



Rules of
Department of Social Services
Division 70—MO HealthNet Division
Chapter 98—Behavioral Health Services

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Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 70—MO HealthNet Division Chapter 98—Behavioral Health Services

13 CSR 70-98.015 Behavioral Health Services Program

PURPOSE: This rule establishes the regulatory basis for the program requirements of the MO HealthNet behavioral health services program.

PUBLISHER'S NOTE The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Administration. The MO HealthNet behavioral health services program shall be administered by the Department of Social Services, MO HealthNet Division (MHD). The services covered and not covered and the limitations under which services are covered shall be determined by MHD and shall be included in the *MO HealthNet Behavioral Health Services Provider Manual* and the *Physician's Provider Manual*, which are incorporated by reference and made part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/>, October 1, 2018. This rule does not incorporate any subsequent amendments or additions. Behavioral health services shall include only those which are clearly shown to be medically necessary.

(2) Persons Eligible. The MO HealthNet Program pays for approved MO HealthNet behavioral health services when furnished within the provider's scope of practice. The participant must be eligible on the date the service is furnished. Participants may have specific limitations for behavioral health services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a participant based on their type of assistance as outlined in the provider program manual. The provider shall ascertain the patient's MO HealthNet and

managed care or other lock-in status before any service is performed. The participant's eligibility shall be verified in accordance with methodology outlined in the provider program manual.

(3) Provider Participation. To be eligible to participate as a MO HealthNet provider of behavioral health services, a provider must meet the qualifications specified by the state agency for his or her profession and be an enrolled MO HealthNet provider.

(A) The enrolled MO HealthNet provider shall comply with the following requirements:

1. Maintain adequate documentation and adequate records in accordance with 13 CSR 70-3.030(2)(A); and

2. On request furnish to the MO HealthNet agency, the Medicaid Audit and Compliance Unit, or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

AUTHORITY: sections 208.201 and 660.017, RSMo 2016. Original rule filed Nov. 14, 2003, effective June 30, 2004. Amended: Filed Oct. 30, 2007, effective April 30, 2008. Amended: Filed June 2, 2008, effective Nov. 30, 2008. Amended: Filed Oct. 31, 2008, effective May 30, 2009. Amended: Filed Sept. 26, 2013, effective March 30, 2014. Amended: Filed Oct. 1, 2018, effective May 30, 2019.*

**Original authority: 208.201, RSMo 1987, amended 2007 and 660.017, RSMo 1993, amended 1995.*

13 CSR 70-98.020 Prior Authorization Committee for Non-Pharmaceutical Behavioral Health Services

PURPOSE: This rule establishes a committee to advise the MO HealthNet Division on a prior authorization process for non-pharmaceutical behavioral health services. The prior authorization process will serve as a utilization management measure to ensure that services are medically necessary, appropriate, and cost-effective.

PUBLISHER'S NOTE The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction.

This note applies only to the reference material. The entire text of the rule is printed here.

(1) This rule establishes a MO HealthNet non-pharmaceutical behavioral health services prior authorization advisory committee in the Department of Social Services, MO HealthNet Division. The advisory committee shall be composed of practicing clinicians who are also licensed in their respective fields. The advisory committee shall be composed of three (3) practicing psychiatrists, three (3) practicing psychologists, three (3) practicing licensed clinical social workers (LCSW), and three (3) practicing licensed professional counselors (LPC). All members shall be appointed by the director of the Department of Social Services. The members of the committee shall represent a broad spectrum of practice including, but not limited to, those providing services to adults, children, children in custody, the geriatric population, and Department of Mental Health clients. The members shall serve for a term of four (4) years, except that of the members first appointed, three (3) shall be appointed for one (1) year, three (3) shall be appointed for two (2) years, three (3) shall be appointed for three (3) years, and three (3) shall be appointed for four (4) years. Members of the committee shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred related to participation on the committee, as approved by the MO HealthNet Division out of appropriations made for that purpose.

(2) All persons eligible for MO HealthNet benefits shall have access to non-pharmaceutical behavioral health services when they are determined medically necessary using diagnostic criteria from the current edition of the *Diagnostic and Statistical Manual (DSM)* of the American Psychiatric Association. The services covered and not covered, the prior authorization requirements, and the limitations under which services are covered shall be determined by the MO HealthNet Division and shall be included in the *MO HealthNet Behavioral Health Services Provider Manual* and the *Physician's Provider Manual*, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/>, October 1, 2018. This rule does not incorporate any subsequent amendments or additions. The MO HealthNet non-pharmaceutical behavioral health services prior authorization



advisory committee shall review and make recommendations regarding the prior authorization process to the MO HealthNet Division. The MO HealthNet non-pharmaceutical behavioral health services prior authorization advisory committee shall hold a public hearing in order to make recommendations to the department prior to any final decisions by the division on the prior authorization process. The recommendations of the non-pharmaceutical behavioral health services prior authorization advisory committee shall be provided to the MO HealthNet Division, in writing, prior to the division making a final determination. The policy requirements regarding the prior authorization process for non-pharmaceutical behavioral health services are available through the Department of Social Services, MO HealthNet Division website at <https://dss.mo.gov/mhd/>, October 1, 2018. This rule does not incorporate any subsequent amendments or additions.

