Applied Behavior Analysis (ABA) is an Essential Health Benefit in Oregon

Introduction

Applied Behavior Analysis (ABA) therapy is a broadly accepted form of behavioral health treatment for Autism Spectrum Disorder. It has been a covered service for treatment of Autism under the PacificSource Codeduct Value Plan – the "benchmark" for Oregon's Essential Health Benefits package – since 2010, at the direction of U.S. District Court for the District of Oregon, which concluded that "ABA therapy does not fall within any exclusion under the 2007 Plan and is therefore a covered benefit."[1] This paper explains why ABA should be considered a part of Oregon's Essential Health Benefits package.

Policy Analysis

The Patient Protection and Affordable Care Act (PPACA) mandates coverage of "Essential Health Benefits" including "mental health and substance use disorder services, including behavioral health treatment". "Behavioral health treatment" was inserted into PPACA by Sen. Menendez specifically for the purpose of covering "behavioral health services associated with autism treatment"[2].

Although the Oregon Insurance Division hasn't published specific, mandatory requirements for the Essential Health Benefits Package (and won't until HB2240 is enacted), Bulletin INS 2013-2 provides guidance to insurers regarding coverage requirements in SB91 Standard Plans, which are based on Oregon's Essential Health Benefits Package. With respect to mental health services, INS 2013-2 states:

> 13. Generally, unless a specific benefit exclusion applies, the claim fails to satisfy the issuer's definition of medical necessity, or fails to meet other issuer requirements, coverage for mental health services must be provided for all disorders listed in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV TR, Fourth Addition....

Autism Spectrum Disorder (ICD-9 code 299) is specifically listed as a covered condition in INS 2013-2.

Applied Behavior Analysis (ABA) therapy is a broadly accepted form of behavioral health treatment (a "mental health service", in PPACA) for Autism Spectrum Disorder. The U.S. Department of Health and Human Services' Interagency Autism Coordinating Committee[3] recommends coverage of ABA.

The PacificSource Codeduct Value Plan – Oregon's benchmark – does not have "a specific benefit exclusion" for ABA – to the contrary, PacificSource covers ABA on all group plans[4].

Conclusion

Since Autism Spectrum Disorder is a covered condition; ABA is a mental health service for Autism Spectrum Disorder; and there is no specific benefit exclusion in the benchmark plan (and has actually been covered under it since 2010), ABA is therefore an Essential Health Benefit in Oregon.

---

[1] McHenry v PacificSource, Case CV-08-562-ST, U.S. District Court for the District of Oregon, 1/5/2010, 9/28/2010

[2] Letter from Sen. Menendez to Kathleen Sebelius, Secretary of Health and Human Services, 1/31/2012

[3] Letter from IACC to Kathleen Sebelius, Secretary of Health and Human Services, 3/25/2013, http://iacc.hhs.gov/publications/2013/letter_coverage_032513.pdf

[4] PacificSource Press Release: PacificSource Improves Access to Providers of ABA in Treatment of Autism Spectrum Disorder, 2/14/2013, http://www.pacificsource.com/_template/t_twoColumn.aspx?id=7932

paul@AutismInsuranceOR.org (503)984-2950

ROBERT MENENDEZ
NEW JERSEY

COMMITTEES:
BANKING, HOUSING, AND URBAN AFFAIRS
FINANCE
FOREIGN RELATIONS

United States Senate
WASHINGTON, DC 20510-3005

528 SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-4744

ONE GATEWAY CENTER
11TH FLOOR
NEWARK, NJ 07102
(973) 645-3030

208 WHITE HORSE PIKE
SUITE 18-19
BARRINGTON, NJ 08007
(856) 757-5353

January 31, 2012

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Sebelius,

I want to thank you for all your work on implementing the Patient Protection and Affordable Care Act (PPACA). Thanks to your leadership, the provisions of the law are being implemented in a timely manner, and families and businesses across our nation are starting to realize the benefits. As you continue your work, I wanted to bring to your attention a concern I have with the Essential Health Benefits (EHB) Bulletin released on December 16, 2011. I am particularly concerned with how this bulletin addresses the coverage of behavioral health services generally, and autism services specifically.

