

Oklahoma Health Care Authority

The Oklahoma Health Care Authority (OHCA) values your feedback and input. It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments can be submitted on the OHCA's [Proposed Changes Blog](#).

OHCA COMMENT DUE DATE: January 6, 2025

The proposed policy changes are currently in effect as Emergency Rules and must be promulgated as Permanent Rules. The proposed policy was presented at the September 3, 2024 Tribal Consultation. Additionally, this proposal was presented to the Medical Advisory Committee on September 12, 2024. Furthermore, this proposal will be presented at a Public Hearing scheduled for January 6, 2025. Finally, the proposed changes are scheduled to be presented as permanent rules to the OHCA Board of Directors on January 15, 2025.

SUMMARY:

The proposed rule revisions update outdated applied behavioral analysis (ABA) policies to ensure that services meet a standard level of quality for all applicable members. This includes updates to documentation requirements for Behavior Intervention Plans, critical incident reporting, family training requirements, and billing guidelines. Additionally, these rules update the medical necessity criteria and describe various exclusions to treatment. Lastly, language is added to ensure ABA providers do not use restraint, except in extreme and documented circumstances.

LEGAL AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 CFR 440.60

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF #24-23

A. Brief description of the purpose of the rule:

The proposed revisions update outdated applied behavioral analysis (ABA) policies to ensure that services meet a standard level of quality for all applicable members. This includes updates to documentation requirements for Behavior Intervention Plans, critical incident reporting, family training requirements, and billing guidelines. Additionally, these rules update the medical necessity criteria and describe various exclusions to treatment. Lastly, language is added to ensure ABA providers do not use restraint, except in extreme and documented circumstances.

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

The proposed rule changes will affect SoonerCare members who receive ABA services. Additionally, OHCA-contracted providers who provide ABA services must comply with the proposed rule changes.

- C. A description of the classes of persons who will benefit from the proposed rule:

The proposed rule changes will benefit all SoonerCare members who receive ABA services by ensuring a sufficient standard of care.

- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

There is no probable economic impact and there are no fee changes associated with the rule change for the above classes of persons or any political subdivisions.

- E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The proposed changes are budget neutral.

- F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

The proposed rule will not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

- G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The proposed rule will not have an adverse effect on small businesses as provided by the Oklahoma Small Business Regulatory Flexibility Act.

- H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The Agency has taken measures to determine that there is no less costly or non-regulatory method or less intrusive method for achieving the purpose of the proposed rule.

- I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule should have a positive effect on the public health, safety, and environment.

- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:

The Agency does not anticipate any detrimental effect on the public health, safety, or environment if the proposed rule changes are not implemented.

- K. The date the rule impact statement was prepared and if modified, the date modified:

Prepared: September 9, 2024

Modified: November 6, 2024

RULE TEXT:

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 30. APPLIED BEHAVIORAL ANALYSIS (ABA) SERVICES

317:30-5-311. Eligible providers and requirements

- (a) **Eligible providers.** Eligible ABA provider types include:

(1) Board certified behavior analyst® (BCBA®) - A master's or doctoral level independent practitioner who is certified by the national-accrediting Behavior Analyst Certification Board, Inc. ® (BACB®) and licensed by the Oklahoma Human Services' (OKDHS) Developmental Disabilities Services Division (DDS) to provide behavior analysis services. A BCBA may supervise the work of board-certified assistant behavior analysts and registered behavior technicians implementing behavior analytic interventions;

(2) Board-certified assistant behavior analyst® (BCaBA®) - A bachelor's level practitioner who are certified by the national-accrediting BACB and certified by OKDHS DDS to provide behavior analysis services under the supervision of a BCBA;

(3) Registered behavior technician™ (RBT®) - A high school level or higher paraprofessional who is certified by the national-accrediting BACB and practices under the close and ongoing supervision of a BCBA. The RBT works under the license number of a BCBA and is primarily responsible for the direct implementation of BCBA designed and prescribed behavior-analytic services. RBTs must obtain ongoing supervision for a minimum of five percent (5%) of the hours they spend providing behavioral-analytic services each calendar month. Documentation

may be requested by the OHCA in looking at the progress of treatment.

(4) Licensed psychologist - An individual who is licensed and in good standing with the Oklahoma State Board of Examiners of Psychologists and has professional experience in the use of ABA therapy may render behavior analysis services. Refer to OAC 317:30-5-275; and

(5) Human services professional - A practitioner who is licensed by the State of Oklahoma pursuant to (A) - (G), and certified by the national-accrediting BACB, and who is working within the scope of his or her practice, to include:

(A) A licensed physical therapist;

(B) A licensed occupational therapist;

(C) A licensed clinical social worker or social worker candidate under the supervision of a licensed clinical social worker;

(D) A licensed speech-language pathologist or licensed audiologist;

(E) A licensed professional counselor or professional counselor candidate under the supervision of a licensed professional counselor;

(F) A licensed marital and family therapist or marital and family therapist candidate under the supervision of a licensed marital and family therapist; or

(G) A licensed behavioral practitioner or behavioral practitioner candidate under the supervision of a licensed behavioral practitioner.

