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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Triptaa Surve
Department of Health and Social Services

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: May 1, 2018

RE: Filed Permanent Regulations: Department of Health and Social Services

Department of Health and Social Services regulations re: services for behavioral health, Medicaid coverage and payment, and autism services (7 AAC 70.010(b); 7 AAC 70.030(a)(1)(A); 7 AAC 70.050; 7 AAC 70.990(36); 7 AAC 105..200(a)(1),(b); 7 AAC 110.210(b); 7 AAC 135.010(a),(c); 7 AAC 135.020; 7 AAC 135.030(a); 7 AAC 135.040(c)(19); 7 AAC 135.300; 7 AAC 135.350; 7 AAC 135.990; 7 AAC 145.580(a))

Attorney General File:	JU2016200132
Regulation Filed:	4/30/2018
Effective Date:	7/1/2018
Print:	226, July 2018

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

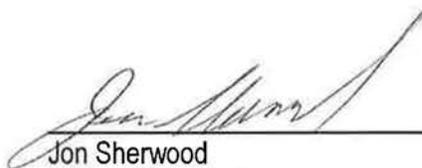
The attached 29 pages of regulations, dealing with Services for Behavioral Health, Medicaid Coverage and Payment, Autism Services, are adopted and certified to be a correct copy of the regulation changes that the Department of Health & Social Services adopts under the authority of AS 47.05.010, AS 47.07.030, AS 47.07.040, AS 47.30.470, AS 47.30.475, AS 47.30.477, AS 47.30.530, AS 47.30.540, AS 47.30.570, and AS 47.37.140, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

It is estimated that this action will require increased appropriations as shown on the attached fiscal note.

In considering public comments, the Department of Health & Social Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on July 1, 2018, as provided in AS 44.62.180.

Date: 4-26-18



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that¹ on April 30,
2018, at 1:35p.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.



Lieutenant Governor

Effective: July 1, 2018

Register: 226, July 2018



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Health and Social Services

OFFICE OF THE COMMISSIONER

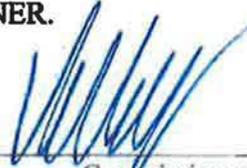
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**DELEGATION OF AUTHORITY
FOR ADOPTING REGULATIONS**

UNDER AS 44.17.010, THE AUTHORITY AND RESPONSIBILITY FOR ADOPTING REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES UNDER THE ALASKA ADMINISTRATIVE PROCEDURE ACT ARE HEREBY DELEGATED TO JON SHERWOOD, DEPUTY COMMISSIONER.

SIGNED:



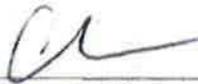
Commissioner

VALERIE DAVIDSON
(Printed name)

SIGNED AND SWORN TO before me this 31st day of August, 2015.

[NOTARY SEAL]




Notary Public in and for the
State of Alaska
My commission expires: w/office

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7 AAC 70.010(b) is amended to read:

(b) This chapter does not apply to

(1) an independent mental health practitioner providing diagnostic testing and evaluation services for which the practitioner is billing Medicaid under AS 47.07 and 7 AAC 105 - 7 AAC 160;

(2) a mental health physician clinic providing mental health clinic services for which the provider is billing Medicaid under AS 47.07 and 7 AAC 105 - 7 AAC 160; [OR]

(3) an inpatient psychiatric hospital; or

(4) a behavior analyst or assistant behavior analyst licensed under

AS 08.15, or a behavior analyst group practice enrolled under 7 AAC 105.210.

(Eff. 10/1/2011, Register 199; am 4/9/2017, Register 222; am 7/1/2018 Register 226)

Authority:	AS 47.05.010	AS 47.30.477	AS 47.30.570
	AS 47.30.470	AS 47.30.530	AS 47.37.140
	AS 47.30.475	AS 47.30.540	

7 AAC 70.030(a)(1)(A) is amended to read:

(A) a community behavioral health services provider under 7 AAC

70.100 that is providing one or more of the following:

(i) behavioral health clinic services;

(ii) behavioral health rehabilitative services;

(iii) detoxification services;

(iv) residential substance use treatment services in accordance

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with 7 AAC 70.120;

(v) opioid use disorder treatment services;

(vi) autism services in accordance with 7 AAC 135.350; or

(Eff. 10/1/2011, Register 199; am 4/9/2017, Register 222; am 7/1/2018, Register 226)

