



DEPT. COMM. NO. 213

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

December 28, 2018

The Honorable Ronald D. Kouchi, President
and Members of the Senate
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of Representatives
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Pursuant to Act 205 (HB2271), I am transmitting a Report on Autism Spectrum Disorder and Applied Behavior Analysis. In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at:
<http://www.hawaiipublicschools.org/VisionForSuccess/SchoolDataAndReports/StateReports/Pages/Legislative-reports.aspx>

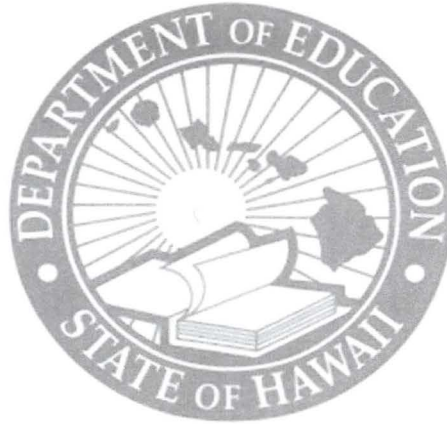
Sincerely,

A handwritten signature in blue ink, appearing to read "CK", written over a light blue horizontal line.

Dr. Christina M. Kishimoto
Superintendent

CMK:df
Enclosures

c: Legislative Reference Bureau
Office of Student Support Services



State of Hawaii
Department of Education

Report on Act 205 (2018)
Report on Autism Spectrum Disorder and
Applied Behavior Analysis

December 28, 2018

Pursuant to Act 205 (2018), the Hawaii State Department of Education (HIDOE) shall provide a report to the Legislature prior to the convening of the regular session of 2019 on its implementation plan to seek reimbursement of any Medicaid billable applied behavior analysis service the HIDOE may provide to students diagnosed with autism spectrum disorder.

Introduction

Act 205 amends Chapter 465D, Hawaii Revised Statutes (HRS), Hawaii's Behavior Analyst licensure law. Chapter 465D, HRS, defines what Applied Behavior Analysis (ABA) is and delineates who can design and implement ABA services.

The purpose of Act 205 is to:

- 1) Clarify and standardize the terminology used to refer to behavior analysis and the practice of ABA;
- 2) Broaden the exemption of certain individuals and licensed or credentialed practitioners practicing within their own recognized scopes of practice from Chapter 465D, HRS, the behavior analysts law; and
- 3) Require the Hawaii State Department of Education (HIDOE) to create an implementation plan to seek reimbursement of any Medicaid billable ABA the HIDOE may provide to students diagnosed with autism spectrum disorder (ASD).¹

This report to the Legislature and the Hawaii State Board of Education is in accordance with Act 205's reporting requirements.

HIDOE School-Based Medicaid Implementation Plan

Medicaid provides a financial value-add to HIDOE because HIDOE can claim partial reimbursement for certain health-related services provided to a Medicaid-eligible child through his or her individualized education plan (IEP). By pursuing Medicaid reimbursements, funds may be available to reinvest in quality support services.

Currently, the Hawaii Medicaid State Plan school-based claiming services include:

- Early identification and assessment of disabilities
- Medical services for diagnostic and evaluation purposes
- Occupational therapy
- Orientation and mobility services
- Physical therapy
- Psychological therapy
- Rehabilitation counseling
- Speech-language pathology services
- Skilled Nursing
- Assistive Technology Device Services/Therapy.²

¹ The USDOE regards ABA as a methodology and, as such, must be considered in the context of methodologies derived from other disciplines (Musgrove, M., 2015). ACT 205 requires that, in the HIDOE, ABA services are needed when a "student's behavior impedes their learning or the learning of others" and requires that the ABA Program be designed, monitored, and implemented by qualified ABA providers.

² In accordance with the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) and Hawaii Administrative Rules Chapter 60, special education and related services are individually determined by the Individualized Education Program (IEP) team to address the educational needs for each student with a disability (34 CFR § 300.320-300.324). Under 34 CFR § 300.154 (b); if any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to paragraph (a) of this section, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in § 300.5 relating to assistive technology devices, § 300.6 relating to assistive technology services, § 300.34 relating to related services, § 300.42 relating to supplementary aids and services, and § 300.43 relating to transition services) that are necessary for ensuring Free and Appropriate Public Education (FAPE) to children with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to paragraph (a) of this section or an agreement pursuant to paragraph (c) of this section.

For services to be eligible for school-based Medicaid reimbursement, the following criteria must be met:

- 1) The service must be documented in the IEP;
- 2) The student must be Medicaid eligible;
- 3) A Parental Consent Form must be on file;
- 4) All services must be appropriate and medically necessary;
- 5) The Medicaid reimbursable service must be delivered by a licensed and Medicaid enrolled provider or by select professionals under the supervision of a licensed provider;
- 6) The service that is provided to the student must be appropriately documented; and
- 7) The medical services are included in a state's Medicaid State Plan or are reimbursable under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit through Medicaid.

HIDOE can seek partial Medicaid reimbursement for ABA services when all qualifying criteria are met under EPSDT, per the Social Security Act (42 CFR § 1905(a)(4)(B)).

The following sections detail the HIDOE's plan to obtain partial Medicaid reimbursement for school-based health services that are included in a Medicaid-eligible student's IEP.

Staffing

HIDOE is committed to the expansion of its school-based Medicaid program capacities by proposing to establish a school-based Medicaid Section under the Student Services Branch within the Office of Student Support Services (OSSS). This will be the initial recommendations with anticipated growth in the section as school-based Medicaid becomes more robust in its operations and efficiencies.

