

K. Reimbursement Stage 2 and 3 ABA Prior Authorization: If the AEP prescribes ABA services as part of the eligible recipient's ISP, and the AP received prior approval from the eligible recipient's UR, the AP may bill for stage 2 and 3 services following the ABA billing instructions.

[8.321.2.10 NMAC - N, 1-1-14; A, xx-xx-15]

MAD APPLIED BEHAVIOR ANALYSIS: BILLING INSTRUCTIONS

SERVICE DEFINITION

The Medical Assistance Division (MAD) pays for medically necessary, empirically supported, Applied Behavior Analysis (ABA) services for eligible recipients under 21 years of age who have a well-documented medical diagnosis of Autism Spectrum Disorder (ASD), and for eligible recipients under three years of age who have well-documented risk for the development of ASD. For purposes of these billing instructions, an eligible recipient includes member of a Human Services Department (HSD) contracted managed care organization (MCO).

ABA services are provided to eligible recipients as part of a three-stage comprehensive approach consisting of evaluation, assessment, and treatment which stipulates that ABA services be provided in coordination with other medically necessary services (e.g., Family Infant Toddler Program services, occupational therapy, speech language therapy, medication management, etc.).

Following a referral to an approved Autism Evaluation Provider (AEP) to confirm the presence of, or risk for ASD, and/or integrated service planning (Stage 1), a behavior analytic assessment is conducted and a behavior analytic treatment plan is developed as appropriate for the selected service model (Stage 2). ABA services are then rendered by an approved ABA provider (AP) in accordance with the treatment plan (Stage 3). An eligible recipient's MCO must provide intensive care coordination when ABA services are authorized.

ELIGIBLE RECIPIENTS

ABA services are provided to a Medical Assistance Programs (MAP) eligible recipient 12 months up to 21 years of age. A recipient's eligibility for ABA service falls into one of two categories: "At Risk for ASD" or "Diagnosed with ASD." An eligible recipient must meet the level of care (LOC) Criteria detailed below.

ADMISSION CRITERIA

(Must meet A-D for admission)

- A. Services are determined to be medically necessary when:
 1. The eligible recipient cannot adequately participate in home, school, or community activities because the presence of behavioral excesses and/or the absence of functional skills interfere with meaningful participation in these activities; and/or
 2. The eligible recipient presents a safety risk to self or others. (The presence of safety risk to self or others does not need to meet the threshold criteria for out-of-home placement.)
- B. There is a reasonable expectation that ABA services will result in measurable improvement in the acquisition of functional, adaptive skills, and/or the reduction of non-functional, maladaptive behavior.
- C. The eligible recipient follows the prescribed three-stage comprehensive approach to evaluation, assessment, and treatment as outlined in the MAD ABA Billing Instructions.
- D. The eligible recipient meets one of the following two categories:

1. **At-risk for Autism Spectrum Disorder:** An eligible recipient may be considered “At-Risk for ASD,” and therefore eligible for time-limited, Focused ABA Services if he or she does not meet full criteria for ASD per the latest version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Diseases (ICD), and when he or she meets all of the following criteria:
 - i) Is between 12 and 36 months of age; and
 - ii) Presents with developmental differences and/or delays as measured by standardized assessment; and
 - iii) Demonstrates some characteristics of the disorder (i.e., impairment in social communication and early indicators for the development of restricted and repetitive behavior); and
 - iv) Presents with at least one genetic risk factor (e.g., the eligible recipient has genetic risk due to having an older sibling with a well-documented medical diagnosis of ASD; the eligible recipient has a diagnosis of Fragile X syndrome).
2. **Diagnosed with ASD:** An eligible recipient 12 months up to 21 years of age who has a medical diagnosis of ASD according to the latest version of DSM or ICD is eligible for ABA services if the evaluation leading up to a diagnosis of ASD meets service requirements as stated in the ABA billing instructions and NMAC rules, *Stage 1*.

CONTINUED ELIGIBILITY CRITERIA

(Must meet A and B for continuation)

- A. The eligible recipient continues to meet the ABA admission criteria.
- B. The eligible recipient responds positively to ABA services, as evidenced by quantitative data submitted by the ABA Provider (AP) when requesting prior authorization for continuation of ABA services:
 1. If the eligible recipient is not responding positively to services for any reason(s), including but not limited to, inadequate family participation, insufficient service intensity, or issues with the goals and/or associated interventions outlined in the ABA Treatment Plan, the AP must work with the Care Coordinator to address the identified barriers.
 2. The ABA Provider (AP) must first, make every attempt internally, to identify and address the lack of response. However, if the coordinated efforts of the AP and Care Coordinator do not result in positive behavior change, one of the following may be clinically indicated:
 - i) A referral to the Autism Evaluation Provider (AEP) for a targeted re-evaluation, resulting in an updated Integrated Service Plan (ISP),
 - ii) A referral to a Specialty Care Provider for increased clinical support, or
 - iii) Discharge from services to allow time for barriers to be resolved.

DISCHARGE CRITERIA

(Must meet one of A-D for discharge)

Individualized discharge criteria are developed with appropriate, realistic, and timely follow-up care and these criteria are included in the initial ABA Treatment Plan. An eligible recipient may be discharged from ABA services when:

- A. The eligible recipient has met his or her individualized discharge criteria, or
- B. The eligible recipient has reached the defining age limit as specified for "At-Risk for ASD" eligibility (i.e., 3 years of age) or for "Diagnosed with ASD" eligibility (i.e., 21 years of age), or
- C. The eligible recipient can be appropriately treated at a less intensive level of care, or
- D. The eligible recipient requires a higher level of care (i.e., out-of-home placement, not to include treatment foster care).

EXCLUSIONARY CRITERIA

(Must meet one of A-D for exclusion)

An eligible recipient may be excluded from ABA services when:

- A. The eligible recipient's Comprehensive or Targeted Diagnostic Evaluation or the ISP and Treatment Plan Updates recommend placement in a higher, more intensive, or more restrictive LOC.
- B. The eligible recipient is in an out-of-home placement, not to include treatment foster care, and he or she meets the LOC for ABA services. (In such cases, the facility must provide ABA services (Stage 2 and 3) as detailed in 8.321.2 NMAC and these Billing Instructions as part of their established residential care rate. Additionally, the UR may authorize time limited ABA services for an eligible recipient while he or she remains in the facility for transition when ABA services are approved to be rendered upon his or her discharge from the facility to a community ABA provider.)
- C. The referral for the Comprehensive Diagnostic Evaluation did not utilize an ASD specific screening tool (see below) as the basis of the referral.
- D. The eligible recipient has reached the maximum age for ABA services.

SCREENING AND REFERRAL

(Must enter services through A or B)

Screening for the presence of ASD, and then processing a referral to an AEP, is required to initiate Stage 1 of MAD ABA Services. Individuals may be screened and referred for evaluation by an AEP if there is concern that he or she may (a) have a diagnosis of ASD, or (b) be at risk for the development of ASD. (For an eligible recipient who has an existing ASD diagnosis, screening is not necessary to process a referral for AEP services.)

