

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

Name: Michele Phinney
Agency: Department of Health and Mental Hygiene
Address: 201 W. Preston Street
State: MD
Zip: 21201
Phone: 410-767-5623
Email: michele.phinney@maryland.gov

In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 10.09.28.01-.10

Corresponding Federal Standard:

Centers for Medicare and Medicaid Services CMCS Informational Bulletin dated July 7, 2014.

Discussion/Justification:

The Centers for Medicare and Medicaid Services (CMS) provides clarification of Medicaid coverage of services to children with ASD. CMS states that for children, states must cover ABA services that could otherwise be covered at state option as a part of the Early and Periodic Screening, Diagnostic and Treatment services (EPSDT). The proposed regulations introduce ABA services for participants younger than 21 years old and diagnosed with ASD as part of the EPSDT program.

TO BE COMPLETED BY DBED

- Agree

-Disagree

Comments:

Commerce does not have the necessary expertise in this area. Commerce feels that the Department of Health and Mental Hygiene does have the necessary expertise and therefore trusts the assertion that the proposal is not more restrictive or stringent than corresponding federal standards

Name: Jennifer Cox

Date: 6/21/2016

-Submit to Governor's Office

Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/21/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/5/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

10 09 28 01-.10

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

Michele Phinney

Telephone Number

410-767-5623

Mailing Address

201 W. Preston Street

City State Zip Code

Baltimore MD 21201

Email

michele.phinney@maryland.gov

5. Name of Person to Call About this Document

Emma Calvet

Telephone No.

410-767-0579

Email Address

emma.calvet@maryland.gov

6. Check applicable items:

- New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes - No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by David Lapp, Assistant Attorney General, (telephone #410-767-5292) on June 6, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Van T. Mitchell

Title

Secretary

Telephone No.

410-767-6500

Date

June 20, 2016

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 09 MEDICAL CARE PROGRAMS

10.09.28 Applied Behavior Analysis Services

Authority: State Government Article, §§2-104(b), 2-105(b) and 15-103, Annotated
Code of Maryland

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01 — .10 under COMAR 10.09.28 Applied Behavior Analysis Services.

Statement of Purpose

The purpose of this action is to introduce new regulations for Applied Behavior Analysis (ABA) services provided to Medicaid children younger than 21 years old with diagnosis of Autistic Spectrum Disorder (ASD) as required by the Centers for Medicare and Medicaid Services CMCS Informational Bulletin dated July 7, 2014.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact.

The Maryland Medical Assistance Program will implement ABA services to children younger than 21 years old diagnosed with ASD during FY 2017 resulting in a net expenditures of \$13,390,440. This amount is included in FY 2017 budget.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	\$13,390,440
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude

D. On regulated industries or trade groups:

Applied Behavior Analysis Providers (+) \$13,390,440

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The State's budget allocation for Fiscal Year 2017 provides for \$13,390,440 to pay for ABA services to children younger than 21 years old diagnosed with ASD. The projected initial number of children that will be eligible to receive ABA services is estimated to be around 700 cases within the first 6 months, increasing to approximately 1,400 cases by the end of Fiscal Year 2017. The projected length of ABA treatment of a child with ASD is approximately 18 months.

D. See A. above.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed action will generate \$13,390,440 in revenue to regulated industries. It is expected that many of the practices providing ABA will be small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The proposed action affects payment for services that could be used by individuals with disabilities. The ABA treatment could reduce maladaptive behaviors and skills deficits of disabled participants diagnosed with ASD.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2017

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:
50 percent general funds and 50 percent matching federal funds.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.28 Applied Behavior Analysis Services

Authority: State Government Article, §§2-104(b), 2-105(b) and 15-103, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Applied Behavior Analysis (ABA).

(a) "Applied behavior analysis (ABA)" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvements in human behavior.

(b) "Applied behavior analysis (ABA)" includes the direct observations, measurement, and functional analysis of the relations between environment and behavior.