Autism spectrum disorders (ASDs) are pervasive, chronic and life-long developmental disorders with no cure. The Centers for Disease Control and Prevention estimate that roughly 1 in 110 children in the United States are affected by autism. While there is no cure for autism, early interventions – such as specialized education and behavioral programs – significantly improve outcomes and diminish symptoms. However, in spite of the empirical evidence demonstrating the medical utility and effectiveness of behavioral therapies, people with autism confront underinsurance, a monumental barrier to accessing early intervention treatments for autism. Historically, many health insurance plans have denied coverage of proven treatments for autism, particularly those involving behavioral treatments such as speech therapy and applied behavioral analysis, based on claims that these treatments are medically unnecessary or experimental. Families in New Jersey and throughout our nation deserve access to these vital services, so all children coping with ASD are able to live up to their full potential and can grow to lead healthy, happy and productive lives.

In the December bulletin, HHS provides individual states with the ability to choose from select plans to use as a "benchmark" upon which their state's EHBs will be based. As you know, section 1302(b) of the ACA outlines the ten benefit categories that all qualified health plans must provide, with section 1302(b)(E) explicitly stating that "mental health and substance use disorder services, including behavioral health treatment" be included. This language originates with an amendment I included during the Senate Finance Committee's markup of the legislation. During the Committee's discussion of this amendment, it was made explicitly clear that it was intended to cover the behavioral health services associated with autism treatments and therapies.

Currently, 29 states mandate some form of autism coverage. However, even those states with mandates in place often exclude large group plans and plans offered through the Federal

Employees Health Benefits Plan. In addressing the issue of behavioral health and autism services, the December bulletin states that "[t]he extent to which plans and products cover behavioral health treatment, a component of the mental health and substance use disorder EHB category, is unclear. In general, plans do not mention behavioral health treatment as a category of services in summary plan documents. The exception is behavioral treatment for autism, which small group issuers in the [Institute of Medicine] survey indicated is usually covered only when mandated by States." While the bulletin takes the approach that this means behavioral health falls outside the scope of a "typical employer plan," I believe it actually underscores the need for uniform, national standards. My amendment's language is specifically targeted to provide uniformity in available benefits and security to families coping with ASD, regardless of their health insurance plan or state's mandate.

As you continue to finalize the rules surrounding the EHB package, I strongly urge you to consider the effects the current benchmarking approach would have on meeting the statutory requirement that all plans include behavioral health services. I ask that you exercise strong federal oversight of qualified health plans to ensure their benefit packages recognize this requirement and adhere to both the letter and the intent of the law.

Sincerely,

ROBERT MENENDEZ
United States Senate

March 25, 2013

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Madam Secretary,

When you renewed the charge to the Interagency Autism Coordinating Committee (IACC) last July, you asked our Committee to keep you informed of issues as they emerge from the broad autism community and to share input on priorities. We write to you now at a historic moment for health care in our country. Already the Affordable Care Act (ACA), actively being implemented by your Department, has eliminated exclusions based on pre-existing conditions and extended benefits from parental plans to offspring up to age 26. These are important changes with tangible benefits for millions of families in the autism community.

The next phase of implementing the ACA will define the essential health benefits (EHB) for certain individual and small group health plans. The EHB include items and services within 10 benefit categories, including "mental health and substance use disorder services, *including behavioral health treatment.*" The words "including behavioral health treatment" were added by amendment in both the House and the Senate to ensure that the EHB covered behavioral interventions for individuals on the autism spectrum.

Roughly half of the States will offer plans that provide autism-specific behavioral interventions. Some States will specify interventions in the family of applied behavior analysis (ABA), the set of interventions with the most evidence to support them and the current standard of care for young children with autism. Other States will use broader language to include the growing number of interventions that meet a rigorous evidentiary standard and combine ABA-based approaches with more developmental approaches that focus on engagement and relationship development, two hallmark deficits of autism. It is important to note that these benefits apply to individuals with private insurance.

