



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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FILED

DATE: February 01, 2022
TIME: 11:10 AM

WSR 22-04-102

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-04-112 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

182-501-0060 Health care coverage – Program benefit packages – Scope of service categories

182-531A-0100 Applied behavior analysis (ABA) – Purpose

182-531A-0200 Applied behavior analysis (ABA) – Definitions

182-531A-0300 Applied behavior analysis (ABA) – Threshold requirements

182-531A-0400 Applied behavior analysis (ABA) – Client eligibility

182-531A-0500 Applied behavior analysis (ABA) – Stage one: COE evaluation and order

182-531A-0600 Applied behavior analysis (ABA) – Stage two: Functional assessment and treatment plan development

182-531A-0700 Applied behavior analysis (ABA) – Stage three: Delivery of ABA services

182-531A-0800 Applied behavior analysis (ABA) – Provider requirements

182-531A-0900 Applied behavior analysis (ABA) – Covered services

182-531A-1100 Applied behavior analysis (ABA) – Prior authorization and recertification of ABA services

182-531A-1200 Applied behavior analysis (ABA) – Services provided via telemedicine

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 8, 2022	10:00 AM	The Health Care Authority (HCA) remains closed in response to the coronavirus disease 2019 (COVID-19) public health emergency. Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington State	To attend the virtual public hearing, you must register in advance for this public hearing: https://zoom.us/webinar/register/WN_ARV0vRw0REeIIV0YZJ5sdw If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of intended adoption: Not sooner than March 9, 2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator

Address: PO Box 42716, Olympia WA 98504-2716

Email: arc@hca.wa.gov

Fax: (360) 586-9727

Other:

By (date) March 8, 2022

Assistance for persons with disabilities:

Contact HCA Rules Coordinator

Phone: (360) 725-1306

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: arc@hca.wa.gov

Other:

By (date) February 18, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In WAC 182-531A, the agency is revising these rules to remove the age limits and changing the term child or children to client for applied behavioral analysis (ABA) and other housekeeping changes. In WAC 182-501-0600, the agency is updating the "N" (No) to a "Y" (Yes) in the ABA covered services table for ABP 21+, CN 21+ and MN 21+. The agency is also adding a "Y" to the covered services table for Ambulance (ground and air) ABP 21+, which is unrelated to the ABA changes but was erroneously missing.

Reasons supporting proposal: See purpose.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION: J.C. and H.S. v. Washington State Health Care Authority, no. 20-2-01813-34.

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Health Care Authority

Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Valerie Freudenstein	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Annette Schuffenhauer	PO Box 45502, Olympia, WA 98504-5502	360-725-1254
Enforcement:	Annette Schuffenhauer	PO Box 45502, Olympia, WA 98504-5502	360-725-1254

Is a school district fiscal impact statement required under RCW 28A.305.135?

Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The proposed filing does not impose a disproportionate cost impact on small businesses.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: February 1, 2022

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:

A handwritten signature in black ink that reads "Wendy Barcus". The signature is written in a cursive style with a large, stylized 'W' and 'B'.

WAC 182-501-0060 Health care coverage—Program benefit packages—Scope of service categories. (1) This rule provides a table that lists:

(a) The following Washington apple health programs:
(i) The alternative benefits plan (ABP) medicaid;
(ii) Categorically needy (CN) medicaid;
(iii) Medically needy (MN) medicaid; and
(iv) Medical care services (MCS) programs (includes incapacity-based and aged, blind, and disabled medical care services), as described in WAC 182-508-0005; and

(b) The benefit packages showing what service categories are included for each program.

(2) Within a service category included in a benefit package, some services may be covered and others noncovered.

(3) Services covered within each service category included in a benefit package:

(a) Are determined in accordance with WAC 182-501-0050 and 182-501-0055 when applicable.

(b) May be subject to limitations, restrictions, and eligibility requirements contained in agency rules.

(c) May require prior authorization (see WAC 182-501-0165), or expedited prior authorization when allowed by the agency.

(d) Are paid for by the agency or the agency's designee and subject to review both before and after payment is made. The agency or the client's managed care organization may deny or recover payment for such services, equipment, and supplies based on these reviews.

