



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Health

OFFICE OF THE COMMISSIONER

Anchorage

3601 C Street, Suite 902
Anchorage, Alaska 99503-5923
Main: 907.269.7800
Fax: 907.269.0060

Juneau

350 Main Street, Suite 404
Juneau, Alaska 99801
Main: 907.465.3030
Fax: 907.465.3068

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The following information represents a record of tribal comments (verbatim but not inclusive of all tribal supporting information) and state responses from tribal consultation on a proposed state plan amendment (SPA), updating the fee schedule effective date for covered services provided under licensed behavior analysts. The department received comments from the Alaska Native Health Board.

After collaboration with Center for Medicaid and Medicare Services (CMS), this proposed SPA will be submitted in a SPA to CMS for approval in the second quarter of 2024.

Tribal Comment #1 –

The Alaska Native Health Board (ANHB) writes to provide public comment on the Department of Health's proposed Medicaid State Plan Amendment (SPA) updating the fee schedule effective date attached to the reimbursement rates for the provider-type licensed behavior analyst. ANHB is generally supportive of the revised SPA, as we acknowledge in our regulatory comments, noting some positive changes related to telehealth availability of these services. However, we do not feel the proposed SPA goes far enough to incorporate long standing Tribal recommendations to support the expanded delivery of these services on a statewide basis.

State Response – The department recognizes the time and thoughtful recommendations and support of the proposed SPA. The department will consider recommendations for expanded delivery of the services as reform efforts continue.

Tribal Comment #2 –

There are only a handful of providers who offer autism services in the state of Alaska and without substantial increases in the rates and more authorized services, these already limited providers cannot continue to operate existing programs, much less expand services to adequately meet statewide needs for services. Due to the lack of a statewide continuum of care, it is all too necessary to hospitalize children or place them in residential treatment, which costs upward of ten times the cost of preventive care in outpatient and home- or school-based settings. Further, much of that inpatient and residential treatment for these services must be provided out of state due to lack of providers. Any proposed changes need to make allowances for these extremely complex or challenging cases. These are precisely the kinds of cases described in the Department of Justice's *Investigation of the State of Alaska's Behavioral Health System for Children* report when it states, "children with behavioral health disabilities [who] are institutionalized at high rates for long periods because the State does not ensure that community-based services are available and accessible."

[State Response](#) – This proposed state plan amendment is in alignment with proposed regulation update to address annual reimbursement adjustments to help expand the provider base and access to care. The department appreciates the feedback and acknowledges the need to review reimbursement rates for applied behavior analyst services.

[Tribal Comment #3 –](#)

Southcentral Foundation (SCF), one of ANHB's 28 member organizations, is one of the few providers – and to our knowledge, the only Tribal health organization – offering direct autism services in the state. Under the current reimbursement level, SCF is only able to serve children 0-5 years of age on a limited scale. Without dramatic increases to rates, SCF will not be able to expand available services to include children 5-18 years of age. Even in more urban settings, like Anchorage, the cost to deliver those services is greater than the reimbursement rate. We wish to reiterate the importance of making *all medically necessary services for Alaska Medicaid beneficiaries-ages 0-18 billable services* by Board Certified Applied Behavior Analysts (BCBA) and Assistant Analysts, rather than limiting them to autism services only. Children with any diagnosis of which maladaptive behavior is a symptom can benefit from these services of these qualified health professionals, including – but not limited to – children with Fetal Alcohol Spectrum Disorder, Traumatic Brain Injury, and Down's Syndrome. If a child's Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) examination recommends ABA Services for a child, then the State's Medicaid program must cover those services under the federal EPSDT mandate.

[State Response](#) – Reimbursable services provided by licensed behavior analysts falls outside the scope of this proposed state plan amendment. The department appreciates the recommendation and recognizes the complexity of the issue. The department is actively looking at innovative ways to support providers to deliver these important services to Alaska Medicaid beneficiaries ages 0-18.