(b) **Provider criteria.** To direct, supervise, and/or render ABA services, the following conditions shall be met.

(1) A BCBA shall:

(A) Be currently licensed by OKDHS DDS as a BCBA;

(B) Have no sanctions or disciplinary actions by OKDHS DDS or the BACB;

(C) Have no current overpayment(s) due to SoonerCare, and no Medicare or Medicaid sanctions or exclusions from participation in federally funded programs; and

(D) Be fully contracted with SoonerCare as a provider.

(2) A BCaBA shall:

(A) Be currently certified by OKDHS DDS as a BCaBA;

(B) Work under the supervision of a SoonerCare-contracted BCBA provider;

(C) Have no current overpayment(s) due to SoonerCare, and no Medicare or Medicaid sanctions or exclusions from participation in federally funded programs; and

(D) Be fully contracted with SoonerCare as a provider.

(3) An RBT shall:

(A) Be currently certified by the national-accrediting BACB as an RBT;

(B) Work under the supervision of a SoonerCare-contracted BCBA provider;

(C) Have no current overpayment(s) due to SoonerCare, and no Medicare or Medicaid sanctions or exclusions from participation in federally funded programs; and

(D) Be fully contracted with SoonerCare as a provider.

(4) A human services professional shall:

(A) Be currently licensed or certified by the State of Oklahoma, in accordance with Section 1928 of Title 59 of the Oklahoma Statutes;

(B) Be currently certified by the national-accrediting BACB;

(C) Have no sanctions or disciplinary actions by the applicable state licensing board or the BACB;

(D) If working under supervision within the scope of his or her practice, have a documented relationship with a fully-licensed human service professional working in a supervisory capacity;

(E) Have no current overpayment(s) due to SoonerCare, and no Medicare or Medicaid sanctions or exclusions from participation in federally funded programs; and

(F) Be fully contracted with SoonerCare as a provider.

(5) All contracted providers must reside in the state of Oklahoma, or within 50 miles of the Oklahoma border as per OAC 317:30-3-89 through 92.

(6) All staff providing ABA services must be contracted with the OHCA.

317:30-5-312. Treatment plan components and documentation requirements

(a) **Treatment plan.** The treatment plan is developed by a BCBA or a licensed psychologist from the clinical assessment, and if applicable, the Functional Behavior Assessment (FBA). The treatment plan shall:

(1) Be person-centered and individualized;

(2) Delineate the baseline levels of target behaviors;

(3) Specify long-term and short-term objectives that are defined in observable, measurable behavioral terms;

(4) Specify criteria that will be used to determine achievement of objectives;

~~(5) Include assessment(s) and treatment protocols for addressing each of the target behaviors such as including antecedent and consequence interventions, and teaching of replacement skills specific to the function of the identified maladaptive behaviors;~~ Clearly relate to the identified maladaptive behavior and/or should include functional goals and those related to core deficits of ASD as defined by the DSM, both important to and relevant to the child/youth, family, and directly related to the core deficits of ASD as defined by the DSM.

~~(6) Include specific functional goals to the child/youth, objectively measurable within a specific time frame, attainable in relation to the child/youth prognosis and developmental level.~~

~~(7) Include an operational, behavior definition of the target behavior excesses and deficits, prevention and intervention strategies, schedules of reinforcement, and functional alternative responses to the identified function of the target behavior in the BSP.~~

~~(8) Include goals that match the setting for services and include a specific titration plan to fade services over time.~~

~~(9) Clearly identify the schedule of services planned and the individuals responsible for delivering the services, including frequent review of data on target behaviors and adjustments in the treatment plan and/or protocols by the BCBA or licensed psychologist as needed;~~

~~(10) Include training and supervision to enable board certified assistant behavior analysts (BCaBAs) and registered behavior technicians (RBTs) to implement assessment and treatment protocols;~~ not to include the functional behavior assessment.

~~(11) Include date of training, techniques utilized, and support supports used to enable parents and other caregivers to participate in treatment planning and successfully reinforce the established treatment plan in the home, clinic, and community settings;~~ and other settings.

~~(12) Include signatures of the BCBA and parent/legal guardian that reflect an actual date including month, day, and year to be considered valid.~~

~~(13) Contain the dates of the PA span for which the ABA services have been approved and include the specific date it was created in the treatment plan.~~

~~(9)~~(14) Include care coordination involving the parents or caregiver(s), school, state disability programs, and others as applicable; and

~~(10)~~(15) Ensure that services are consistent with applicable professional standards and guidelines relating to the practice of applied behavior analysis as well as state Medicaid laws and regulations.

(b) **Assessments and treatment plans.** Initial assessments allow ABA providers to develop a treatment plan that is unique to the member and include all treatment recommendations and goals.

(1) ~~The functional behavior assessment (FBA)~~clinical assessment serves as a critical component of the treatment plan and is conducted by a board-certified behavior analyst (BCBA) to identify the specific behavioral needs of the member. The clinical assessment may include validated measures such as the Vineland Adaptive Behavior Scales or other appropriate measures that assist in identifying the child/youth's current skill level, aid in development of the treatment plan, and support medical necessity for ABA services.

