

MEDICAID SERVICES MANUAL  
TRANSMITTAL LETTER

September 28, 2021

TO: CUSTODIANS OF MEDICAID SERVICES MANUAL

FROM: JESSICA KEMMERER, HIPAA PRIVACY AND CIVIL RIGHTS  
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SUBJECT: MEDICAID SERVICES MANUAL CHANGES  
CHAPTER 3700 – APPLIED BEHAVIORAL ANALYSIS (ABA)

**BACKGROUND AND EXPLANATION**

Revisions to Medicaid Services Manual (MSM) Chapter 3700, Applied Behavioral Analysis (ABA) are being proposed to incorporate the findings from Senate Bill 174 from Legislative Session 2019 and Senate Bill 96 from Legislative Session 2021. These chapter changes will include provider types permitted to bill ABA as well as the documentation required for treatment notes.

Throughout the chapter, grammar, punctuation and capitalization changes were made, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary. Structural changes were made to the chapter including renumbering and re-arranging of sections. Section 3704.4(E)-(G) – subsections were added.

Entities Financially Affected:

This proposed change affects all Medicaid-enrolled providers delivering ABA services. Those provider types include, and are limited to:

- PT 85 Specialty 310 - Licensed Behavioral Analyst (LBA) specialty
- PT 85 Specialty 311 - Psychologist specialty
- PT 85 Specialty 312 - Licensed Assistant Behavioral Analyst (LaBA) specialty
- PT 85 Specialty 314 - Registered Behavioral Technician (RBT) specialty
- PT 60 – School Health Services
- PT 47 – Indian Health Services/Tribal Clinics/Tribal FQHCs

Financial Impact on Local Government: There is no estimated financial impact to Local Government based on these changes.

These changes are effective January 1, 2022.

**MATERIAL TRANSMITTED**

MTL 14/21  
 CHAPTER 3700 – Applied Behavioral  
 Analysis (ABA)

**MATERIAL SUPERSEDED**

MTL 01/20  
 CHAPTER 3700 – Applied Behavioral  
 Analysis (ABA)

<b>Manual Section</b>	<b>Section Title</b>	<b>Background and Explanation of Policy Changes, Clarifications and Updates</b>
3704.4E-F	<b>Provider Responsibility</b>	Policy clarification of allowed providers.
3704.4G		Documentation requirements.

DIVISION OF HEALTH CARE FINANCING AND POLICY

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3700 INTRODUCTION

Applied Behavior Analysis (ABA) is the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior. ABA is a behavior intervention model based on reliable evidence-based practices focusing on targeted skills in all areas of development. The Division of Health Care Financing and Policy (DHCFP) utilizes the Center for Disease Control and Prevention (CDC), the American Academy of Pediatrics (AAP), and Behavior Analyst Certification Board (BACB) “Applied Behavior Analysis Treatment of Autism Spectrum Disorder: Practice Guidelines for Healthcare Funders and Managers (2<sup>nd</sup> ed.)” as guiding principles for this policy.

All DHCFP policies and requirements (such as prior authorizations, etc.) except for those listed in the Nevada Check Up (NCU) Chapter 1000 are the same for NCU.

All DHCFP policies and requirements for Outpatient Physical, Occupational, Speech and Maintenance Therapy are listed in the Medicaid Services Manual (MSM) Chapter 1700. Chapter 3700 specifically covers ABA services; for other Medicaid services, coverage, limitations and provider responsibilities the specific MSM needs to be referenced.

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3701 AUTHORITY

- A. A comprehensive array of preventive, diagnostic and treatment services are a mandatory benefit under the Medicaid program for categorically needy individuals under age 21, including children with Autism Spectrum Disorder (ASD), Fetal Alcohol Spectrum Disorder (FASD) or other condition for which ABA is recognized as medically necessary.
1. ABA is an evidence-based behavior intervention meeting the provision of the law as defined in the following:
    - a. Social Security Act (SSA) 1905(a) and (r);
    - b. 42 Code of Federal Regulation (CFR), Subpart B, 441.50-441.62;
    - c. Nevada Revised Statute (NRS) Chapter 437 describes persons deemed to practice ABA services; and
    - d. Nevada Medicaid State Plan describes the amount, duration and scope of ABA services provided to the categorically needy.

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MEDICAID SERVICES MANUAL	Subject: DEFINITIONS

3702

DEFINITIONS

- A. ABA is the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.
- B. Autism Spectrum Disorders (ASD) are a group of developmental disabilities that can cause significant social, communication and behavioral challenges.
- C. FASD are a group of developmental conditions resulting from maternal alcohol use during pregnancy.
- D. Other conditions, as referenced in this policy, are defined as any developmental condition in which ABA is recognized as a medically necessary treatment.