[Tribal Comment #4 –](#)

Further, we recommend the Department allow payment for services to children and services to parents by a different provider at the same time. It is frequently difficult for parents of children with such needs to find time independently to sit with a provider for training. Allowing parents to receive these services at the same time as their children receive their ABA services supports the wholistic treatment of the patient and improves overall outcomes.

[State Response](#) – The department appreciates the recommendation and is actively exploring options related to caregiver training.

[Tribal Comment #5 –](#)

ANHB also urges common sense payment rates for Alaska's Tribal providers that make delivery of these services feasible across our diverse system of care. Currently, ABA services are paid under a fee-for-services (FFS) methodology by the Department, with no exception for services by or through Tribal health provider programs. However, as we explained when the ABA regulations and the State Plan Amendment were first proposed in 2017 and again in 2020, the FFS schedule rates were inadequate and inappropriate for ABA services that are furnished by Tribal health providers and their staff delivering behavioral health services.

[State Response](#) – The department remains committed to continued partnership with the Alaska Tribal Health System in strategically identifying mechanisms and resources to deliver services provided under licensed behavior analysts.

[Tribal Comment #6 –](#)

As we explained in 2017 and 2020, absent a compelling reason or specific facility request to the contrary, facilities for which encounter rates have been established should be paid for *all* their services at those rates, and visits with *any* qualified health care professional, including BCBA's, should qualify as encounter-rate reimbursable visits. The

Tribal encounter rate is based on cost reports and encounter data submitted by the facilities, and the IHS-OMB rate has been specifically approved by the United States Office of Management and Budget for Tribally-operated outpatient facilities. Because the encounter rates are based on average actual costs per encounter, they make it possible for Tribal providers to furnish a full compendium of services to their recipients, including services – like ABA services – show small FFS rates would otherwise make them unsupportable, especially in the small, remote, and high-cost communities that are served almost exclusively by the Alaska Tribal Health System. As we have previously shared in public comments, ABA services simply have not been accessible and available across the state to the children who need them, and this will not change unless the Department pays for them at those facilities' established encounter rates.

State Response – The department remains committed to continued partnership with the Alaska Tribal Health System in strategically identifying mechanisms and resources to deliver services provided under licensed behavior analysts.

Tribal Comment #7 –

The need for ABA services extends beyond the Tribal health system, and as such, FFS rates also require a significant increase so our non-tribal partners can meet the needs of their families and communities. There have been no inflation adjustments for these rates since 2019. Had there been an inflation adjustment based on the Consumer Price Index (CPI), all rates would be at least 17% higher today than they were in 2019. Even with a 17% rate increase across the board, this increase would not allow for adequate rates. The demand for these services still far outpaces the available supply of providers – we have seen over 70% growth in Behavior Analyst encounters between last year and this year. The reimbursement from the state is about one-fifth of the direct costs associated with the service. Prices for supplies have gone up considerably over the past several years, alongside tremendous wage pressure to recruit and retain qualified professionals.

State Response – Although rate reimbursement falls outside of the scope of this proposed state plan amendment, the department appreciates the feedback and acknowledges the need to review reimbursement rates for applied behavior analysis services. The department recently received funding from the legislature to review the rate methodology process for all Medicaid services rates in Alaska. A Request for Proposals is currently being developed to competitively solicit for an experienced contractor to conduct this review, with prioritization of behavioral health and long-term support services. This will be publicly noticed and will require meaningful stakeholder engagement.

Tribal Comment #8 –

By increasing the reimbursement for ABA services to the IHS-OMB encounter rate and expanding the services beyond autism services, the state can support the expansion to access these critical services. When more services are consistently available, we can keep more children in-state and closer to home. Further, higher rates will support more providers to enter the market and we can deliver more services in rural parts of the state. Expansion of these services begins to meet the reforms required by law.

State Response – This proposed state plan amendment intends to address annual reimbursement adjustments to help expand the provider base and access to care. The department appreciates the recommendations and recognizes the complexity of the issue. The department is actively looking at innovative ways to support providers to deliver these important services to Alaska Medicaid beneficiaries.