(2) "ABA program" means an association, partnership, corporation or unincorporated group that includes:

(a) A licensed BCBA-D or a licensed BCBA; and

(b) A BCaBA or a RBT.

(3) "Autism Spectrum Disorder (ASD)" means a group of developmental disorders:

(a) Characterized by persistent deficits in social communication and social interaction across multiple contexts;

(b) Characterized by restricted, repetitive patterns of behavior, interests, or activities; and

(c) Whose symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.

(4) "Behavior Analyst Certification Board (BACB)" means the Board accredited by the National Commission for Certifying Agencies that credentials and certifies a BCBA-D, BCBA, and BCaBA, or registers a RBT.

(5) "Board Certified Assistant Behavior Analyst (BCaBA)" means a paraprofessional who:

(a) Delivers ABA treatments that are provided to participants with ASD under the supervision of a licensed BCBA-D or a licensed BCBA; and

(b) Obtained a BACB certification.

(6) "Board Certified Behavior Analyst (BCBA)" means a licensed professional who:

(a) Renders and supervises ABA services that are provided to participants with ASD; and

(b) Obtained a BACB certification.

(7) "Board Certified Behavior Analyst-Doctoral (BCBA-D)" is a licensed professional who:

(a) Renders and supervises ABA treatments that are provided to participants with ASD; and

(b) Obtained a BACB certification with a Doctoral-level credential.

(8) "Caregiver" means a willing and able individual who is trained in providing care to the participant.

(9) "Comprehensive diagnostic evaluation" means a direct observation of the participant and interviews with the participant's parent or caregiver performed by a qualified health care professional with the help of validated instruments.

(10) "Custodial care" means care that is provided:

(a) To assist in the activities of daily living, such as bathing, dressing, eating, and maintaining personal hygiene;

(b) For maintaining the participant's safety; and

(c) By individuals without professional skills or training.

(11) "Department" means the Department of Health and Mental Hygiene.

(12) "Designee" means the entity designated by the Department to manage the public behavioral health system on behalf of the Department.

(13) "Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)" means the provision, to individuals younger than 21 years old, of preventive health care pursuant to 42 CFR §441.50 et seq., as amended, and other health care services, diagnostic services, and treatment services that are necessary to correct or ameliorate defects, physical and mental illnesses, and conditions discovered by EPSDT screening services.

(14) "Family" means an adult who:

(a) Lives with or provides care to the participant; and

(b) Is not paid to provide the care.

(15) "Individualized Education Program (IEP)" means a written description of special education and related services to be implemented to meet the individual needs of a child pursuant to COMAR 13A.05.01.03B and 13A.05.01.09.

(16) "Individualized Family Service Plan (IFSP)" means a written plan for providing early intervention and other services to an eligible child and the child's family pursuant to COMAR 13A.13.01.03B.

(17) "Intermediate Care Facility for Individuals with Intellectual Disabilities or Persons with Related Conditions (ICF-IID)" means an institution licensed by the Department under COMAR 10.07.20 that provides health-related services or health rehabilitative services for individuals with an intellectual disabilities or related conditions.

(18) Maladaptive Behavior.

(a) "Maladaptive behavior" means behavior that interferes with the participant's activities of daily living or ability to adjust or participate in particular settings.

(b) "Maladaptive behavior" includes self-injurious behavior, aggression, tantrums, stereotypies, and rituals.

(19) "Maryland Medical Assistance Program" means a program of comprehensive medical and other health-related care for indigent and medically indigent individuals, jointly financed by the federal and state governments and administered by states under Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq., as amended.

(20) "Medically necessary" means that the service or benefit is:

(a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;

(b) Consistent with current accepted standards of good medical practice;

(c) The most cost efficient service that can be provided without sacrificing effectiveness or access to care; and

(d) Not for the convenience of the participant, family, or provider.

