DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Dallas Regional Office
1301 Young Street, Suite 833
Dallas, Texas 75202

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES
CONSORTIUM FOR MEDICAID
& CHILDREN'S HEALTH OPERATIONS

DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI

March 15, 2016

Ms. Nancy Smith-Leslie, Director
Medical Assistance Division
New Mexico Department of Human Services
P.O. Box 2348
Santa Fe, New Mexico 87504

Dear Ms. Smith-Leslie:

We have reviewed the proposed amendment to your Medicaid State Plan submitted under Transmittal Number (TN) 15-001. With the approval of TN 15-001, the Centers for Medicare and Medicaid Services (CMS) has approved the State's request to add and update language describing the coverage and reimbursement of Applied Behavior Analysis (ABA) services.

Transmittal Number 15-001 is approved with an effective date of May 1, 2015, as requested. A signed and dated copy of the Transmittal No. 15-001 summary is included, along with the approved plan pages.
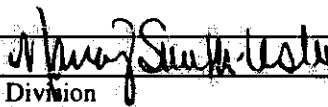
If you have any questions, please contact Stacey Shuman at (214) 767-6479.

Sincerely,

Bill Brooks

Bill Brooks
Associate Regional Administrator
Division of Medicaid & Children's Health
Operations

Cc: Bill Bob Farrell, DMCH
       Stacey Shuman, DMCH
       Mark Pahl, CMS Baltimore
       Cynthia Ruff, CMS Baltimore
       Jennifer Mondragon, NMHSD/MAD

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 15-01	2. STATE New Mexico
FOR: HEALTH CARE FINANCING ADMINISTRATION	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE ~~January 1, 2015~~ May 1, 2015[1]	

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION: Section 1905(a) of the Social Security Act 42 CFR 447.200	7. FEDERAL BUDGET IMPACT: for FFY 2015: $447,500 for FFY 2016: $1,050,000
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B page 22a (new) State Supplement A to Attachment 3.1A pages 5h, 5i, 5j, 5k, 5l and 5m (all are new)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: **Attachment 4.19-B :** supercedes none, new page **State Supplement A to Attachment 3.1A** supercede none, new pages

10. SUBJECT OF AMENDMENT:
Applied Behavior Analysis (ABA) services and reimbursement

11. GOVERNOR'S REVIEW *(Check One)*:
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED: Authority Delegated to the Medicaid Director.

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO: Nancy Smith-Leslie, Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504 – 2348
13. TYPED NAME: Nancy Smith-Leslie	
14. TITLE: Director, Medical Assistance Division	
15. DATE SUBMITTED: April 1, 2015 page numbers revised 2/24/16	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 4 May, 2015	18. DATE APPROVED: 15 March, 2016

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 May, 2015	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME: Bill Brooks	22. TITLE: Associate Regional Administrator Division of Medicaid and Childrens Health (DMCH)

23. REMARKS:

1 Effective date corrected via pen-and-ink change per state email dated 3/16/2016 (JMondragon)

Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy

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Preventive Services, 1905(a)(13(c)   Page 5h

Autism Intervention (AI) Services

AI services are covered for individuals under the age of 21 years who have a diagnosis of Autism Spectrum Disorder (ASD), and for individuals who are at risk for the development of ASD as defined by the latest version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Diseases (ICD). AI services are provided to a child as part of a three-stage comprehensive approach.

Stage 1 AI Services:
Following a referral made by a physician or another licensed practitioner to an Autism Evaluation Practitioner (AEP), the AEP makes the diagnosis of ASD or At-risk for developing ASD. Following the diagnosis, the AEP develops an Integrated Service Plan (ISP).

Stage 1 Service Description
An AEP completes a comprehensive diagnostic evaluation (CDE) 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 child'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 state agency AEP requirements. If a CDE is not medically warranted, a Targeted Evaluation or a Targeted Risk Evaluation is conducted.