(3) The prior authorization requirements shall be reviewed at least every twelve (12) months by the non-pharmaceutical behavioral health services prior authorization committee.

(4) The prior authorization process will not apply to emergency and inpatient hospital interventions.

AUTHORITY: sections 208.201 and 660.017, RSMo 2016. Original rule filed Jan. 15, 2004, effective Aug. 30, 2004. Amended: Filed Oct. 30, 2007, effective April 30, 2008. Amended: Filed Oct. 10, 2013, effective April 30, 2014. Amended: Filed Oct. 1, 2018, effective May 30, 2019.*

**Original authority: 208.201, RSMo 1987, amended 2007 and 660.017, RSMo 1993, amended 1995.*

13 CSR 70-98.030 Applied Behavior Analysis Services

PURPOSE: This rule establishes the regulatory basis for coverage and reimbursement for applied behavior analysis services under the Medicaid state plan.

(1) The following definitions will be used in administering this rule:

(A) Applied Behavior Analysis (ABA)—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 relationships between environment and behavior. ABA does not include psychological testing,

personality assessment, intellectual assessment, neuropsychological assessment, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, family therapy, or counseling;

(B) Autism Spectrum Disorder (ASD)—as defined in the most recent edition of *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association;

(C) Best practice guidelines—guidelines described in the Missouri Autism Guidelines Initiative’s publications entitled *Autism Spectrum Disorders: Missouri Best Practice Guidelines for Screening, Diagnosis, and Assessment* and *Autism Spectrum Disorders: Guide to Evidence-Based Interventions*;

(D) Diagnostic evaluation—evaluation conducted according to best practice guidelines in order to determine if an ASD is present;

(E) Licensed Behavior Analyst (LBA)—an individual who is currently licensed by the Missouri Behavior Analyst Advisory Board to practice ABA independently;

(F) ABA qualified Licensed Psychologist (LP)—an individual who is currently licensed by Missouri to practice psychology and who has ABA in the scope of his/her education, training, and competence;

(G) Licensed Assistant Behavior Analyst (LABA)—an individual who is currently licensed by Missouri to practice applied behavior analysis under the supervision of an LBA;

(H) Technician—an individual who is credentialed by the Behavior Analyst Certification Board (BACB) as a Registered Behavior Technician™ (RBT™);

(I) ABA Assessment for Intervention Planning—assessment that is conducted according to best practice guidelines and considers the individual’s specific strengths and concerns to inform the intervention planning process; and

(J) ABA intervention—involves directly and objectively measuring potential target behaviors and environmental events that influence them; constructing detailed, individualized behavior analytic treatment plans; using reinforcement and other scientifically validated procedures to build functional skills and reduce behaviors that jeopardize health, safety, and independent functioning; managing treatment environments to maximize client progress; implementing treatment protocols repeatedly, frequently, and consistently; measuring target behaviors directly and frequently; and adjusting treatment protocols based on data.

(2) Recipient Criteria.

(A) In order to qualify for and receive

ABA services, a MO HealthNet participant must meet all of the following criteria. The participant must—

1. Be under 21 years of age;

2. Exhibit the presence of excesses and/or deficits of behaviors that significantly interfere with home or community activities (examples include, but are not limited to, aggression, self-injury, elopement);

3. Have a diagnostic evaluation performed by a licensed physician or licensed psychologist, resulting in a diagnosis of ASD, and recommending ABA services as medically necessary.

(3) Provider Criteria.

(A) To direct, supervise, and render ABA services, a professional shall meet the following specifications:

1. Be currently licensed by Missouri as an LBA or LP;

2. Be covered by professional liability insurance to limits of one (1) million dollars per occurrence, three (3) million dollars aggregate;

3. Have no sanctions or disciplinary actions by the applicable state licensing board or the BACB;

4. Have no current overpayment(s) due MO HealthNet and no Medicare or Medicaid sanctions or exclusions from participation in federally funded programs; and

5. Be currently enrolled with MO HealthNet as a provider.

(B) Assistant behavior analysts who render or supervise ABA services shall meet the following qualifications:

1. Be currently licensed by Missouri as an LABA;

2. Be currently supervised by a Missouri LBA;

A. The supervisory relationship must be documented in writing;

3. Be covered by professional liability insurance to limits of one (1) million dollars per occurrence, three (3) million dollars aggregate;

4. Have no sanctions or disciplinary actions by the state licensing board or BACB;

5. Have no current overpayment(s) due MO HealthNet and no Medicaid or Medicare sanctions or exclusions from participation in federally funded programs; and

6. Be currently enrolled with MO HealthNet as a provider.

(C) Technicians who render ABA services shall—

1. Be credentialed by the BACB as an RBT;

2. Work under the supervision of an LBA, LP (if officially granted supervisory privileges by the BACB), or LABA to the



extent allowed for holders of the latter credential and at the discretion of the supervising LBA. RBTs are required by the BACB to be supervised by LBAs who are also Board Certified Behavior Analysts, Board Certified Behavior Analysts-Doctoral, Board Certified Assistant Behavior Analysts, or members of a professional group officially granted supervisory privileges by the BACB;

A. The supervisory relationship must be documented in writing; and

3. Have no current overpayment(s) due MO HealthNet and no Medicaid or Medicare sanctions or exclusions from participation in federally funded programs.