(21) "Medicare" means the insurance program administered by the federal government under Title XVIII of the Social Security Act, 42 U.S.C. §1395 et seq., as amended.

(22) "Parent" means the adult representative of a participant and includes:

(a) A biological or adoptive parent;

(b) A legal guardian;

(c) An individual acting in the place of a parent, such as a grandparent or stepparent with whom the participant lives, including those relatives or stepparents who are foster parents;

(d) An individual appointed as the parent surrogate in accordance with Education Article, §8-412, Annotated Code of Maryland, for matters within the scope of the Individuals with Disabilities Education Act; or

(e) Another individual responsible for a participant's welfare.

(23) "Participant" means an eligible individual who is enrolled in the Program.

(24) "Plan for generalization" means a component of the treatment plan whose goal is the expansion of a participant's performance ability beyond the initial conditions set for acquisition of a skill that can occur across people, places, and materials used for teaching.

(25) "Preauthorized" means the approval required from the Department, or its designee, before a provider renders services in order to receive reimbursement for services.

(26) "Program" means the Maryland Medical Assistance Program.

(27) "Provider" means a person certified to provide ABA services to participants and who, through appropriate agreement with the Department, has been identified as a Program provider by the issuance of a provider number.

(28) "Qualified health care professional" means a developmental pediatrician, pediatric neurologist, child psychiatrist, clinical psychologist, or a neuropsychologist with training and experience to diagnose ASD.

(29) "Registered Behavior Technician (RBT)" means a paraprofessional who delivers ABA services that are provided to participants with ASD under the supervision of a licensed BCBA-D or a licensed BCBA; and

(30) "Treatment plan" means an individualized written plan for ABA services which includes the components specified in Regulation .03 of this chapter.

.02 Provider Qualifications and Conditions for Participation.

A. A provider shall meet all conditions for participation as set forth in COMAR 10.09.36.03.

B. An ABA provider shall be licensed, certified, or otherwise legally authorized to provide ABA services in the jurisdiction in which the services are provided.

C. An ABA provider may not have current sanctions or current disciplinary actions imposed by:

- (1) The jurisdictional licensing or certification authority;
- (2) Medicare Program;
- (3) Maryland Medical Assistance Program; or
- (4) Other federally funded healthcare program.

D. An ABA provider shall have a completed criminal background check that is performed at the time of hiring and at least every 5 years thereafter.

E. A BCBA-D provider who renders ABA services shall:

- (1) Be licensed by the Maryland Board of Professional Counselors and Therapists; and
- (2) Have a current certification of BCBA-D by the BACB.

F. A BCBA provider who renders ABA services shall:

- (1) Be licensed by the Maryland Board of Professional Counselors and Therapists; and
- (2) Have a current certification of BCBA by the BACB.

G. A BCaBA provider who renders ABA services shall:

- (1) Have a current certification of BCaBA by the BACB;
- (2) Work under the supervision of a licensed BCBA-D or BCBA; and
- (3) Have the supervisory relationship documented in writing.

H. A RBT provider who renders ABA services shall:

- (1) Be 18 years old or older;
- (2) Be currently registered by the BACB or become registered by the BACB not later than December 31, 2017;
- (3) Have a high school degree or national equivalent;
- (4) Work under the supervision of a licensed BCBA-D or a licensed BCBA; and
- (5) Have the supervisory relationship documented in writing.

.03 Participant Eligibility.

