

**NEW YORK STATE
MEDICAID FEE-FOR-SERVICE PROGRAM**

**LICENSED BEHAVIOR ANALYSTS &
CERTIFIED BEHAVIOR ANALYST ASSISTANTS
POLICY MANUAL FOR PROVIDING
APPLIED BEHAVIOR ANALYSIS SERVICES**

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Applied Behavior Analysis (ABA) Guidance- Important Links

NYS Medicaid Updates

NYS Medicaid Updates are published monthly. Updates to ABA policy may be made periodically and posted on the NYS Medicaid program's Medicaid Update website. NYS Medicaid Updates are available at

https://www.health.ny.gov/health_care/medicaid/program/update/main.htm.

Provider Communications

Provider communications may periodically be posted on eMedNY's ABA Provider Manual website. Please follow the link provided and click on the *ABA Provider Communications* icon under "Featured Links" for further information visit

<https://www.emedny.org/ProviderManuals/ABA/index.aspx>.

NYS Medicaid Fee-For-Service (FFS) ABA Fee Schedule

The NYS Medicaid FFS ABA Fee Schedule is available at

<https://www.emedny.org/ProviderManuals/ABA/index.aspx>

NYS Medicaid General Policy Manual – Information for All Providers

General Medicaid Policy information and billing guidance is available at

<https://www.emedny.org/ProviderManuals/AllProviders/index.aspx>

SECTION I: Introduction to ABA Services

Introduction

“Applied behavior analysis” or “ABA” means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior. ABA services provided by enrolled Licensed Behavior Analysts (LBAs) and/or Certified Behavior Analyst Assistants (CBAAAs) will be covered for NYS Medicaid fee-for-service (FFS) and Medicaid Managed Care (MMC) members under 21 years of age with a diagnosis of Autism Spectrum Disorder (ASD) and Rett Syndrome as defined by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). The NYS Medicaid member must be referred for ABA services by a NYS-licensed and NYS Medicaid-enrolled physician, psychologist, psychiatric nurse practitioner, pediatric nurse practitioner, or physician assistant.

Referring providers should follow the criteria for diagnosing ASD found in the DSM-5 and outlined in the NYS Department of Health’s publication, *Clinical Practice Guideline on Assessment and Intervention Services for Young Children with Autism Spectrum Disorders (ASD)* available at: <https://www.health.ny.gov/publications/20152.pdf>.

Referrals for ABA services are valid for no more than two years and should include:

- age of the patient
- ASD or Rett Syndrome diagnosis
- date of initial diagnosis
- co-morbid diagnosis (if applicable)
- symptom severity level/level of support (if referral is from an ASD-diagnosing provider)
- statement the patient needs ABA
- DSM-5 Diagnostic Checklist

SECTION II: LBA/CBAA Qualification Requirements

Qualifications

LBAs must be licensed, and CBAAAs must be certified, by the NYS Department of Education (NYSED) to enroll and participate in the NYS Medicaid FFS program.

To be licensed/certified as an LBA/CBAA in NYS individuals must:

- be of good moral character;
- be at least 21 years of age; and

- meet education, examination, and experience requirements.

Specific education, examination, and experience requirements for LBA licensure and/or CBAA certification are contained in Title 8, Article 167, Section 8804 of NYS's Education Law and—Part 79 of the NYSED's Regulations of the Commissioner available at <http://www.op.nysed.gov/prof/aba/article167.htm>.

NYSED Regulations of the Commissioner Part 79, Subpart 79-17 (LBAs) are available at <http://www.op.nysed.gov/prof/aba/subpart79-17.htm>.

NYSED Regulations of the Commissioner Part 79, Subpart 79-18 (CBAAs) are available at <http://www.op.nysed.gov/prof/aba/subpart79-18.htm>.

SECTION III: Provider Enrollment

NYS Medicaid FFS Provider Enrollment

An LBA must be enrolled with the NYS Medicaid FFS program to receive reimbursement for ABA services provided to a NYS Medicaid FFS or MMC member.

CBAAs cannot bill the NYS Medicaid program directly for ABA services provided to NYS Medicaid members; however, the supervising LBA can bill for the ABA services provided by the CBAA. CBAAs must enroll as a NYS Medicaid OPRA provider to provide ABA services to NYS Medicaid or MMC members.

LBAs and CBAAs providing ABA services in an Article 28 facility must be enrolled in the NYS Medicaid FFS program as an OPRA provider and must be affiliated with the Article 28 facility for the facility to be reimbursed for ABA services.

Provider enrollment information can be found at <https://www.emedny.org/info/ProviderEnrollment/index.aspx>.