There is little information available regarding what will be included in Medicaid plans; currently, these treatments are not explicitly covered through States' Medicaid plans, although nine States have implemented Medicaid waivers specifically to provide these treatments and related services to a small number of children with autism. Medicaid coverage for autism treatment is of critical

importance, given that Medicaid is the single largest funder of medical care for children with autism.[1]

Our Committee wanted to call your attention to two recent assessments of the evidence for behavioral interventions for autism. A recent Technical Expert Panel from the Health Resources and Services Administration (HRSA) -funded research center for behavioral treatments at the University of California, Los Angeles, reviewed over 300 studies of behavioral interventions.[2] This expert panel concluded that children with autism spectrum disorder (ASD) should have access to at least 25 hours per week of comprehensive intervention to address social communication, language, play skills, and maladaptive behavior. They agreed that ABA, integrated behavioral/developmental programs, the Picture Exchange Communication System (PECS), and various social skills interventions have shown efficacy and that the current level of evidence for the effectiveness of these therapies supports the goal of making these types of interventions widely available.

A similar conclusion was reached by a Cochrane analysis of early intensive behavioral intervention (EIBI).[3] Reviewing the outcomes of delivering 20 to 40 hours per week of intensive behavioral treatment for children under age 6, Reichow et al. found that, on average, children receiving EIBI had IQs 11 points higher and exhibited 20 more daily living skills compared with children who received "treatment as usual." Because IQ and adaptive behavior have been found to be predictive of longer term outcomes in individuals with ASD, these results argue for making EIBI widely available. While individuals with ASD certainly require other forms of care as well, we focus on early intervention because of the greater evidence base, the pressing need, and the immediate potential for its inclusion in insurance plans.

Most insurance plans covering autism-specific behavioral intervention will do so because it is a State-required benefit under the benchmark plan. To date, it appears that approximately half of the States have decided to offer some coverage. In a few States, it may be offered as a habilitative service under "rehabilitative and habilitative services and devices," a separate benefit category under the EHB. But in some States, there may be little if any coverage for these evidence-based treatments. We are concerned that the absence of a national standard for insurance plans to cover these autism-specific treatments as part of "behavioral health treatment" will lead to significant disparities in coverage across States.

Autism affects at least 1 in 88 children in the United States, including 1 in 54 boys, according to data from the Autism and Developmental Disabilities Monitoring Network supported by the

---

[1] Semansky RM, Xie M, Mandell DS (2011). Data Point: Under the Radar: Medicaid's Increasing Role in Treating Youth with Autism Spectrum Disorders. *Psychiatr Serv*. 2011 Jun;62(6):588.

[2] Maglione MA, Gans D, Das L, Timbie J, Kasari C; Technical Expert Panel; HRSA Autism Intervention Research – Behavioral (AIR-B) Network. Nonmedical interventions for children with ASD: recommended guidelines and further research needs. *Pediatrics*. 2012 Nov;130 Suppl 2:S169-78.

[3] Reichow B, Barton EE, Boyd BA, Hume K. Early intensive behavioral intervention (EIBI) for young children with autism spectrum disorders (ASD). *Cochrane Database Syst Rev*. 2012 Oct 17.

Centers for Disease Control and Prevention.[4] We have heard from many families with autism who are in crisis. Families with a child on the autism spectrum commonly report that their health insurance coverage is inadequate to meet their needs and that their child's health condition has caused serious financial hardship for the family. Mothers of children with autism tend to earn less, work fewer hours per week, and are more likely to be unemployed than mothers of children with no disabilities.[5] Although ASD is typically a condition that lasts across the lifespan and may require supports throughout life, early treatment can help children make substantial gains. Children who are not treated face a lifetime of disability, increased health care, educational and services costs, and, in some cases, require costly 24-hour services and supports over the whole lifespan. While intensive behavioral interventions are expensive, they are effective and recent data support that they are cost-effective, mitigating these long-term costs of disability.[6]

Research tells us that treatment works. As a result, the American Academy of Pediatrics and the United States Surgeon General have endorsed these interventions.[7, 8] But if benchmark plans in all States do not provide robust and consistent coverage of autism-specific behavioral interventions, we are concerned that some families will be forced to migrate to find coverage while others will not have access to treatments that can mitigate lifelong disability.