CDE requirements:
   a) **Multi-informant:** CDEs must include information from:
      The child's, him or herself, via direct observation and interaction; and
      The child's legal guardian or other primary caregiver; and
      Whenever possible, one additional informant who has direct knowledge of the child's functioning as it pertains to skill deficits and behavioral excesses associated with ASD:
      1. Child's educational or early interventionist provider; or
      2. Child's PCP; or
      3. Child'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.).

   b) **Multi-Sources:** CDE must rely on various sources of information gathering, including but not limited to:
      1. Review of educational and/or early interventions, physical, behavioral and long term care health records; and
      2. A legal guardian or primary caregiver interview for historical information, as well as a determination of current symptom presentation; and
      3. Direct observation of and interaction with the child; and
      4. Clear consideration of direct and/or indirect assessment of multiple areas of functioning, including but not limited to:
         i.   Developmental, intellectual, or cognitive functioning; and
         ii.   Adaptive functioning; and
         iii. Social functioning; and
         iv.   Speech, language, and communicative functioning; and
         v.   Medical and neurological functioning.

   c) **ASD-specific:** The CDE 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.

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ISP Requirements: The AEP must issue a separate, individualized ISP if such a plan is not issued as part of the CDE Report. When developing and issuing the ISP, the AEP must adhere to the following requirements:

a) If the AEP determines that AI services are clinically indicated, the ISP must include a statement that the AEP expects that the requested AI services will result in measurable improvement in the child's ASD symptomatology, associated behavioral excesses and deficits, and/or overall functioning.

b) The ISP must ensure that all areas of need are adequately addressed through AI services and other medically necessary services (e.g., speech-language therapy, occupational therapy, and specialized physical and behavioral services). The ISP must include all services the recipient is or will be utilizing, regardless of the payor.

c) The AEP must ensure other services that are recommended are aligned with the AI services such that the anticipated benefits to the child can be realized.

d) The ISP must be linked to findings from the CDE and reflect input from the child (as appropriate for age and developmental level), legal guardian, or other caretaker, as well as school staff and behavioral health professionals involved in the child's care.

e) The ISP must include a listing of all services and service providers as well as characteristics of the child that may affect the intervention positively or negatively.

f) The ISP must be based on the child's current clinical presentation, while being mindful of the long-term vision for his or her potential.

g) The ISP must address needs associated with the child's ASD-related symptoms, as well as symptoms associated with co-morbid conditions.

h) Given that the needs of a child with ASD are characteristically numerous, the ISP must establish treatment priorities appropriate for the child defined by the pivotal nature of the skill and/or by the risk that the skill's absence or behavioral excess poses to the child or others.

i) The ISP must include a plan for ongoing monitoring across multiple areas of functioning such that the plan can evolve as the child's behavioral presentation changes in response to treatment.

Stage 1 AI Services Practitioner Requirements

In order for an AEP to have an approved Provider Participation Agreement (PPA), an AEP must meet the following requirements in order to be eligible for reimbursement for provision of a Stage 1 Comprehensive Diagnostic Evaluation (CDE) or Targeted Evaluation and/or evaluation for the purposes of developing an Intervention Services Plan (ISP), and then the completion of an ISP. (Must meet a through f.)

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 AI services and other empirically supported intervention techniques; and

c) Be qualified to conduct and document both a CDE or 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 2 AI Services:

Following the completion of an ISP that includes a recommendation for AI Stage 2 services, a Behavior Analyst (BA) conducts a Behavior Analytic Assessment specific to Stage 2 to determine the need for skill

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acquisition and behavior reduction. From this determination, goals and intervention services are developed specific to ASD and detailed in the Autism Intervention Treatment Plan (AITP).

Stage 2 Service Description
A BA conducts a Behavior Analytic Assessment that incorporates assessment strategies and assessment measures that are developmentally appropriate for the child must identify strengths and weaknesses across domains. The information from such a process is the basis for developing the individualized AITP. A Behavior Analytic Assessment utilizes information from multiple methods and multiple informants, such as:

a) Direct observation, measurement, and recording of behavior are defining characteristics of AI services. The information gathered serves as the primary basis for identifying pre-treatment levels, discharge goals, and evaluation of responses to an AITP. They also assist the BA in developing and adapting treatment protocols on an ongoing basis.

b) The assessments reflect the goal of treatment and are responsive to ongoing information updates as they are collected and analyzed.

c) Legal guardians, caregivers and other stakeholders are included when selecting treatment goals, protocols, and evaluating progress as appropriate. Legal guardian and caregiver interviews, rating scales, and validity measures are used to assess the legal guardian and caregiver's perceptions of the child's skill deficits and behavioral excesses, and the extent to which these deficits and excesses impede the functioning of the child and his or her family. The child also participates in these processes as appropriate.

