



Alaska Native Health Board

THE VOICE OF ALASKA TRIBAL HEALTH SINCE 1968

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October 20, 2023

Emily Beaulieu, Medicaid State Plan Coordinator
Alaska Department of Health
3601 C Street, Suite 902
Anchorage, Alaska 99503
Via Email: emily.beaulieu@alaska.gov

RE: Proposed State Plan Amendment to the Licensed Behavior Analyst Fee
Schedule Effective Date

Dear Ms. Beaulieu,

The Alaska Native Health Board (ANHB)¹ 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.

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 these services. Due to the lack of a statewide continuum of care, it is all too often necessary to hospitalize children or place them in residential treatment, which costs upward of ten times the cost of preventative 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 the 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

¹ ANHB was established in 1968 with the purpose of promoting the spiritual, physical, mental, social, and cultural well-being and pride of Alaska Native people. ANHB is the statewide voice on Alaska Native health issues and is the advocacy organization for the Alaska Tribal Health System (ATHS), which is comprised of tribal health programs that serve all of the 229 Tribes and 180,000 Alaska Native and American Indian people throughout the state. As the statewide tribal health advocacy organization, ANHB helps Alaska's Tribes and Tribal programs achieve effective consultation and communication with state and federal agencies on matters of concern.

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TRADITIONAL COUNCIL

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EASTERN ALEUTIAN TRIBES

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INDIAN COMMUNITY

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HEALTH CONSORTIUM

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YAKUTAT TLINGIT TRIBE

YUKON-KUSKOKWIM
HEALTH CORPORATION

VALDEZ NATIVE TRIBE

at high rates and for long periods because the State does not ensure that community-based services are available and accessible.”²

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 for children between 0-5 or expand services to include children 5-18 years of age. Even in more urban settings, like Anchorage, the cost to deliver these 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 the 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. 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 holistic treatment of the patient and improves overall outcomes.

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-service (FFS) methodology by the Department, with no exception for services furnished by or through Tribal health programs. However, as we explained when the ABA regulations and State Plan Amendment were first proposed in 2017 and again in 2020, the FFS fee schedule rates are inadequate and inappropriate for ABA services that are furnished by Tribal health providers of these services. Instead, those services should be paid at the same IHS-OMB encounter rate that applies to all other services furnished by Tribal health providers and their staff delivering behavioral health services.

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 encounter rates are based on average actual costs per encounter, they make it possible for Tribal

² U.S. Department of Justice, *Investigation of the State of Alaska’s Behavioral Health System for Children*, at 1, (Dec. 15, 2022), <https://www.justice.gov/crt/case-document/file/1558231/download>

providers to furnish a full compendium of services to their recipients, including services—like ABA services—whose small FFS rates would otherwise make them unworkable, 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.

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.

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 federal law.

We thank the Department for the opportunity to provide comment on this proposed SPA. If there are any comments or questions regarding our recommendations, you may contact ANHB at anhb@anhb.org or by telephone at (907) 729-7510.

Sincerely,

A handwritten signature in black ink, appearing to read "W F Smith". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Chief William F. Smith, Chairman
Alaska Native Health Board
Tribally-Elected Leader of the Valdez Native Tribe