Authority:	AS 47.05.010	AS 47.30.477	AS 47.30.570
	AS 47.30.470	AS 47.30.530	AS 47.37.140
	AS 47.30.475	AS 47.30.540	

7 AAC 70.050 is amended to read:

7 AAC 70.050. Recipient eligibility for state-financed behavioral health services.

Money that the department provides to a community behavioral health services provider under AS 47.30.475, 47.30.530 - 47.30.620, or AS 47.37 may be used only to provide services to an individual who

(1) is experiencing a short-term crisis;

(2) has

(A) a maladaptive pattern of substance use, including use of a narcotic drug that may require opioid use disorder treatment services; or

(B) cognitive, behavioral, or physiological symptoms indicating that the individual continues to use a substance despite significant substance-related problems;

(3) is a child experiencing a severe emotional disturbance;

(4) is at least 18 years of age and under 21 years of age,

(A) who, except for age, is an adult experiencing a serious mental

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illness; and

(B) whom the provider has determined is best serviced by receiving behavioral health services for adults in the community; [OR]

(5) is an adult experiencing a serious mental illness; or

(6) meets the criteria for autism services under 7 AAC 135.020(b)(4). (Eff.

10/1/2011, Register 199; am 6/16/2016, Register 218; am 4/9/2017, Register 222; am

7 / 1 / 2018, Register 226)

Authority:	AS 47.05.010	AS 47.30.477	AS 47.30.570
	AS 47.30.470	AS 47.30.530	AS 47.37.140
	AS 47.30.475	AS 47.30.540	

7 AAC 70.990 is amended by adding a new paragraph to read:

(36) "autism services"

(A) means the

(i) design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior;

(ii) empirical identification of functional relations between behavior and environmental factors, and the utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and engage in behaviors under specific environmental

conditions; and

(iii) application of adaptive behavior treatment by protocol, group adaptive behavior treatment by protocol, adaptive behavior treatment by protocol modification, or family adaptive treatment guidance;

(B) does not include

(i) psychological testing;

(ii) diagnosis of a mental or behavioral disorder; or

(iii) the practice of neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling;

(Eff. 10/1/2011, Register 199; am 6/16/2016, Register 218; am 4/9/2017,

Register 222; am 7 / 1 / 2018, Register 226)

Authority: AS 47.05.010 AS 47.30.540 AS 47.37.130
AS 47.30.477 AS 47.30.570 AS 47.37.140
AS 47.30.530

7 AAC 105.200(a)(1) is amended to read:

(1) a person with an active license under AS 08, or under the laws of the jurisdiction in which the person provides services, to practice as

(A) a physician, including an osteopath;

(B) a podiatrist;

(C) a dentist;

(D) an optometrist;

- (E) a chiropractor;
- (F) a pharmacist or retail pharmacy;
- (G) a physical therapist;
- (H) an occupational therapist;
- (I) an audiologist;
- (J) a speech-language pathologist;
- (K) an advanced nurse practitioner;
- (L) a direct-entry midwife;
- (M) a dietitian;
- (N) a nutritionist;
- (O) a psychologist;
- (P) a hearing aid dealer; [OR]
- (Q) a registered nurse anesthetist; **or**
- (R) a behavior analyst;**

7 AAC 105.200(b) is amended to read:

(b) Each of the following providers must enroll with the department as a rendering provider, but payment for those services will be made through the rendering provider's supervising health care provider enrolled under this section:

- (1) a licensed physician assistant;
- (2) a licensed physical therapy assistant;
- (3) a licensed occupational therapy assistant;

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- (4) a registered speech-language pathologist assistant;
- (5) a registered respiratory therapist;
- (6) a certified respiratory therapy technician;
- (7) a personal care assistant;
- (8) a care coordinator;
- (9) a licensed practical nurse who provides direct services to a recipient as an employee of a private-duty nursing agency;
- (10) a licensed registered nurse who provides direct services to a recipient as an employee of a private-duty nursing agency;

(11) a licensed assistant behavior analyst under 7 AAC 135.300;

(12) an autism behavior technician under 7 AAC 135.300.

