

October 15th, 2019

Human Services Department  
Office of the Secretary  
P.O. Box 2348, Santa Fe, NM 87504-2348

Dear New Mexico Human Services Department,

Thank you for your time and consideration of our public comments regarding *New Mexico Administrative Code (NMAC): 8.321.2 Specialized Behavioral Health Services*. Behavior Change Institute is a behavioral health provider that specializes in bringing medically necessary behavioral services for children and their families in rural and underserved communities.

### **Section A. Coverage Criteria**

#### **Recommendation:**

We urge NMHSD to consider removing the diagnosis-specific coverage criteria for accessing the Applied Behavior Analysis benefit. While ABA treatment is most well-known for treating individuals with Autism Spectrum Disorders, there has been “...extensive research shows that *the effectiveness of the multiple behavior-change procedures that comprise comprehensive ABA treatment is not limited to clients of a certain age or diagnosis* (e.g., Hassiotis et al., 2011; Ivy & Schreck, 2016; Wong et al, 2017).

- *Source:* Applied Behavior Analysis Treatment of Autism Spectrum Disorder: Practice Guidelines for Healthcare Funders and Managers (2nd ed.) (Attached)

With 32 of the 33 counties designated as Medically Underserved by HRSA, there is a significant shortage of healthcare providers throughout New Mexico. ABA is the science that focuses on socially significant human behavior (Cooper, Heron, & Heward, 2007), thus it can and should be the basis for the design of an effective intervention for improving any aspect of human behavior (e.g., increasing communication, social, or academic skills and decreasing inappropriate behaviours such as aggressive or self-injurious behaviours) for any population (e.g., adults with aphasia, children with ASD, adults learning a second language, children with Down’s syndrome).

In the last decades, and as the scientific evidence for the effectiveness of ABA-based interventions for individuals with ASD has dramatically increased, there is a parallel increase of research activity in relation to the effectiveness of ABA-based interventions for other populations. This research activity has included children with Down’s syndrome, children with learning disorders, individuals with eating disorders, individuals exhibiting gambling behaviours, adults with depression, post-stroke aphasia patients, and numerous other areas (e.g. Athens, Vollmer, Sloman, & St Peter Pipkin, 2008; Sidman & Kirk, 1974; Seiverling, Williams, Sturmey, & Hart, 2012; Nastally, Dixon, & Jackson, 2010; Kanter,

---

Callaghan, Landes, Busch, & Brown, 2004; Baker, LeBlanc, & Raetz, 2008). ABA treatment should, therefore, be based on medical necessity rather than diagnosis-specific.

We understand that this shift in the coverage criteria will require significant changes to the ABA benefit and would like to volunteer our time to work directly with the state to expand the benefit to serve patients with other populations in the rural and underserved communities in New Mexico.

### **Section B. Eligible Providers**

**Recommendation:** Given the shortage of behavioral health providers, HSD added the following provider-level, *‘Behavior Analyst Candidate’* to increase the pool of eligible practitioners in rural and underserved areas. This provider is currently missing from the administrative code and should be added to align with the list of approved providers outlined in “Behavioral Health Policy & Billing Manual” (Page 59):

“A BCBA who has completed the course work and the practicum hours but lacks the certification while waiting for the next offered exam or exam results may perform the duties of a certified BCBA”

### **Section B. Covered Services**

**Section B (6)** *“If the eligible recipient is in a residential facility that either specializes in or has as part of its treatment modalities MAD ABA services, and the residential facility is not an AP for ABA stage two and three services, and the eligible recipient has a MAD recognized CDE or targeted evaluation which recommends ABA stage two services, the residential facility is responsible to locate a MAD enrolled ABA stage two and three AP and develop an agreement allowing the AP to render stage two and three services at the residential facility.”*

**Recommendation:** We recommend clarifying that individuals in a residential facility can access Stage 2 and Stage 3 ABA services with a diagnosis from one of the approved medical provider types while they are waiting for a MAD recognized CDE or targeted evaluation. We are concerned that many of the individuals who are in residential facilities will be the adult population and given the shortage of MAD approved providers and prioritization of diagnostics for children under 5 years of age, that these individuals will have delayed care for several years.

### **Section E. Prior Authorization - General information stage three services**

**Section E (4):** *“When an eligible recipient’s behavior exceeds the expertise of the AP and 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 contractor for prior authorization to allow an ABA specialty care provider to intervene. The UR contractor will approve a prior authorization to the ABA specialty care provider to complete a targeted assessment including a functional assessment and provide the primary AP with, or to implement his or herself, individualized interventions to address the behavioral concerns for which the referral is based on medical documentation.”*

**Recommendation:** Due to the complexity of ABA treatment and how an individual reacts to ABA treatment it is our recommendation that a Board Certified Behavior Analyst (BCBA) be a part of the UR team. It is particularly important to have a clinician with specialized training and education in behavior analysis when the appropriate determination of ABA treatment design and the dosage is required.

The Behavior Analyst Certification Board exists to protect consumers and ensure high-quality standards of practice in behavior analysis and they advise:

*“When there are questions about the appropriateness or efficacy of services in an individual case, including pursuant to any internal or external appeal relating to insurance benefits, the reviewing body should include a Behavior Analyst with experience in ABA treatment of ASD” as Board Certified Behavior Analysts “...rely upon strategies and procedures documented in peer-reviewed literature, established treatment protocols, and clinical decision-making frameworks.”*

- *Source:* Applied Behavior Analysis Treatment of Autism Spectrum Disorder: Practice Guidelines for Healthcare Funders and Managers (2nd ed.) (Attached)

### **Section E. Prior Authorization - General information stage three services**

**Section E (5):** *“Services may continue until the eligible recipient no longer meets service criteria for ABA services or ages out of eligibility for comprehensive ABA services as described in the BH policy and billing manual.”*

**Recommendation:**

We respectfully request that the criteria of “age out of comprehensive ABA services” is removed because this is not aligned with standards of care or the recommendations of the Behavior Analyst Practice Guidelines (BACB) Practice Guidelines for ASD Treatment.

Per the BACB Guidelines:

*“...extensive research shows that the effectiveness of the multiple behavior-change procedures that comprise comprehensive ABA treatment is not limited to clients of a certain age or diagnosis (e.g., Hassiotis et al., 2011; Ivy & Schreck, 2016; Wong et al, 2017). Therefore, determinations as to whether ABA treatment should be focused or comprehensive and the intensity of treatment should be based on the medical necessity of the treatment for each individual client rather than the client’s chronological age, duration or nature of previous ABA services, or the like.”*

Thank you for your time and consideration of our recommendations. Please do not hesitate to reach out with any additional questions.

Respectfully,



BEHAVIOR CHANGE  
INSTITUTE

---

*Kathleen Karimi*

Kathleen Karimi, MHA

(510)-910-5898

[kkarimi@BehaviorChangeInstitute.com](mailto:kkarimi@BehaviorChangeInstitute.com)

CEO, Business Operations

Behavior Change Institute