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MEMORANDUM

To: Senator Jane Kitchel, Chair, Senate Committee on Appropriations; Representative Mitzi Johnson, House Committee on Appropriations; Representative Bill Lippert, House Committee on Health Care

From: Steven M. Costantino, Commissioner, Department of Vermont Health Access



Cc: Hal Cohen, Secretary, Agency of Human Services

Date: March 10, 2016

Re: Department of Vermont Health Access - Applied Behavioral Analysis (ABA)

This memorandum is in response to the request for information from the Department of Vermont Health Access (DVHA) on the policy, reimbursement, service utilization, and budget impact of Medicaid covered services for autism, specifically Applied Behavioral Analysis (ABA).

This memorandum contains the following:

1. History of Medicaid budget for ABA
2. Past and current Medicaid reimbursement for ABA
3. Service utilization and spend
4. Policy updates

1. History of Medicaid budget for ABA

Per Act 127, passed in the 2010 legislative session, a comprehensive report on the short- and long-term fiscal impacts of a coverage mandate on expenditures for children with autism was submitted to the legislature in February of 2011.¹

Findings of that report indicated that “the ‘front-end’ investment of intensive early interventions [would be] offset by long-term savings achieved during a child’s school-age years due a reduced demand for services as the child experiences improvement in functioning. The report goes on to state, “additional spending could be offset potentially to some extent by savings achieved through private coverage of services under the Act and/or, as mentioned previously, reductions in duplications of effort. Potential savings and reductions in spending represent best estimates

based on available information.” Based on the report, it appears that the initial concept of budget neutrality was largely founded on the basis of significant future cost avoidance as a result of intensive early intervention.

Direct Costs to Medicaid

The report outlined an increase in Medicaid spending for children under the age of six and a decline in spending for children ages 6 to 17, appearing to be budget neutral. Short term cost increases in the Medicaid program were demonstrated by increased early intervention services.

Estimates to savings resulting from private insurance coverage did not include Medicaid funding for joint Special Education Medicaid programs, including School Based Health Services and Success by Six.

Limitations of the Report

Challenges identified in the fiscal analysis included: difficulty estimating the prevalence rates for autism spectrum disorder; difficulty predicting the extent that early intervention services will replace or supplement existing services; and an increased demand necessitating the need for increased service capacity.

Current budget estimates take into account an increase in demand for services due to higher prevalence of children diagnosed with autism spectrum disorder and greater awareness of effective intervention, and does not contemplate future cost avoidance. In order to achieve cost avoidance over the long term, additional investments are needed to provide effective and appropriate medical services for children with autism.



2. Past and current Medicaid reimbursement for ABA

The following table provides an overview of past and current Medicaid rates for ABA. Rates vary by provider’s level of education. Additional information on qualified providers for ABA is provided at the end of this section.

CPT Code	Description		Spec Rehab	BCBA	BCaBA or Behavior Technician	BCBA	BCaBA or Behavior Technician
Functional Assessment, Analysis, and Treatment Plan			Rates under Specialized Rehabilitation - Prior to 7/1/15 (when SPA was effective)	Original Rates - Effective 7/1/15. Never paid due to negotiation with providers.		Increased Rates - Per negotiation with providers, rates were increased retro to 7/1/15.	
0359T	Behavior identification assessment, by the physician or other qualified health care professional, face-to-face with patient and caregiver(s), includes administration of standardized and non-standardized tests, detailed behavioral history, patient observation and caregiver interview, interpretation of test results, discussion of findings and recommendations with the primary guardian(s)/caregiver(s), and preparation of report	Per session	Not comparable 24.65 (per/15 mins)	\$360.00	\$273.60	\$475.00	
0359T	Behavior identification assessment, follow-up services (modifier TS)	Per Session	\$49.30	\$270.00	\$205.20	\$69.80	\$60.61
0360T	Observational behavioral follow-up assessment, includes physician or other qualified health care professional direction with interpretation and report, administered by one technician; first 30 minutes of technician time, face-to-face with the patient	30 minutes	\$49.30			\$69.80	\$60.61
0361T	Observational behavioral follow-up assessment, includes physician or other qualified health care professional direction with interpretation and report, administered by one technician; each additional 30 minutes of technician time, face-to-face with the patient (List separately in addition to code for primary service)	30 minutes	\$49.30			\$69.80	\$60.61
0362T	Exposure behavioral follow-up assessment, includes physician or other qualified health care professional direction with interpretation and report, administered by physician or other qualified health care professional with the assistance of one or more technicians; first 30 minutes of technician(s) time, face-to-face with the patient	30 minutes	\$49.30			\$69.80	\$60.61
0363T	Exposure behavioral follow-up assessment, includes physician or other qualified health care professional direction with interpretation and report, administered by physician or other qualified health care professional with the assistance of one or more technicians; each additional 30 minutes of technician(s) time, face-to-face with the patient (List separately in addition to code for primary procedure)	30 minutes				\$69.80	\$60.61
0364T	Adaptive behavior treatment by protocol, administered by technician, face-to-face with one patient; first 30 minutes of technician time	30 minutes	\$49.30		\$19.80		\$19.80