- A. Suspected of having ASD: For an eligible recipient 12 months up to 21 years of age who is suspected of having ASD, Stage 1 is initiated following (a) screening, and if the results are positive, (b) referral to an AEP for diagnostic evaluation, ISP development, and the determination of medical necessity for ABA.
 - 1. An eligible recipient who does not have a well-documented, best-practice medical diagnosis of ASD may be referred to an AEP for diagnostic evaluation if:

- i) A Level 1 ASD screener (e.g., Modified Checklist for Autism in Toddlers, Revised with Follow-Up; M-CHAT-R/F™ or Social Communication Questionnaire; SCQ) has been administered, and the screener yields a positive result; and
 - ii) The referring party believes the screener results to be valid based on his/her direct observation or eligible recipient's development. Although not required, the referring party is encouraged to use a Level 2 screener (e.g., the Screening Tool for Autism in Two-Year-Olds™; STAT™) or gather additional information through another clinical assessment mechanism whenever the Level 1 screener result is inconsistent with other clinical data
 - 2. An eligible recipient may be screened and referred to an AEP by:
 - i) The primary care provider (PCP) or another licensed health care practitioner including, but not limited to, a speech-language pathologist, occupational therapist, or social worker; or
 - ii) A Department of Health (DOH) Family Infant Toddler (FIT) Program Service Coordinator if he or she is concurrently being evaluated for FIT services or if he or she has been evaluated and is currently receiving FIT intervention services; or
 - iii) A school-based health or educational professional involved in his or her special education eligibility determination process.
- B. At-Risk for developing ASD: For eligible recipients 12 months to 3 years of age who are at risk for developing ASD based on the criteria identified above, but for whom a Comprehensive Diagnostic Evaluation is not initially indicated, Stage 1 is initiated following screening and referral for a targeted diagnostic evaluation, ISP development, and the determination of medical necessity for ABA services.
- 1. An eligible recipient may be referred to an AEP if there is:
 - i) Concern on the part of the referring party that an eligible recipient under 3 years of age is at-risk for ASD by virtue of his or her genetic status, but does not necessarily screen positive on a Level 1 ASD screener such as the Modified Checklist for Autism in Toddlers, Revised with Follow-Up™; M-CHAT-R/F™; and
 - ii) Concern that the eligible recipient is demonstrating developmental delay(s) and/or difference(s), including early manifestation of one or more ASD characteristics.
 - 2. An eligible recipient or member may be referred to an AEP by:
 - i) His or her PCP or another licensed health care practitioner including, but not limited to, a speech-language pathologist, occupational therapist, or social worker; or
 - ii) A FIT Program Service Coordinator if the eligible recipient or his or her biological sibling with ASD is concurrently being evaluated for FIT services, or if the eligible recipient or his or her biological sibling with ASD has been evaluated and is currently receiving FIT intervention services.

STAGE 1: Diagnostic Evaluation and Integrated Service Plan Development

A MAD approved Autism Evaluation Provider (AEP) renders Stage 1 services.

STAGE 1 PROVIDER REQUIREMENTS: AUTISM EVALUATION PROVIDER

(Must meet A-F)

Upon approval of a MAD Provider Participation Agreement (PPA) and as appropriate, is contracted with a MCO, an AEP must meet the following requirements in order to be eligible for reimbursement for provision of a comprehensive ASD diagnostic evaluation, risk assessment, and/or evaluation for the purposes of Integrated Service Plan (ISP) development. An AEP must:

- A. Be a licensed, doctoral-level clinical psychologist or a physician who is board-certified or board-eligible in developmental behavioral pediatrics, pediatric neurology, or child psychiatry; and
- B. Have experience in or knowledge of the medically necessary use of ABA and other empirically supported intervention techniques; and
- C. Be qualified to conduct and document both a Comprehensive Diagnostic Evaluation and a targeted evaluation for the purposes of developing an ISP; and
- D. Have advanced training and clinical experience in the diagnosis and treatment of ASD and related neurodevelopment disorders, including knowledge about typical and atypical child development and experience with variability within the ASD population; and
- E. Have advanced training in differential diagnosis of ASD from other developmental, psychiatric, and medical disorders; and
- F. Sign an attestation form affirming that all provider criteria, as outlined above, have been and will continue to be met; and when requested, provide documentation substantiating training, experience, licensure and/or certification.

STAGE 1 SERVICE REQUIREMENTS

(Must follow A-E, or the subsequent service variation identified for at-risk recipients)

- A. Following a referral, the AEP must provide one of the following in accordance with the offered guidelines:
 1. A best-practice, comprehensive diagnostic evaluation, resulting in a thorough evaluation report and ISP when:
 - i) The recipient has never received such an evaluation by an AEP; or
 - ii) The recipient has received such an evaluation by an AEP, but not within the previous consecutive 36 months; or
 - iii) The eligible recipient has received such an evaluation by an AEP within the previous consecutive 36 months, but there is sufficient reason to believe that the eligible recipient's presentation has changed markedly such that the previously rendered diagnosis may no longer be valid.
 2. A targeted evaluation for the purpose of developing (or updating) an ISP, for a recipient with an existing MAD-recognized ASD diagnosis, if:
 - i) An ISP has not been developed within the previous 12 months (e.g., in cases where a recipient was evaluated but not initially referred for ABA services; in cases where a recipient was evaluated by an out-of-state provider, etc.); or

- ii) The AP, in coordination with the eligible recipient's Care Coordinator, request that the eligible recipient's ISP be updated by the AEP because there is data to support the clinical determination that the ISP is no longer meeting the eligible recipient's medical needs.
- B. Given guidelines offered in the ABA Billing Instructions, it is the AEP's responsibility to determine whether a comprehensive evaluation for diagnosis or targeted evaluation for service planning, or both, is indicated. An AEP should not conduct a Comprehensive Diagnostic Evaluation without developing an ISP for an eligible recipient who is given an ASD diagnosis. However, the AEP may be called upon to complete a targeted evaluation for the purpose of ISP development if:
 1. The eligible recipient has received a Comprehensive Diagnostic Evaluation comparable to a MAD ABA Comprehensive Diagnostic Evaluation without the component of service planning by a non-approved AEP within the preceding 36-month period (e.g., when an eligible recipient has received a best-practice, Comprehensive Diagnostic Evaluation with reasonable face validity by an out-of-state provider prior to moving to New Mexico); or
 2. The eligible recipient has been evaluated, with service planning, by an approved AEP within the previous 36 months, but there is reason to believe that the eligible recipient's ISP may no longer be clinically indicated due to marked changes in clinical presentation.
- C. If the AEP's Comprehensive Diagnostic Evaluation does not result in a diagnosis of ASD, an ISP is not required. *However*, the AEP's diagnostic report must offer individualized, clinical recommendations to guide further assessment and intervention services specific for the eligible recipient.
- D. If the AEP is conducting the comprehensive diagnostic evaluation, it is expected that results from assessment tools employed during the diagnostic process will be used to aid in the development of the eligible recipient or member's ISP. *However*, in cases where the requirements for a Comprehensive Diagnostic Evaluation have been met and the AEP is called upon to conduct a targeted evaluation for the purpose of service planning only, the AEP is expected to use clinical discretion regarding the evaluation tools needed to create an ISP that meets the eligible recipient's needs.
- E. The Comprehensive Diagnostic Evaluation to confirm the presence of ASD must be conducted in accordance with current practice guidelines as offered by professional organizations such as the American Academy of Child and Adolescent Psychiatry, American Psychological Association, American Academy of Pediatrics, and American Academy of Neurology. Although aspects of the evaluation will vary depending on the eligible recipient's age, developmental level, diagnostic history, etc., it is expected that the evaluation be multi-informant, multi-modal, ASD-specific, and conducted by an AEP who meets MAD ABA AEP requirements .
 1. Multi-informant: Comprehensive diagnostic evaluations must include information from:
 - i) The eligible recipient him or herself via direct observation and interaction; and
 - ii) The eligible recipient's parent or other primary caregiver; and