(4) The agency does not pay for covered services, equipment, or supplies that:

(a) Require prior authorization from the agency or the agency's designee, if prior authorization was not obtained before the service was provided;

(b) Are provided by providers who are not contracted with the agency as required under chapter 182-502 WAC;

(c) Are included in an agency or the agency's designee waiver program identified in chapter 182-515 WAC; or

(d) Are covered by a third-party payor (see WAC 182-501-0200), including medicare, if the third-party payor has not made a determination on the claim or has not been billed by the provider.

(5) Programs not addressed in the table:

(a) Alien emergency medical (AEM) services (see chapter 182-507 WAC); and

(b) TAKE CHARGE program (see WAC 182-532-700 through 182-532-790);

(c) Postpartum and family planning extension (see WAC 182-523-0130(4) and 182-505-0115(5));

(d) Eligibility for pregnant minors (see WAC 182-505-0117); and

(e) Kidney disease program (see chapter 182-540 WAC).

(6) Scope of service categories. The following table lists the agency's categories of health care services.

(a) Under the ABP, CN, and MN headings, there are two columns. One addresses clients twenty years of age and younger, and the other addresses clients twenty-one years of age and older.

(b) The letter "**Y**" means a service category is included for that program. Services within each service category are subject to limitations and restrictions listed in the specific medical assistance program rules and agency issuances.

(c) The letter "**N**" means a service category is not included for that program.

(d) Refer to WAC 182-501-0065 for a description of each service category and for the specific program rules containing the limitations and restrictions to services.

Service Categories	ABP 20-	ABP 21+	CN ¹ 20-	CN 21+	MN 20-	MN 21+	MCS
Ambulance (ground and air)	Y	<u>Y</u>	Y	Y	Y	Y	Y
Applied behavior analysis (ABA)	Y	((N)) <u>Y</u>	Y	((N)) <u>Y</u>	Y	((N)) <u>Y</u>	N
Behavioral health services	Y	Y	Y	Y	Y	Y	Y
Blood/blood products/related services	Y	Y	Y	Y	Y	Y	Y
Dental services	Y	Y	Y	Y	Y	Y	Y
Diagnostic services (lab and X-ray)	Y	Y	Y	Y	Y	Y	Y
Early and periodic screening, diagnosis, and treatment (EPSDT) services	Y	N	Y	N	Y	N	N
Enteral nutrition program	Y	Y	Y	Y	Y	Y	Y
Habilitative services	Y	Y	N	N	N	N	N
Health care professional services	Y	Y	Y	Y	Y	Y	Y
Health homes	Y	Y	Y	Y	N	N	N
Hearing evaluations	Y	Y	Y	Y	Y	Y	Y
Hearing aids	Y	Y	Y	Y	Y	Y	Y
Home health services	Y	Y	Y	Y	Y	Y	Y
Home infusion therapy/parenteral nutrition program	Y	Y	Y	Y	Y	Y	Y
Hospice services	Y	Y	Y	Y	Y	Y	N
Hospital services Inpatient/outpatient	Y	Y	Y	Y	Y	Y	Y
Intermediate care facility/services for persons with intellectual disabilities	Y	Y	Y	Y	Y	Y	Y
Maternity care and delivery services	Y	Y	Y	Y	Y	Y	Y
Medical equipment, supplies, and appliances	Y	Y	Y	Y	Y	Y	Y
Medical nutrition therapy	Y	N	Y	N	Y	N	Y
Nursing facility services	Y	Y	Y	Y	Y	Y	Y
Organ transplants	Y	Y	Y	Y	Y	Y	Y
Orthodontic services	Y	N	Y	N	Y	N	N
Out-of-state services	Y	Y	Y	Y	Y	Y	N
Outpatient rehabilitation services (OT, PT, ST)	Y	Y	Y	Y	Y	N	Y
Personal care services	Y	Y	Y	Y	N	N	N
Prescription drugs	Y	Y	Y	Y	Y	Y	Y
Private duty nursing	Y	Y	Y	Y	Y	Y	N
Prosthetic/orthotic devices	Y	Y	Y	Y	Y	Y	Y
Reproductive health services	Y	Y	Y	Y	Y	Y	Y
Respiratory care (oxygen)	Y	Y	Y	Y	Y	Y	Y
School-based medical services	Y	N	Y	N	Y	N	N
Vision care Exams, refractions, and fittings	Y	Y	Y	Y	Y	Y	Y
Vision hardware Frames and lenses	Y	N	Y	N	Y	N	N