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 5/1/2016, Register 218; am 6/16/2016, Register 218; am 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 110.210(b) is amended to read:

(b) The department will pay for the following additional services for children under 21 years of age if the screening identifies a need for that service:

- (1) podiatry services under 7 AAC 110.500 - 7 AAC 110.505;
- (2) nutrition services under 7 AAC 110.275;
- (3) private-duty nursing services under 7 AAC 110.520 - 7 AAC 110.535;
- (4) hospice care under 7 AAC 140.280; [.]

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- (5) chiropractic services under 7 AAC 110.120;
- (6) dental services under 7 AAC 110.140 - 7 AAC 110.160;
- (7) physical therapy under 7 AAC 115.300 - 7 AAC 115.320;**
- (8) occupational therapy under 7 AAC 115.100 - 7 AAC 115.120;**
- (9) speech therapy under 7 AAC 115.400 - 7 AAC 115.420;**
- (10) autism services under 7 AAC 135.350.**

(Eff. 2/1/2010, Register 193; am 5/1/2016, Register 218; am 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 135.010(a) is amended to read:

(a) The department will pay for a behavioral health service under **7 AAC 135.010 - 7 AAC 135.350** [7 AAC 135.010 - 7 AAC 135.290] if

- (1) the recipient meets the criteria for services under 7 AAC 135.020;
- (2) the provider meets the criteria for payment under 7 AAC 135.030;
- (3) the service is identified as a treatment need in

(A) a professional behavioral health assessment under 7 AAC 135.110 or a reassessment conducted while the recipient is receiving behavioral health services; and

(B) a behavioral health treatment plan;

(4) screening and brief intervention services are provided in accordance with 7 AAC 135.240;

(5) the department has given prior authorization for the service under 7 AAC 105.130 and 7 AAC 135.040;

- (6) the service is medically necessary and clinically appropriate;
- (7) the service is provided as active treatment;
- (8) the service, if it is a behavioral health clinic service, is provided under the general direction of a physician;
- (9) the service is provided by a member of the provider's staff who is performing that service as a regular duty within the scope of that staff member's knowledge, experience, and education; [AND]
- (10) the clinical record requirements of 7 AAC 105.230 and 7 AAC 135.130 are met; **and**
- (11) the provider meets the criteria for payment under 7 AAC 135.300, if the provider is providing autism services.**

7 AAC 135.010(c) is amended to read:

(c) The department will pay for the following behavioral health rehabilitation services in accordance with this chapter if the service is provided by a member of the provider's staff who is performing that service as a regular duty within the scope of that staff member's knowledge, experience, and education:

- (1) behavioral health screening under 7 AAC 135.100;
- (2) a substance use intake assessment under 7 AAC 135.110(c);
- (3) case management under 7 AAC 135.180;
- (4) detoxification services under 7 AAC 135.190;
- (5) comprehensive community support services for adults under 7 AAC

135.200;

- (6) therapeutic behavioral health services for children under 7 AAC 135.220;
- (7) recipient support services under 7 AAC 135.230;
- (8) medication administration services under 7 AAC 135.260;
- (9) behavioral health treatment plan review and development, including a client status review under 7 AAC 135.100;
- (10) medical evaluation;
- (11) methadone or antabuse administration;
- (12) behavioral health treatment plan review for a recipient in an opioid use disorder treatment program;
- (13) day treatment services for children under 7 AAC 135.250;
- (14) daily behavioral rehabilitation services under 7 AAC 135.270;
- (15) residential substance use treatment services under 7 AAC 135.280;
- (16) short-term crisis stabilization services under 7 AAC 135.170;
- (17) facilitation of a telemedicine session under 7 AAC 135.290;
- (18) autism services under 7 AAC 135.350.**

(Eff. 10/1/2011, Register 199; am 4/9/2017, Register 222; am 7 / 1 / 2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 135.020(b) is amended to read:

(b) The department will pay for behavioral health rehabilitation services for the following individuals only:

- (1) an individual experiencing a substance use disorder characterized by
 - (A) a maladaptive pattern of substance use; or
 - (B) cognitive, behavioral, or physiological symptoms indicating that the individual will continue to use a substance despite significant substance-related problems associated with its use;
- (2) a child experiencing a severe emotional disturbance;
- (3) except as provided in (d) of this section, an adult experiencing a serious mental illness;
- (4) an individual under 21 years of age who meets the criteria in (e) or (f) of this section.**

