Comments for Chapter 519.23 Applied Behavior Analysis

Effective Date: September 1, 2018

Number	Date Received	Comment	Policy Status Result
1	6/18/18	Policy age should be consistent with EPSDT guidelines	No Change: Policy states, “ages 18 months through age 20”. This is consistent with EPSDT guidelines for coverage to the child’s 21st birthday.
2	6/18/18	It should not be required for parents/guardians to submit the child’s Individualized Education Plan (IEP) as this is a direct violation or FERPA and the child’s educational services should not hinder a child from receiving medically necessary treatment.	No Change: Services that a child receives in the school setting must be verified to ensure there is no duplication of service.
3	6/15/18	Providers must meet conditions of Chapter 300 of the BMS Manual. Concern: Q: Will providers have to be licensed (LBHC's) to provide ABA?	No Change: No, this policy allows those with the proper certification as defined in this policy to enroll independently to provide ABA.
4	6/15/18	The MCO will have to credential the providers for ABA-bring in credentialing. Concern: Do we credential at the individual or group level?	No Change: This will be determined on a provider by provider basis on how each practice will be providing this service.
5	6/15/18	ABA providers have been accepting CHIP and PEIA and have not been taking Medicaid. Historically, Unicare has been unable to find licensed, certified providers that accept the Medicaid rate. Concern: Q: Will rates be adjusted to encourage those providers to open their doors? Providers willing to contract have not been licensed to be eligible for credentialing by Unicare	No change. Service code rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy. The MCO’s may contract with providers at rates above those offered by FFS Medicaid.
6	6/15/18	Exclusions: What are services that duplicate and are not eligible? Educational authorities? Concern: Does this mean ABA is not covered in school settings? Can the state provide us with examples of services/providers that are duplicate in nature? For example, RESA? Waiver services.	No Change: If any behavioral health therapy is taking place in the school setting, including ABA therapy, this would be considered a duplication of service

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7	6/15/18	There are 5 things needed in order to PA ABA services. Time-consuming for a UM. Concern: What is the expected volume of requests? A request may be for 6 months to a year.	No Change: The maximum length allowed for a PA will be one calendar year.
8	6/15/18	An assessment must be made 24 months before starting ABA. Concern: this is a long time in the developmental progress of a child and should be shortened. (no more than 3 months) Otherwise the assessment will not capture relevant findings. Consider changing to less than 12 months.	No Change: Policy states assessment must be done within the last 24 months. This places a service life on an assessment, as no assessment older than 24 months should be used.
9	6/15/18	ABA services require a diagnosis be made before age 8. Concern: This is clinically appropriate but may be difficult to prove over the course of time.	No Change. This is the clinically appropriate age for diagnosis.
10	6/15/18	Glossary designates the DSM-IV as the reference manual. Concern: This is outdated and should be DSM-V.	Change: This has been updated throughout the policy.
11	6/16/18	It says the child must be referred for EPSDT. Is this just completed on a doctor's script or is there a specific form the physician uses to make the referral for EPSDT/ABA Therapy?	No Change: KEPRO as well as each MCO have a defined process for EPSDT referrals
12	6/16/18	Behavior Technician is not listed as a qualified provider but there is a code to bill for BT (H2014 U4). Should Behavior Technicians be added as a qualified provider?	No Change: Registered Behavioral Technician is listed as a provider in this policy.
13	6/16/18	519.23.8.1 This is listed as a face-to-face service, but it does say in the description that the scoring can be billed under this code, which is not typically a face-to-face service.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.

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14	6/16/18	519.23.8.2This is listed as a face-to-face service and identifies the team meeting as billable under this code, but what about development of the protocols for this meeting? Can they billed to this code even though it is not a face-to-face service?	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
15	6/16/18	Code H2012: It lists this as a 60-minute code but all other direct treatment codes are 15 minute codes.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
16	6/16/18	If the current Clinic Rates apply, there is an important issue that should be addressed. Based on the Clinic Rates the H2019 code (BCaBA) has a higher reimbursement rate than the H2012 code (BCBA). While the stated dollar amount for H2012 (BCBA) may be higher, the dollar amount is for a 60 minute unit, while the H2019 (BCaBA) code is for a 15 minute unit. This can be resolved by changing the H2012 service description to a 15 minute unit.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
17	6/18/18	Change the name of the code to read “Applied Behavior Analysis” (the name of the field), instead of “Applied Behavioral Analysis	Change: The title of chapter was changed to “Applied Behavior Analysis”.
18	6/18/18	Please consider expanding the allowed functional assessments beyond the ABAS-II. The ABAS-II is an indirect measure that may not provide the information necessary for development of a sound treatment plan. Please consider including other options as well, like the ABLLS-2 or VB-MAPP 9section	Change: ABAS has been removed as the required assessment. The policy now requires “an approved assessment of adaptive skills”.