¹ Clients enrolled in the Washington apple health for kids and Washington apple health for kids with premium programs, which includes the children's health insurance program (CHIP), receive CN-scope of health care services.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-0100 Applied behavior analysis (ABA)—Purpose. Applied behavior analysis (ABA) assists ~~((children))~~ clients and their families to improve the core symptoms associated with autism spectrum disorders ~~((or other))~~ and intellectual or developmental disabilities for which there is evidence ABA is effective, per WAC 182-501-0165. ABA services support learning, skill development, and assistance in any of the following areas or domains: Social, behavior, adaptive, motor, vocational, or cognitive.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-0200 Applied behavior analysis (ABA)—Definitions. The following definitions and those found in chapter 182-500 WAC, medical definitions, and chapter 182-531 WAC, physician-related services, apply throughout this chapter.

Applied behavior analysis or **ABA** - Applied behavior analysis (ABA) is an empirically validated approach to improve behavior and skills related to core impairments associated with autism and a number of other developmental disabilities. ABA involves the systematic application of scientifically validated principles of human behavior to change inappropriate behaviors. ABA uses scientific methods to reliably demonstrate that behavioral improvements are caused by the prescribed interventions. ABA's focus on social significance promotes a family-centered and whole-life approach to intervention. Common methods used include: Assessment of behavior, caregiver interviews, direct observation, and collection of data on targeted behaviors. A single-case design is used to demonstrate the relationship between the environment and behavior as a means to implement client-specific ABA therapy treatment plans with specific goals and promote lasting change. ABA also includes the implementation of a functional behavior assessment to identify environmental variables that maintain challenging behavior and allow for more effective interventions to be developed that reduce challenging behaviors and teach appropriate replacement behaviors.

Autism spectrum disorder (ASD) - A condition, as defined by *Diagnostic and Statistical Manual of Mental Disorders* (DSM) or *Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood* (DC 0-5) criteria.

Autism spectrum disorder (ASD) diagnostic tool - A validated tool used to establish the presence (or absence) of autism and to make a definitive diagnosis which will be the basis for treatment decisions and assist in the development of a multidisciplinary clinical treatment plan. Examples of autism diagnostic tools include:

- (a) Autism Diagnosis Interview (ADI); and
- (b) Autism Diagnostic Observation Schedule (ADOS).

Autism spectrum disorder (ASD) screening tool - A tool used to detect ASD indicators or risk factors which then require confirmation. Examples of screening tools include, but are not limited to:

- (a) Ages and Stages Questionnaire (ASQ);
- (b) Communication and Symbolic Behavior Scales (CSBS);
- (c) Parent's Evaluation and Developmental Status (PEDS);
- (d) Modified Checklist for Autism in Toddlers (MCHAT); and
- (e) Screening Tools for Autism in Toddlers and young children (STAT).

Centers of excellence (COE) - A ~~((hospital, medical center, or other health))~~ facility that employs a health care provider ((that establishes)), or alternatively an individual provider who has been trained, as listed in WAC 182-531A-0800, to establish or confirm((s)) the diagnosis of ~~((an))~~ autism spectrum disorder ~~((and develops the multidisciplinary clinical treatment plan))~~ and that has been designated by the agency as a center of excellence.

Client ~~((or child))~~ - For the purposes of this chapter, client ~~((or child))~~ means a person ~~((younger than twenty-one years of age and))~~ enrolled in Washington apple health (WAH).

Family member - A ~~((child's))~~ client's parent, guardian, caregiver, or other support person.

Qualifying diagnosis - A diagnosis of an ASD, as defined by the DSM or DC 0-5, or other intellectual or developmental disability for which there is evidence ABA is effective.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-0300 Applied behavior analysis (ABA)—Threshold requirements. The medicaid agency pays for ABA services when the services are:

- (1) Covered;
- (2) Medically necessary;
- (3) Within the scope of the eligible client's medical care program;
- (4) Provided to clients who meet the criteria in WAC 182-531A-0400;
- (5) Within currently accepted standards of evidence-based ~~((medi- eal))~~ clinical practice;
- (6) Not ~~((replicative))~~ duplicative of ABA services paid for by other state agencies using medicaid funds;
- (7) Completed in the stages described in this chapter;
- (8) Provided by qualified health care professionals, as described in this chapter;
- (9) Authorized, as required within this chapter, chapters 182-501 and 182-502 WAC, and the agency's *Applied Behavior Analysis Provider Guide*; and
- (10) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's *Applied Behavior Analysis Provider Guide*.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-0400 Applied behavior analysis (ABA)—Client eligibility. To be eligible for applied behavior analysis (ABA) services, a client must:

(1) ~~((Be under twenty-one years of age;~~
~~(2))~~ Be covered under Washington apple health (WAH);
~~((3))~~ (2) Provide documentation created by a COE clinician that:

(a) Establishes the presence of functional impairment; delay in communication, behavior, or social interaction; or repetitive or stereotyped behavior;

(b) Establishes that the client's impairment, delay, or behaviors adversely affect development or communication, or both, such that:

(i) The client cannot adequately participate in home, school, or community activities because the behavior or skill deficit interferes with these activities; or

(ii) The ~~((child's))~~ client's behavior endangers the ~~((child))~~ client or another person, or impedes access to home and community activities ~~((available to other children of the same age))~~; and

(c) An agency-recognized center of excellence (COE) clinician has confirmed that:

(i) The ~~((child))~~ client meets all requirements in (a) and (b) of this subsection;

(ii) The ~~((child))~~ client has a qualifying diagnosis;

(A) Autism spectrum disorder; or

(B) Developmental/intellectual disability;

(iii) There is a reasonable ~~((calculation))~~ expectation the requested services will result in measurable improvement in either the client's behavior, skills, or both; and

(iv) Either:

(A) Less intrusive or less intensive behavioral interventions have been tried and have not been successful; or

(B) No equally effective and substantially less costly alternative is available for reducing interfering behaviors, increasing pro-social skills and behaviors, or maintaining desired behaviors.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-0500 Applied behavior analysis (ABA)—Stage one: COE evaluation and order. (1) Any person may refer a client suspected of meeting the criteria in WAC 182-531A-0400 to a center of excellence (COE) for an evaluation.

(2) The individual COE must complete a comprehensive diagnostic evaluation and ~~((create a multidisciplinary clinical treatment plan that includes))~~ provide:

(a) Documentation showing how the autism spectrum disorder diagnosis was made or confirmed by ~~((a))~~ an approved individual COE ~~((physician or psychologist))~~ provider that includes:

(i) Results of formal diagnostic procedures performed by a clinician, including name of measure, dates, and results, as available; or
(ii) Clinical findings and observations used to confirm the diagnosis;

(b) Documentation showing that the client's behaviors or skills deficits adversely affect ~~((on))~~ development or communication, or demonstrating injurious behavior, such that:

(i) The client cannot adequately participate in home, school, or community activities because behavior or skill deficit interferes with these activities; or

(ii) The client presents a safety risk to self or others;

(c) Documentation showing ~~((that, if applied behavior analysis (ABA) is included in the multidisciplinary clinical treatment plan))~~:

(i) Less intrusive or less intensive behavioral interventions have been tried and were not successful; or

(ii) There is no equally effective alternative available for reducing interfering behaviors, increasing prosocial behaviors, or maintaining desired behaviors;

(d) Recommendations that address all of the ~~((child's))~~ client's health care needs;

(e) A statement that the evaluating and prescribing provider believes that there is a reasonable ~~((calculation))~~ expectation that the requested ABA services will result in measurable improvement in the client's behavior or skills; and

(f) An order for ABA services. If ordered, a copy of the COE's comprehensive diagnostic evaluation and multidisciplinary clinical treatment plan must be forwarded to the ABA provider selected by the ~~((child's))~~ client or the client's guardian under this chapter or provided to the ~~((child's))~~ client or the client's guardian to forward to the selected ABA provider.

(3) The COE must also include the following items~~((7))~~ if it possesses a copy:

(a) Results of routine developmental screening ~~((performed by the child's primary care provider at well child visits))~~;

(b) Audiology and vision assessment results, or documentation that vision and hearing were determined to be within normal limits during assessment and not a barrier to completing a valid evaluation;

(c) The name of the completed autism ~~((screening questionnaire))~~ spectrum disorder (ASD) screening tool, including date completed and significant results;

(d) Documentation of a formal cognitive or developmental assessment performed by the COE or another qualified clinician, including name of measure, dates, results, and standardized scores providing verbal, nonverbal, and full-scale scores; and

(e) Documentation of a formal adaptive behavior assessment performed by the COE for developmental/intellectual disability or another qualified clinician, including name of measure, dates, results, and standardized scores providing scores of each domain.