7 AAC 135.020 is amended by adding new subsections to read:

- (e) To be eligible for payment under 7 AAC 105 - 7 AAC 160 for autism services, a recipient must
 - (1) be under 21 years of age;
 - (2) have a qualifying diagnosis of autism spectrum disorder, as determined by either a mental health professional as defined in AS 47.30.915 or a health care professional who is qualified based on that individual's scope of practice, training, education, and experience to assess and diagnose autism spectrum disorders in children; and
 - (3) provide documentation, completed by a licensed behavior analyst who meets the requirements of 7 AAC 135.300, that includes a recipient assessment conducted under 7 AAC 135.350 and that

(A) establishes the presence of

- (i) functional impairments;
- (ii) delays in communication, behavior, or social interaction; or
- (iii) repetitive or stereotyped behaviors;

(B) establishes that the recipient's identified impairments, delays, or behaviors adversely affect normal child growth and development, communication, or both, such that

(i) the recipient cannot adequately participate in home, school, or community activities because the behaviors or social skill deficits interfere or impede access with these activities; or

(ii) the recipient's behaviors endanger either the recipient or another person; and

(C) indicates that the requested autism services are expected to result in measurable improvement in either the recipient's behaviors, skills, or both.

(f) In addition to those individuals who are eligible under (e) of this section, an individual who is eligible for home and community-based waiver services under 7 AAC 130.205(d)(1) and (3) and who received prior authorization from the department to receive, and was receiving, applied behavioral analysis services through intensive active treatment under 7 AAC 130.275 as of June 30, 2018, remains eligible for autism services under this section as of July 1, 2018. (Eff. 10/1/2011, Register 199; am 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030

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7 AAC 135.030(a) is amended to read:

(a) To be eligible for payment under 7 AAC 135.010 - 7 AAC 135.350 [7 AAC 135.010 - 7 AAC 135.290] for providing Medicaid behavioral health services, a provider must be enrolled in Medicaid under 7 AAC 105.210 and must be either

(1) a community behavioral health services provider;

(2) a mental health physician clinic that meets the requirements of (d) and (e) of

this section; [OR]

(3) a psychologist who

(A) meets the requirements of 7 AAC 110.550; and

(B) provides psychological testing and evaluation under 7 AAC

135.110(g);

(4) a licensed behavior analyst who

(A) meets the requirements of 7 AAC 135.300; and

(B) provides autism services under 7 AAC 135.350; or

(5) a licensed behavior analyst group practice that

(A) meets the requirements of 7 AAC 135.300; and

(B) provides autism services under 7 AAC 135.350.

(Eff. 10/1/2011, Register 199; am 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 135.040(c) is amended by adding a new paragraph to read:

(19) autism services provided in accordance with 7 AAC 135.350 that do not

exceed more than

- (A) a total of 1,040 hours in a six-month period for either
 - (i) adaptive behavior treatment by protocol;
 - (ii) group adaptive behavior treatment by protocol; or
 - (iii) a combination of adaptive behavior treatment by protocol and group adaptive behavior treatment by protocol;
- (B) 52 hours of adaptive behavior treatment by protocol modification in a six-month period;
- (C) 12 family adaptive behavior treatment guidance sessions in a 12-month period of time;
- (D) one behavior identification reassessment in a six-month period; and
- (E) the initial behavior identification assessment conducted by a licensed behavior analyst in accordance with 7 AAC 135.350(b) for a new or returning recipient.

(Eff. 10/1/2011, Register 199; am 4/9/2017, Register 222; am 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 135 is amended by adding new sections to Article 2 to read:

7 AAC 135.300. Autism services; provider qualifications. (a) To qualify for payment for autism services, a provider must be a community behavioral health services provider, a behavior analyst who meets the requirements in (c) of this section, or a behavior analyst group practice enrolled under 7 AAC 105.210. If the provider is

- (1) a community health behavioral services provider, the provider must

(A) meet the qualifications in 7 AAC 70.100 and 7 AAC 135.030;

(B) employ at least one behavior analyst licensed under

AS 08.15.020(a); the provider may, subject to (D) of this paragraph, employ an assistant behavior analyst licensed under AS 08.15.020(b), or employ an autism behavior technician under (i) of this section who meets the requirements in (c)(3) of this section;