Medicaid Managed Care (MMC) Considerations

Applied Behavior Analysis (ABA) services provided by New York State (NYS) Medicaid enrolled Licensed Behavior Analysts (LBAs), Certified Behavior Analyst Assistants (CBAAs), or other individuals specified under Article 167 of NYS Education Law working under the supervision of LBAs will be carved out of the MMC benefit package. Effective October 1, 2021, New York State Medicaid enrolled LBAs can bill Medicaid FFS for ABA services provided to MMC members until further notice.

Revalidation of Enrollment

Medicaid enrolled providers must revalidate information provided at the time of enrollment every 5 years from either the enrollment effective date as specified in their Medicaid Welcome Letter or the Last Date revalidation was completed as indicated in their Successful Completion of Revalidation Letter.

Additional information on Revalidation of Enrollment is available at <https://www.emedny.org/info/ProviderEnrollment/revalidation/index.aspx>.

NOTE: Providers can save time and money by coordinating their NYS Medicaid FFS program revalidation with Medicare, another state's Medicaid program, or the Child Health Plus (CHP) program. If revalidation with the NYS Medicaid FFS program is within 12 months of Medicare, CHP, or another state's Medicaid program enrollment, then the NYS Medicaid FFS program's application fee may be waived.

Please see the following form to apply for this application fee exemption: https://www.emedny.org/info/ProviderEnrollment/ProviderMaintForms/520101_Applicati on_Fee_Exemption_Form.pdf.

SECTION IV: LBA/CBAA Scope of Practice/Services

Scope of Practice/Services

The practice of ABA by a NYSED licensed LBA includes the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior, for the purpose of providing behavioral health treatment for Medicaid members under 21 years of age with a diagnosis of ASD and Rett Syndrome as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM-V). The NYS Medicaid member must be referred for ABA services by a NYS licensed and NYS Medicaid enrolled physician, psychologist, psychiatric nurse practitioner, pediatric nurse practitioner, or physician assistant. Referrals for ABA services are valid for no more than two years.

The practice of ABA by a CBAA means the services and activities provided by a person certified by the NYSED as a CBAA who works under the supervision of an LBA to perform such patient related ABA tasks as are assigned by the supervising LBA. Supervision of a CBAA by an LBA shall be in accordance with the NYSED Regulations.

An LBA can supervise no more than six CBAA's at a time.

LBAs and CBAs may work in any legally authorized setting. Examples of such settings include private practice, settings where patients/clients reside full-time or part-time, clinics, hospitals, residences, and community settings.

LBAs & CBAs are prohibited from:

- Prescribing or administering drugs as a treatment, therapy, or professional service in the practice of his or her profession; or
- Using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For the purpose of this manual, “invasive procedure” means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes, but is not limited to, surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

Section 8807 of Title VIII of the Education Law permits unlicensed persons, who may be identified as aides, to participate in a multi-disciplinary team. Services and activities provided by unlicensed persons may include:

- Performing tasks that do not require professional skill or judgment, such as recording progress and completing other routine and repetitive activities to assist in the implementation of an individual ABA plan
- Participating as a member of a multi-disciplinary team to implement an ABA plan, as long as the multidisciplinary team shall include one or more professionals licensed as physicians, psychologists, licensed clinical social workers, licensed master social workers, licensed mental health counselors, licensed psychoanalysts, licensed marriage and family therapists, licensed behavior analysts, certified behavior analyst assistant and licensed creative arts therapists as long as the activities performed by members of the team fall within the scope of practice for each team member licensed or authorized under Title VIII of the Education Law.

Section 8807 of Title VIII of the Education Law specifies that persons who are members of a multi-disciplinary team but are not licensed or authorized by law may not engage in the following restricted practices:

- Creation, modification, or termination of an ABA plan
- Diagnosis of mental, emotional, behavioral, addictive, and developmental disorders and disabilities
- Patient assessment and evaluating
- Provision of psychotherapeutic treatment

- Provision of treatment other than psychotherapeutic treatment
- Development and implementation of assessment-based treatment plans, as defined in Education Law §7701

It is the responsibility of the leader of the multi-disciplinary team, which must include at least one or more professionals licensed under Title VIII of the Education Law, to ensure that unlicensed persons do not engage in the restricted practices that are specified above.

Nothing in Article 167 of Title VIII of the Education Law (Title VIII) authorizes the delegation of activities that are restricted under the scope of practice of a profession licensed under Title VIII to an individual who is not appropriately licensed or authorized under it.

Questions relating to LBA/CBAA scope of practice/service should be directed to NYSED.