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19	6/18/18	Replace "Behavior Analysist Technician (BAT)" with "Registered Behavioral Technician (RBT)"	Change: Correction made
20	6/18/18	Remove "Front Line Service Worker" in the glossary, given that it does not appear elsewhere in the document	Change: Definition removed
21	6/18/18	In multiple places in the chapter, language seems to have been borrowed from the state's behavioral health services language, which is not appropriate language for describing applied behavior analysis treatment. Please replace descriptions that describe the behavioral health system with descriptions specific to ABA.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
22	6/18/18	ABA treatment is delivered through scientifically validated procedures that influence socially important….	Change: Language in Background section has been updated
23	6/18/18	Please clarify that the skill deficits are not caused by problem behavior	No Change: It is believed that all behaviors (social, emotional, behavioral, etc.) should be equally considered as variables to the child's deficits and appropriate treatment.
24	6/18/18	Treatment should be available to children through the full age range covered through EPSDT	Duplicate: See comment #1
25	6/18/18	Last paragraph: This is an example of the language carried over from the behavioral health system. "Available natural supports," etc., do not factor in to the need for ABA as a medical treatment.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.

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26	6/18/18	Services a child is or is not receiving from a school system do not determine whether a child requires ABA treatment	No Change: Services that a child is receiving in the school setting must be verified to ensure there is no duplication of service.
27	6/18/18	The reference to children in the foster care system is unclear: are they to be prioritized over other children in the waiver program, or is this a general statement to say they are to be treated equally?	No Change: This should be interpreted exactly how it reads, "Members identified as being in the foster care system should receive assessment as rapidly as possible". WV State code requires children entering the foster care system to be assessed within a defined time frame after entering custody.
28	6/18/18	There are numerous problems with the section relating to codes. Procedure codes, units and descriptions should be aligned with their PEIA/CHIP counterparts.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
29	6/18/18	519.23.8.2 - description is not at all appropriate for creating an ABA treatment plan	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
30	6/18/18	It appears that BCaBAs can provide direct therapeutic ABA services but BCBAs cannot; if that is not correct, clarification is needed.	No Change: The policy states that a BCBA can provide direct service under service code H2012 and H2014.
31	6/18/18	H2012 – "behavioral health day treatment" does not appear clearly differentiated from other descriptions	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates

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			and/or time frames. These codes are not exclusive to ABA and/or this policy.
32	6/18/18	All codes are identified as 1:1, but it is not in the client's best interest to have to be present while programs are being created, staff are being trained, etc.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
33	6/18/18	Under what code are training services to parents to be delivered?	No Change: The codes specified in this policy are for the child only. Training for parents, family, caregivers etc., is not a covered ABA service.
34	6/18/18	Skills training- The description is most unusual as applied to applied behavior analysis therapy.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
35	6/18/18	The repeated references to abuse, neglect, etc., are not consistent with discussion of ABA for autism, although ABA certainly is effective for individuals who have skill deficits from a variety of causes. The language in this session appears to have come from somewhere else.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
36	6/18/18	Behavior Analyst Technician is not a recognized term, nor is it referred to in 519.12.4 or the glossary	Duplicate: See comment #19

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37	6/18/18	The chapter name should be "Applied Behavior Analysis" not Behavioral. Additionally, there are multiple uses within the document that should be edited to say "applied behavior analysis" instead of "applied behavioral analysis."	Duplicate: See comment #17
38	6/18/18	Background- Applied behavior analysis is the application of the scientific study of principles of behavior otherwise known as behavior analysis and the experimental analysis of behavior.	Duplicate: See comment #22
39	6/18/18	519.23.1- Member eligibility should be 0 – 21 years such that it is consistent with EPSDT coverage	Duplicate: See comment #1
40	6/18/18	519.23.2- Who determines that "ABA service intensity levels which are appropriate to the assessed level of functioning and behaviors prioritized for change or intervention"?	No Change: This will be determined by the reviewer issuing the approval for Prior Authorization.
41	6/18/18	519.23.2- If you want recorded evidence of maladaptive behaviors and any other additional baseline levels, then you should provide multiple hours of assessment time rather than just one hour or one unit of assessment time (H0031). My understanding is that there is going to be just one unit of assessment time to be reimbursed when it typically can take at least 6 hours to complete an initial functional and skills assessment at the beginning of treatment and periodically following the initial assessment.	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
42	6/18/18	I don't think that you should require front line technicians to become a Registered Behavior Technician (RBT) in order to provide services to clients.	No Change: The reasoning behind development of this policy is to ensure that ABA services are only provided by professionals with appropriate level qualifications.