- iii) Whenever possible, one additional informant who has direct knowledge of the eligible recipient's functioning as it pertains to skill deficits and behavioral excesses associated with ASD:
 - (1) Eligible recipient's educational or early interventionist provider; or
 - (2) Eligible recipient's PCP; or
 - (3) Eligible recipient's physical, behavioral and long term care health provider (e.g., Speech-Language Pathologist, Social Worker, Occupational Therapist, Physical Therapist, Psychologist, Psychiatrist, Behavior Analyst, etc.).
- 2. **Multi-modal:** Comprehensive diagnostic evaluations must rely on various modes of information gathering, including but not limited to:
 - i) Review of educational and/or early interventions, physical, behavioral and long term care health records; and
 - ii) Parent or primary caregiver interview for historical information, as well as determination of current symptom presentation; and
 - iii) Direct observation of, and interaction with the eligible recipient; and
 - iv) Clear consideration of, but ideally direct and/or indirect assessment of multiple areas of functioning, including but not limited to:
 - (1) Developmental, intellectual, or cognitive functioning; and
 - (2) Adaptive functioning; and
 - (3) Social functioning; and
 - (4) Speech, language, and communicative functioning; and
 - (5) Medical and neurological functioning.
- 3. **ASD-specific:** Comprehensive diagnostic evaluations must be specific enough to adequately assess symptoms associated with ASD, yet broad enough to make a valid differential diagnosis and consider possible co-morbid conditions. As such, the AEP should use one or more standardized diagnostic instruments with at least moderate sensitivity and good specificity for ASD (e.g., The Autism Diagnostic Observation Schedule™, Second Edition [ADOS™-2]; Autism Diagnostic Interview™-Revised [ADI™-R]), as well as assessment tools (i.e., standardized assessment measures, interviews, etc.) to evaluate symptoms associated with other disorders.

STAGE 1 DOCUMENTATION REQUIREMENTS

(Must follow A-B)

A copy of the following documents must be included in the eligible recipient's record, and a copy must be provided to: (a) the eligible recipient's legal guardian(s), (b) the PCP, if different from the AEP, and (c) the eligible recipient's utilization review (UR) contractor. The Evaluation Report must be signed by the AEP, and the ISP must be signed by the AEP *and* the eligible recipient's legal guardian.

- A. **DIAGNOSTIC EVALUATION REPORT:** Within 60 calendar days of completion of the comprehensive diagnostic evaluation, the AEP must issue a thorough diagnostic evaluation report that documents the evaluation process, evaluation results, and case

conceptualization/formulation, with special consideration of the criteria for accessing ABA services as the eligible recipient.

- B. INTEGRATED SERVICE PLAN (ISP; STAND-ALONE OR INCLUDED WITH EVAL REPORT):** The AEP must issue a separate, individualized ISP if such a plan is not issued as part of the Comprehensive Diagnostic Evaluation report. If the AEP conducted the comprehensive diagnostic evaluation, the ISP must be issued within 90 calendar days of the conclusion of the comprehensive diagnostic evaluation. This allows for the AEP to issue the diagnostic evaluation report in a timely manner (i.e., within 60 calendar days), but take 30 additional calendar days to refine and issue the ISP, if necessary. *However*, in cases where the AEP is only tasked with evaluation for the purposes of ISP development (i.e., the AEP is not tasked with completion of a Comprehensive Diagnostic Evaluation because one was already conducted), an ISP must be issued within 30 calendar days (or no more than 45 calendar days with approval from the eligible recipient's UR) of the conclusion of the AEP's evaluation. When developing and issuing the ISP, the AEP must adhere to the following requirements:
1. If the AEP determines that ABA services are clinically indicated, the ISP must include a statement that the AEP expects that the requested ABA services will result in measurable improvement in the eligible recipient's ASD symptomatology, associated behavioral excesses and deficits, and/or overall functioning, and ABA services are therefore prescribed.
 2. The ISP must ensure that all areas of need are adequately addressed through ABA and other medically necessary services (e.g., speech-language therapy, occupational therapy, specialized physical, behavioral, and long term care health follow-up). The ISP must indicate what each recommended service provider should address in the context of his or her therapeutic work (i.e., what domains of functioning and what specific behavioral excesses or deficits they should target). As such, the AEP may include broadly constructed intervention goals, but should refrain from formulating specific objectives. Rather, the clinicians to whom the eligible recipient is ultimately referred should be responsible for creating their own discipline and domain-specific treatment plans, which should include this level of detail.
 3. The ISP must support access to and participation in services afforded through the Individuals with Disabilities Education Act (IDEA), specifically Part C for infants and toddlers and Part B for pre-school-aged children.
 4. The AEP must ensure that, if services other than ABA are prescribed, they are aligned with ABA such that the anticipated benefits to the eligible recipient can be realized. This is imperative as an ISP that involves a mixture of methods, especially those which lack proven effectiveness, have been shown to be less effective than ABA alone. It is therefore necessary that the AEP design and document an ISP that includes complementary, rather than contraindicated, components.
 5. The ISP must be linked to findings from the Comprehensive Diagnostic Evaluation and reflect input from the eligible recipient (as appropriate for age and developmental level), parents or other caretakers, as well as school staff and behavioral health professionals involved in the eligible recipient care.

6. ISP development must include a realistic assessment of available resources as well as characteristics of the eligible recipient that may affect the intervention positively or negatively.
7. The ISP must be based on the eligible recipient's current clinical presentation, while being mindful of the long-term vision for the eligible recipient's potential.
8. The ISP must address needs associated with the eligible recipient's ASD-related symptoms, as well as symptoms associated with co-morbid conditions.
9. Given that the needs of an eligible recipient with ASD are characteristically numerous, the ISP must establish clear priorities such that the most significant skill deficits and behavioral excesses are targeted first, with significance defined by the pivotal nature of the skill and/or by the risk that the skill's absence or behavioral excess poses to the eligible recipient or others.
10. The ISP must include a plan for ongoing monitoring across multiple areas of functioning such that the plan can evolve as the eligible recipient's behavioral presentation changes in response to treatment.

STAGE 1 SERVICE REQUIREMENTS: VARIATION FOR AT-RISK RECIPIENTS

(Must follow A-C)

For an eligible recipient 12 months up to three years of age who is at risk for developing ASD based on MAD ABA criteria, but for whom a Comprehensive Diagnostic Evaluation is not initially indicated, the *Stage 1 Variation* involves a targeted evaluation to confirm risk status, formulation of individualized recommendations, and determination of medical necessity for ABA services.

When conducting a targeted evaluation for an eligible recipient who is at-risk for the development of ASD, the AEP must:

- A. Determine and document the eligible recipient's genetic risk status, which may involve reviewing the medical records of the older biological sibling(s) with ASD, and/or reviewing the eligible recipient's own medical records to confirm the presence of a genetic condition associated with ASD (e.g., Fragile X).
- B. Utilize various modes of information gathering, including but not limited to:
 1. Review of physical, behavioral and long term care health records; and
 2. Parent interview for historical information, with particular attention to the prenatal, perinatal, and neonatal periods in order to gain information related to causal factors associated with early developmental delays and/or differences; and
 3. Parent interview for developmental progression and current functioning; and
 4. Direct observation of, and interaction with, the eligible recipient; and
 5. Direct and/or indirect assessment, or at minimum, consideration of the eligible recipient's functioning across domains, including but not limited to:
 - i) Overall developmental functioning; and
 - ii) Adaptive functioning; and
 - iii) Social functioning; and

- iv) Speech, language, and communicative functioning; and
 - v) Physical and neurological functioning.
- C. Clearly document the developmental delay(s) and/or difference(s) that, when coupled with consideration of the eligible recipient's genetic status, raise concern for his or her risk for ASD.

