

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 469

(Senator Washington)

Finance

Rules and Executive Nominations

**Maryland Medical Assistance Program – Applied Behavior Analysis Services –
Reimbursement**

This bill prohibits the Maryland Department of Health (MDH) from conditioning reimbursement of applied behavior analysis (ABA) services provided to Medicaid recipients under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit on the presence or availability of the parent or caregiver in the setting where the ABA services are provided. The bill's prohibition does not prevent Medicaid from establishing reasonable standards for the involvement of a parent or caregiver, as specified. By December 1, 2021, MDH, in consultation with stakeholders, must adopt regulations to implement the bill. **The bill takes effect June 1, 2021.**

Fiscal Summary

State Effect: MDH can adopt regulations using existing budgeted resources. The bill is not anticipated to meaningfully impact Medicaid expenditures or federal fund matching revenues as MDH advises utilization is not expected to materially increase.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The Code of Maryland Regulations (COMAR) 10.09.28.01 defines “applied behavior analysis” as the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce

significant improvements in human behavior. ABA includes the direct observations, measurement, and functional analysis of the relations between environment and behavior.

To qualify for Medicaid ABA services, a participant must (1) be younger than age 21; (2) live in the community; (3) be diagnosed with an Autism Spectrum Disorder (ASD) by a qualified health care professional and referred for ABA services; (4) exhibit maladaptive behavior or developmental skills deficits that significantly interfere with home, school, or community activities; (5) be medically stable and not require 24-hour medical or nursing monitoring or procedures provided in a hospital or an intermediate care facility; (6) have a comprehensive diagnostic evaluation by a qualified health care professional; (7) have a prescription for ABA services; and (8) have a specified completed ABA treatment plan. ABA services are only available to Medicaid enrollees under the EPSDT program.

Under COMAR 10.09.28.05, the participant's "parent" or caregiver must (1) be trained to reinforce ABA services for the participant in a clinically effective manner and (2) be present or available in the setting where services are being provided at all times, even if not directly participating in the services. "Parent" means the adult representative of a participant and includes a biological or adoptive parent; legal guardian; individual acting in the place of a parent, such as a grandparent or stepparent with whom the participant lives, including stepparents or foster parents; an individual appointed as the parent surrogate with respect to the federal Individuals with Disabilities Education Act; or another individual responsible for a participant's welfare.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 598 (Delegate Kelly) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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