LBA Supervising CBAA Requirements

Education Law and Regulations of the Commissioner of Education require that certified behavior analyst assistants (CBAAs) receive direct supervision. CBAAs must work under the supervision of a licensed behavior analyst (LBA). An LBA cannot supervise more than six CBAAs at a time. CBAAs should receive supervision in all aspects of their work, including but not limited to, carrying out initial assessments, treatment, and assessments to terminate services. The LBA supervisor must meet with and observe the CBAA supervisee on a regular basis to review the implementation of treatment plans and to foster the CBAA supervisee's professional development. The amount and type of supervision provided should be based on the ability level and clinical experience of the CBAA supervisee and the setting in which he or she is providing the services.

Additionally, the supervisor should assess each patient's/client's progress at least every 6 months or as needed, and review and sign treatment notes and reports prepared by the CBAA supervisee.

For additional information regarding NYSED scope of practice and supervision requirements for LBAs and CBAAs visit <http://www.op.nysed.gov/prof/aba/abapa2>.

Documentation Requirements

In addition to the "Record Keeping Requirements" found in the "Information to All Providers General Policy" guidelines available at https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers-General_Policy.pdf, clinical documentation of ABA services provided or supervised by LBAs should include, but may not be limited to:

- The treatment plan, which includes assessment and goals
- Specific goals and associated data to determine progress
- Total hours of service per week, and provision of services by LBA/CBAA/etc. (including caregiver training)
- Location(s) of services (such as office, residence, community)

Treatment Plan

The Licensed Behavior Analyst (LBA) is responsible for developing an individualized treatment plan for Applied Behavior Analysis (ABA) that will guide recommendations for treatment goals, treatment intensity, and service delivery for an individual diagnosed with ASD or Rett Syndrome as defined by DSM-5. The treatment plan should include the following:

- Reason for referral
- Background information, including client strengths
- Behavioral assessment method and results
- Treatment setting
- Treatment goals
- Plan for coordination with other providers
- Plans for transition and discharge of services

Background information should include the following:

- Relevant psychosocial, family, educational, and medical history
- Current educational, therapeutic, and care coordination services being provided, including response to current services and barriers to treatment
- Current diagnosis(es)

Behavioral assessment method and results should include the following:

- Assessment methodology (e.g., antecedent-behavior-consequence log, behavioral observation/sampling, functional behavior assessment, self-monitoring/self-report, inventory, etc.)
- Results of assessment
- As appropriate, identify standardized assessment used (e.g., adaptive behavior scales, symptom inventories, aggression ratings) and results of assessment

Treatment goals:

The treatment plan should identify the objective and measurable treatment goals to address problem areas that were identified through the assessment process and are targeted for intervention. The treatment goals should be directly related to the diagnosis of ASD or Rett Syndrome as defined by DSM-5 and should be defined appropriate to proposed treatment intensity and service delivery. They should include:

- Operationally defined target behaviors or skills for increase/decrease based on behavioral assessment (including maintenance of mastered targets as appropriate)
 - Conditions/context for performance
 - Instructional procedure
 - Criterion for mastery

- Maintenance and generalization criteria
- Data associated with treatment goal
 - Date of introduction of goal
 - Baseline data reported in objective terms (e.g., frequency, intensity, duration, etc.)
 - Sampling method for ongoing data collection, including expected frequency
 - Current data expressed by the same data collection method as the baseline data so that progress can be measured.
- As appropriate, identification of parent/caregiver training goals to ensure generalization of skills

LBAs will update the treatment plan at least every 6 months or as needed. Updates should include:

- updated goals and data
- relevant changes in psychosocial, family, educational, or medical history

For coordination of care purposes, initial treatment plans and updates to the treatment plan should be shared with the referring provider and, as necessary, other care providers (e.g., primary care, physical, speech, and occupational therapists).

SECTION V: Billing

Billing Guidance

LBAs enrolled in the NYS Medicaid FFS program can bill the NYS Medicaid FFS program for ABA services rendered using the procedure codes identified in the tables below and found in the *ABA Procedure Codes & Fee Schedule* available at <https://www.emedny.org/ProviderManuals/ABA/index.aspx>.

CBAAs cannot bill the NYS Medicaid FFS program directly. LBA's enrolled in the NYS Medicaid FFS program can bill the NYS Medicaid FFS program for ABA services rendered by enrolled CBAAs under their supervision using the procedure codes identified in the *ABA Procedure Codes & Fee Schedule*.

LBAs billing for ABA services provided by CBAAs under their supervision will bill using the LBA's National Provider Identification (NPI) number for the "Billing" provider and/or "Supervising" provider. The NPI number of the CBA that provided the ABA service should be reported as the "Rendering" provider" on each claim. LBA's can bill for services and/or activities provided by non-enrolled unlicensed aides in their multi-disciplinary team under their supervision using the LBA's NPI number for the "Billing", "Supervising" and "Rendering" provider.

