

February 10, 2021

Senate Bill 469

Maryland Medical Assistance Program - Applied Behavior Analysis Services – Reimbursement
Health and Government Operations Committee

POSITION: SUPPORT

Dear Chair Kelley, Vice Chair Feldman and Members of the Senate Finance Committee:

I write to you today on behalf of The Council of Autism Service Providers (CASP) in support of Senate Bill 469. CASP is a non-profit association of organizations committed to providing evidence-based care to individuals with autism. CASP represents the autism provider community to the nation at large, including government, payers, and the general public. We provide information and education and promote standards that enhance quality of care.

Of particular interest to our members is the coverage of evidence-based care in both private health insurance plans as well as through Medicaid. As you may recall:

- Maryland finalized regulations in March, 2014 that required state-regulated health insurance plans cover medically necessary care for ASD, including applied behavior analysis (ABA).
- Later, in July, 2014, the Centers for Medicare and Medicaid Services (CMS) issued a bulletin¹ clarifying the inclusion of coverage of medically necessary care for children diagnosed with autism spectrum disorder (ASD) as part of its Early Periodic Screening, Diagnostic and Treatment (EPSDT) requirement. The CMS bulletin² indicates that states are required to cover treatment

that is determined to be medically necessary to correct or ameliorate any physical or behavioral conditions. The EPSDT benefit is more robust than the Medicaid benefit package required for adults and is designed to assure that children receive early detection and preventive care, in addition to medically necessary treatment services, so that health problems are averted or diagnosed and treated as early as possible.

¹ <https://www.medicare.gov/Federal-Policy-Guidance/Downloads/CIB-07-07-14.pdf>

² Ibid.

- Subsequently, in January, 2017, the Maryland Department of Health implemented coverage of ABA for Medical Assistance Program-enrolled children diagnosed with ASD as required under EPSDT.

These developments have been lifechanging for many in the autism community. That said, there are implementation issues that have emerged that require attention.

For example, it is important to note that an ABA program *should* include training and support to enable parents and other caregivers to participate in treatment planning and treatment plan implementation. This participation is not in lieu of the provision of medically necessary care, but rather compliments it. The current COMAR ABA Regulations³ take participation requirements a step further, unfortunately, stating the following:

D. The participant's parent or caregiver shall:

(1) Be trained to reinforce ABA services for the participant in a clinically effective manner; and

(2) Be present or available in the setting where services are being provided at all times, even if not directly participating in the services.

Requirement 2 conflicts directly with the previously referenced CMS bulletin⁴, which states:

***All children**, including children with ASD, must receive EPSDT screenings designed to identify health and developmental issues, including ASD, as early as possible. ...EPSDT also requires medically necessary diagnostic and treatment services. When a screening examination indicates the need for further evaluation of a child's health, the child should be appropriately referred for diagnosis and treatment **without delay**. Ultimately, the goal of EPSDT is to assure that children get the health care they need, when they need it – the right care to the right child at the right time in the right setting.*

³ COMAR ABA Regulations [10.09.28.05. 05 Limitations](#)

⁴ <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/CIB-07-07-14.pdf>

In addition to the EPSDT violations this arbitrary requirement presents, it also contributes to ongoing access issues for the many families relying on the Medical Assistance Program, particularly when parents or guardians are employed or have other caregiving responsibilities.

With 1 in 54 children diagnosed with ASD according to the Centers for Disease Control⁵ and an estimated incremental lifetime cost of \$3.2 million according to the Harvard School of Public Health⁶, it is fiscally prudent that children access evidence-based care, including ABA, whether or not their parents are able to be present for the provision of therapy at all times.

Senate Bill 469 remedies this disparity by simply removing the arbitrary parental participation requirement. We strongly support its passage and ask that you move quickly to ensure it. Thank you for your consideration. Should you need additional information, please do not hesitate to contact me at jursitti@casproviders.org or (682) 225-7146.

Sincerely,



Judith Ursitti
Vice President of Community Affairs

⁵ <https://www.cdc.gov/ncbddd/autism/data.html>

⁶ <https://jamanetwork.com/journals/jamapediatrics/fullarticle/570087>