(2) The FBA related to specific behaviors of concern, to be addressed in a BSP, as clinically indicated. The FBA consists of:

(A) ~~Description~~An operational definition of the problematic behavior (topography, onset/offset, cycle, intensity, and severity);

(B) History of the problematic behavior (long-term and recent);

(C) Antecedent analysis (setting, people, time of day, and events);

(D) Consequence analysis; and

(E) Impression and analysis of the function of the problematic behavior.

~~(2) Other relevant assessments may be submitted in addition to the FBA for review by an OHCA reviewer and/or physician to support medical necessity criteria.~~

(3) Assessments must be completed by the BCBA.

(c) **Documentation requirements.** ABA providers must:

(1) Document all ABA services in the member's record. Refer to OAC 317:30-5-248;

(2) Retain the member's records necessary to disclose the extent of services. Refer to OAC 317:30-3-15; and

(3) Release the medical information necessary for payment of a claim upon request. Refer to OAC 317:30-3-16.

(4) All assessment and treatment services must include the following:

(A) Date;

(B) Start and stop time for each session/unit billed and physical location where service was provided;

(C) Signature of the ~~provider~~provider(s) rendering services;

(D) Credentials of ~~provider~~provider(s) rendering services;

(E) Specific problem(s), goals, and/or objectives addressed;

(F) Methods used to address problem(s), goals, and objectives;

(G) Progress made toward goals and objectives;

(H) Patient response to the session or intervention; and

(I) Any new problem(s), goals, and/or objectives identified during the session.

(J) ~~Treatment~~Initial treatment plans or plan updates are not valid until all signatures are present. As used in this subsection, all signatures mean:

(i) The signature and date of acknowledgement of the supervising BCBA or licensed psychologist; and

- (ii) The signature and date of assent of any minor who is age fourteen (14) or older; and
- (iii) The signature of consent of:
 - (I) A parent or legal guardian of any minor; or
 - (II) If the minor documents a legal exception to parent or legal guardian consent, the excepted minor.
- (iv) All signatures:
 - (I) Must clearly indicate that the signatories approve of and consent, assent, or acknowledge the treatment plan; and
 - (II) May be provided on a signature page applicable to both the assessment and the treatment plan, if the signed page clearly indicates approval of and consent, assent, or acknowledgment of both the assessment and the treatment plan.
 - (III) If member is age fourteen (14) or older and is unable to sign and date documentation, please document this in the record.

317:30-5-313. Medical necessity criteria and covered services for members under twenty-one (21) years of age and frequency and duration

(a) Medical necessity criteria. ABA services are considered medically necessary when all the following conditions are met:

- (1) The member is under twenty-one (21) years of age with a definitive diagnosis of an Autism Spectrum Disorder (ASD) from the following providers within the state of Oklahoma or within 50 miles of the Oklahoma Border (as per OAC 317:30-3-89 through 92):
 - (A) Pediatric neurologist or neurologist;
 - (B) Developmental pediatrician;
 - (C) Licensed psychologist;
 - (D) Psychiatrist or neuropsychiatrist; ~~or~~
 - (E) Other licensed physician experienced in the diagnosis and treatment of ASD; ~~or~~
 - (F) An interdisciplinary team composed of a licensed psychologist, physician, physician assistant (PA) or nurse practitioner (APRN).
- (2) A comprehensive diagnostic evaluation or thorough clinical assessment completed by one (1) of the above identified professionals must:
 - (A) Include a complete pertinent medical and social history, including pre-and perinatal, medical, developmental, family, and social elements; and
 - (B) Be based on criteria outlined in the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most current version of the DSM for ASD and/or may also include scores from the use of formal diagnostic tests such as the Autism Diagnostic Interview-Revised (ADI-R), Autism Diagnostic Observation Schedule-2 (ADOS-2), Childhood Autism Rating Scale (CARS) or other tools with acceptable psychometric properties. Screening scales are not sufficient to make a diagnosis and will not be accepted as the only formal scale.
 - (C) A comprehensive diagnostic evaluation or clinical assessment will only need to be completed at the first initiation of ABA services and should be no older than two (2) years old. A member does not require an updated assessment or evaluation annually or bi-annually. However, OHCA may request an additional assessment/evaluation if diagnosis and recommendations are not clearly defined.