CPT Code	Description		Spec Rehab	BCBA	BCaBA or Behavior Technician	BCBA	BCaBA or Behavior Technician
Functional Assessment, Analysis, and Treatment Plan			Rates under Specialized Rehabilitation - Prior to 7/1/15 (when SPA was effective)	Original Rates - Effective 7/1/15. Never paid due to negotiation with providers.		Increased Rates - Per negotiation with providers, rates were increased retro to 7/1/15.	
ABA Treatment, Home and Community Based Setting (1-on-1 Support)							
0365T	Adaptive behavior treatment by protocol, administered by technician, face-to-face with one patient; each additional 30 minutes of technician time (List separately in addition to code for primary procedure)	30 minutes	\$49.30		\$19.80		\$19.80
0366T	Group behavior treatment by protocol administered by technician first 30 minutes / per recipient	30 minutes	\$49.30				\$17.00
0367T	Group behavior treatment by protocol administered by technician additional 30 minutes / per recipient	30 minutes	\$49.30				\$17.00
0373T	Exposure adaptive behavior treatment with protocol modification requiring two or more technicians for severe maladaptive behavior(s); first 60 minutes of technicians' time, face-to-face with patient	60 minutes	\$98.60		\$79.20		\$88.00
0374T	Exposure adaptive behavior treatment with protocol modification requiring two or more technicians for severe maladaptive behavior(s); each additional 30 minutes of technicians' time face-to-face with patient (List separately in addition to code for primary procedure)	30 minutes	\$49.30		\$39.60		\$44.00
Program Supervision							
0368T	Adaptive behavior treatment with protocol modification administered by physician or other qualified health care professional with one patient; first 30 minutes of patient face-to-face time	30 minutes	\$49.30	\$17.10	\$14.85	\$35.00	\$30.40
0369T	Adaptive behavior treatment with protocol modification administered by physician or other qualified health care professional with one patient; each additional 30 minutes of patient face-to-face time (List separately in addition to code for primary procedure)	30 minutes	\$49.30	\$17.10	\$14.85	\$35.00	\$30.40
Parent/Caregiver Training							
0370T	Family adaptive behavior treatment guidance, administered by physician or other qualified health care professional (without the patient present)	Per session	\$98.60	\$44.46	\$52.65	\$65.00	\$56.44
Team Conference							
99366	Medical team conference with interdisciplinary team of health care professionals, face-to-face with patient and/or family, 30 minutes or more, participation by nonphysician qualified health care professional	30 minutes	\$49.30	\$23.47	\$20.39	\$26.08	\$22.65
99368	Medical team conference with interdisciplinary team of health care professionals, patient and/or family not present, 30 minutes or more; participation by nonphysician qualified health care professional	30 minutes	\$49.30	\$20.20	\$17.53	\$22.44	\$19.48

Additional Codes were added after initial fee schedule was set.

Qualified Providers of ABA

Vermont Medicaid recognizes three provider types for ABA services: Licensed Behavior Analysts (or Board Certified Behavior Analyst [BCBA]), Board Certified Assistant Behavior Analysts (BCaBAs), and Behavior Technicians (BTs).

Behavior Analysts are required to hold a license from the State of Vermont, and must only provide services within their scope of practice as outlined by the Vermont Office of Professional Regulation. Licensed Behavior Analysts are required to receive certification by the Behavior Analysts Certification Board (BACB), a national organization that establishes, promotes, and disseminates professional standards.