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3703          RESERVED

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3704 POLICY

3704.1 APPLIED BEHAVIOR ANALYSIS POLICY

Medicaid will reimburse for ABA rendered to Medicaid eligible individuals under age 21 years old in accordance with Early and Periodic Screening, Diagnostic and Treatment (EPSDT) coverage authority. The behavior intervention must be medically necessary (reference MSM Chapter 100) to develop, maintain or restore to the maximum extent practical the functions of an individual with a diagnosis of ASD, FASD or other condition for which ABA is recognized as medically necessary. It must be rendered according to the written orders of the Physician, Physician's Assistant or an Advanced Practitioner Registered Nurse (APRN). The treatment regimen must be designed and signed off on by the qualified ABA provider.

The services are to be provided in the least restrictive, most normative setting possible and may be delivered in a medical professional clinic/office, within a community environment or in the recipient's home.

All services must be documented as medically necessary and appropriate and must be prescribed on an individualized treatment plan.

3704.2 COVERAGE AND LIMITATIONS

3704.2A COVERED SERVICES

1. There are two types of ABA treatment delivery models recognized by the DHCFP, Focused and Comprehensive. Based upon the Behavior Analyst Certification Board (BACB), Inc. (2014) within each of the two delivery models there are key characteristics which must be demonstrated throughout the assessment and treatment. These characteristics include:
  - a. Comprehensive assessment that describes specific levels of baseline behaviors when establishing treatment goals.
  - b. Establishing small units of behavior which builds towards larger changes in functioning in improved health and levels of independence.
  - c. Understanding the current function and behaviors targeted for treatment.
  - d. Use of individualized and detailed behavior analytic treatment.
  - e. Ongoing and frequent direct assessment, analysis and adjustments to the treatment plan by a Behavior Analyst by observations and objective data analysis.
  - f. Use of treatment protocols that are implemented repeatedly, frequently and consistently across all environments.

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- g. Direct support and training of family members and other involved qualified professionals.
  - h. Supervision and management by a licensed provider with expertise and formal training in ABA for treatment of ASD. “Applied Behavior Analysis Treatment of Autism Spectrum Disorder: Practice Guidelines for Healthcare Funders and Managers (2014) (2<sup>nd</sup> ed.)”.  
<https://casproviders.org/wp-content/uploads/2020/03/ABA-ASD-Practice-Guidelines.pdf>
2. Focused Delivery Model
- a. Focused ABA is treatment directly provided to the individual for a limited number of specific behavioral targets.
    - 1. The appropriate target behaviors are prioritized. When prioritizing multiple target areas, the following behaviors are considered:
      - a. Behaviors that may threaten the health and safety of themselves or others; and
      - b. Absence of developmentally appropriate adaptive, social or functional skills.
    - 2. Treatment may be delivered in individual or small group format.
3. Comprehensive Delivery Model
- a. Comprehensive ABA is treatment provided to the individual for a multiple number of targets across domains of functioning including cognitive, communicative, social and emotional.
    - 1. The behavior disorders may include co-occurring disorders such as aggression, self-injury and other dangerous disorders.
    - 2. Treatment hours are increased and decreased as recipient responds to treatment goals.
    - 3. Treatment is intensive and initially provided in a structured therapy setting. As recipient progresses towards treatment goals the setting may be expanded to alternative environments such as group settings.
4. Services covered within the ABA delivery models

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- a. Behavioral Screening – A brief systematic process to determine developmental delays and disabilities during regular well-child doctor visits. Screens must be a nationally accepted Developmental Screen. A recommended list of screens may be found at:  
<http://www.medicalhomeinfo.org/downloads/pdfs/DPIPscreeningtoolgrid.pdf>.  
Refer to MSM Chapter 600 for coverage of developmental screens.
  - b. Comprehensive Evaluations – Is the further review and diagnosis of the child’s behavior and development. Coverage of this service is found within MSM Chapter 600.
  - c. Behavioral Assessment – A comprehensive assessment is an individualized examination which establishes the presence or absence of developmental delays and/or disabilities and determines the recipient’s readiness for change and identifies the strengths or problem areas that may affect the recipient’s treatment. The comprehensive assessment process includes an extensive recipient history which may include: current medical conditions, past medical history, labs and diagnostics, medication history, substance abuse history, legal history, family, educational and social history, and risk assessment. The information collected from this comprehensive assessment shall be used to determine appropriate interventions and treatment planning.
  - d. Adaptive Behavioral Treatment Intervention – Is the systematic use of behavioral techniques and intervention procedures to include intensive direction instruction by the interventionist and family training and support.
  - e. Adaptive Behavioral Family Treatment – The training in behavioral techniques to be incorporated into daily routines of the child and ensure consistency in the intervention approach. The training should be extensive and ongoing and include regular consultation with the qualified professional. The training is broken down into two components:
    1. Family Treatment with the child present – Is training that includes the parent/guardian or authorized representative in behavioral techniques during the behavior intervention with the child.
    2. Family Treatment without the child present – Is training in behavioral techniques provided to the parent/guardian or authorized representative without the child present. The training may be for the review of prior adaptive behavioral treatment sessions to break down the exhibited behavior and training techniques.
5. The coverage of ABA services requires the following medical coverage criteria to be met:
- a. The recipient must be zero to under 21 years of age;