- (D) If a member changes agencies, the comprehensive diagnostic evaluation or clinical assessment will be required during the initial authorization period.
- (E) The OHCA may suggest an updated comprehensive evaluation or clinical assessment during the prior authorization process if there are any significant medical, behavioral health changes, or concerns regarding treatment identified through the ABA prior authorization process.
- (F) Comprehensive diagnostic evaluations or clinical assessments will only be accepted from an out-of-state provider if the criteria meet documentation requirements outlined in (2)(a)-(c) and must be provided by one of the outlined providers in (1)(a)-(f).
- (3) There must be a reasonable expectation that the member will benefit from ABA. The member must exhibit:
- (A) The ability/capacity to learn and develop generalized skills to assist with his or her independence; and
 - (B) The ability to develop generalized skills to assist in addressing maladaptive behaviors associated with ASD.
- (4) The member is medically stable and does not require twenty-four (24) hour medical/nursing monitoring or procedures provided in a hospital or intermediate care facility for individuals with intellectual disabilities (ICF/IID).
- (5) The member exhibits functional limitations that interfere with participation in daily life and activities that are specific to the core deficits of ASD as outlined in the DSM.
- ~~(5)~~(6) The member exhibits atypical or disruptive behavior within the most recent thirty (30) calendar days that significantly interferes with daily functioning and activities when applicable. Such atypical or disruptive behavior may include, but is not limited to:
- (A) ~~Impulsive aggression~~Aggression toward others;
 - (B) Self-injury behaviors;
 - (C) Elopement that puts the member at risk in the home and/or community (specific examples of elopement as evidenced by dangerous behaviors, i.e., running out the house, into the parking lot, etc.);
 - (D) PICA (specific examples of PICA as evidenced by eating non-food items that put the member at risk);
 - ~~(C)~~(E) Intentional property destruction; or
 - ~~(D)~~(F) Severe disruption in daily functioning (e.g., the individual's inability to maintain in school, child care settings, social settings, etc.) due to changes in routine activities that have not been helped by other treatments such as occupational therapy, speech therapy, additional psychotherapy and/or school/ daycare interventions; or
 - (G) Excessive self-stimulation that significantly disrupts the individual's ability to engage in functional behavior.
- ~~(6) The focus of treatment is not custodial in nature (which is defined as care provided when the member "has reached maximum level of physical or mental function and such person is not likely to make further significant improvement" or "any type of care where the primary purpose of the type of care provided is to attend to the member's daily living activities which do not entail or require the continuing attention of trained medical or paramedical personnel.") Interventions are intended to strengthen the individual's/parent's/legal guardian's capacity for self care and self sufficiency to decrease interventions in the home by those other than the parent(s)/legal guardian(s).~~

~~(7) It has been determined that there is no less intensive or more appropriate level of service which can be safely and effectively provided.~~

(b) Frequency and duration.

(1) ABA may be delivered at the following frequency and duration levels. Medical necessity is related to symptom severity as defined by the current version of the DSM in addition to guidelines in policy. All levels of intensity of ABA treatment services may be considered depending upon individual case consideration. The following are guidelines. The objectives of ABA therapy will vary per child/youth, and frequency and duration should be based upon the functional goals of treatment, specific needs of the child/youth, response to treatment, and availability of appropriately trained and certified ABA staff. The member must have exhibited these atypical or disruptive behaviors within the most recent thirty (30) calendars days that interferes with the daily functioning and activities. Treatment plans in which the requested frequency exceeds the following service level guidelines will be sent for physician and BCBA consultant review to determine medical necessity.

(A) High frequency (IBI) (greater than thirty (30) hours/week) may be considered when both of the following criteria are met.

(i) Autism Severity Level two (2) or three (3) (per most recent DSM criteria), diagnostic evaluation must be included.

(ii) Goals related to elopement, aggression, self injury, intentional property destruction, or severe disruption in daily functioning (e.g., the individual's inability to maintain in school, childcare settings, social settings, etc.) due to changes in routine activities that have not been helped by other treatments such as occupational therapy, speech therapy, additional psychotherapy and/or school/daycare interventions.

(iii) A Functional Behavioral Assessment (FBA) or Behavioral Intervention Plan (BIP) is required for "High Frequency" level of care.

(B) Moderate frequency (twenty (20) to thirty (30) hours/week) may be considered when documentation shows two or more of the following:

(i) Autism Severity Level two (2) or three (3) (per most recent DSM criteria), diagnostic evaluation must be included.

(ii) Goals related to addressing moderate challenging behaviors not generally seen as age or developmentally congruent (e.g., biting for a child over three (3) years old, excessive temper tantrums) that moderately to significantly interfere with child participation in home or community activities.

(iii) A Functional Behavioral Assessment (FBA) or Behavioral Intervention Plan (BIP) is required for "Moderate Frequency" level of care.

(C) Targeted/focused frequency (ten (10) to twenty (20) hours a week) may be considered when documentation shows two or more of the following:

(i) Autism Severity Level one (1), two (2), or three (3) (per most recent DSM criteria); diagnostic evaluation must be included.

(ii) Focused on specific targeted clinical issues or goals related to specific targeted skills.

(D) Maintenance/consultative level (five (5) to ten (10) hours per week or less) may be considered when documentation shows all the following:

(i) Autism Severity Level one (1), two (2), or three (3) (per most recent DSM criteria); and

(ii) Goals related to integration of specific skills into daily functioning and documentation substantiates the risk for regression after completion of more intense ABA intervention.

(E) A Functional Behavioral Assessment (FBA) or Behavioral Intervention Plan (BIP) is not required for "Targeted or Maintenance" level of care.

(F) Members discharging from long term PRTF/Acute two (2) level of care may initially require more intensive treatment.