Treatment may vary in terms of intensity and duration, the complexity and range of treatment goals, and the extent of direct treatment provided.

a) Many variables, including the number of behavioral targets, specific aspects of those behaviors, and the child's response to treatment protocols help determine which treatments, interventions, and behavior modification services most appropriate for the child. Although existing on a continuum, a combination of treatments, interventions, and behavior modification services can be generally categorized as a Focused AI or Comprehensive AI approach to services. The differences between these two general approaches are in regard to the age, intensity, duration, and frequency of services most appropriate for the child.

b) Once the Behavior Analytic Assessment has been executed and responses and information have been gathered, the BA must select goals for intervention and determine how these goals will be measured. The AITP must identify all target behaviors that are to be addressed by the Behavior Technician (BT) and/or the BA directly.

c) The AITP includes, when appropriate, a goal of working with the family of the child in order to assist with the acquisition, maintenance, and generalization of functional skills.

Stage 2 AI Services Practitioner Requirements: In order for an AP to have an approved Provider Participation Agreement (PPA), an AP must meet the following requirements in order to be eligible for reimbursement for provision of a Stage 2 Behavior Analytic Assessment and then the completion of an AITP:

a) A Board Certified Behavior Analyst® (BCBA®) or Board Certified Behavior Analyst-Doctoral® (BCBA-D®) by the Behavior Analyst Certification Board (BACB®). A BCBA or BCBA-D may supervise other Behavior Analysts (BAs) and Behavior Technicians (BTs).

b) A licensed psychologist with documented education and experience in behavior analysis. A psychologist may supervise BAs and BTs. The documentation required is:

1. A professional credential issued by the Board of Psychologist Examiners of the New Mexico Regulation and Licensing Department (RLD).

2. Documentation of education and training in behavior analysis comparable to that required to be eligible to take an examination for BCBA® or BCBA-D® certification including the following educational, supervised experiential training, and continuing education requirements:

Completion of graduate level instruction in the following behavior analytic content areas:

Ethical and professional conduct (at least 45 classroom hours); concepts and principles of behavior analysis (at least 45 classroom hours); research methods in behavior analysis including measurement (at least 25 classroom hours), experimental design (at least 20 classroom hours); AI services including identification of the problem and assessment (at least 30 classroom hours); fundamental elements of behavior change and specific behavior change procedures (at least 45 classroom hours); intervention and behavior change consideration (at least 10 classroom hours); behavior change systems (at least 10 classroom hours); implementation, management and supervision (at least 10 classroom hours); and discretionary coursework (at least 30 classroom hours).

3. Completion of supervised experience in the design and delivery of AI services.

The practitioner must have a significant portion of his or her supervised experience (at least 1/3) accrued with an ASD or closely related (e.g., Fragile X, Intellectual Disability) population.

4. In addition, a psychologist rendering services as a BA must have completed supervised independent field work in AI services (non-university based) of at least 1500 hours, or practicum experience in AI services (university based) of at least 1000 hours, or intensive AI services practicum experience (university based) of at least 750 hours, and completion of at least 32 hours of continuing education in behavior analysis within a two year cycle period.

c) An AI services Practitioner/Supervisor is a BA who is not a BCBA or psychologist:

Stage 2 and 3 AI services may be delivered and/or supervised by a practitioner who has the minimum qualifications listed below. 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;
2. New Mexico licensure, as appropriate for degree and discipline;
3. Clinical experience and supervised training in the evidence-based treatment of children with ASD, specifically AI services; and
4. Experience in supervising direct support personnel in the delivery and evaluation of AI services.

Stage 3 AI Services:

The BA and the BT deliver the treatments, interventions, and behavior modification services as Stage 3 AI services in home, clinic, and community-based settings.