STAGE 1 DOCUMENTATION REQUIREMENTS: VARIATION FOR AT-RISK RECIPIENTS

(Must follow A-B)

- A. **RISK EVALUATION REPORT**: Within 30 calendar days of completion of the targeted evaluation, the AEP must issue a thorough risk evaluation report that documents the evaluation process, assessment results, and case conceptualization/formulation, with special consideration of the criteria for accessing ABA services as an at-risk eligible recipient. Rather than issuing a separate ISP, the AEP must provide detailed recommendations for intervention and ongoing monitoring in, or accompanying, the report, and the report must be signed by the AEP and the eligible recipient's legal guardian. In other words, the document will dually function as the eligible recipient's targeted evaluation report and ISP.
- B. **INTEGRATED SERVICE PLAN (EMBEDDED IN RISK EVALUATION REPORT)**: When developing and issuing the eligible recipient's targeted evaluation report with embedded ISP, the AEP must adhere to the following requirements:
1. If the AEP determines that ABA services are clinically indicated due to notable risk for the development of ASD, the ISP must include a statement that the AEP expects that the requested ABA services will result in measurable risk reduction, and ABA services are therefore prescribed.
 2. The ISP must ensure that all areas of need are adequately addressed through other medically necessary services, as indicated (e.g., speech-language therapy, occupational therapy, specialized physical, behavioral and long term care health follow-up).
 3. The treatment plan must support access and participation in services afforded through Part C of the IDEA if eligible.
 4. The AEP must ensure that, if services other than ABA are prescribed, they are aligned with ABA such that the anticipated benefits to the eligible recipient can be realized. This is imperative as an ISP that involves a mixture of methods especially those which lack proven effectiveness, have proven to be less effective than ABA alone.
 5. The ISP must be linked to findings from the targeted evaluation and reflect input from parents or legal guardians and others involved in the eligible recipient's care.
 6. ISP development must include a realistic assessment of available resources as well as characteristics of the eligible recipient that may affect the intervention positively or negatively.
 7. The ISP must be based on the eligible recipient's current clinical presentation, while being mindful of the long-term vision for his or her potential.
 8. The ISP must address needs associated with the eligible recipient's ASD-related symptoms, as well as symptoms associated with co-morbid conditions.

9. If the needs of the eligible recipient are numerous, the ISP must establish clear priorities such that the most significant skill deficits and behavioral excesses are targeted first, with significance defined by the pivotal nature of the skill and/or by the risk that the skill's absence or behavioral excess poses to the eligible recipient or others.
10. The ISP must also include a plan for ongoing monitoring across multiple areas of functioning such that the plan can evolve as the eligible recipient's behavioral presentation changes in response to treatment. Plans for monitoring should allow for services to end once the risk for ASD is sufficiently reduced, or in unfavorable circumstances where risk increases rather than decreases, support for a referral to the AEP for a Comprehensive Diagnostic Evaluation.

STAGE 1 SERVICE REIMBURSEMENT – See Proposed ABA Fee Schedule at:

<http://www.hsd.state.nm.us/providers/fee-schedules.aspx> and agree to disclaimer and scroll down next page to Proposed Fee Schedules.

STAGE 2: ABA ASSESSMENT AND ABA TREATMENT PLAN DEVELOPMENT

Upon approval of a MAD Provider Participation Agreement (PPA) and as appropriate, is contracted with a MCO, an ABA Provider (AP) must meet the following requirements in order to be eligible for reimbursement for provision of Stage 2 services. A Behavior Analyst (BA) cannot be enrolled on its own; instead must be enrolled as a MAD AP that employs or contracts with a BA and possibly a Behavior Technician (BT). One or more BAs or Interim ABA Supervisors, working individually or in partnership with one or more BT is referred to in more general terms as the eligible recipient's ABA Provider (AP). Stage 2 services are rendered by AP practitioners who meet the following requirements.

STAGE 2 PROVIDER REQUIREMENTS: BEHAVIOR ANALYST

(Must meet one of A-C)

A Behavior Analyst (with or without the support of a BT) may render ABA Stage 2 services, as well as Stage 3 services, described below. There are three possible avenues through which an individual may qualify for BA provider enrollment, one of which is time-limited:

- A. **Behavior Analyst with Documented Certification by the BACB®**
 1. Provide evidence that the provision of ABA services is within the scope of the practitioner's competence by providing documentation of certification as a Board Certified Behavior Analyst® (BCBA®) or Board Certified Behavior Analyst-Doctoral® (BCBA-D®) by the Behavior Analyst Certification Board (BACB®).
- B. **Psychologist with Documented Education and Experience in Behavior Analysis, Without BACB® Certification:**
 1. Hold a professional credential issued by the Board of Psychologist Examiners of the NM Regulation and Licensing Department whose rules, regulations, and/or standards explicitly stipulate that the provision of ABA services is within the scope of the profession's practice; and
 2. Provide documentation of training in behavior analysis comparable to that required to be eligible to take an examination for BCBA® or BCBA-D® certification, to include all of

the following education, supervised experiential training, and continuing education requirements:

- i) Completion of graduate level instruction in the following behavior analytic content areas:
 - (1) Ethical and professional conduct (at least 45 classroom hours); and
 - (2) Concepts and principles of behavior analysis (at least 45 classroom hours); and
 - (3) Research methods in behavior analysis:
 - (a) Measurement (at least 25 classroom hours), and
 - (b) Experimental design (at least 20 classroom hours); and
 - (4) Applied Behavior Analysis:
 - (a) Identification of the problem and assessment (at least 30 classroom hours); and
 - (b) Fundamental elements of behavior change and specific behavior change procedures (at least 45 classroom hours); and
 - (c) Intervention and behavior change consideration (at least 10 classroom hours); and
 - (d) Behavior change systems (at least 10 classroom hours); and
 - (e) Implementation, management, and supervision (at least 10 classroom hours); and
 - (5) Discretionary coursework (at least 30 classroom hours)
 - ii) Completion of supervised experience in the design and delivery of ABA services, with supervision rendered by a BCBA® or BCBA-D®. A significant portion of the supervised experience (at least 1/3) must have been accrued with an ASD or closely related (e.g., Fragile X, Intellectual Disability) population. To be enrolled as a MAD-approved BA, a Psychologist must have completed:
 - (1) Supervised independent field work in ABA (non-university based) of at least 1500 hours; or
 - (2) Practicum experience in ABA (university based) of at least 1000 hours; or
 - (3) Intensive ABA practicum experience (university based) of at least 750 hours
 - iii) Completion of at least 32 hours of continuing education *in behavior analysis* within a two year cycle period.
- C. Interim ABA Provider/Supervisor (Time-Limited): Up to and including June 30, 2016, ABA services may be delivered and/or supervised by a practitioner who has the minimum qualifications listed below; however, the provider may not refer to him/herself as a “Behavior Analyst” as this title is reserved for those meeting the criteria above. Rather, the practitioner, approved on a temporary basis only, may refer to him/herself as an “Interim ABA Supervisor” or “Interim ABA Practitioner.” The practitioner must provide documentation of the following:

1. A master's degree which the BACB® recognizes and would lead to certification as a BCBA; and
2. New Mexico licensure, as appropriate for degree and discipline; and
3. Clinical experience and supervised training in the evidence-based treatment of children with ASD, specifically ABA; and
4. Experience in supervising direct support personnel in the delivery and evaluation of ABA services.