(2) The focus of treatment is not custodial in nature (which is defined as care provided when the member "has reached maximum level of physical or mental function and such person is not likely to make further significant improvement" or "any type of care where the primary purpose of the type of care provided is to attend to the member's daily living activities which do not entail or require the continuing attention of trained medical or paramedical personnel.") Interventions are intended to strengthen the individual's/parent's/legal guardian's capacity for self-care and self-sufficiency to decrease interventions in the home by those other than the parent(s)/legal guardian(s).

(3) A functional behavioral assessment may only be requested every six (6) months and shall be completed by the licensed provider when no measurable progress has occurred, or it may be requested by the OHCA. The functional analysis should record the member's serious maladaptive target behavioral symptom(s) and precipitants, and document the modifications of the current treatment plan to address progress, as well as make a determination of the function a particular maladaptive behavior serves for the member in the environmental context;

(4) It has been determined that there is no less intensive or more appropriate level of service which can be safely and effectively provided.

(5) If the member is exhibiting baseline behaviors (behaviors have not improved within a year of attending at least eighty-five percent (85%) of treatment), OHCA may request additional information to support continued treatment.

(6) Discharge plans will be updated each extension request to include realistic criteria for discharge, based on current progress towards goals.

(7) An OHCA discharge notification form shall be submitted when a member has completed treatment or the member has moved to a new provider, or will no longer be returning to care.

317:30-5-314. Prior authorization, service limitations, and exclusions to treatment

(a) Prior Authorization. Eligible providers must submit an initial prior authorization request to the Oklahoma Health Care Authority (OHCA) or its designated agent. Prior authorization requests shall be granted ~~up by~~ by units for one (1) to six (6) months of ABA treatment services as clinically indicated ~~at one (1) time unless a longer duration of treatment is clinically indicated.~~ The number of ~~hours~~ units authorized may differ from the ~~hours~~ units requested on the prior authorization request based on the review by an OHCA reviewer, BCBA contractor, and/or physician. If the member's condition necessitates a change in the treatment plan, the provider must request a new prior authorization. The provider is responsible for ensuring eligibility, medical necessity, procedural coding, claims submission, and all other state and federal requirements are met. OHCA retains the final administrative review over both authorization and review of services as required by 42 C.F.R. 431.10. The prior authorization request must meet the following SoonerCare criteria for ABA services.

(1) The criteria should include a comprehensive behavioral assessment, FBA, ~~and other~~

~~supporting assessment(s)~~BSP (if applicable), treatment plan, and the OHCA initial prior authorization template outlining the maladaptive behaviors or core deficits consistent with the diagnosis of ASD and its associated comorbidities. Additional assessments that may be submitted include the: Stress Index for Parents of Adolescents (SIPA); Assessment of Basic Language and Learning (ABLIS-R); Assessment, Evaluation, and Programming System (AEPS); Verbal Behavior Milestone Assessment and Placement Program (VB-MAPP); and Personalized System of Instruction (PSI.) In addition to completing the initial request form, providers ~~will be~~are required to submit documentation that ~~will consist~~consists of the following:

(A) Information about relevant medical status, prior assessment results, response to prior treatment, and other relevant information gathered from review of records and past assessments.

(B) Information gathered from interview of family and/or caregivers, rating scales, and social validity measures to assess perceptions of the client's skill deficits and behavioral excesses, and the extent to which these deficits impede the daily life of the member and the family.

(C) Direct assessment and observation, including any data related to the identified ~~problem~~maladaptive behavior or core deficits. Clinical history from past trauma should be included, if applicable. The analysis of such data serves as the primary basis for identifying pretreatment levels of functioning, developing, and adapting treatment protocols, and evaluating response to treatment and progress towards goals.

(D) Documentation of interviews with parent(s)/caregiver(s) to further identify and define lack of adaptive behaviors and presence of maladaptive behaviors or core deficits.

(E) Length of time that the child/youth has received ABA services as well as previous ABA provider(s).

~~(D)~~(F) Functional assessment of problem behavior that includes antecedent factors, skill deficits, and consequences contributing to the problem behavior. The treatment plan should address all three (3) areas, including antecedent interventions, teaching replacement skills, and modification of consequences. Other supporting assessments may be additionally submitted for review.

(G) All treatment plans should be signed and dated by the parent(s)/guardian(s) and child/youth, if applicable.

(H) The OHCA initial prior authorization form must be filled out completely or the request will be considered as incomplete.

(2) The prior authorization request for ABA treatment will be time limited ~~for up to thirty (30) hours per week unless other hours are~~ deemed medically necessary and authorized through a prior authorization request and must:

(A) Be a one-on-one encounter (face-to-face between the member and ABA provider) except in the case of family adaptive treatment guidance;

(B) Be child-centered and based upon individualized goals that are strengths-specific, family-focused, and community-based;

(C) Be culturally competent and the least intrusive as possible;

(D) Clearly define in measurable and objective terms the intervention plan so it can address specific target behaviors. The intervention plan should be clearly linked to the identified deficits interfering with the child's participation in daily life activities, and if applicable also related to the identified function of the maladaptive behavior and include antecedent

interventions, replacement skills to be taught, and modification of consequences. Additional goals may be identified that are related to the core deficits of ASD and are prioritized based on current research and social significance for the individual member.