Stage 3 AI Services Service Description:

The following treatment and intervention services are rendered in the Stage 3:

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a) Increasing appropriate behavior via reinforcement. Treatment, intervention and behavior modification services include Positive and Negative Behavior Reinforcement.

b) Promoting stimulus control via differential reinforcement. Treatment, intervention and behavior modification services include Differential Reinforce and Matching to Sample.
c) Promoting appropriate behavior via stimulus change. Treatment, intervention and behavior modification services include Goal Setting; Modeling and Imitation Training; Instruction and Rules; Prompt and Prompt Fading; Prompting to Transfer; and Expand Stimulus Control.
d) Procedures for maintaining behavior. Treatment, intervention and behavior modification services include Schedules of Reinforcement.
e) Teaching new behaviors: Treatment, intervention and behavior modification services include Shaping; Chaining; Task Analysis; Discrete Trial Teaching; Verbal Behavior; Echoic Training; Mand Training; Tact Training; Intraverbal Training; Listener Training; Discrete Trial Teaching; and Verbal Behavior.
f) Preventing and reducing maladaptive behavior: Treatment, intervention and behavior modification services include Antecedent Methods and Procedural Packages for Preventing or Reducing Maladaptive Behavior; Redirecting; Use Activity Schedule; Distracting with a Preferred Event; Behavioral Momentum/High-Probability Request Sequence; Providing Choice; Reducing Response Effort; Applying Non-Contingent Reinforcement; Modeling; Social Stories; and Social Skills Training.
g) Consequential methods for reducing maladaptive behavior: Treatment, intervention and behavior modification services include Differential Reinforcement of Alternative Behaviors; Differential Reinforcement of Other Behavior or Omission Training; Differential Reinforcement of Low Rates; Differential Reinforcement of Diminishing Rates; Response Cost; Time Out; Overcorrection; Negative Practice; Punishment; Manipulation of Antecedents; Stimulus Equivalence; Stimulus Generalization Training; Behavioral Contrast Effects; Matching Law and Factors Influencing Choice; High Probability Request Sequence/Behavior Momentum; Premack Principle; Errorless Learning; and Matching to Sample.
h) Extinction. Treatment, intervention and behavior modification services include: Differential Reinforcement of Alternative Behaviors.
i) Behavior-change systems. Treatment, intervention and behavior modification services include: Self-management Strategies; Token Systems and Other Conditioned Reinforcement Systems; Direct Instruction; Precision Teaching; Personalized Systems of Instruction; Incidental Teaching; Functional Communication Training; Natural Environment Teaching; Lovaas Model of AIS; Augmentative Communication; PECS (Picture Exchange Communication Systems)

Stage 3 AI Services Practitioner Requirements:
The practitioners who render Stage 3 services are BAs who have the qualifications described above, and a BT. A BT must receive at least one hour of case supervision from the BA for every 10 hours of intervention the BT renders per child. There are two avenues through which a practitioner may qualify as a BT.

a) A Registered Behavioral Technician® (RBT®) by the BACB®
b) Documented training in Behavior Analysis without (RBT®) credentials and meet the following requirements:
  1. Be at least 18 years of age;
  2. Possess a minimum of a high school diploma or equivalent;
  3. Complete a minimum of four hours of training in ASD including training on prevalence, etiology, core symptoms, characteristics, and learning differences;
  4. Complete at least 40 hours of training in AI toward the requirements for RBT® credentialing by BACB®.

A. (Registered Behavioral Technician® (RBT®) by providing a written attestation by the BACB®, and when appropriate, provide formal records documenting that the BT meets the following requirements:

- be at least 18 years of age;
- possess a minimum of a high school diploma or equivalent;
- successfully complete a criminal background registry check;
- 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;
- complete 40 hours of training in ABA that meets the requirements for Registered Behavioral Technician® (RBT®) by the BACB®. 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 BABC must be secured, no more than 90 calendar days following the first submission of billing for BT services.

B. A Behavioral Technician (BT) without RBT® credentialing with documented training in behavior analysis, may render services for up to six months while working toward his or her certification as a RBT® with an attestation from the provider that the BT meets the following requirements:

- be at least 18 years of age;
- possess a minimum of a high school diploma or equivalent;
- successfully complete a criminal background registry check;
- 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;
- 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.

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Attachment 4.19 – B

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Autism Intervention Services (AIS)

Autism Intervention Services (AIS) are reimbursed on a fee schedule basis.

The agency's fee schedule rates are set as of May 1, 2015 and are effective for services provided on or after that date. All rates and any updates or periodic adjustments to the fee schedule are published on the New Mexico Human Services Department website at http://www.hsd.state.nm.us/providers/fee-for-service.aspx

Notice of changes to rates are made as required by 42 CFR 447.205.

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1Pen and ink change made per 3/17/16 email with state (JMondragon)