



HEALTH CARE
AUTHORITY

Michelle Lujan Grisham, Governor
Kari Armijo, Secretary
Dana Flannery, Medicaid Director

October 18, 2024

James G. Scott, Director
Division of Program Operations
Medicaid & CHIP Operations Group
Centers for Medicare and Medicaid Services
601 E. 12th St., Room 355
Kansas City, MO 64106

Dear Mr. Scott:

Enclosed please find documents related to New Mexico State Plan Amendment (SPA) 24-0008, Autism Intervention.

New Mexico is requesting to authorize the Qualified Applied Behavioral Analyst Board (QABA) as an acceptable certification for the Board Certified Behavioral Analyst (BCBA) requirement.

The Health Care Authority followed a process that included public notification, tribal notification, and web posting. Documentation of these activities is attached.

Please refer to the attachments for the transmittal form and notices.

We appreciate your consideration of this state plan amendment. Should you have any questions on this amendment, please contact Valerie Tapia at: Valerie.Tapia@hca.nm.gov or (505) 257-8420.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dana Flannery'.

Dana Flannery
Medicaid Director

cc: Dana Brown, CMS

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER ____ _	2. STATE ____
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3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI
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TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION
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6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY _____ \$ _____
b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
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8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)	OTHER, AS SPECIFIED:
GOVERNOR'S OFFICE REPORTED NO COMMENT	Authority Delegated to the Medicaid Director
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	

11. SIGNATURE OF STATE AGENCY OFFICIAL 
12. TYPED NAME
13. TITLE
14. DATE SUBMITTED

15. RETURN TO

FOR CMS USE ONLY	
16. DATE RECEIVED	17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED	
18. EFFECTIVE DATE OF APPROVED MATERIAL	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL	21. TITLE OF APPROVING OFFICIAL

22. REMARKS

INSTRUCTIONS FOR COMPLETING FORM CMS-179

Use Form CMS-179 to transmit State plan material to the Center for Medicaid & CHIP Services for approval. Submit a separate **typed** transmittal form with each plan/amendment.

Block 1 - Transmittal Number - Enter the State Plan Amendment transmittal number. Assign consecutive numbers on a **calendar year** basis with the first two digits being the two-digit year (e.g., 21-0001, 21-0002, etc.). Because states have different state fiscal years, a calendar year is required for consistency.

Block 2 - State - Enter the two-letter abbreviation code of the State/District/Territory submitting the plan material.

Block 3 - Program Identification - Enter the applicable Title of the Social Security Act (Title XIX Medicaid or Title XXI CHIP).

Block 4 - Proposed Effective Date - Enter the proposed effective date of material. The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted. With respect to expenditures for assistance under such plan, the effective date may not be earlier than the first day on which the plan is in operation on a statewide basis or earlier than the day following publication of notice of changes.

Block 5 - Federal Statute/Regulation Citation - Enter the appropriate statutory/regulatory citation.

Block 6 - Federal Budget Impact - 6(a) - IN WHOLE DOLLARS, NOT IN THOUSANDS, Enter 1st **Federal Fiscal Year** (FFY) impacted by the SPA & estimated Federal share of the cost of the SPA for 1st FFY. The first FFY should be the FFY inclusive of the earliest effective date of any amended payment language; **6 (b)** - Enter 2nd FFY impacted by the SPA & estimated Federal share of the cost for 2nd FFY. In general, the estimates should include any amount not currently approved in the state's plan for assistance.

Block 7 - Page No.(s) of Plan Section or Attachment - Enter the page number(s) of plan material amended and transmitted. If additional space is needed, use bond paper. **New pages** should be included in Block 7, but not in Block 8.

Block 8 - Page No.(s) of the Superseded Plan Section or Attachment (if Applicable) - Enter the page number(s) (including the transmittal number) that is being superseded. If additional space is needed, use bond paper. **Deleted pages** should be included in Block 8, but not in Block 7.

Block 9 - Subject of Amendment - Briefly describe plan material being transmitted.

Block 10 - Governor's Review - Check the appropriate box. See SMM section 13026 A.

Block 11 - Signature of State Agency Official - Authorized State official signs this block.

Block 12 - Typed Name - Type name of State official who signed block 11.

Block 13 - Title - Type title of State official who signed block 11.

Block 14 - Date Submitted - Enter the date that the state transmits plan material to CMCS. Unless the state officially withdraws this SPA and then resubmits it, this date should not be revised. Documentation of version revisions will be maintained in the CMCS administrative record.

Block 15 - Return To - Type the name and address of State official to whom this form should be returned.

Block 16–22 (FOR CMS USE ONLY).

Block 16 - Date Received - Enter the date plan material is received by CMCS. This is the date that the submission is received by CMCS via the subscribed submission process.

Block 17 - Date Approved - Enter the date CMCS approved the plan material.

Block 18 - Effective Date of Approved Material - Enter the date the plan material becomes effective. If more than one effective date, list each provision and its effective date in Block 22 or attach a sheet.

Block 19 - Signature of Approving Official - Approving official signs this block.

Block 20 - Typed Name of Approving Official - Type approving official's name.

Block 21 - Title of Approving Official - Type approving official's title.

Block 22 - Remarks - Use this block to reference and explain agreed to changes and strike-throughs to the original CMS-179 as submitted, a partial approval, more than one effective date, etc. If additional space is needed, use bond paper.

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- 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 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 individual 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 response 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) The individual, legal guardians, caregivers and other professionals are included when selecting treatment goals, protocols, and evaluating progress as appropriate. Interviews with the individual, legal guardian and caregiver, rating scales, and validity measures are used to assess the perceptions of the individual's skill deficits and behavioral excesses, and the extent to which these deficits and excesses impede the functioning of the individual and their family.

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 individual's response to treatment protocols help determine which treatments, interventions, and behavior modification services most appropriate for the individual. Although existing on a continuum, a combination of treatments, interventions, and behavior modification services can be generally categorized as Focused AI services 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 individual.
- 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 Analyst Certification Board's (BACB's) Board Certified Assistant Behavior Analyst (BCaBA), Behavior Technician (BT), the Qualified Applied Behavioral Analyst Board (QABA), and/or the BA directly.
- c) The AITP includes, when appropriate, a goal of working with the family or caregivers of the individual 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 MAD 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®

TN No. 24-0008

Approval Date: _____

Supersedes TN. No. 22-0022

Effective Date: 10/01/2024

State Supplement A to Attachment 3.1A

(BCBA-D®) by the Behavior Analyst Certification Board (BACB®) and the Qualified Applied Behavioral Analyst Board (QABA). A BCBA or BCBA-D may supervise other BAs, BCaBAs and BTs.

- b) A licensed psychologist with documented education and experience in behavior analysis. A psychologist may supervise BAs, BCaBAs 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 education, supervised experiential training, and continuing education requirements with 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® or QABA 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, BCaBA and the BT deliver the treatments, interventions, and behavior modification services as Stage 3 AI services in home, clinic, schools and community-based settings.

Stage 3 AI Services Service Description

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

- 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.

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- 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 individual. BTs must:

- a) Be a Registered Behavioral Technician® (RBT®) by the BACB®; or
- b) A Board Certified Autism Technician (BCAT) by the Behavioral Intervention Certification Council (BICC); or
- c) An Applied Behavior Analysis Technician (ABAT) by the Qualified Applied Behavior Analysis Credentialing Board (QABA); or
- d) Have 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®.