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- b. Have an established supporting diagnosis of ASD, FASD or other condition for which ABA is recognized as medically necessary.
  - c. The individual exhibits excesses and/or deficits of behavior that impedes access to age appropriate home or community activities (examples include, but are not limited to aggression, self-injury, elopement, and/or social interaction, independent living, play and/or communication skills, etc.);
  - d. ABA services are rendered in accordance with the individual’s treatment plan with realistic and obtainable treatment goals to address the behavioral dysfunction;
  - e. Treatment may vary in intensity and duration based on clinical standards. Approval of fewer hours than recommended/supported in clinical literature requires justification based on objective findings in the medical records;
  - f. A reasonable expectation on the part of the treating healthcare professional that the individual will improve, or maintain to the maximum extent practical functional gains with behavior intervention services;
  - g. The treatment plan must be based on evidence-based assessment criteria and the individual’s test results;
  - h. Behavioral assessments which are previously performed at the Local Education Agency (LEA) must be utilized and not duplicatively billed under the DHCFP if current (within six months) and clinically appropriate; and
  - i. Services must be prior authorized.
6. Services may be delivered in an individual or group (two to eight individuals) treatment session.
7. Services may be delivered in the natural setting (i.e. home and community-based settings, including clinics).
8. Individuals with Disabilities Education Act (IDEA) related services:
- a. Part C, Early Intervention ages zero up to three – Services identified on an Individualized Family Services Plan (IFSP) may be billed to the DHCFP when the providers are enrolled and meet the provider qualifications as outlined under “provider qualifications” for ABA service. These providers must directly bill the DHCFP.
  - b. Part B, Special Education and related services ages three up to 21 years old – Services identified on an Individual Educational Plan (IEP) may be billed to the DHCFP when the providers are enrolled and meet the provider qualifications as

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outlined under “provider qualifications” for ABA services. These providers must directly bill the DHCFP.

3704.2B PRIOR AUTHORIZATION REQUIREMENTS

1. Behavioral screens do not require prior authorization.
2. Behavioral initial assessment and re-assessments do not require prior authorization. Assessments are limited to one in every 180 days or unless prior authorized.
3. Adaptive Behavioral Treatment (individual and group) requires prior authorization from the Quality Improvement Organization (QIO)-like vendor.
4. Adaptive Family Behavioral training (individual and group) requires prior authorization from the QIO-like vendor.
5. ABA services identified through an IEP. When an IEP is issued by the school system, the IEP must accompany a request for ABA services and coordination of services is expected.
6. Each authorization is for an independent period of time as indicated by the start and end date of the service period. If a provider believes it is medically necessary for services to be rendered beyond the scope (units, time period or both) of the current authorization, the provider is responsible for the submittal of a new prior authorization request.

3704.2C NON-COVERED SERVICES

1. Services which do not meet Nevada Medicaid medical necessity requirements.
2. Services used to reimburse a parent/guardian for participation in the treatment plan.
3. Services rendered by the parent/guardian.
4. Services that are duplicative services under an IFSP or an IEP.
5. Treatment whose purpose is vocationally or recreationally based.
6. Services, supplies or procedures performed in a non-conventional setting including but not limited to Resorts, Spas and Camps.
7. Custodial services:
  - a. For the purpose of these provisions, custodial care:
    1. Shall be defined as care that is provided primarily to assist in the activities of daily living (ADLs) such as bathing, dressing, eating, and maintaining personal hygiene and safety;

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2. Is provided primarily for maintaining the recipient's or anyone else's safety; and
3. Could be provided by persons without professional skills or training.
8. Services not authorized by the QIO-like vendor if an authorization is required according to policy.
9. Respite services.
10. Child-care services.
11. Services for education.
12. Equine therapy.
13. Hippotherapy.
14. Phone consultation services.
15. Care coordination and treatment planning billed independently of direct service.
16. ABA services cannot be reimbursed on the same day as Basic Skills Training (BST) and Psychosocial Rehabilitation (PSR) as defined in MSM Chapter 400.