(C) obtain prior authorization for providing an extension of autism services in accordance with 7 AAC 105.130 and 7 AAC 135.040(d);

(D) ensure that each individual rendering autism services is supervised in accordance with (d) of this section, and separately enrolled under 7 AAC 105.210; and

(E) provide autism services in accordance with 7 AAC 135.350;

(2) a behavior analyst, the provider must

(A) be enrolled as an independent provider in accordance with 7 AAC 105.200(a) and 7 AAC 105.210;

(B) obtain prior authorization for providing an extension of autism services in accordance with 7 AAC 105.130 and 7 AAC 135.040(d); and

(C) provide autism services in accordance with 7 AAC 135.350;

(3) a behavior analyst group practice, the provider must

(A) be enrolled under 7 AAC 105.210 as a behavior analyst group practice;

(B) be comprised of at least one licensed behavior analyst;

(C) ensure that each individual providing autism services is supervised in accordance with (d) of this section, and separately enrolled as a provider in accordance

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with 7 AAC 105.210;

(D) obtain prior authorization for providing an extension of autism services in accordance with 7 AAC 105.130 and 7 AAC 135.040(d); and

(E) provide services in accordance with 7 AAC 135.350.

(b) A provider may only provide autism services to a recipient listed in 7 AAC 135.020(e) or (f).

(c) Autism services may only be provided by

(1) a behavior analyst who

(A) is enrolled as a behavior analyst and an independent provider under 7 AAC 105.200(a) and 7 AAC 105.210;

(B) has an active license to practice behavior analysis issued

(i) by the jurisdiction in which the behavior analyst provides services, if the behavior analyst provides services outside this state; or

(ii) under AS 08.15.020(a), if the behavior analyst provides services in this state; and

(C) is currently certified by the Behavior Analyst Certification Board, Inc., or another certifying entity approved under AS 08.15.020(a)(4);

(2) an assistant behavior analyst who

(A) is enrolled as an assistant behavior analyst and a rendering provider under 7 AAC 105.200(b) and 7 AAC 105.210;

(B) has an active license to practice as an assistant behavior analyst issued

(i) by the jurisdiction in which the assistant behavior analyst provides services, if the assistant behavior analyst provides services outside this state; or

(ii) under AS 08.15.020(b), if the assistant behavior analyst provides services in this state; and

(C) is currently certified by the Behavior Analyst Certification Board, Inc., or another certifying entity approved under AS 08.15.020(b)(4); or

(3) an autism behavior technician who is

(A) enrolled as an autism behavior technician and a rendering provider under 7 AAC 105.200(b) and 7 AAC 105.210; and

(B) currently registered by the Behavior Analyst Certification Board, Inc., currently certified by the Behavior Intervention Certification Council, or currently registered or certified by a similar organization approved by the department, except that an autism behavior technician who is not yet registered or certified on ^{July 1, 2018} ~~effective date of~~ ~~regulations~~ may continue to provide autism services in accordance with (i) of this section, but must become registered or certified not later than June 30, 2019.

(d) A licensed behavior analyst who wishes to supervise an assistant behavior analyst or an autism behavior technician, and a licensed assistant behavior analyst who wishes to supervise an autism behavior technician, must first complete the supervisory training required by the Behavior Analyst Certification Board, Inc., or another certifying entity approved under AS 08.15.020.

(e) To be enrolled with the department, a licensed behavior analyst, licensed assistant

behavior analyst, and autism behavior technician may not have been denied a health care provider license, certification, or registration for a reason related to patient services described in 7 AAC 105 - 7 AAC 160, or ever had a license, certification, or registration revoked. A licensed behavior analyst, licensed assistant behavior analyst, and autism behavior technician are subject to the applicable requirements of AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990 (barrier crimes, criminal history checks, and centralized registry), and shall submit to the department a request for a criminal history check as required under 7 AAC 10.910.

(f) The department will not pay for services provided by a licensed behavior analyst, licensed assistant behavior analyst, or autism behavior technician for whom a criminal history check was not requested as required under 7 AAC 10.910 or who does not pass a criminal history check under 7 AAC 10.900 - 7 AAC 10.990. However, except as restricted by applicable federal law, the department will not withhold payment if it grants a provisional valid criminal history check under 7 AAC 10.920 or a variance under 7 AAC 10.935.