The NYS Medicaid FFS program will reimburse providers for ABA services billed for an initial 60 minutes (four units) per date of service. After the initial 60 minutes of ABA services for a date of service are met, then ABA services can be billed in 15-minute increments for the same date of service.

LBAs enrolled in the NYS Medicaid FFS program can bill the NYS Medicaid FFS program for ABA services rendered using the following procedure codes:

CPT Code	Code Description
97151	Behavior identification assessment , administered by a physician or other qualified health care professional, each 15 minutes of the physician’s or other qualified health care professional’s time face to face with patient/or guardian(s)/caregiver(s) administering assessments and discussing findings and recommendations, and non-face-to-face analyzing past data, scoring/interpreting the assessment, and preparing the report/treatment plan.
97155	Adaptive behavior treatment with protocol modification , administered by a physician or other qualified health care professional, which may include simultaneous direction of a technician, face-to-face with one patient, every 15 minutes.
97156*	Family adaptive behavior treatment guidance , administered by physician or other qualified health care professional (with or without the patient present), face-to-face with guardian(s)/caregiver(s), each 15 minutes.

*CPT code 97156 can only be billed when the service is delivered in concert with care of the patient as part of the child’s treatment plan.

LBAs enrolled in the NYS Medicaid FFS program can bill the NYS Medicaid FFS program for ABA services rendered by enrolled CBAA’s under their supervision using the following procedure codes:

CPT Code	Code Description
97152	Behavior identification-supporting assessment , administered by one technician under the direction of a physician or qualified health care professional, face-to-face with the patient, each 15 minutes.
97153	Adaptive behavior treatment by protocol, administered by a technician under the direction of a physician or other qualified healthcare professional, face-to-face with one patient, every 15 minutes.

Article 28 Facilities

An Article 28 facility can bill for ABA services using the Ordered Ambulatory Fee Schedule for services provided by NYS Medicaid enrolled LBAs/CBAA’s affiliated with the Article 28

facility. The Ordered Ambulatory Fee Schedule is available at <https://www.emedny.org/ProviderManuals/OrderedAmbulatory/index.aspx>.

To view the ABA Procedure Codes & Fee Schedule, please visit <https://www.emedny.org/ProviderManuals/ABA/index.aspx>.

Additional NYS Medicaid billing guidance is available at <https://www.emedny.org/ProviderManuals/AllProviders/index.aspx>.

SECTION VI: RESOURCES

Resources

- The eMedNY LISTSERV® is a Medicaid mailing system that offers providers, vendors, and other subscribers the opportunity to receive a variety of notifications from eMedNY. The email notifications are provided as a free service to subscribers and may include information on provider manual updates, fee schedules, edit status changes, billing requirements and other helpful notices. Additional information regarding eMedNY LISTSERV® can be found at: https://www.emedny.org/Listserv/eMedNY_Email_Alert_System.aspx
- Change of Address for Enrolled Providers: <https://www.emedny.org/info/ProviderEnrollment/changeaddress.aspx>
- General Billing:
 - <https://www.emedny.org/ProviderManuals/AllProviders/index.aspx>
 - Includes information on the following:
 - Frequently Asked Questions on Delayed Claim Submission:
 - Submitting Claims over 90 Days from Date of Service
- General eMedNY website: <https://www.emedny.org/>
- Guide to Timely Billing Information for all Providers – General Policy: https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers-General_Policy.pdf
- Timely Billing Information: https://www.emedny.org/info/TimelyBillingInformation_index.aspx
- Guide to Claim Denial Reasons: http://www.health.ny.gov/health_care/medicaid/program/update/2015/april_mu.

- Medicaid Eligibility Verification System (MEVS):
[https://www.emedny.org/ProviderManuals/5010/MEVS/MEVS_DVS_Provider_Manual_\(5010\).pdf](https://www.emedny.org/ProviderManuals/5010/MEVS/MEVS_DVS_Provider_Manual_(5010).pdf)
- Medicaid Managed Care (MMC) Plan Directory:
https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers_Managed_Care_Information.pdf
- New York Codes, Rules and Regulations, Title 18 (Social Services):
http://www.health.ny.gov/regulations/nycrr/title_18/
- New York Codes, Rules and Regulations, Title 10 (Health):
http://www.health.ny.gov/regulations/nycrr/title_10/
- Provider Quick Reference Guide:
<https://www.emedny.org/contacts/telephone%20quick%20reference.pdf>
- Provider Enrollment Forms:
<https://www.emedny.org/info/ProviderEnrollment/index.aspx>