Objective:

To create a dedicated section to provide prioritization and support for the substantial work involved in developing and implementing a robust Medicaid reimbursement and billing system, in operation by Spring 2019:

- Developing the program's purpose, personnel description, and duties.
- Delineating cross section roles and responsibilities that support school-based Medicaid claiming.
- Re-describing an existing Educational Specialist II (ES) position to an Administrator position to lead the section.
- Requesting additional support positions.

Status: In progress.

Data Collection and Analysis

The following are documentation requirements for all Medicaid claims, including future ABA-related service healthcare claims:

- Date of service
- Parental consent
- Name of beneficiary
- Name and National Provider Identifier (NPI) of billing provider, if available
- Name and NPI of person providing the service and supervising provider, if appropriate
- A brief educational/clinical description of the related services provided to the student for each encounter
- The educational/clinical activity for the day
- A data-driven description of the student's response to the activity.
- The descriptive note should relate to the student's short-term objectives and/or benchmarks and annual goals
- Beneficiary medical record
- Individualized Education Program (IEP) or Individual Family Service Plan (IFSP)
- School attendance records for the dates of services
- Prescriptions/referral for IEP services
- Documentation of the service performed on the date of service including clinical notes signed and dated by provider
- Documentation regarding where the service was provided and who provided the service

Without this documentation, HIDEOE cannot generate a claim for Medicaid reimbursement.

Objectives:

To improve, operationalize, and strengthen technical support, documentation, communication, and data collection necessary for a robust Medicaid reimbursement and billing system.

- OSSS has published and distributed guidance memos on:
 - Documentation of an ABA Program on the IEP to all appropriate school personnel.
 - Procedures for securing parental consent for school-based Medicaid claiming to all students receiving special education services to both parents and appropriate school personnel.

Status: Completed.

- OSSS will work with HIDEOE's Office of Information Technology Services (OITS) to make the following changes to eCSSS:
 - IEP documentation of an ABA Program (in progress);
 - Include qualified Medicaid providers in eCSSS database (completed);
 - Include Medicaid service codes in eCSSS database (completed); and
 - Create an eCSSS tab to document Medicaid eligibility and diagnosis (completed).

Status: Partially Completed.

Reporting and Accountability

ABA services for students with ASD are provided through HIDOE's Special Education Section, which falls organizationally under HIDOE's Exceptional Supports Branch (ESB). While the school-based Medicaid section will work closely with ESB to ensure appropriate documentation for school-based Medicaid claiming, hereafter, ESB shall provide the data reporting and staffing required pursuant to Act 205 and other relevant information on a quarterly basis to the Legislature and the Hawaii State Board of Education.

This serves as HIDOE's initial quarterly report of:

(1) The number of students diagnosed with ASD.

HIDOE does not know how many current students have been diagnosed with ASD as parents may not provide schools with this information. Furthermore, although a school may be provided with a student's medical diagnosis for purposes of special education eligibility and evaluation, HIDOE does not have a data base that keeps track of this information. Instead, HIDOE tracks the number of students currently eligible for IDEA services under the category of Autism Spectrum Disorder. As of last year, that number is 1901 (Office of Special Education Program 2017 Child Count).

(2) The number of students with ASD as part of their IEP.

Refer to Question 1 response.

(3) The number of students requiring ABA.

Of the 465 students receiving ABA services as determined by their IEP team, 273 are eligible as ASD.

(4) Staffing updates and needs.

Updates

DOE EAs working as RBTs under LBA supervision	9
DOE EAs pursuing paraprofessional registration	37
Contracted RBTs	56
DOE Employees currently working as LBAs	16
DOE Employees pursuing graduate studies in Beh Analysis and under LBA supervision	25
Licensed psychologists doing ABA work	1

Needs

	Students Receiving ABA as determined by their IEP Team	Qualified ABA Professionals Required for Assessment, Program Development and Supervision of Qualified ABA Paraprofessionals plus Training, Mentoring, Quality Control, and Program Oversight	Qualified ABA Paraprofessionals Required to Implement
Number of Staff Needed	465	34	465

(5) Medicaid reimbursement schedules and amounts

Pending full implementation of the parental consents, NPI for all appropriate employees and contracted providers, and the MQD guidance memo.

HIDOE has requested MQD to assist in identifying the appropriate Current Procedural Terminology (CPT) billing codes for ABA billing purposes and personnel to provide the services. MQD has indicated that, although the directive in Act 205 and Chapter 465D, Hawaii Revised Statutes, may have a broader applicability than for only individuals with ASD, MQD will only provide reimbursement for ABA services for Medicaid eligible individuals with ASD. This is important to note as HIDOE does provide ABA for both ASD and non-ASD students.

(6) Licensure Updates

Refer to Question 4 response.

(7) Any other information pertinent to the implementation of this Act (ACT 205)

Through Senate Concurrent Resolution 81, 2018, Hawaii State Legislature requested the establishment of a working group to examine how HIDOE can maximize Medicaid reimbursement for support services offered to eligible students during school hours, with a report of its findings. In accordance with Section 93-16, Hawaii Revised Statutes, the report may be viewed electronically at:

<http://www.hawaiipublicschools.org/VisionForSuccess/SchoolDataAndReports/StateReports/Pages/Legislative-reports.aspx>

References

Musgrove, M., Ed.D., Director, Office of Special Education Programs. (2015, July 6). OSEP Dear Colleague Letter on Speech and Language Services for students with Autism Spectrum Disorder [Letter].