STAGE 2 PRIOR AUTHORIZATION

If the AEP prescribes ABA services as part of the eligible recipient's ISP, the AP must secure prior authorization before conducting behavior analytic assessment and developing an ABA Treatment Plan.

STAGE 2 SERVICE REQUIREMENTS

(Must follow A-C)

Once the AP has received prior authorization, the family, eligible recipient (as appropriate for age and developmental level), and the BA work collaboratively to make a final determination regarding the clinically appropriate ABA service model, with consultative input from the AEP as needed. Then, a behavior analytic assessment addressing needs associated with both skill acquisition and behavior reduction is conducted, and an individualized ABA treatment plan (as appropriate for the ABA service model) is developed by the supervising BA.

- A. **SERVICE MODEL DETERMINATION:** Treatment may vary in terms of intensity and duration, the complexity and range of treatment goals, and the extent of direct treatment provided. Many variables, including the number of behavioral targets, specific aspects of those behaviors, and the eligible recipient's response to treatment help determine which model is most appropriate. Although existing on a continuum, these models can be generally categorized as *Focused ABA* or *Comprehensive ABA*, both of which are MAD covered services.

1. FOCUSED ABA

- i) An eligible recipient with a diagnosis of ASD, as well as an eligible recipient who is classified as being at-risk for ASD, is eligible to receive Focused ABA services.
- ii) Focused ABA refers to treatment provided directly to the eligible recipient for a limited number of behavioral targets. It is not restricted by age, cognitive level, or co-occurring conditions.
- iii) For an eligible recipient with an ASD diagnosis, Focused ABA should not exceed 20 hours per week without providing written justification (following the UR's prior authorization requirements) and for an eligible recipient identified as being at-risk for a diagnosis of ASD. Focused ABA should not exceed 10 hours per week without prior authorization from the eligible recipient's UR.
- iv) Focused ABA may or may not be continuously rendered during a service authorization period depending on medical need, availability of service providers, and/or other factors.
- v) Although the presence of problem behavior may trigger a referral for Focused ABA services more often than skill deficits, the absence of appropriate behaviors should

be prioritized, as this is often the precursor to serious behavior problems. Therefore, an eligible recipient who needs to acquire skills (e.g., communication, tolerating change in environments and activities, self-help, social skills) are also appropriate for Focused ABA.

- vi) All Focused ABA treatment plans that target reduction of dangerous or maladaptive behavior must concurrently introduce and strengthen more appropriate, functional behavior.
- vii) Examples of skill acquisition targets in a Focused ABA treatment plan include, but are not limited to, establishing compliance with medical and dental procedures, sleep hygiene, self-care skills, and safe and independent play/leisure skills.
- viii) Examples of behavior reduction targets in a Focused ABA treatment plan include, but are not limited to, self-injury, aggression towards others, dysfunctional speech, stereotypic motor behavior, property destruction, noncompliance and disruptive behavior, and dysfunctional social behavior.
- ix) MAD supports Focused ABA as delivered in home, clinic, and non-school community-based settings at a 15-minute unit rate.

2. COMPREHENSIVE ABA

- i) Only an eligible recipient with a diagnosis of ASD is eligible to receive Comprehensive ABA services. An eligible recipient who is classified as being at-risk for ASD *is not* eligible for Comprehensive ABA services.
- ii) Comprehensive ABA (not to exceed 40 hours per week without prior authorization from the eligible recipient's UR for such intensive intervention) refers to treatment where there are multiple targets across most or all developmental domains that are affected by the eligible recipient's ASD. Targets are drawn from multiple domains related to cognitive, communicative, social, emotional, and adaptive functioning. Targets also include reducing maladaptive behavior such as aggression, self-injury, disruption, and stereotypy. Given the nature of comprehensive intervention, there must be a prior authorization from the UR if services are rendered less than 20 hours per week on average.
- iii) The overarching goal of early, intensive, behavioral intervention is to close the gap between the eligible recipient's level of functioning and that of typically developing peers.
- iv) Treatment hours are increased or decreased as a function of the eligible recipient's response to treatment as well as the intensity needed to reach treatment goals. In some cases, direct treatment hours increase gradually, are maintained at maximum intensity for a period of time, and are then systematically decreased in preparation for discharge. In other cases, treatment may begin at maximum levels.
- v) Initial treatment is often intensive and provided mostly in structured intervention sessions. Less structured treatment approaches are utilized if the eligible recipient demonstrates the ability to benefit from them. As the eligible recipient progresses and meets established criteria for participation in larger or different settings, treatment in those settings and in the larger community should be provided. Training and participation by caregivers are also seen as important components.

- vi) MAD supports Comprehensive ABA as delivered in home, clinic, and community-based settings at a 15 minute rate.
 - vii) MAD reimburses for Comprehensive ABA services for a eligible recipient who has not yet reached the age for compulsory school attendance. In other words, Comprehensive ABA services are not available to an eligible recipient who is five years of age prior to 12:01 a.m. on September 1st. As such, some eligible recipients (i.e., those whose fifth birthdays occur following the start of the school year) will be eligible to receive Comprehensive ABA after they have turned five years, if other MAD ABA eligibility criteria are met.
- B. **THE ASSESSMENT PROCESS:** An ABA assessment plan that incorporates assessment strategies and assessment measures that are developmentally appropriate for the eligible recipient must identify strengths and weaknesses across domains. The data from such a plan should be the basis for developing the individualized treatment plan. An ABA assessment should utilize data obtained from multiple methods and multiple informants, such as:
1. **Direct observation and measurement of behavior:** Direct observation, measurement, and recording of behavior are defining characteristics of ABA. The data serves as the primary basis for identifying pre-treatment levels, discharge goals, and evaluation of response to an ABA treatment program. They also assist the BA in developing and adapting treatment protocols on an ongoing basis. Direct observation of behavior should happen during naturally occurring opportunities as well as structured interactions.
 2. **File review and administration of behavior scales or other assessments as appropriate:** The types of assessments should reflect the goal of treatment and should be responsive to ongoing data as they are collected and analyzed.
 3. **Interviews with the eligible recipient, caregivers, and other professionals:** Caregivers and other stakeholders are included when selecting treatment goals, protocols, and evaluating progress as appropriate. Caregiver interviews, rating scales, and social validity measures should be used to assess the caregiver's perceptions of the eligible recipient's skill deficits and behavioral excesses, and the extent to which these deficits and excesses impede the functioning of him or her and the family. The eligible recipient should also participate in these processes as appropriate.
- C. **SELECTION AND MEASUREMENT OF GOALS:** Once the assessment plan has been executed and data has been gathered, the BA must select goals for intervention and determine how these goals will be measured:
1. Development of a target-behavior definition, method and frequency of measurement, and data presentation must be individualized to each situation, behavior, and available resources.
 2. Behavioral targets should be prioritized based on their risk to eligible recipient safety, independence, and implications for his or her short- and long-term health and well-being.
 3. Baseline performance should be measured and treatment goals should be developed for each critical domain and specified in terms that are observable and measurable so that there is agreement between stakeholders (i.e., the eligible recipient's guardian, the AP,

the UR, etc.) regarding the presence, absence, or degree of behavior change relative to treatment goals and discharge criteria.