WAC 182-531A-0600 Applied behavior analysis (ABA)—Stage two: Functional assessment and treatment plan development. (1) If the center of excellence's (COE's) evaluating and prescribing provider has ordered applied behavior analysis (ABA) services, the client may begin stage two - ABA assessment, functional analysis, and ABA therapy treatment plan development.

(2) Prior authorization must be obtained from the agency prior to implementing the ABA therapy treatment plan(~~(, the ABA provider must receive prior authorization from the agency. The prior authorization request, including the assessment and ABA therapy treatment plan, must be received by the agency within sixty days of the family scheduling the functional assessment)~~). The prior authorization request must be received no more than 60 days from the date of the assessment and ABA therapy treatment plan. See WAC 182-501-0165 for agency authorization requirements.

(3) The ~~((child's))~~ client or the client's legal guardian selects the ABA provider and the setting in which services will be rendered. ABA services may be rendered in one of the following settings:

(a) Day services program, which mean an agency-approved, outpatient facility or clinic-based program that:

(i) Employs or contracts with a lead behavior analysis therapist (LBAT), therapy assistant, speech therapist, and if clinically indicated, an occupational therapist, physical therapist, psychologist, medical clinician, and dietitian;

(ii) Provides multidisciplinary services in a short-term day treatment program setting;

(iii) Delivers comprehensive intensive services;

(iv) Embeds early, intensive behavioral interventions in a developmentally appropriate context;

(v) Provides an individualized developmentally appropriate ABA therapy treatment plan for each ~~((child))~~ client; and

(vi) Includes family support and training.

(b) Community-based program, which means a program that provides services in a natural setting, such as a school, home, workplace, office, or clinic. A community-based program:

(i) May be used after discharge from a day services program (see subsection (3)(a) of this section);

(ii) Provides a developmentally appropriate ABA therapy treatment plan for each ~~((child))~~ client;

(iii) Provides ABA services in the home (wherever the ~~((child))~~ client resides), office, clinic, or community setting, as required to accomplish the goals in the ABA therapy treatment plan. Examples of community settings are: A park, restaurant, child care, early childhood education, ~~((or))~~ school, or place of employment and must be included in the ABA therapy treatment plan with services being provided by the enrolled LBAT or therapy assistant approved to provide services via authorization;

(iv) Requires recertification of medical necessity through continued authorization; and

(v) Includes family or caregiver education, support, and training.

(4) An assessment, as described in this chapter, must be conducted and an ABA therapy treatment plan developed by an LBAT in the setting chosen by the ~~((child's))~~ client or the client's legal guardian. The ABA therapy treatment plan must follow the agency's ABA therapy treatment plan report template and:

(a) Be signed by the LBAT responsible for the plan development and oversight;

(b) Be applicable to the services to be rendered over the next six months, based on the LBAT's judgment, and correlate with the COE's current diagnostic evaluation (see WAC 182-531A-0500(2));

(c) Address each behavior, skill deficit, and symptom that prevents the ~~((child))~~ client from adequately participating in home, school, employment, community activities, or that presents a safety risk to the ~~((child))~~ client or others;

(d) Be individualized;

(e) Be client-centered, family-focused, community-based, culturally competent, and minimally intrusive;

(f) Take into account all school or other community resources available to the client, confirm that the requested services are not redundant or in conflict with, but are in coordination with, other services already being provided or otherwise available, and coordinate services (e.g., from school and special education ~~((or))~~, from early intervention programs and early intervention providers or from the developmental disabilities administration) with other interventions and treatments (e.g., speech therapy, occupational therapy, physical therapy, family counseling, and medication management);

(g) Focus on family engagement and training;

(h) Identify and describe in detail the targeted behaviors and symptoms;

(i) Include objective, baseline measurement levels for each target behavior/symptom in terms of frequency, intensity, and duration, including use of curriculum-based measures, single-case studies, or other generally accepted assessment tools;

(j) Include a comprehensive description of treatment interventions, or type of treatment interventions, and techniques specific to each of the targeted behaviors/symptoms, (e.g., discrete trial training, reinforcement, picture exchange, communication systems) including documentation of the number of service hours, in terms of frequency and duration, for each intervention;

(k) Establish treatment goals and objective measures of progress for each intervention specified to be accomplished in the ~~((three to six-month))~~ authorized treatment period;

(l) Incorporate strategies for ~~((generalized))~~ promoting the learning of skills that improve targeted behaviors within settings as listed in this chapter;

(m) Integrate family education, goals, training, support services, and modeling and coaching ~~((family/child))~~ family/client interaction;

(n) Incorporate strategies for coordinating treatment with school-based ~~((special))~~ education and vocational programs, behavioral health treatment, habilitative supports, and community-based early intervention programs, and plan for transition through a continuum of treatments, services, and settings; and

(o) Include measurable discharge criteria and a discharge plan.