A. A participant shall meet the eligibility conditions set forth in §B of this regulation.

B. To qualify for ABA services, a participant shall:

- (1) Be younger than 21 years old;
- (2) Live in the community;
- (3) Be diagnosed with an ASD by a qualified health care professional and referred for ABA services;
- (4) Exhibit the presence of maladaptive behavior or developmental skills deficits that significantly interferes 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 ICF-IID;
- (6) Have a comprehensive diagnostic evaluation by a qualified health care professional;
- (7) Have a prescription for ABA services ordered by a qualified health care professional; and
- (8) Have a completed ABA treatment plan that shall:
 - (a) Be participant-centered and family-centered, culturally competent and based on individualized goals;
 - (b) Consider the participant's age, school attendance requirements, and other daily activities;
 - (c) Be developed by a licensed BCBA-D or a licensed BCBA;
 - (d) Ensure that the interventions are consistent with ABA techniques
 - (e) Delineate both the frequency of baseline targeted behaviors and the behavior intervention plan to address the behaviors;

- (f) Identify long-term goals, short-term goals, and objectives that:
 - (i) Are behaviorally defined;
 - (ii) Are specific and tailored to the participant;
 - (iii) Are measurable;
 - (iv) Are based upon clinical observations; and
 - (v) Do not duplicate IEP or IFSP goals and objectives;
- (g) Identify the methods that will be used to measure achievement of behavior goals, objectives, and estimated timeframes;
- (h) Identify the schedule of services planned, including number of hours per week and the providers responsible for delivering the services;
 - (i) Include:
 - (i) Care coordination involving the participant's parent or caregiver and other professionals as applicable;
 - (ii) Support and training of the participant's parent or caregiver;
 - (iii) A plan for generalization; and
 - (iv) Measurable discharge criteria.

.04 Covered Services.

- A. The Program covers the ABA services set forth in §B of this regulation when the services are:
 - (1) Medically necessary;
 - (2) Preauthorized by the Program or its designee; and
 - (3) Delivered in accordance with the participant's treatment plan.
- B. The Program covers the following ABA services:
 - (1) ABA assessment which is a comprehensive behavior assessment that:
 - (a) Is performed by a licensed BCBA-D or a licensed BCBA face-to-face with a participant and the participant's parent or caregiver;
 - (b) Addresses the behavioral needs for ABA services;
 - (c) Includes an interview, direct observation, record review, data collection, and analysis;
 - (d) Includes assessment of the participant's current level of functioning, skills deficits, and maladaptive behaviors using validated instruments; and
 - (e) Develops a treatment plan;
 - (2) ABA exposure assessment which is a follow-up assessment that:
 - (a) Is conducted on a participant with specific, severe destructive behaviors in a structured, safe environment;
 - (b) Is provided by a licensed BCBA-D or a licensed BCBA with the assistance of one or more BCaBAs or RBTs;
 - (c) Exposes the participant to a series of social and environmental conditions associated with the destructive behaviors; and
 - (d) Uses structured testing to examine events, cues, responses, and consequences associated with the behaviors;
 - (3) ABA exposure modified treatment which is a face-to-face service that:
 - (a) Is conducted on a participant with specific, severe destructive behaviors in a structured, safe environment;
 - (b) Is provided by a licensed BCBA-D or a licensed BCBA with the assistance of two or more BCaBAs or RBTs;
 - (c) Includes direct supervision of the BCaBAs or RBTs eliciting behavioral effects or exposing the participant to specific environmental conditions and treatment; and
 - (d) Refines and modifies ineffective components of the treatment;
 - (4) ABA group treatment which is a face-to-face service provided to a group of participants by:
 - (a) A licensed BCBA-D, a licensed BCBA; or
 - (b) A BCaBA or a RBT under the direction of a licensed BCBA-D or a licensed BCBA, utilizing a behavioral intervention protocol designed in advance by the BCBA-D or the BCBA, who may or may not provide direct supervision during the treatment;
 - (5) ABA modified treatment which is a face-to-face service provided to a participant by a licensed BCBA-D or a licensed BCBA who:
 - (a) Resolves one or more problems with the treatment; and
 - (b) May simultaneously instruct the BCaBA, RBT, or the participant's parent or caregiver in administering the modified treatment;
 - (6) ABA multiple-family group training which is a behavior treatment guidance that:
 - (a) Is provided by a licensed BCBA-D or a licensed BCBA face-to-face with parents or caregivers of multiple participants without the presence of the participants;
 - (b) Identifies maladaptive behaviors and skills deficits; and
 - (c) Instructs parents or caregivers on how to utilize ABA treatments to reduce maladaptive behaviors and skills deficits;
 - (7) ABA parent training which is a behavior treatment guidance that:

(a) Is provided by a licensed BCBA-D, a licensed BCBA, or a BCaBA face-to-face with a participant's parent or caregiver, with or without the presence of the participant;

(b) Identifies maladaptive behaviors and skills deficits; and

(c) Instructs the parent or caregiver on how to utilize ABA treatments to reduce maladaptive behaviors and skill deficits;

(8) ABA reassessment which is a follow-up assessment that:

(a) Is performed by a licensed BCBA-D or a licensed BCBA face-to-face with a participant and a participant's parent or caregiver every 180 days;

(b) Evaluates the progress toward each behavior treatment goal using objective, quantifiable measures and includes the results of validated instruments;

(c) Includes a revision of the treatment plan based on progress; and

(d) Includes a clinical recommendation as to whether ABA services continue to be medically necessary;

(9) ABA social skills group which is a service that is:

(a) Provided by a licensed BCBA-D or a licensed BCBA face-to-face to multiple participants;

(b) Focused on social skills training; and

(c) Aimed at identifying and targeting of individual participants' social deficits and maladaptive behaviors;

(10) ABA supervision which is a clinical direction and oversight of a BCaBA or a RBT by a licensed BCBA-D or a licensed BCBA that:

(a) Requires the BCBA-D or the BCBA to directly observe the BCaBA or the RBT administering ABA services to the participant, group of participants, parent or caregiver;

(b) Is performed on an ongoing basis, equal to at least 10 percent of the amount of hours that the BCaBA or the RBT is providing direct ABA services to the participant, or group of participants; and

(11) ABA treatment which is a face-to-face service provided to a participant by:

(a) A licensed BCBA-D, a licensed BCBA; or

(b) A BCaBA or a RBT under the direction of a licensed BCBA-D or a licensed BCBA utilizing a behavioral intervention designed in advance by the BCBA-D or the BCBA, who may or may not provide direct supervision during the treatment.

C. ABA services shall only be provided by a BCBA, BCBA-D, BCaBA, or a RBT.

D. ABA services shall be initially preauthorized for a period not to exceed 180 days.

E. Additional preauthorization beyond the initial preauthorization shall be requested every 180 days, in advance of the expiration of the previous preauthorization.

F. The provider shall maintain documentation of each service delivered under the participant's treatment plan, which, at a minimum, includes:

(1) The location, date, start time, and end time of the service;

(2) A brief description of the service provided, including reference to the treatment plan;

(3) A description of the participant's behaviors or symptoms in measurable terms;

(4) A description of the participant's parent or caregiver's participation in the ABA treatment sessions, including the parent or the caregiver's name and relationship to the participant, date and time of participation; and

(5) A legible signature, along with the printed or typed name of the individual providing care, with the appropriate title.

.05 Limitations.

A. ABA services are only available to participants under the EPSDT program.

B. ABA Services shall be delivered in a home or community settings including clinics.

C. The provider may not bill the Program for:

(1) Services that are:

(a) Provided in:

(i) A hospital;

(ii) An institution for mental disease;

(iii) An ICF-IID;

(iv) A crisis residential program;

(v) A residential treatment center;

(vi) A 24-hour, 365-day residential program funded with non-Medicaid federal, State, or local government funds; or

(vii) Non-conventional settings including but not limited to resorts, spas, and camps;

(b) Rendered when measurable functional improvement or continued clinical benefit is not met, and treatment is not deemed necessary;

(c) Not preauthorized by the Department or its designee;

(d) Beyond the provider's scope of practice;

(e) Rendered but not documented in accordance to Regulation .04 of this chapter;

(f) Rendered by mail, telephone, or otherwise not in person;

(2) Services whose purpose is vocationally-based or recreationally-based;

- (3) Respite services;
- (4) Custodial care;
- (5) Completion of forms and reports;
- (6) Broken or missed appointments;
- (7) Travel to and from site of service; and
- (8) Services which duplicate a service that a participant is receiving under another medical care program.