4. The treatment plan should specify objective and measurable treatment protocols. It should include the service setting and level of service for the eligible recipient.
5. Data collection and analysis by the supervising BA should occur frequently enough to permit changes to intervention procedures at a rate that maximizes progress. Data should be represented in graphical form, with visual inspection of graphed performance informing treatment modification, whenever possible.

STAGE 2 DOCUMENTATION REQUIREMENTS

The ABA treatment plan must identify all target behaviors that are to be addressed by the BTs and/or the BAs directly. The ABA treatment plan should include, when appropriate, a goal of working with the family of the eligible recipient in order to assist with the acquisition, maintenance, and generalization of functional skills. The ABA treatment plan must:

- A. Be signed by the BA responsible for treatment plan development and oversight of its implementation by one or more BTs, if services are not implemented by the BA directly; and
- B. Be time-limited such that the treatment plan can be executed within the time authorized by MAD (i.e., six months), with the possibility to request authorization for additional services as medically necessary, and with the understanding from UR that clear and compelling positive behavior change from comprehensive early intervention services may not be observed following the initial six-month authorization period); and
- C. Be based on the Comprehensive Diagnostic Evaluation and corresponding ISP that was developed no more than twelve months before referral to the AP for an eligible recipient younger than the compulsory school age, and no more than 18 months before referral to the AP for an eligible recipient of compulsory school age; and
- D. Address the maladaptive behavior(s), skill deficit(s), and symptom(s) that present a safety risk to self or others or prevent the eligible recipient from adequately participating in home, school, and community activities, which may necessitate planned collaboration with a MAD approved, and as appropriate, MCO contracted ABA Specialty Care Provider (see below for more information); and
- E. Take into account all school or other community resources available to the eligible recipient, provide evidence that the requested services are not redundant with other services already being provided or otherwise available, and coordinate therapies (e.g., from school and special education) with other interventions and treatment (e.g., speech therapy, occupational therapy, physical therapy, family counseling, and medication management); and
- F. Be child-centered, family-focused, and minimally intrusive, with a focus on family engagement, training, and support; and
- G. Be specific and individualized to the eligible recipient, with clear identification and description of the target behaviors and symptoms; and
- H. Include objective data on the baseline level of each target behavior/symptom in terms of directly observed and measured frequency, rate, latency, or duration, and include scores and interpretation from criterion-referenced, norm-referenced, and/or standardized

assessment tools (e.g., The Verbal Behavior Milestones Assessment and Placement Program [VB-MAPP], The Assessment of Basic Language and Learning Skills-Revised [ABLLS-R]), as applicable; and

- I. Include a comprehensive description of interventions and intervention procedures specific to each of the targeted behaviors/symptoms, including documentation of approximately how many service hours will be allocated to each; and
- J. Establish treatment goals and objective measures of progress on each goal specified to be accomplished in the 6-month authorization period; and
- K. Incorporate strategies for promoting generalization and maintenance of behavior change; and
- L. Offer measurable discharge criteria and discharge planning that begins the first date of ABA services.

STAGE 2 SERVICE REIMBURSEMENT: See Proposed ABA Fee Schedule at:

<http://www.hsd.state.nm.us/providers/fee-schedules.aspx> and agree to disclaimer and scroll down next page to *Proposed Fee Schedules*.

STAGE 3: DELIVERY OF ABA INTERVENTION SERVICES

A MAD approved AP consisting of one or more BAs and in some cases one or more BTs (BTs), renders Stage 2 services. See Stage 1 for BA provider requirements. See below for BT practitioner requirements.

STAGE 3 PRACTITIONER REQUIREMENTS: BEHAVIOR ANALYST

(See requirements included in Stage 2, above.)

STAGE 3 PRACTITIONER REQUIREMENTS: SPECIALTY CARE PROVIDER

- A. ABA Specialty Care Provider requirements will be established prior to January 1, 2016.
- B. In the interim, Specialty Care Services (as described below) will be rendered by practitioners at The Center for Development and Disability (CDD) at the University of New Mexico, which serves as the State's University Center for Excellence in Developmental Disabilities (UCEDD). Practitioners who bill for Specialty Care Services through the CDD at UNM must meet the provider requirements for Behavior Analysts (above; Stage 2) and BTs (below; Stage 3). As a mission of the UCEDD, it is expected that Training and Technical Assistance will be offered, in coordination with direct service delivery, to increase the capacity of APs to serve eligible recipients with significant needs. Through the provision of Training and Technical Assistance, which is an identified mission of the State's UCEDD, it is hoped that the capacity of APs to support eligible recipients with significant needs will be increased, and that reliance on ABA Specialty Care will ultimately be minimized.

STAGE 3 PRACTITIONER REQUIREMENTS: BEHAVIOR TECHNICIAN

(Must meet A or B)

A BT, under supervision of a BA, may render Stage 3 services, which include implementation of the ABA Treatment Plan developed in Stage 2.

- A. Documented Credentialing in Behavior Analysis by the BACB®: On and following January 1, 2016 provide written attestation, and when appropriate provide formal records, documenting that the BT meets the following requirements.
1. Before rendering services, the BT must:
 - i) Be at least 18 years of age; and
 - ii) Possess a minimum of a high school diploma or equivalent; and
 - iii) Successfully complete a criminal background registry check; and
 - iv) Complete a minimum of four hours of training in ASD including, but not limited to, training about prevalence, etiology, core symptoms, characteristics, and learning differences; and
 - v) Complete at least 20 hours of training in ABA that meets the requirements for Registered Behavioral Technician (RBT®) credentialing by the Behavior Analyst Certification Board (BACB®).
 2. Following the first date for which services are billed, the BT must within 90 calendar days:
 - i) Complete the remainder of the 40 hours of training required to secure RBT® credentialing by the BACB®; and
 - ii) Complete all other BACB® requirements for registration as an RBT® (e.g., passing the identified competency assessment, submitting the necessary documentation to the board, etc.); and
 - iii) Secure the identified credential.
- B. Documented Training in Behavior Analysis, Without BACB® Credential (Time-Limited): Up to and including December 31, 2015, provide written attestation that the BT meets the following requirements.
1. Be at least 18 years of age; and
 2. Possess a minimum of a high school diploma or equivalent; and
 3. Successfully complete a criminal background registry check; and
 4. Complete a minimum of four hours of training in ASD including, but not limited to, training about prevalence, etiology, core symptoms, characteristics, and learning differences prior to the BA billing for the BT's services; and
 5. Complete 40 hours of training in ABA (provided by a BA as defined above), with at least 20 hours of training occurring prior to billing for the BT's services, and the other 20 hours accrued no more than 90 calendar days following the first submission of billing for the BT's services.

STAGE 3 PRIOR AUTHORIZATIONS

All services rendered in Stage 3 require Prior Authorization.