(E) Record the frequency, rate, symptom intensity/duration, or other objective measures of baseline levels;

(F) Set quantifiable criteria for progress;

(G) Establish and record behavioral intervention techniques that are appropriate to the identified target and/or maladaptive behaviors. The detailed treatment plan utilizes reinforcement and other behavioral principles and excludes the use of methods or techniques that lack consensus about their effectiveness based on evidence in peer-reviewed publications;

(H) Specify strategies for generalization of learned skills beyond the clinical settings such as in the home ~~or other~~, clinic, community, or other natural settings;

(I) Document planning plan for transition through the continuum of interventions, services, and settings, as well as discharge criteria. Treatment (behavioral training) will be individualized, and documentation will support the identified skill deficits and atypical or disruptive behavior.

(J) Document the daily schedule by hour and the staff with credentials that will perform each service. If there is a change in staff, identify this in the extension review.

~~(J)~~(K) Include parent(s)/legal guardian(s) in behavioral training techniques so that they can practice additional hours of intervention on their own. The treatment plan is expected to achieve the parent(s)/legal guardian(s) ability to successfully reinforce the established plan of care and support generalization of skills in the home and community settings. Frequency of parental involvement will be determined by the treatment provider and listed on the treatment plan;

~~(K)~~(L) Document parent(s)/legal guardian(s) participation in the training of behavioral techniques in the member's medical record. Parent(s)/legal guardian(s)' participation is critical to the generalization of treatment goals to the member's environment. It is expected that child/youth and parent(s)/guardian(s) attend at least eighty-five percent (85%) of treatment each review period, unless due to sickness or other unforeseen circumstances that may occur, to be documented this in the prior authorization request form; and

~~(L)~~(M) Ensure that recommended ABA services do not duplicate, or replicate services received in a member's primary academic education setting or provided within an Individualized Education Program (IEP), Individualized Service Plan (ISP), or any other individual plan of care. Documentation may be requested by the OHCA to support coordination of services with other providers and to prevent overlap and duplication of services including those in school settings.

(N) Identify if member is receiving additional therapies such as occupational therapy (OT), physical therapy (PT), or speech therapy and the timeframes in which this occurs, in relation to ABA services.

(b) Service Limitations.

(1) Settings. The following limitations apply to where ABA services are provided:

(A) ABA services are not allowed in a daycare setting or school setting, without OHCA approval. If approved, it will be time-limited to three (3) months or less. The BCBA shall create and submit a treatment plan that identifies the goals outlined to assist school staff

with the members without ABA staff being present throughout the school year.

(B) The treatment plan should show a titration of services to school paraprofessionals/staff through the duration of the prior authorization.

(C) If the child/youth is transitioning into a private school, where IEPs are not legally required, then services will be time-limited to three (3) months or less. The BCBA should create and submit an FBA, treatment plan, or BSP, along with the prior authorization request that identifies the goals to match the setting and a specific plan to fade direct support.

(D) ABA treatment may be rendered via in-person service delivery, telehealth, or a hybrid of in-person and telehealth. The modality selected for delivery of ABA services must be clearly defined in the prior authorization template and treatment plan. If services will be provided via telehealth, the ABA provider must provide the justification of how treatment will be beneficial to the member and parents(s)/guardian(s) when rendered this way.

(E) Documentation of services must be maintained, to include: service rendered, location at which service was rendered, and that service was provided via telehealth. Documentation of services must also follow all other SoonerCare documentation requirements.

(2) Coverage. Services are limited to the following:

(A) Providers may only concurrently bill RBT and supervision hours when the following criteria is outlined in the prior authorization request:

(i) The BCBA or licensed psychologist met with the member and/or parent or guardian and directed the RBT through one (1) or more of the following:

(I) Monitoring treatment integrity to ensure satisfactory implementation of treatment protocols;

(II) Directing RBT staff and/or caregivers in the implementation of new or revised treatment protocols;

(III) Selection and development of treatment goals, protocols, and data collection systems;

(IV) Collaboration with family members and other stakeholders;

(V) Creating materials, gathering materials;

(VI) Reviewing data to adjust treatment protocols; and/or

(VII) Development and oversight of transition and discharge planning.

(B) The BCBA or licensed psychologist used behavior training in session as appropriate in supervision of the RBT staff and/or caregivers. Behavioral skills training consists of providing instructions, modeling, rehearsal, and feedback between provider and member.

(C) The functional behavior assessment is reimbursed per authorized units provided by the BCBA, not to exceed thirty-two (32) units (eight (8) hours).

(D) RBT and supervision codes may be reimbursed for ABA individual treatment.

(E) Parent training may be reimbursed for ABA parent/caregiver/family education and training services. This service must be completed by the BCBA or BCaBA and cannot be completed by the RBT.

(F) ABA is not allowed to be billed concurrently during any other therapies (i.e., OT, PT speech, etc.).

(G) ABA hours approved for one CPT code cannot be used in place of another.

(H) All ABA services should be billed under the rendering provider that performed the services.