(g) A licensed behavior analyst with the training required under (d) of this section may supervise the work of an assistant behavior analyst and an autism behavior technician.

(h) A licensed assistant behavior analyst must be supervised by a licensed behavior analyst with the training required under (d) of this section. A licensed assistant behavior analyst with the training required under (d) of this section may supervise the work of an autism behavior technician.

(i) An autism behavior technician is an individual who is primarily responsible for the direct implementation of behavior analysis services. For purposes of the exemption under AS 08.15.070(3) from licensure, an autism behavior technician must be supervised by a licensed

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behavior analyst or licensed assistant behavior analyst with the training required under (d) of this section. An autism behavior technician may not design intervention or assessment plans. An autism behavior technician is responsible for implementing interventions developed by the supervisory behavior analyst or assistant behavior analyst, including

- (1) providing instruction;
- (2) introducing behavior protocols;
- (3) providing direct assistance to the behavior analyst or assistant behavior

analyst;

- (4) engaging in data collection procedures;
- (5) providing behavioral intervention in home, community, and school settings;
- (6) using applied behavior analysis interventions to teach communication,

social, and daily living skills and reduce problematic behaviors; and

(7) providing applied behavior analysis interventions that encourage socially acceptable replacement behaviors so an individual can build and improve the individual's communication, social interaction, and problem-solving skills. (Eff. 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030

Editor's note: Information on supervisory certification by the Behavior Analyst Certification Board, Inc., may be obtained from the Behavior Analyst Certification Board, Inc., 7950 Shaffer Parkway, Littleton, CO 80127; telephone number: (720) 438-4321; Internet address: <https://bacb.com/contact-us/> .

7 AAC 135.350. Autism services. (a) The department will pay for the following rehabilitative autism services provided to a recipient listed in 7 AAC 135.020(e) or (f) if provided by a provider identified in 7 AAC 135.300:

- (1) initial behavior identification assessment;
- (2) behavior identification reassessment;
- (3) adaptive behavior treatment by protocol;
- (4) group adaptive behavior treatment by protocol;
- (5) family adaptive behavior treatment guidance;
- (6) adaptive behavior treatment by protocol modification.

(b) The department will pay for an initial behavior identification assessment if it is conducted by a licensed behavior analyst and if it

- (1) interprets information from multiple informants and data sources, including

(A) a referral from a mental health professional, as defined in AS 47.30.915, or a health care professional who is qualified based on that individual's training, education, experience and scope of practice to assess and diagnose autism spectrum disorders in children;

(B) direct observation of the recipient in different settings and situations;

(C) information on the recipient's skill deficits, deficient adaptive behaviors, or maladaptive behaviors from the following sources:

- (i) in-person observation of the recipient;
- (ii) structured interviews with the guardian or caregiver;
- (iii) administration of standardized and nonstandardized tests;

- (iv) a detailed behavioral history;
- (v) interpretation of test results; and

(D) additional information, if it exists, from the following collateral

sources:

- (i) intellectual and achievement tests;
- (ii) developmental assessments;
- (iii) assessments of comorbid mental health conditions;
- (iv) evaluations of family functioning and needs;
- (v) results of neuropsychological testing;
- (vi) results of other standardized psychometric tests, including

measures of general psychopathology; and

(2) results in a written report that

- (A) identifies the skill deficits and deficient adaptive behaviors or maladaptive behaviors that should be the focus of treatment;
- (B) indicates if the recipient's behavior and level of functioning interferes with the recipient's ability to adequately participate in age appropriate home, school, or community activities;
- (C) indicates if the recipient's behavior poses a danger to the recipient or others;
- (D) indicates that the treatment goals and treatment targets, in the professional judgment of the behavior analyst, is expected to result in measurable improvement in either the recipient's behaviors or level of functioning or both;

(E) identifies the potential functional relationship between behavior and environmental factors;

(F) identifies motivational and contextual factors that may be used in the course of treatment to assist with modification and reinforcement of behavior;

(G) recommends services and protocols that form the basis for an individualized treatment plan; and

(H) avoids duplication of services by ensuring that a listing of all current services being delivered to the recipient is provided, including

(i) home and community-based waiver services through plans of care developed under 7 AAC 130;

(ii) behavioral health treatment plans;

(iii) individualized education plans offered through school-based services under 7 AAC 115.600;

(iv) individualized family service plans under AS 47.20.100;

(v) services covered under third-party insurance payers; and

(vi) any privately funded services that families seek through private foundations and private donation campaigns.