- A. If the AP and family agree on services being rendered as outlined in the developed ABA Treatment Plan (Stage 2), the AP must submit a service authorization request, which will

allow up to 36 months of ABA treatment services to be rendered, *with the possibility of renewal as medically necessary.*

- B. If approved, the service authorization will allow up to six months of service within the 36-month prior authorization period. Prior authorization must be secured every six months thereafter until the end of the 36-month prior authorization period.
- C. At each 6-month authorization point, the eligible recipient's Care Coordinator or the eligible recipient's UR contractor will assess, with input from the family and AP, whether or not changes are needed in the eligible recipient's ISP, as developed by the AEP. If so, the Care Coordinator or UR contractor will facilitate contact with the AEP to modify the plan. Additionally, the family or AP may request ISP modifications prior to the MCO's 6-month authorization point if immediate changes are warranted to preserve the health and wellbeing of the eligible recipient.
- D. To secure prior authorization, the BA through the AP must submit the prior authorization request, specifically noting all of the following:
 - 1. The requested treatment model (i.e., Focused or Comprehensive); and
 - 2. The maximum number of hours of service requested per week; and
 - 3. The number of hours of Case Supervision requested per week, if more than 2 hours of supervision per 10 hours of intervention are requested (see below for supervision guidelines); and
 - 4. The number of hours of Clinical Management requested per week, if more than 2 hours of clinical management per 10 hours of intervention are requested (see below for clinical management guidelines); and
 - 5. The number of hours allocated to other services (e.g., Early Intervention through FIT) in order for the MAD UR contractor or the MCO to determine if the requested intensity (i.e., hours per week) is feasible and appropriate; and
 - 6. The need for collaboration with an ABA Specialty Care Provider, if such a need has been identified through initial assessment and treatment planning.
- E. The initial service authorization request must be submitted with the Comprehensive Diagnostic Evaluation Report (or Risk Evaluation Report) and ISP from the AEP (developed in Stage 1) along with the ABA treatment plan (developed in Stage 2); subsequent prior authorization requests must be submitted with ABA Treatment Plan Updates or Progress Reports.
 - 1. To secure prior authorization, the BA through the Specialty Care Provider must submit the prior authorization request, specifically noting all of the following:
 - i) What behavior(s) will be targeted for intervention, how the function of the behaviors will be identified (e.g., through a Functional Behavioral Assessment, Experimental Functional Analysis, etc.), and how assessment information will be used to inform treatment development; and
 - ii) The maximum number of hours of service requested per week; and

- iii) The number of hours of Case Supervision requested per week, if more than 2 hours of supervision per 10 hours of intervention are requested (see below for supervision guidelines); and
 - iv) The number of hours of Clinical Management requested per week, if more than 2 hours of clinical management per 10 hours of intervention are requested (see below for clinical management guidelines); and
 - v) The number of hours allocated to other services, including services rendered by the referring AP if the continuation of these services is clinically indicated; and
 - vi) How collaboration will occur with the referring AP to ensure successful and expedient discharge from specialty care.
2. The initial service authorization request must be submitted with referral documentation from the eligible recipient's UR, along with any other relevant documentation that the Specialty Care Provider gathers during their intake process to substantiate the need for services.
- F. Prior Authorization for ABA Specialty Care must be requested by the ABA Specialty Care Provider. In order for the ABA Specialty Care Provider to secure prior authorization for services, the following must occur:
- 1. The community-based, primary AP must convey to the eligible recipient's Care Coordinator that Specialty Care services are medically necessary.
 - 2. The primary AP must submit documentation to the Care Coordinator that indicates:
 - i) The behavior(s) for which specialty care is clinically indicated,
 - ii) Why the behavior(s) cannot be treated by the AP (e.g., limited experience/expertise; logistical or safety constraints; etc.),
 - iii) Whether the AP believes that it is clinically indicated to continue delivering ABA services to address other goals, and
 - iv) Whether the AP is willing to receive technical assistance and training from the Specialty Care Provider such that the eligible recipient can ultimately be discharged from specialty care, with services maintained by the referring AP.
 - 3. The eligible recipient's Care Coordinator must contact the identified Specialty Care Provider to process the referral. If the Specialty Care Provider is available and has the necessary expertise to render services, the documentation provided to the Care Coordinator from the referring AP must be given to the Specialty Care Provider to substantiate the need for services.
 - 4. To secure prior authorization, the BA through the AP must submit the prior authorization request, specifically noting all of the following:
 - i) What behavior(s) will be targeted for intervention, how the function of the behaviors will be identified (e.g., through a Functional Behavioral Assessment, Experimental Functional Analysis, etc.), and how assessment information will be used to inform treatment development; and
 - ii) The maximum number of hours of service requested per week; and

- iii) The number of hours of Case Supervision requested per week, if more than 2 hours of supervision per 10 hours of intervention are requested (see below for supervision guidelines); and
 - iv) The number of hours of Clinical Management requested per week, if more than 2 hours of clinical management per 10 hours of intervention are requested (see below for clinical management guidelines); and
 - v) The number of hours allocated to other services, including services rendered by the referring AP if the continuation of these services is clinically indicated; and
 - vi) How collaboration will occur with the referring AP to ensure successful and expedient discharge from specialty care.
5. The initial service authorization request must be submitted with referral documentation from the eligible recipient's Care Coordinator, along with any other relevant documentation that the Specialty Care Provider gathers during their intake process to substantiate the need for services.

STAGE 3 SERVICE REQUIREMENTS

The following service requirements are applicable to services provided by community-based APs as well as ABA Specialty Care Providers.

- A. **CASE SUPERVISION AND CLINICAL MANAGEMENT:** In order to achieve the desired, medically necessary outcome, all cases require clinical management, and if a BT is tasked with implementing the treatment plan, the BT requires frequent, ongoing case supervision from the BA. Provision of both clinical management and case supervision allows for the individualization of treatment plans, careful and detailed collection and analysis of data, and timely modifications to treatment procedures, all of which are essential to ensuring treatment effectiveness. As such, MAD not only reimburses for, but requires both clinical management and case supervision at the rate prescribed for each. It is MAD's expectation that at or shortly after the 10 hours of ABA service delivery, the BA will conduct clinical management oversight and case supervision. An AP must provide both these functions as prescribed, in a timely fashion with documentation in the eligible recipient's agency file. Failure to render these services as prescribed will result in MAD or the MCO's recoupment of eligible recipient's paid claims. To ensure high-quality clinical management and case supervision such that ABA services result in the medically necessary behavior change, MAD requires that a BA bill for no more than 40 hours (160 units of 15 minutes) of service (of any type) per week across no more than 24 cases.

1. Case Supervision

- i) At least one hour and up to two hours of case supervision must be rendered for every 10 hours of intervention per eligible recipient. If more than two hours of case supervision is required, prior authorization from the eligible recipient's UR must be secured. A number of factors may be cited as justification for a short or long-term increase in case supervision, including:
 - (1) Treatment dosage/intensity;
 - (2) Barriers to progress;

- (3) Issues of client health and safety (e.g., certain skill deficits, dangerous problem behavior);
 - (4) The sophistication or complexity of treatment protocols;
 - (5) Family dynamics or community environment;
 - (6) Lack of progress or increased rate of progress;
 - (7) Changes in treatment protocols; and
 - (8) Transitions with implications for continuity of care.
- ii) Given that both direct and indirect case supervision are crucial to producing good treatment outcomes, MAD reimburses for both forms of supervision. Specifically, billing for both direct and indirect case supervision is reimbursed in order for the supervising BA to gather observational data about the eligible recipient's response to intervention, as well as the BT's implementation of the intervention. Ongoing, frequent supervision permits changes to intervention procedures at a rate that maximizes progress and allows treatment integrity issues to be addressed expeditiously.
 - iii) Direct supervision involves the supervising BA observing the BTs in their delivery of ABA services in real time, either in person or via telemedicine.
 - iv) Indirect supervision involves the supervising BA meeting with the BTs prior to or following their delivery of ABA services.
 - v) For each eligible recipient, the supervising BA is responsible for adhering to the following ratios for supervision form and modality:
 - (1) At least 50% of supervision must be direct case supervision; and
 - (2) No more than 75% of direct supervision may be provided via telemedicine; and
 - (3) Up to 100% of indirect supervision may be provided via telemedicine.
 - vi) Case supervision must be clearly differentiated from staff training and from the BT's certification or licensure requirements, which are not reimbursable services.