(3) Exclusions to Treatment. The following services are non-covered benefits of Oklahoma Medicaid:

- (A) ABA addressing academic goals.
- (B) ABA addressing goals only related to performative social norms that do not significantly impact health, safety, or independence.
- (C) Treatment other than at the maintenance or consultative level not expected to result in improvements in the child/youth's level of functioning.
- (D) Services that do not require the supervision of or specific skills and judgement of a BCBA to perform.
- (E) Services that do not meet accepted standards of practice for specific and effective treatment of ASD.
- (F) Services in the school/daycare setting as a shadow, aide, or to provide general support to the child/youth.
- (G) ABA evaluation or intervention services provided by a clinic or agency owned or partially owned by the child/youth's responsible adult (e.g., biological, adoptive, or foster parent(s), guardian(s), court-appointed managing conservator(s), or other family member(s) by birth or marriage).
- (H) ABA evaluation or intervention services provided directly by the child/youth's responsible adult (e.g., biological, adoptive, or foster parent(s), guardian(s), court-appointed managing conservator(s), other family member(s) by birth or marriage).
- (I) Experimental or investigational treatment.
- (J) Services or items not generally accepted as effective and/or not within the normal course and duration of treatment.
- (K) Services for the caregiver or provider convenience, for example, as respite care or limiting treatment to a setting chosen by provider for convenience.
- (L) ABA authorized for toilet learning/toilet training, OT, or speech therapy.

317:30-5-315. ABA extension requests

Extension requests for ABA services must be submitted to the OHCA or its designated agent.
(1) Documentation Requirements. Extension requests must contain the appropriate documentation validating the need for continued treatment and establish and/or document the following:

- ~~(1)~~(A) Eligibility criteria in OAC 317:30-5-313;
 - ~~(2)~~(B) The frequency of the target behavior has diminished since last review, or if not, there has been modification of the treatment or additional assessments have been conducted;
 - (C) The daily schedule and staff with credentials that will be performing each service;
 - (D) Identified positive reinforcers and negative reinforcers of targeted behaviors;
 - (E) A summary of progress towards goals as related to the core deficits and maladaptive behavior identified in the treatment plan;
 - (F) Updated assessments as appropriate, including an updated, FBA and BIP, updated treatment plan that clearly outlines progress towards goals and any new goals, the OHCA extension prior authorization template outlining the maladaptive behaviors or core deficits consistent with the diagnosis of ASD and its associated comorbidities;
- ~~(3) A functional analysis shall be completed by the provider when no measurable progress has~~

occurred, or it may be requested by the OHCA. The functional analysis should record the member's serious maladaptive target behavioral symptom(s) and precipitants, and document the modifications of the current treatment plan to address progress, as well as make a determination of the function a particular maladaptive behavior serves for the member in the environmental context;

(4) Appropriate consultations from other staff or experts have occurred (to optimize psychiatric medications and medical treatments to include but not limited to psychiatric consults, pediatric evaluation for other conditions, etc.) and interventions have been changed, including the number of hours per week of service or setting (higher level of care);

(5) The OHCA may suggest appropriate consultation from other staff or experts during the process of prior authorization;

(6) Parent(s)/legal guardian(s) have received re-training on these changed approaches; and

(7) The treatment plan documents a gradual tapering of higher intensities of intervention and transitioning to supports from other sources (i.e., schools) as progress allows.

(2) To receive an increase in RBT hours on the first extension request, parent training by the BCBA or BCaBA must be provided at minimum of an hour (1) per week for three (3) months. Start and stop times must be included in the prior authorization request;

(3) Further extension request for an increase in RBT hours will require that parent training has been provided for two (2) hours/week for three (3) months. Start and stop times must be included in the prior authorization request;

(4) Include parent(s)/legal guardian(s) in behavioral training techniques so that they can practice additional hours of intervention on their own. The treatment plan is expected to achieve the parent(s)/legal guardian(s) ability to successfully reinforce the established plan of care and support generalization of skills in the home and community settings. Frequency of parental involvement will be determined by the treatment provider and listed on the treatment plan;

(5) Document parent(s)/legal guardian(s) participation in the training of behavioral techniques. Parent(s)/legal guardian(s)' participation is critical to the generalization of treatment goals to the member's environment.

(6) Absence or less than two (2) hours per month of appropriate parent training/involvement documented in the record will result in a reduction of hours and possibly denial of services;

(7) The OHCA extension prior authorization form must be filled out completely, or the request will be considered as incomplete. A summary of the supported documentation must be included in the prior authorization request;

(8) If problem behavior is persistent outside of clinic, please identify the treatment goals/techniques to address these behaviors in the community, home, or other natural environment;

(9) Document appropriate consultations from other staff or experts have occurred (to optimize psychiatric medications and medical treatments to include but not limited to psychiatric consults, pediatric evaluation for other conditions, etc.) and interventions have been changed, including the number of hours per week of service or setting (higher level of care);

(10) The OHCA may suggest appropriate consultation from other staff or experts during the process of prior authorizations;

(11) Identify if member is receiving additional therapies such as occupational therapy (OT), physical therapy (PT), speech therapy, or otherwise and the timeframes in which this occurs, in relation to ABA services;

(12) Extension request may only be submitted seven (7) calendar days prior to the end date of the most recent request. Late submissions may result in a technical denial and loss of days.