WAC 182-531A-0700 Applied behavior analysis (ABA)—Stage three: Delivery of ABA services. (1) A provider must obtain prior authorization (~~((PA))~~) before delivery of applied behavior analysis (ABA) services. To request ~~((PA))~~ prior authorization, a provider must submit the following documents to the medicaid agency or follow the managed care organization (MCO) process:

(a) The comprehensive diagnostic evaluation and multidisciplinary clinical treatment plan completed by the center of excellence (COE) described in this chapter;

(b) The ABA assessment and ABA therapy treatment plan described in this chapter; and

(c) Any documents required by the agency's ABA provider guide.

(2) After the services are prior authorized, the lead behavior analysis therapist (LBAT) or a ~~((therapy assistant (TA))~~) certified behavior technician implements the ABA therapy treatment plan in conjunction with other care team members. The LBAT is responsible for ~~((communicating and collaborating))~~ ongoing communication and collaboration with other care team members to ensure consistent approaches to achieving treatment goals.

(3) If services are rendered by a ~~((TA, he or she))~~ certified behavior technician, they must:

(a) Assess the client's response to techniques and report that response to the LBAT;

(b) Provide direct on-site services in the client's natural setting ~~((for example))~~ e.g., in the home, office, place of employment, education setting, clinic, or community, or in the day services program;

(c) Be supervised directly by an LBAT for at least five percent of total direct care per week;

(d) Consult the LBAT if:

(i) Considering modifying a technique;

(ii) A barrier or challenge prevents implementation of the treatment plan; and

(iii) Clinically indicated.

(e) Ensure family involvement through modeling, coaching, and training to support generalization and maintenance of achieved behaviors;

(f) Document each visit with the client or family and include:

(i) Targeted behavior, interventions, response, modifications in techniques;

(ii) A plan for the next visit; and

(iii) Behavior tracking sheets that record and graph data collected for each visit ~~((; and~~

~~((iv) Confirmation that each visit has occurred, recording the parent's signature and the date)).~~

WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.

Center of excellence.

(1) A center of excellence (COE) may ~~((be an entity))~~ include a facility or an individual.

~~((2))~~ (2) The ~~((COE's))~~ COE facility evaluating and prescribing providers must function as a multidisciplinary care team.

~~((2))~~ (3) The COE must be or must employ:

(a) A person licensed under Title 18 RCW who is experienced in the diagnosis and treatment of autism spectrum disorders and is:

- (i) A developmental pediatrician;
- (ii) A neurologist;
- (iii) A pediatric neurologist;
- (iv) A pediatric psychiatrist;
- (v) A psychiatrist; or
- (vi) A psychologist; or

(b) A qualified medical provider who meets qualifications in subsection ~~((3))~~ (4) of this section and who has been designated by the agency as a COE. Behavioral health clinicians do not apply.

~~((3))~~ (4) The COE must be prequalified by the agency ~~((as meeting))~~ or ~~((employing))~~ employ people who meet the following criteria:

(a) ARNPs, physicians, and psychologists must have demonstrated expertise in diagnosing an autism spectrum disorder by:

- (i) Using a validated diagnostic tool;
- (ii) Confirming the diagnosis by observing the client's behavior and interviewing family members; or
- (iii) Reviewing the documentation available from the client's primary care provider, individualized education plan, or individualized family service plan;

(b) ARNPs, physicians, and psychologists must understand the medically necessary use of applied behavior analysis (ABA); and

(c) ARNPs, physicians, and psychologists must be sufficiently qualified to conduct and document a comprehensive diagnostic evaluation, and develop a multidisciplinary clinical treatment plan under WAC 182-531A-0500(2).

~~((4))~~ (5) To be recognized as a COE by the agency, the provider must submit a signed COE Attestation form, HCA 13-0009, to the agency.

~~((5))~~ (6) The COE must be enrolled with the agency or the client's managed care organization to be reimbursed for services.