The ACA requires new health insurance plans to cover preventive services without cost-sharing, including autism screening for children at 18 and 24 months. The potential gain from these screenings will be lost if families lack appropriate access to evidence-based treatments for their children. A Federal minimum standard of autism coverage should be set for all health plans offered in the individual and small group markets. Minimum coverage should include evidence-based early intervention—including but not limited to ABA—for children with ASD, at a level of intensity indicated by the evidence. It is critically important that this medical coverage be available to privately- and publicly-insured children so that a two-tiered system for autism care is not created. A growing body of research demonstrates disparities in autism care along racial, ethnic, and socio-economic lines.[9, 10]

---

[4] Centers for Disease Control and Prevention (CDC); Autism and Developmental Disabilities Monitoring Network - Surveillance Year 2008 Principal Investigators. Prevalence of autism spectrum disorders - Autism and Developmental Disabilities Monitoring Network, 14 Sites, United States, 2008. *MMWR Surveill Summ*. 2012 Mar 30; 61(3):1-19.

[5] Cidav Z, Marcus SC, Mandell DS. Implications of childhood autism for parental employment and earnings. *Pediatrics*. 2012 Apr;129(4):617-23.

[6] Peters-Scheffer N, Didden R, Korzilius H, Matson J. Cost comparison of early intensive behavioral intervention and treatment as usual for children with autism spectrum disorder in The Netherlands. *Res Dev Disabil*. 2012 Nov-Dec;33(6):1763-72.

[7] Scott M. Myers, MD, Chris Plauché Johnson, MD, MEd, the Council on Children With Disabilities. Statement of The American Academy of Pediatrics: Management of Children With Autism Spectrum Disorders. *Pediatrics*. 2007 Nov 1;120(5):1162-82.

[8] Department of Health and Human Services, US Public Health Service. Mental Health: Report of the Surgeon General. 1999. http://profiles.nlm.nih.gov/ps/access/NNBBHS.pdf

[9] Cheak-Zamora NC, Yang X, Farmer JE, Clark M. Disparities in transition planning for youth with autism spectrum disorder. *Pediatrics*. 2013 Mar;131(3):447-54.

[10] Magaña S, Parish SL, Rose RA, Timberlake M, Swaine JG. Racial and ethnic disparities in quality of health care among children with autism and other developmental disabilities. *Intellect Dev Disabil*. 2012 Aug;50(4):287-99.

Given recent updates regarding the evidence base for the effectiveness of early intervention in improving functioning in many different domains, the Interagency Autism Coordinating Committee recommends support for coverage of and broad access to these treatments for children diagnosed with ASD.

Sincerely,

Thomas R. Insel, M.D.
Director, National Institute of Mental Health
Chair, Interagency Autism Coordinating Committee

Enclosure:
IACC Membership Roster, 2013

PacificSource Improves Access to Providers of ABA in Treatment of Autism Spectrum Disorder

PacificSource now recognizes Board Certified Behavior Analysts® (BCBAs) for applied behavior analysis therapy (ABA) in the treatment of autism spectrum disorder. This change, which was effective January 1, 2013, will improve access to providers of this treatment for our members.

ABA is one treatment for autism spectrum disorder, particularly for children. The treatment is typically provided by Board Certified Behavior Analysts (BCBAs). BCBAs receive certification from the Behavior Analyst Certification Board®, Inc., an independent nonprofit established in 1998 to meet professional credentialing needs.

While ABA is a covered treatment for members of our group plans, BCBAs are not part of our provider network because they are not licensed in Oregon. State licensure is one of the check points used to verify provider credentials. PacificSource, like other health plans, verifies credentials, including state licensure, before including a provider in our network. This ensures members receive the best possible care from qualified professionals. Unfortunately, many states, including Oregon, don't have a licensing structure for BCBAs.

"We will continue to support and participate in efforts toward state licensure for BCBAs," said Ken Provencher, President and CEO. "As this process may take time, we felt it was in the best interest of our members to look at our practices and see what we could do now; recognizing BCBAs as eligible providers gives our members greater access to providers of ABA therapy for the treatment of Autism Spectrum Disorder."

By recognizing BCBAs as "eligible" providers for ABA in the treatment of Autism Spectrum Disorder, BCBAs will be able to receive reimbursement as nonparticipating providers in the PacificSource network.

InTouch Login

Access your PacificSource account information 24/7.

Member Login

Enter User Name:

Remember my user name

Sign in

Register Now

Employers, Agents:

Login

Register Now

Providers:

Login

Registration Information

Last updated 2/14/2013

Manley Services is now PacificSource Administrators | PacificSource Administrators | Privacy Statement | Site Map