D. The participant's parent or caregiver shall:

- (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.

E. Services shall be discontinued when the:

- (1) Long-term treatment goals and objectives are achieved;
- (2) Participant is not demonstrating progress towards treatment goals and objectives and measurable functional improvement is no longer expected; or
- (3) Services are no longer medically necessary.

.06 Payment Procedures.

A. The Program shall provide fee-for-service reimbursement for covered ABA services to the following ABA providers who meet the conditions for participation set forth in Regulation .02 of this chapter:

- (1) ABA program;
- (2) Individual BCBA-D; and
- (3) Individual BCBA.

B. Reimbursement for ABA services may not be made directly to BCaBA or RBT rendering ABA services.

C. Reimbursement for ABA services may not be made to, or on behalf of services rendered by, the participant's parent or caregiver.

D. The Program shall pay for covered services at the lesser of:

- (1) The Provider's customary charge to the general public unless the services are free to the individuals not covered by Medicaid; or
- (2) In accordance with §H of this regulation.

E. The ABA provider shall submit a request for payment as set forth in COMAR 10.09.36.04A.

F. The Program reserves the right to return to the ABA provider, before payment, all invoices that are not properly completed.

G. The Program may not make a direct payment to a participant.

H. Billing time limitations for claims submitted under this chapter are set forth in COMAR 10.09.36.06.

I. Reimbursement for ABA services covered under this chapter is as follows:

- (1) ABA assessment at a rate of \$220;
- (2) ABA exposure assessment at a rate of \$75 per 30 minutes;
- (3) ABA exposure modified treatment at a rate of:
 - (a) \$150 for the first 60 minutes; and
 - (b) \$75 per additional 30 minutes;
- (4) ABA group treatment at a rate of:
 - (a) \$15 per 30 minutes, per participant, when provided by a BCBA-D or BCBA;
 - (b) \$12 per 30 minutes, per participant, when provided by a BCaBA; and
 - (c) \$10 per 30 minutes, per participant, when provided by a RBT;
- (5) ABA modified treatment at a rate of \$55 per 30 minutes;
- (6) ABA multiple-family group training at a rate of \$37 per family;
- (7) ABA parent training with the participant present at a rate of:
 - (a) \$55 per 30 minutes when provided by a BCBA-D or BCBA; and
 - (b) \$30 per 30 minutes when provided by a BCaBA;
- (8) ABA parent training without the participant present at a rate of:
 - (a) \$60 when provided by a BCBA-D or a BCBA; and
 - (b) \$35 when provided by a BCaBA;
- (9) ABA reassessment at a rate of \$55 per 30 minutes;
- (10) ABA social skills group at a rate of \$30 per participant;
- (11) ABA supervision at a rate of \$55 per 30 minutes; and
- (12) ABA treatment at a rate of:
 - (a) \$35 per 30 minutes when provided by a BCBA-D or BCBA;
 - (b) \$30 per 30 minutes when provided by a BCaBA; and
 - (c) \$20 per 30 minutes when provided by a RBT.

.07 Recovery and Reimbursement.

Recovery and reimbursement are as set forth in COMAR 10.09.36.07.

.08 Cause for Suspension or Removal and Imposition of Sanctions.

Causes for suspension or removal and imposition of sanctions shall be as set forth in COMAR 10.09.36.08.

.09 Appeals Procedures.

Appeal procedures are as set forth in COMAR 10.09.36.09.

.10 Interpretive Regulation.

This chapter shall be interpreted as set forth in COMAR 10.09.36.10.

VAN T. MITCHELL

Secretary of Health and Mental Hygiene