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43	6/18/18	519.23.6- It is not necessary to receive a potential or ongoing client's individualized education plan (IEP). It may, in fact, not be legal to make judgements about medical necessity of services based on the content of an IEP. This is really confusing.	Duplicate: See comment #2
44	6/18/18	519.23.6- The annually approved functional assessment the ABAS-II is probably about to expire as an assessment measure. You may want to check and updated the wording to include something about the ABAS-III. Or, better yet, simply remove this assessment as part of the authorization requirements because it is not a recognized means of functional behavior assessment that applied behavior analysts use in the course of their work. I'm guessing that it is simply a confusion of similar terms used to describe completely different processes – one is filling out a form (the ABAS) and the other is systematic behavioral data collection that can include information provided by a parent, teacher, or other caregiver.	See Response to Comment #18
45	6/18/18	519.23.8.2- It is not practical to always invite an extended team to treatment planning sessions. It does make sense to require some level of coordination of care with other services providers, but that should be up to the behavior analyst designing the treatment program.	No Change: It is believed that all behaviors (social, emotional, behavioral, etc.) should be equally considered as variables to the child's deficits and appropriate treatment. This is most appropriately done by collaboration and coordination with the child's other service providers.
46	6/18/18	519.23.10- There is no scientific evidence that supports sensory integration. I am generally concerned and confused by the description and potential scope of the limitations for skills training and development described in this section. It leaves open a host of options for third parties (and there are definitely third parties involved) to potentially use one of these limitations to deny medically necessary services. For	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.

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		that matter, there doesn't appear to be a clear definition of what constitutes a medically necessary service or how that judgment is made by someone reviewing an authorization request.	
47	6/18/18	519.23.10.2- Is a behavior analyst technician (BAT) the same as a registered behavior technician (RBT) or is a BAT an uncredentialed front-line provider? Unclear.	Duplicate: See comment #19
48	6/18/18	There is a definition for "Front Line Service Worker" and there is no mention of this term anywhere in the chapter.	Duplicate: See comment #20
49	6/17/18	The field uses the phrase "Applied Behavior Analysis", not "Applied Behavioral Analysis"	Duplicate: See comment #17
50	6/17/18	519.23.8.1 refers to the initial functional assessment, or functioning assessment. Within ABA, there is a technique known as a Functional Assessment (or Functional Analysis) that refers specifically to determining the function of problem behavior, so that it can be addressed appropriately. I'm not sure if this will lead to any confusion, due to overlap of the terminology.	No Change: Initial Functioning assessment as it is referred to in this chapter should be interpreted as it is defined in this chapter, "*Definition: Initial Functioning Assessment by Non-Physician is an initial evaluation or reassessment to determine the needs, strengths, functioning level(s), mental status, and/or social history of a member*."
51	6/17/18	EPSDT covers 0-21, it would make sense for this policy to be consistent with that	Duplicate: See comment #2
52	6/17/18	One overall theme that seems to be missing from this policy draft (but is present in other groups' policies, such as PEIA/CHIP) is that quality ABA service provision requires the supervision and training of front-line technicians, staff, and family members to allow them to carry out the treatment plans correctly and ensure best chances for success – it is	No Change: This policy was created based on the WVCHIP policy. For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher

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		very important for ABA treatment providers to be able to bill for time spent on these tasks. These types of training will sometimes happen in the absence of the client, but will certainly benefit the client immensely by ensuring proper treatment in the future.	rates or different time frames. These codes are not exclusive to ABA and/or this policy.
53	6/17/18	It is not clear to me from this first reading whether the RBT credential will be required for all front-line staff (who don't have another, higher credential) – I think requiring this certification might be a good idea, I just see other references in this document that don't mention it, so it might be good to clear that up.	No Change: The reasoning behind development of this policy is to ensure that ABA services are only provided by professionals with appropriate level qualifications.
54	6/17/18	Just as a general note, I think it's important to mention that ABA providers are highly educated and specialized service providers. They are different than general behavioral health providers, and the level of specialization and credentialing is different. This should be reflected in reimbursement rates, otherwise service providers will not be motivated to come to WV to work, or at least will likely be forced to work only with non-Medicaid clients. A reasonable solution would seem to be reimbursing for ABA at the same rates as psychologists using these codes. Lower reimbursement rates can lead to major issues and lack of services, as seen in South Carolina for example. Link to relevant article included. http://www.thestate.com/news/politics-government/article211649884.html	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.
55	6/17/18	This description of a treatment team is much more complicated than needs to be, or is used in other states. A treatment team for ABA services often involves the ABA service provider and the member or their guardian. Being able to coordinate with other service providers, such as by consultation or report sharing, is great, but requiring them to	Duplicate: See comment #45

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		all be official members of a treatment team (especially a physician) is unrealistic and unnecessary.	
56	6/17/18	Please see the attached excel document, which outlines a possible way for codes to be more appropriate for ABA services, mostly by mirroring what is already in place for PEIA/CHIP	No Change: For the purpose of WV Medicaid, this service is classified as a Behavioral Health Service. Codes/rates will not be adjusted to pay this service at higher rates and/or time frames. These codes are not exclusive to ABA and/or this policy.