(c) Not more frequently than once every six months, the department will pay for a behavior identification reassessment if conducted by a licensed behavior analyst to obtain prior authorization under 7 AAC 135.040(d) to extend autism services. The reassessment must establish

(1) the recipient's measured progress over the course of treatment;

- (2) an adjusted baseline in the areas of social skills, communication skills, language skills, adaptive behaviors, and maladaptive behaviors that are the focus of treatment;
- (3) recommended updates to the recipient's treatment plan; and
- (4) an estimated timeline and number of treatment hours necessary to achieve each of the recipient's treatment goals.

(d) The department will pay for adaptive behavior treatment by protocol conducted by a provider identified in 7 AAC 135.300(a) if the

- (1) treatment adheres to the protocols identified by a licensed behavior analyst; and
- (2) service is used to introduce and reinforce incremental change in recipient skills and behavior.

(e) The department will pay for group adaptive behavior treatment by protocol conducted by a provider listed in 7 AAC 135.300(a) if the service is provided

- (1) to a group with at least two and not more than eight recipients;
- (2) according to the protocols identified in the treatment plan created by a licensed behavior analyst; and
- (3) to assist with the development of individually identified social skills.

(f) The department will pay for family adaptive behavior treatment guidance provided by a licensed behavior analyst or assistant behavior analyst, or by an autism behavior technician, to

- (1) instruct a recipient's guardian and caregivers on the recipient's identified problem behaviors and deficit skills; and

(2) teach a recipient's guardian and caregivers to use planned treatment protocols to intervene with the recipient to reinforce change and to maintain treatment progress.

(g) After the initial six months of planned services provided in accordance with 7 AAC 135.040(c)(19)(A) and (B), and the initial behavior identification assessment authorized in 7 AAC 135.040(c)(19)(E), to receive payment for any of the additional recipient services identified in (a) - (f) of this section, a provider must obtain prior authorization under 7 AAC 135.040(d) and meet the requirements of (c) and (h) - (j) of this section.

(h) To receive payment for autism services a provider must develop and update as needed an individual treatment plan that includes

(1) recommended protocols for service provision;

(2) objective, measurable, and developmentally appropriate treatment goals related to skills development, improvement in adaptive functioning and modification of problem behavior, and other relevant diagnostic criteria for autism spectrum disorder as listed in the *Diagnostic and Statistical Manual of Mental Disorders*, adopted by reference in 7 AAC 160.900;

(3) the anticipated timeline for improvement based on the initial behavior identification assessment and subsequent behavior identification reassessments conducted over the duration of treatment; and

(4) interventions with a recipient's guardian and caregivers designed to reinforce treatment and treatment progress.

(i) To receive payment for autism services provided under this section, a provider must maintain a clinical record in accordance with 7 AAC 135.130. The clinical record also must

include

(1) verification of a diagnosis of autism spectrum disorder from a mental health professional as defined in AS 47.30.915, or a health care professional who is qualified based on that individual's scope of practice, training, education, and experience to assess and diagnose autism spectrum disorders in children;

(2) an initial behavior identification assessment under (b) of this section; and

(3) any behavior identification reassessment under (c) of this section.

(j) Except as set out in (k)(9)(C) of this section, autism services may be provided in the following settings:

(1) the recipient's home, school, and community;

(2) a behavior analyst's office;

(3) an outpatient clinic;

(4) another appropriate community setting.

(k) The department will not pay for any of the following services or interventions as a Medicaid covered service under this section:

(1) a service listed under 7 AAC 105.110 or 7 AAC 135.010(d);

(2) respite for the family;

(3) increasing the recipient's social activity;

(4) addressing a recipient's antisocial behavior or legal problems;

(5) autism services provided by a recipient's immediate family member, foster parent, or legal guardian, unless a court has authorized that legal guardian to provide those services under AS 13.26.316;