### 3704.3 PROVIDER QUALIFICATIONS

- A. In order to be recognized and reimbursed as an ABA provider by the DHCFP, the provider must be one of the following:
  1. Licensure as a Physician by the Nevada State Board of Medical Examiners acting within their scope of practice (NRS 630.630, 630.165, 630.195, 633 Nevada Administrative Code (NAC) 630.080), and 42 CFR §440.50.
  2. A Psychologist licensed under by the Board of Psychological Examiners (NRS 641.170.3) and acting within their scope of practice.
  3. A qualified Behavior Analyst is an individual who has earned a master's degree level and/or doctorate from an accredited college or university in a field of social science or special education and holds a current certificate as a Board-Certified Behavior Analyst (BCBA and BCBA-D) by the BACB, Inc., and licensed by the Nevada State Board of Applied Behavior Analysis under NRS 437.205 .
  4. A qualified Assistant Behavior Analyst is an individual who has earned a bachelor's degree from an accredited college or university in a field of social science or special education and holds a current certification as a Board-Certified Assistant Behavior

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Analyst (BCaBA) by the BACB, Inc., and licensed by the Nevada State Board of Applied Behavior Analysis under NRS 437.205 and acting within their scope of practice under the direction of a physician, psychologist, BCBA-D or BCBA.

5. A Registered Behavior Technician (RBT) is an individual who has earned a high school diploma or equivalent, completed training and testing as approved and credentialed by the BACB, Inc., registered by the Nevada Stated Board of Applied Behavior Analysis under NRS 437.205 and acting within the scope of practice under direction of a physician, psychologist, BCBA-D, BCBA or BCaBA.

#### 3704.3A SUPERVISION STANDARDS

Clinical Supervision as established by NRS 437.050, which includes: program development, ongoing assessment and treatment oversight, report writing, demonstration with the individual, observation, interventionist and parent/guardian training/education and oversight of transition and discharge plans. All supervision must be overseen by a Licensed Psychologist, BCBA-D or BCBA who has experience in the treatment of autism, although the actual supervision may be provided by a BCaBA at their direction. The amount of supervision must be responsive to individual needs and within the general standards of care and may temporarily increase to meet the individual needs at a specific period in treatment.

#### 3704.4 PROVIDER RESPONSIBILITY

- A. The provider will allow, upon request of proper representatives of the DHCFP, access to all records which pertain to Medicaid recipients for regular review, audit or utilization review.
- B. Once an approved prior authorization request has been received, providers are required to notify the recipient in a timely manner of the approved service units and service period dates.
- C. Ensure services are consistent with applicable professional standards and guidelines relating to the practice of ABA as well as state Medicaid laws and regulations and state licensure laws and regulations.
- D. Ensure caseload size is within the professional standards and guidelines relating to the practice of ABA.
- E. Provider Type (PT) 85 groups may not be linked with any other provider types. The group NPI must be unique to the group.
- F. PT 60 - School Health Services (SHS), PT 85 ABA and PT 47 Indian Health Services/Tribal Clinics/Tribal FQHCs are the only provider types permitted to bill for ABA services.

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1. Providers that may enroll, link, and provide services under these PTs are limited to the following:

PT 85 Specialty 310 - Licensed Behavioral Analyst (LBA) specialty  
 PT 85 Specialty 311 - Psychologist specialty  
 PT 85 Specialty 312 - Licensed Assistant Behavioral Analyst (LaBA) specialty  
 PT 85 Specialty 314 - Registered Behavioral Technician (RBT) specialty  
 PT 60 - School Health Services (SHS)  
 PT 47 Indian Health Services/Tribal Clinics/Tribal FQHCs

- G. Progress Notes: Progress notes for all ABA services are written documentation of treatment services, or services coordination provided to the recipient pursuant to the Treatment Plan, which describes the progress, or lack of progress, towards the goals and objectives of the Treatment Plan. Progress notes must be available upon request for review and investigation of claims.