~~((6))~~ (7) Examples of providers who can qualify as a designated COE include:

- (a) Multidisciplinary clinics;
- (b) Individual qualified provider offices; and
- (c) Neurodevelopmental centers.

~~((7))~~ (8) All ABA providers must meet the specified minimum qualifications and comply with applicable state laws.

Lead behavior analysis therapist.

~~((8))~~ (9) The lead behavior analysis therapist (LBAT) must:

(a) Be licensed by the department of health (DOH) to practice independently as a behavior analyst or an assistant behavior analyst

with supervision from a licensed behavior analyst or licensed psychologist (see chapter 18.380 RCW) and be an eligible provider according to chapter 182-502 WAC; or

(b) Be a DOH-licensed mental health counselor, DOH-licensed marriage and family therapist, DOH-licensed independent clinical social worker, DOH-licensed advanced social worker, or DOH-licensed psychologist (see chapter 18.380 RCW). Providers listed in this subsection must have a signed Applied Behavior Analysis (ABA) Attestation form, HCA 13-0008, regarding certification as a board-certified behavior analyst (BCBA) or a board-certified assistant behavior analyst (BCaBA) on file with the agency.

~~((9))~~ (10) The LBAT must enroll as a servicing provider under chapter 182-502 WAC, be authorized to supervise ancillary providers, and be:

(a) A DOH-licensed behavior analyst (LBA) (see chapter 18.380 RCW); or

(b) A DOH-licensed assistant behavior analyst (LABA) (see chapter 18.380 RCW).

~~((10))~~ (11) If the LBAT's role is filled by a LABA, the responsibilities below must be fulfilled by both the LABA and the supervising LBA or licensed psychologist, as required by DOH under chapter 246-805 WAC. The LBAT must:

(a) Develop and maintain an ABA therapy treatment plan that is comprehensive, incorporating treatment provided by other health care professionals, and that states how all treatment will be coordinated; and

(b) Supervise at least five percent of the total direct care provided by the certified behavior technician per week.

Certified behavior technician.

~~((11))~~ (12) The certified behavior technician (CBT) must:

(a) Be certified by DOH as a CBT under chapter 18.380 RCW in good standing with no license restrictions; ~~((or))~~ and

~~(b) ((Be a DOH-licensed mental health counselor, DOH-licensed marriage and family therapist, DOH-licensed independent clinical social worker, DOH-licensed advanced social worker, or DOH-licensed psychologist (see chapter 18.380 RCW). Providers listed in this subsection must))~~ Have a signed Applied Behavior Analysis (ABA) Attestation form, HCA 13-0008, regarding ABA qualifications on file with the agency.

~~((12))~~ (13) The CBT must enroll as a servicing provider under chapter 182-502 WAC.

~~((13))~~ (14) The CBT must:

(a) Deliver services according to the ABA therapy treatment plan;

(b) Be supervised by a DOH-licensed professional who meets the requirements under WAC 246-805-330; and

(c) Review the client's progress with the supervisor at least every two weeks to confirm that the ABA therapy treatment plan still meets the client's needs. If changes are clinically indicated, they must be made by the supervisor.

Facility-based day program.

~~((14))~~ (15) All facility-based day program providers must meet the requirements under WAC 182-531A-0600 (3)(a), and meet the following requirements:

(a) Outpatient hospital facilities must meet the applicable DOH licensure requirements under chapter 246-320 WAC;

(b) Any provider rendering direct ABA services in the facility-based day program must meet the qualifications and applicable licensure or certification requirements as described in this subsection, as applicable;

(c) Any provider serving as a member of the multidisciplinary care team must be licensed or certified under Title 18 RCW; and

(d) Have a signed ABA Day Program Capacity Attestation form, HCA 13-0007, on file with the agency.

AMENDATORY SECTION (Amending WSR 15-19-121, filed 9/21/15, effective 10/22/15)

WAC 182-531A-0900 Applied behavior analysis (ABA)—Covered services. (1) The medicaid agency covers only the following applied behavior analysis (ABA) services, delivered in settings described in WAC 182-531A-0600, for eligible clients:

(a) The ABA assessments that determine the relationship between environmental events and the client's behaviors;

(b) The direct provision of ABA services by the therapy assistant (TA) or lead behavior analysis therapist (LBAT);

(c) Initial ABA assessment and development of a written, initial ABA therapy treatment plan, limited to one per year;

(d) Up to four additional ABA assessments and revisions of the initial ABA therapy treatment plan per year, if necessary to meet client's needs;

(e) One lifetime authorization of day treatment services. If a provider's request for covered services exceeds limitations in this section, the agency evaluates the request under WAC 182-501-0169.