Licensed Behavior Analyst (or BCBA) authorized to enroll in Vermont Medicaid must meet all of the following requirements:

- A minimum of a master's degree in behavior analysis or a related field such as: education, psychology, special education, counseling or social work.
- Certification by the BACB as a BCBA.
- Must meet all necessary requirements under Section 6401 of the Affordable Care Act of 2010.
- Must be covered by professional liability insurance.
- Have an approved background check.
- Have no active sanctions or disciplinary actions on their Vermont Behavior Analysts' licensure.
- Have no Medicare/Medicaid sanctions or federal exclusion.

Board Certified Assistant Behavior Analyst authorized to enroll in Vermont Medicaid must meet all of the following requirements:

- Must practice under and be supervised by a State of Vermont Licensed Behavior Analyst.
- Certification by the BACB as a BCaBA.
- A minimum of a bachelor's degree in behavior analysis or a related field, such as education, psychology, special education, counseling or social work.
- Have an approved background check.

Behavior Technician authorized to provide ABA services reimbursed by Vermont Medicaid must meet all of the following requirements:

- Must practice under and be supervised by a State of Vermont Licensed Behavior Analyst.
- Have a bachelor's degree, or be actively pursuing a bachelor's degree, preferably in human services field. Relevant experience may be exchanged for a degree.
- Have an approved background check, which must include the following:
 - A Vermont criminal record check obtained through the Vermont Crime Information Center (VCIC). A state record check includes the sex offender registry.

- A candidate who is not a Vermont resident or has been a Vermont resident for less than five years is required to have a National criminal records check, which is obtained from the FBI through the VCIC.
- Vermont Abuse Registry checks (both Child Abuse Registry and Adult Abuse Registry).
- Documentation of receiving the required trainings listed below prior to providing services:
 - At least 40 hours of training in the implementation of ABA, to include a minimum of three hours of ASD specific training and a minimum of three hours of ethics and professional conduct specific training.
 - Current First Aid Certification (must be renewed at least every three years).
 - Universal Precautions.
 - Current CPR Certification (must be renewed annually).
 - Confidentiality and compliance with Health Insurance Portability and Accountability Act (HIPPA).
 - Abuse and Neglect reporting.

3. Service Utilization & Spend

Since July 1, 2015, the number of clients served with ABA funded through Vermont Medicaid:

Center	Number of Medicaid Beneficiaries
Howard Center	12
Northwestern Counseling & Support Service	23
SD Associates	6
Bell Center	4
Counseling Service of Addison County	2
Washington County Mental Health Services	2
Total	49

To date, the DVHA total expenditures for ABA are approximately \$490,000.

DVHA recognizes that this is an area of underspending in the 2016 budget for the department. However, weekly reports to JFO on AHS and department budgets indicate that DVHA is performing close to the request for 2016 Budget Adjustment (BAA). Thus, a reduction of this line item in the BAA would result in deficit spending.

Rates for ABA services have been increased from what was initially proposed in 2015; However, the Designated Agencies (DAs) have stated that Medicaid rates for ABA do not sufficiently cover the costs of delivering these services. As a result, many DAs that DVHA expected to build

their ABA programs, as planned and accounted for in DVHA's 2016 BAA, have not yet offered ABA services. Two DAs that were already providing ABA services prior to SFY 2016, and were planning significant growth of their ABA programs in SFY 2016 and beyond, have stated that the Medicaid rates do not cover costs so they are unable to expand services to new Medicaid beneficiaries. Additionally, these DAs are phasing out existing beneficiaries receiving ABA. Despite a modest increase in private providers serving Medicaid beneficiaries, the lack of growth among DAs has resulted in significant underspending on ABA as projected in DVHA's Medicaid budget.

4. Policy Updates

- The amendment to the Vermont Medicaid State Plan was approved by the Centers for Medicare and Medicaid Services (CMS) ensuring federal match for ABA retroactive to July 1, 2015. The amended Vermont Medicaid State Plan allows Licensed Behavior Analysts, Licensed Assistant Behavior Analysts, and Behavior Technicians to provide services to treat autism spectrum disorder, and for Bas and ABAs to bill directly for those services.
- The Agency of Human Services and DVHA are currently reviewing and amending administrative rule for Medicaid covered services, including autism services.