317:30-5-316. Reimbursement methodology

SoonerCare shall provide reimbursement for ABA services in accordance with the Medicaid State Plan.

(1) Payment shall only be made to SoonerCare-contracted groups or qualified individual providers who are currently licensed and in good standing. Payment is not made to under supervision ABA practitioners/paraprofessionals, including but not limited to, BCaBAs and RBTs.

(2) Reimbursement for covered ABA procedure codes is for direct service time. Pre and post work for the session are not reimbursed separately. Separate reimbursement for treatment planning, note documentation, report writing, or updating of charts and data sheet is prohibited (other than what is allowable under the functional behavioral assessment procedure code).

~~(2)(3)~~ Reimbursement for ABA services is only made on a fee-for-services basis. The maximum allowable fee for a unit of service has been determined by OHCA to be a reasonable fee, consistent with efficiency, economy, and quality of care. ~~Payment for covered services is the lower of the provider's actual billed charges, consistent with the provider's usual and customary charge to the general public for the service, or the maximum allowable per unit of service.~~

~~(3)(4)~~ Reimbursement shall only be made for services that have been prior authorized by OHCA or its designee; and performed on an individualized basis and not in a group setting except for family adaptive behavior treatment guidance by a qualified ABA provider ~~(outlined in OAC 317:30-5-311).~~

~~(4) Providers may only concurrently bill current Procedural Terminology (CPT) codes when they outline in the prior authorization the following criteria:~~

~~(A) The BCBA or licensed psychologist met with the member and/or parent or guardian and directed the RBT through one (1) or more of the following:~~

~~(i) Monitoring treatment integrity to ensure satisfactory implementation of treatment protocols;~~

~~(ii) Directing RBT staff and/or caregivers in the implementation of new or revised treatment protocols;~~

~~(iii) Selection and development of treatment goals, protocols, and data collection systems;~~

~~(iv) Collaboration with family members and other stakeholders;~~

~~(v) Creating materials, gathering materials;~~

~~(vi) Reviewing data to make adjustments to treatment protocols; and/or~~

~~(vii) Development and oversight of transition and discharge planning.~~

~~(B) The BCBA or licensed psychologist used behavior training in session as appropriate in supervision of the RBT staff and/or caregivers. Behavioral skills training consists of providing instructions, modeling, rehearsal, and feedback between provider and member.~~

(5) Reimbursement for ABA services shall not be made to or for services rendered by a parent, legal guardian, or other legally responsible person.

(6) Services rendered via telehealth must be billed using the appropriate modifier.

(7) Reimbursement is in accordance with the prior authorization and coverage limitation requirements within OAC 317:30-5-314.

317:30-5-317. Restraint, Seclusion and Serious Occurrence Reporting Requirements

Physical restraint is not appropriate during any service provided to SoonerCare clients under the Autism Services benefit except in emergency instances of threat of physical harm to the child/youth or others around them. If restraint is used, it may only occur under the following circumstances and according to the processes outlined below.

- (1) Physical restraint may only be implemented by a person trained in the type of restraint being implemented. The training must be documented in the personnel file.
- (2) Restraint must be limited to the use of such reasonable force as is necessary to address the emergency.
- (3) Restraint must be discontinued at the point at which the emergency no longer exists.
- (4) Restraint must be implemented in such a way as to protect the health and safety of the child/youth and others.
- (5) Restraint must not deprive the child/youth of basic human necessities.
- (6) Documentation must be kept of the up-to-date training for all staff members involved and of each incident that resulted in restraint.
- (7) Documentation must be kept identifying the reason, start time/end time, the staff signature, and credentials of who performed the restraint, and date.
- (8) A phone call to the parent or guardian must be reported immediately if an injury occurs and documented in the record.
- (9) In the event of death or serious injury (i.e., bruising, scratches, etc.), the OHCA critical incident reporting form must be submitted to OHCA no later than 5:00 p.m. Central time the following business day.

317:30-5-318. Service Quality Review

- (a) A Service Quality Review (SQR, may be requested by OHCA or it's designated agent).
- (b) The OHCA will designate the members of the SQR team. The SQR team will consist of one (1) to three (3) team members and will be comprised of LBHPs or registered nurses.
- (c) The SQR will include, but not be limited to, review of facility and clinical record documentation, staff training, and qualifications. The clinical record review may consist of records of members currently at the facility as well as records of members for which claims have been filed with OHCA for Applied Behavior Analysis. The SQR includes validation of compliance with policy, which must be met for the services to be compensable.
- (d) Following the SQR, the SQR team will report its findings in writing to the facility. A copy of the final report will be sent to the Program Integrity, and if applicable any licensing agencies.
- (e) Deficiencies identified during the SQR may result in full or partial recoupment of paid claims. The determination of whether to assess full or partial recoupment shall be at the discretion of the OHCA based on the severity of the deficiencies.