- (6) any two or more autism services provided concurrently;
- (7) a behavioral health rehabilitation service under 7 AAC 135.010(c) provided concurrently with an autism service;
- (8) when a licensed behavior analyst, licensed assistant behavior analyst, or autism behavior technician acts as a different kind of paid treatment provider or caregiver at the same time;
- (9) claims by a licensed behavior analyst, licensed assistant behavior analyst, or autism behavior technician that include time spent
 - (A) assisting a recipient with school work for the sole purpose of education in the home, school, or community;
 - (B) providing leisure or social activities solely for the purpose of entertainment, play, or recreation; or
 - (C) providing autism services to a patient in an outpatient hospital, general acute care hospital, inpatient psychiatric hospital, residential psychiatric treatment center, intermediate care facility, skilled nursing facility, or intermediate care facility for individuals with an intellectual disability or related condition, except for services for which the department gives prior authorization to specifically assist the recipient with discharge planning from these care facilities.
 - (D) Notwithstanding any other provision of this section, the department will pay for authorized behavioral health clinic services under 7 AAC 135.010(b), any service listed in 7 AAC 110.210(b), or any required medical service on the same day a recipient receives approved autism services under this chapter.

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(m) To avoid a break in treatment, a provider of autism services shall submit a request for additional authorized periods of autism services 14 days before the end of the previously authorized period of treatment. The prior authorization request must include a behavior identification reassessment under (c) of this section, and an updated treatment plan under (g) and (h) of this section. (Eff. 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 135.990 is amended by adding new paragraphs to read:

(25) "adaptive behavior treatment" means services to treat a recipient's deficient adaptive behaviors or maladaptive behaviors, a recipient's impaired social skills and communication, or the recipient's destructive behaviors that impair, delay or adversely affect normal childhood growth, development, or communication;

(26) "adaptive behavior treatment by protocol"

(A) means adaptive behavior treatment that adheres to the protocols that the behavior analyst has designed;

(B) includes skills training delivered to a recipient by introducing small, incremental changes to the recipient's expected routine along one or more stimulus dimensions, and delivering reinforcement each time the recipient appropriately tolerates a given stimulus change;

(27) "adaptive behavior treatment by protocol modification" means a licensed behavior analyst directly demonstrates a recipient's individualized new or modified protocol with the recipient to a recipient's licensed assistant behavior analyst, autism behavior technician,

guardian, or parent;

(28) "autism services"

(A) means the

(i) design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior;

(ii) empirical identification of functional relations between behavior and environmental factors, and the utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and engage in behaviors under specific environmental conditions; and

(iii) application of adaptive behavior treatment by protocol, group adaptive behavior treatment by protocol, adaptive behavior treatment by protocol modification, or family adaptive behavior treatment guidance;

(B) does not include

(i) psychological testing;

(ii) diagnosis of a mental or behavioral disorder; or

(iii) the practice of neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling;

(29) "family adaptive behavior treatment guidance" means guidance provided to the family by a licensed behavior analyst, a licensed assistant behavior analyst, or an autism

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behavior technician, with or without the recipient present, that identifies recipient problem behaviors and deficits and teaches guardians and caregivers to use treatment protocols in order to support the services provided to the recipient by a behavior analyst, assistant behavior analyst, or autism behavior technician;

(30) "group adaptive behavior treatment by protocol" means adaptive behavior treatment by protocol provided in a group of at least two recipients and not more than eight recipients;

(31) "recipient's immediate family member" means

(A) a recipient's parent, spouse, or sibling living in the same residence as the recipient; or

(B) an adult relative or nonrelative caregiver who is acting in the place of a parent. (Eff. 10/1/2011, Register 199; am 6/16/2016, Register 218; am 7/1/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 145.580(a) is amended by adding new paragraphs to read:

(36) initial behavior identification assessment under 7 AAC 135.350, \$480.76 per assessment;

(37) behavior identification reassessment under 7 AAC 135.350, \$259.61 per assessment;

(38) adaptive behavior treatment by protocol under 7 AAC 135.350, \$38.04 per 30-minute episode;

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(39) group adaptive behavior treatment by protocol under 7 AAC 135.350,
\$15.21 per 30-minute episode;

(40) family adaptive behavior treatment guidance under 7 AAC 135.350, \$62.83
per presentation;

(41) adaptive treatment by protocol modification under 7 AAC 135.350, \$50.06
per 30-minute episode.

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 4/9/2017, Register 222; am
5/21/2017, Register 222; am 7 / 1 / 2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040