



On behalf of the New York State Association for Behavior Analysis (NYSABA), we would like to express our concern about the package of administrative proposals that the Department of Health intends to implement within the Early Intervention program. It is our understanding that these administrative proposals have not been formally included within the Executive Budget documents, but that the Administration intends to implement these changes in response to the provider rate increase that is being actively considered as part of this year's budget negotiations.

It is important to note that Licensed Behavior Analysts are not yet eligible providers under the Early Intervention program. These providers have patiently awaited state approval to allow them to serve children under the Early Intervention model, but do not yet serve children through the program.

The administrative actions of concern are as follows:

- A prohibition of two or more extended visits for the same services on the same day.
- A reduction in the rate of reimbursement for telehealth services to the current facility-based rate.
- A decrease in the maximum size of groups for Group Developmental services from 10 to 6.

These planned administrative actions will likely have a detrimental impact on the continued delivery of behavior analytic therapy under the program.

In particular, we would like to call attention to the limit of multiple extended day visits per provider. As we understand it, a basic visit is 59 minutes or less, and an extended visit is 60 minutes or more. Applied Behavior Analysis (ABA) therapy dosages are based on individual child needs, using assessment findings and clinical judgment. The recommended frequency of ABA therapy ranges from 10-40 hours per week, taking into account the child's age, abilities, behaviors, and skill deficits. If a child in early intervention is recommended to receive the low end of treatment dosage (10 hours per week), they would be unable to meet their recommended hours due to the limit to multiple extended visits per day. One provider would need to bill 2 extended visits per day to meet the 10 hours of treatment per week. Further, if a child presents with more intense needs (e.g., severe behavioral concerns), the recommended treatment dosage may be a higher range, such as 20-25 hours per week. The provider, due to the child's age, may have multiple sessions in a day (one in the morning and one in the afternoon), requiring them to bill 4 (+) hours total each day, which would also exceed the proposed limit.

NYSABA understands that there may be some concerns about why or how a child may receive four hours of ABA per day, and what that looks like in real-time. ABA is the science of how people learn and is at the core of every newly learned skill or behavior humans engage in. When planning for an ABA session with a young learner, the Licensed Behavior Analyst arranges a series of learning tasks across multiple domains that may appear to be simply playing or interacting with the child. For example, an LBA may be teaching a child how to request toys using a descriptive word by using the prompt “Which color do you want?” while playing with multicolored cars on the floor. During that same activity, the LBA could target turn-taking skills, labeling actions, teaching cause and effect, social engagement, and to identify emotions. A simple game of playing cars with a child can target numerous skills, and the LBA can collect data, provide feedback, and reinforce the learner while engaging in play.

ABA therapy is not one specific task, it is many strategically planned tasks that help the learner meet their personalized goals. During the same session, the child may be working on choosing a snack using functional communication and practicing hand washing. These two adaptive daily living tasks are complex and teaching is required to complete them. The LBA may be prompting the child to review a visual that shows how to wash their hands before eating, provide prompting, positive feedback, and help when needed. The LBA will collect data on the correct and incorrect steps of handwashing, so they know which steps the child still needs to learn. In an ABA session, these three tasks just outlined, playing with cars targeting multiple steps, using communication to choose a snack, and washing hands, may take 30-40 minutes, depending on the child’s skill level. In an ABA session, the LBA targets skills across multiple domains, resulting in 10-30 different skills being worked on per session. Because of the unique nature of ABA therapy, the flexibility of the intervention, and the systems and tools for motivation and engagement, it is not unusual to have a 2+ hour session with a client per day. This two-hour session also builds in the possibility that the child may present with a challenging behavior that interrupts or delays progress with the intended objectives.

If DOH is allowed to implement these proposed actions, they will complicate and compromise the effective delivery of ABA therapy. If an LBA is afforded no more than 59 minutes per session, it may take much longer to achieve the desired outcomes for the child, placing them at significant risk for the need for intensive services as they age and develop. The administrative actions combined will also diminish any benefit that may have been originally intended through a provider rate increase.

NYSABA urges the Legislature to reject the proposed administrative actions.

If you have any questions, please contact us at:

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