(f) Supervision of the TA;

~~((f))~~ (g) Training and evaluation of family members or caregivers to carry out the approved ABA therapy treatment plans;

~~((g))~~ (h) Observation of the client's behavior to determine the effectiveness of the approved ABA therapy treatment plan; and

~~((h))~~ (i) On-site assistance in the event of a crisis.

(2) The agency covers the following services, which may be provided in conjunction with ABA services under other agency programs:

(a) Counseling;

(b) Dietician services;

(c) Interpreter services;

(d) Occupational therapy;

(e) Physical therapy;

(f) Speech and language therapy; and

(g) Transportation services.

(3) The agency does not authorize payment of ABA services that duplicate services provided in another setting.

(4) If a provider's request for covered services exceeds limitations in this section, the agency evaluates the request under WAC 182-501-0169.

WAC 182-531A-1100 Applied behavior analysis (ABA)—Prior authorization and recertification of ABA services. (1) The medicaid agency requires prior authorization (PA) and recertification of the medical necessity of applied behavior analysis (ABA) services.

(2) Requirements for PA requests are described in WAC 182-531A-0700.

(3) The agency may reduce or deny services requested based on medical necessity (refer to subsection (5) of this section) when completing PA or recertification responsibilities.

(4) The following are requirements for recertification of ABA services:

(a) Continued ABA services require the agency's authorization. Authorization is granted in three-month increments, or longer at the agency's discretion;

(b) The lead behavior analysis therapist (LBAT) must request authorization for continuing services (~~(three weeks)~~) 15 calendar days prior to the expiration date of the current authorization. A reevaluation and revised ABA therapy treatment plan documenting the client's progress and showing measurable changes in the frequency, intensity, and duration of the targeted behavior/symptoms addressed in the previously authorized ABA therapy treatment plan must be submitted with this request. Documentation must include:

- (i) Projection of eventual outcome;
- (ii) Assessment instruments;
- (iii) Developmental markers of readiness; and
- (iv) Evidence of coordination with providers.

(c) When completing recertification responsibilities, the agency may request another evaluation from the COE to obtain that provider's review and recommendation. This COE provider must review the ABA therapy treatment plan, conduct a face-to-face visit with the (~~(child)~~) client, facilitate a multidisciplinary record review of the client's progress, hold a family/caregiver conference, or request a second opinion before recommending continued ABA services. Services will continue pending recertification.

(d) When completing recertification responsibilities, the agency may retroactively authorize dates of service. Services will continue pending recertification.

(5) Basis for denial or reduction of services includes, but is not limited to, the following:

(a) Lack of medical necessity, for example:

(i) Failure to respond to ABA services, even after trying different ABA techniques and approaches, if applicable; or

(ii) Absence of meaningful, measurable, functional improvement changes or progress has plateaued without documentation of significant interfering events (e.g., serious physical illness, major family/caregiver disruption, change of residence), if applicable. For changes to be meaningful they must be:

(A) Confirmed through data;

(B) Documented in charts and graphs;

(C) Durable over time beyond the end of the actual treatment session; and

(D) Generalizable outside of the treatment setting to the client's residence and the larger community within which the client resides; or

(b) ~~((Noncompliance as demonstrated by a pattern of failure of))~~
A demonstrated lack of engagement as evidenced by the family/caregiver to:

- (i) Keep appointments;
- (ii) Attend treatment sessions;
- (iii) Attend scheduled family training sessions;
- (iv) Complete homework assignments; and
- (v) Apply training as directed by the therapy assistant or LBAT.

Absences that are reasonably justified (e.g., illness) are not considered a pattern.

AMENDATORY SECTION (Amending WSR 15-19-121, filed 9/21/15, effective 10/22/15)

WAC 182-531A-1200 Applied behavior analysis (ABA)—Services provided via telemedicine. Telemedicine, as defined in chapter 182-531 WAC, may be used to provide the following authorized services:

- (1) Program supervision when the client is present; ~~((and))~~
- (2) Family/caregiver training, which does not require the client's presence; and
- (3) Speech language pathology services when otherwise not available in person.