(4) Covered Services and Limitations.

(A) MO HealthNet covered ABA services (ABA assessment for intervention planning and ABA intervention) must be—

1. Medically necessary;

2. Precertified by MO HealthNet or its designee;

3. Delivered in accordance with the recipient's treatment plan; and

4. Overseen and delivered by providers who meet criteria specified herein.

(B) Medical necessity for ABA assessment for intervention planning shall be determined based on a diagnostic evaluation. Medical necessity for ABA intervention shall be determined based on an ABA assessment for intervention planning for initial intervention. Medical necessity for continued ABA intervention beyond the initial precertification period shall be determined based upon requested documentation including, but not limited to, updated treatment plan and progress graphs.

(C) ABA intervention services may be precertified for a time period not to exceed one hundred-eighty (180) days. Services provided without precertification shall not be considered for reimbursement, except in the case of retroactive MO HealthNet eligibility.

(D) Service Limitations.

1. Services shall be based upon the individual needs of the child and must give consideration to the child's age, school attendance requirements, and other daily activities as documented in the treatment plan.

2. Services must be delivered in a clinically appropriate setting for the behavior being treated.

(5) Not Medically Necessary/Non-Covered Services. The following services do not meet medically necessity criteria, nor qualify as MO HealthNet covered ABA services:

(A) Intervention services rendered when measureable functional improvement is not expected and services are not necessary to maintain function or prevent deterioration;

(B) Services that are solely educational are not covered. ABA treatment goals, objectives, and procedures that may be related in some way to educational activities but are medically necessary to address the deficits and symptoms of ASD in an individual are covered;

(C) Educational services provided under an individualized family service plan (IFSP) or an individualized educational program (IEP), as required under the federal Individuals with Disabilities Education Act (IDEA);

(D) Services that are solely vocational or recreational are not covered. ABA treatment goals, objectives, and procedures that may be related in some way to vocational or recreational activities but are medically necessary to address the deficits and symptoms of ASD in an individual are covered; and

(E) Custodial care is not an ABA service and is not covered as part of this benefit. Developing, restoring, or maintaining self-help, daily living, or safety skills as part of an ABA treatment plan does not constitute custodial care and are covered.

(6) ABA Treatment Plan.

(A) ABA intervention services shall be rendered in accordance with the individual's treatment plan. The treatment plan shall—

1. Be person centered and individualized;

2. Be developed by an LBA or LP;

3. Be based on the ABA assessment for intervention planning

4. Delineate the baseline levels of target behaviors;

5. Specify long- and short-term objectives that are defined in observable, measurable, behavioral terms;

6. Specify the criteria that will be used to determine achievement of objectives;

7. Include assessment and treatment protocols for addressing each of the target behaviors;

8. Clearly identify the schedule of services planned and the individuals responsible for delivering the services, including frequent review of data on target behaviors and adjustments in the treatment plan and/or protocols by the LBA or LP as needed;

9. Include training to enable LABAs and RBTs to implement assessment and treatment protocols.

10. Include training and support to enable parents and other caregivers to participate in treatment planning and treatment plan implementation;

11. Include care coordination involving the parents or caregiver(s), school, state disability programs, and others as applicable; and

12. Be consistent with applicable professional standards and guidelines relating to the practice of ABA as well as state Medicaid laws and regulations and applicable Missouri licensure laws and regulations.

(7) Reimbursement Methodology.

(A) MO HealthNet shall provide reimbursement for ABA services to enrolled LBAs or LPs who are currently licensed and in good standing with the state. Payment for services rendered by LABAs shall be made to the LBA supervising and employing these personnel. Payment for services rendered by technicians shall be made to the LBA or LP supervising and employing these personnel. If the LBA or LP operates through an agency or corporate entity, payment may be made to that agency or entity. Reimbursement for ABA services shall not be made to or for services rendered by a parent, a legal guardian, or other legally responsible person.

(B) Reimbursement for ABA services is made on a fee-for-services basis. The maximum allowable fee for a unit of service has been determined by the MO HealthNet to be a reasonable fee, consistent with efficiency, economy, and quality of care. Payment for covered services is the lower of the provider's actual billed charge (should be the provider's usual and customary charge to the general public for the service), or the maximum allowable per unit of service. Reimbursement shall only be made for services authorized by the Medicaid agency or its designee.

(C) The fee schedule and any annual/periodic adjustments to the fee schedule are published at <http://www.dss.mo.gov/mhd/providers/index.htm>.

AUTHORITY: section 208.201, RSMo Supp. 2013. Original rule filed Dec. 14, 2015, effective July 30, 2016.*

**Original authority: 208.201, RSMo 1987, amended 2007.*