1. All progress notes documented with the intent of submitting a billable Medicaid ABA service claim must be documented in a manner that is sufficient to support the claim and billing of the services provided and must further document the amount, scope, frequency and duration of the services(s) provided as well as the identity of the provider of the service(s).
2. A Progress Note is required for each day the services were delivered, must be legible and must include the following information:
  - a. The name of the individual receiving the service(s). If the services are in a group setting, it must be indicated.
  - b. The place of service.
  - c. The date the service was delivered.
  - d. The actual beginning and ending times the service was delivered.
  - e. The name of the provider who delivered the service.
  - f. The credentials of the person who delivered the service.
  - g. The signature of the provider who delivered the service.

3704.5 PARENT/GUARDIAN RESPONSIBILITY

- A. The parent/guardian when applicable must:

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1. Be present during all provider training and supervisory visits that occur during home-based services. A parent/guardian may designate an authorized representative, who is 18 years of age or older, to participate in the parent/guardian's absence during home-based services.
2. Participate in discussions during supervisory visits and training.
3. Participate in training by demonstrating taught skills to support generalization of skills to the home and community environment.
4. Sign the treatment plan indicating an understanding and agreement of the plan.
5. Participate in treatment hours.
6. Keep scheduled appointments.
7. Inform provider within 24 hours if the appointment needs to be rescheduled.

#### 3704.6 TREATMENT PLAN

- A. All ABA services must be provided under a treatment plan developed and approved by a licensed psychologist, BCBA-D or BCBA, supported by a BCaBA where applicable. The licensed psychologist, BCBA-D or BCBA trains the BCaBA and RBT to implement assessment and intervention protocols with the individual and provides training and instruction to the parent/guardian and caregiver as necessary to support the implementation of the ABA treatment plan. The licensed psychologist, BCBA-D or BCBA is responsible for all aspects of clinical direction, supervision, and case management.
- B. ABA services shall be rendered in accordance with the individual's treatment plan that is reviewed no less than every six months by a licensed psychologist, BCBA-D, or BCBA. All treatment plans are based on documentation of medical necessity for specific treatment goals to address specific behavior targets based on the appropriate treatment model. The treatment plan shall include:
  1. Goals derived from the functional assessment and/or skill assessment that occur prior to initiation of treatment, and relating to the core deficit derived from the assessment;
  2. Specific and measurable objectives to address each skill deficit and behavioral excess goal:
    - a. Delineate the baseline levels of target behaviors;
    - b. Identify short, intermediate and long-term goals and objectives that are behaviorally defined;

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- c. Criteria that will be used to measure achievement of behavioral objectives; and
  - d. Target dates for when each goal will be mastered.
3. Interventions consistent with ABA techniques;
  4. Specific treatment, intervention including amount, scope, duration and anticipated provider(s) of the services;
  5. Training and supervision to enable the BCaBAs and RBTs to implement assessment and treatment protocols;
  6. Care coordination involving the parent/guardian, community, school and behavior health and/or medical providers who are concurrently providing services. Care coordination must include parent/guardian's documented consent;
  7. Parent/guardian training, support and participation;
  8. Parent/guardian or designated authorized representative responsibility to be physically present and observant during intervention process occurring in the home;
  9. Parent/guardian signature; and
  10. Discharge criteria to include requirements of discharge, anticipated discharge date, next level of care and coordination of other services.

3704.7 DISCHARGE PLAN

- A. All ABA services must include discharge criteria as a written component of the treatment plan at the initiation of services and updated throughout the treatment process; involving a gradual step down in services. Discharge planning should include the details of monitoring and follow up for the individual.
  1. Discharge planning should occur when:
    - a. The individual has achieved treatment goals; or
    - b. The individual no longer meets the diagnostic criteria for ASD; or
    - c. The individual does not demonstrate progress towards goals for successive authorization periods; or
    - d. The parent/guardian requests to discontinue services; or
    - e. The parent/guardian and provider are unable to reconcile concerns in treatment planning and delivery.

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2. Discharge plan must identify:
  - a. The anticipated duration of the overall services;
  - b. Discharge criteria;
  - c. Required aftercare services;
  - d. The identified agency(ies) or Independent Provider(s) to provide the aftercare services; and
  - e. A plan for assisting the recipient in accessing these services.
  
- B. A discharge summary is written documentation of the last service contact with the recipient, the diagnosis at admission and termination and a summary statement that describes the effectiveness of the treatment modalities and progress, or lack of progress, towards treatment goals and objectives, as documented in the ABA treatment plan. The discharge summary also includes the reason for discharge, current level of functioning, and recommendations for further treatment.

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3705 HEARINGS

- A. Please reference MSM Chapter 3100 for hearings procedures.