DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services

Place of Service Limitations (LAC 50:XV.301)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XV.301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing amends the provisions governing applied behavior analysis-based (ABA) therapy services in order to remove non-conventional place of service limitations to ensure ABA services can be delivered in a community setting.

This action is being taken to promote the health and welfare of Medicaid recipients by allowing services to be delivered in more locations. It is anticipated that this Emergency Rule will not result in programmatic costs in the Medicaid Program for State Fiscal Year 2022-2023.

Effective July 15, 2022, the Department of Health, Bureau of Health Services Financing amends the provisions governing ABA therapy services to remove non-conventional place of service limitations and allow delivery of services in a community setting.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Applied Behavior Analysis-Based Therapy Services

Chapter 3. Services
§301. Covered Services and Limitations

A. - D. ...
E. Service Limitations
   1. ...
   2. Services must be delivered in a natural setting (e.g., home and community-based settings, including schools and clinics).
      a. Services delivered in a school must not duplicate services rendered under an individualized family service plan (IFSP) or an individualized educational program (IEP) as required under the federal Individuals with Disabilities Education Act (IDEA).
   3. ...
   F. Not Medically Necessary/Non-Covered Services. The following services do not meet medical necessity criteria, nor qualify as Medicaid covered ABA-based therapy services:
      1. - 3. ...
      4. treatment whose purpose is vocationally- or recreationally-based; and
      5. - 5.a.ii. ...
         iii. could be provided by persons without professional skills or training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:926 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2498 (December 2017), LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

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