2. Clinical Management

- i) At least one hour of clinical management must be rendered for every 10 hours of intervention per eligible recipient. Up to two hours may be rendered without prior authorization; however, if more than two hours of clinical management is required, prior authorization from the eligible recipient's UR must be secured. The same factors that may justify an increase in case supervision may also justify an increase in clinical management.
- ii) Activities conducted by the BA that are associated with the delivery of intervention, but are not better characterized as case supervision, may be considered clinical management. Examples of clinical management activities include, but are not limited to:
 - (1) Developing treatment goals, protocols, and data collection systems;
 - (2) Summarizing and analyzing recipients or eligible recipient's assessment and treatment data;

- (3) Adjusting treatment protocols based on the aforementioned analysis;
 - (4) Measuring the BTs' implementation of assessment and treatment procedures and providing instructive feedback as necessary;
 - (5) Training and consulting with caregivers and other professionals;
 - (6) Evaluating and responding to eligible recipient-specific risk management and crisis management situations;
 - (7) Reporting progress towards treatment goals;
 - (8) Responding to changes in eligible recipient's health or situation; and
 - (9) Developing and overseeing transition/discharge planning.
- iii) If implementing an eligible recipient's treatment plan with fidelity requires the BT to possess knowledge and skills that go beyond what is expected based on the ABA Billing Instructions for an AP, but does not exceed expectations regarding the scope of practice for BTs, clinical management hours may be used to develop the required knowledge and skills. However, clinical management hours may not be used for staff's general continuing education, or to remediate knowledge and skill deficits associated with provider requirements.

B. DELIVERY OF ABA INTERVENTION SERVICES:

1. ABA intervention services must be rendered in accordance with the ABA Treatment Plan and within any identified constraints associated with the request for prior authorization of services.
2. Throughout all phases of ABA service delivery, including Stage 3 delivery of intervention services, the BA is ultimately responsible for ensuring that the following essential practice elements are apparent:
 - i) Comprehensive assessment that describes specific levels of behavior at baseline and informs subsequent establishment of treatment goals;
 - ii) An emphasis on understanding the current and future value (or social importance) of behavior(s) targeted for treatment ;
 - iii) A practical focus on establishing small units of behavior which build towards larger, more significant changes in functioning related to improved health and levels of independence;
 - iv) Collection, quantification, and analysis of direct observational data on behavioral targets during treatment and follow-up to maximize and maintain progress toward treatment goals;
 - v) Efforts to design, establish, and manage the social and learning environment(s) to minimize problem behavior(s) and maximize rate of progress toward all goals;
 - vi) An approach to the treatment of problem behavior that links the function of (or the reason for) the behavior to the programmed intervention strategies;
 - vii) Use of a carefully constructed, individualized and detailed behavior-analytic Treatment Plan that utilizes reinforcement and other behavioral principles and

excludes the use of methods or techniques that lack consensus about their effectiveness based on evidence in peer-reviewed publications;

- viii) Use of treatment protocols that are implemented repeatedly, frequently, and consistently across environments until discharge criteria are met;
- ix) An emphasis on ongoing and frequent direct assessment, analysis, and adjustments to the Treatment Plan (by the BA) based on the eligible recipient's progress as determined by observations and objective data analysis;
- x) Direct support and training of family members and other involved professionals to promote optimal functioning and promote generalization and maintenance of behavioral improvements; and
- xi) A comprehensive infrastructure for supervision of all assessment and treatment by a BA.

C. DELIVERY OF ABA SPECIALTY CARE (ADDITIONAL SERVICE REQUIREMENTS):

1. While it is customary for MAD to limit rendering of a benefit to one provider, MAD recognizes that there may be cases where the needs of the eligible recipient exceed the expertise of the AP and/or the logistical or practical ability of the AP to fully support the eligible recipient. In such cases, MAD allows the AP to refer the eligible recipient to a MAD approved, and as appropriate, a MCO contracted ABA Specialty Care Provider.
2. Reasons for referral to an ABA Specialty Care Provider may include, but are not limited to: significant aggression, self-injury, disruptive behavior, sleep dysregulation, elopement, pica, or feeding issues.
3. Referral for ABA Specialty Care, which is designed to not only offer direct service to the eligible recipient but also Training and Technical Assistance for the eligible recipient's AP, must be routed through the eligible recipient's UR.
4. Referral for ABA Specialty Care may occur concurrently with the initial prior authorization request for ABA services if problems are identified at the outset; *however*, a referral may also take place during the course of ABA service delivery as problems arise or escalate.
5. If approved, the ABA Special Care services will not result in a reduction in hours of service rendered by the AP, unless the AP, ABA Specialty Care Provider and UR believe that this is in the best interest of the eligible recipient and his/her family.
6. As services are rendered by the ABA Specialty Care Provider, it is expected that the AP will collaborate during the assessment and intervention process such that Specialty Care services can be maintained by the community-based AP once the eligible recipient is discharged from ABA Specialty Care.
7. Services from an approved ABA Specialty Care Provider will be rendered in accordance with all requirements as outlined for APs, including but not limited to adherence to requirements related to prior authorization, clinical documentation, clinical management, and supervision of BTs.

STAGE 3 DOCUMENTATION REQUIREMENTS

The following documentation requirements must be met during ABA treatment plan implementation (to include ABA Specialty Care services):

- A. A record must be maintained by the AP and ABA Specialty Care Provider for each eligible recipient.
- B. The diagnostic evaluation (or risk evaluation) report, ISP, and ABA Treatment Plan, along with updates to the aforementioned documents, must be maintained as part of the eligible recipient's record.
- C. A contact log which documents the delivery of all billable services (including Case Supervision and Clinical Management activities), as well as all clinically significant non-billable services, must be maintained.
- D. Each ABA session must be documented by a session/progress note. The note must include the date of service, the time and duration of service, the practitioner(s) present during the delivery of service, the clinical content of the session, quantitative data to support the clinical content, and a plan for the next visit. Session/progress notes must be signed by the BTs and the supervising BA, unless the service is rendered by the BA him/herself, in which case only his/her signature is required. Parent/guardian signature is not required.
- E. A Treatment Plan Update, or Progress Report, must be prepared and submitted with each request for service continuation (i.e., every 6 months) and maintained as part of the eligible recipient's record.

STAGE 3 SERVICE REIMBURSEMENT: See Proposed ABA Fee Schedule at:

<http://www.hsd.state.nm.us/providers/fee-schedules.aspx> and agree to disclaimer and scroll down next page to *Proposed Fee Schedules*.

NONCOVERED SERVICES

MAD does not reimburse for the following when rendering ABA services:

- A. Activities that are not designed to accomplish the objectives delineated in covered services and that are not included in the treatment plan;
- B. Activities that are not based on the principles and application of behavior analysis;
- C. Activities that are not empirically supported (i.e., activities that are not supported by a substantive body of peer-reviewed, published research);
- D. Activities that take place in school settings and/or have the potential to supplant educational services;
- E. Activities that are better described as another therapeutic service (e.g., speech language therapy, occupational therapy, physical therapy, counseling, etc.), even if the provider has expertise in the provision of ABA;
- F. Activities that are better characterized as staff training or certification/licensure requirements, rather than supervision;
- G. ABA services provided by residential treatment care staff while a child is receiving care at the residential facility. (Intervention provided in the context of residential care is already covered through established residential care rates.). Treatment foster care is not considered a residential care setting.