



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Health Care Authority, Washington Apple Health

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose:

WAC 182-531A-0800 aligns HCA's provider requirements with those set by the behavior analyst certification board (BACB). All sections now contain corrected WAC references, clarified language and simplified rule structures.

Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 182-531A-0700, -0800, -0900, -1000, -1200
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 15-16-106 on August 04, 2015.
Describe any changes other than editing from proposed to adopted version:

The agency added ARNPs to the list of eligible providers of ABA services to WAC 182-531A-0800(2), (3), and (7). The agency also added a reference to Chapter 182-502 WAC to specify the types of disciplinary and eligibility criteria with which providers must comply to remain eligible an eligible provider of ABA services.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted: September 21, 2015

NAME
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 21, 2015
TIME: 9:58 AM

WSR 15-19-121

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>5</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>5</u>	Repealed	_____

WAC 182-531A-0700 Applied behavior analysis (ABA)—Stage three: Delivery of ABA services. (1) ~~((Applied behavioral analysis must be prior authorized))~~ A provider must obtain prior authorization (PA) before delivery of applied behavior analysis (ABA) services. To request PA, a provider must submit the following documents to the medicaid agency:

(a) The comprehensive diagnostic evaluation and multidisciplinary clinical treatment plan completed by the center of excellence (COE) described in this chapter;

(b) The ABA assessment and ABA therapy treatment plan described in this chapter; and

(c) ~~((Other))~~ Any documents required ~~((as described in))~~ by the agency's ABA provider guide.

(2) After the services are prior authorized, ~~((the ABA therapy treatment plan is implemented by))~~ the lead behavior analysis therapist (LBAT) or a therapy assistant (TA) implements the ABA therapy treatment plan in conjunction with other care team members. The LBAT is responsible for communicating and collaborating with other care team members to ensure ~~((consistency in))~~ consistent approaches to ~~((achieve))~~ achieving treatment goals.

(3) If services are rendered by a ~~((therapy assistant, the therapy assistant))~~ TA, he or she must:

(a) Assess the client's response to techniques and report that response to the LBAT;

(b) Provide direct on-site services in the client's natural setting ~~((found))~~ (for example, in the home, office, clinic, or community), or in the day services program;

(c) Be supervised directly by an LBAT for ~~((a minimum of))~~ at least five percent of total direct care per week ~~((e.g., one hour per twenty hours of care))~~;

(d) Consult the LBAT ~~((when considering modification to technique, when barriers and challenges occur that prohibit implementation of plan, and as otherwise clinically indicated (see WAC 182-531-1426 for appropriate procedures and physical interventions and WAC 182-531-1428 for prohibited procedures and physical interventions)))~~ if:

(i) Considering modifying a technique;

(ii) A barrier or challenge prevents implementation of the treatment plan; and

(iii) Clinically indicated.

(e) Ensure family involvement through modeling, coaching, and training to support generalization and maintenance of achieved behaviors;

(f) ~~((Keep documentation of))~~ Document each visit with the client ~~((and family to include))~~ or family and include:

(i) Targeted behavior, interventions, response, modifications in techniques(, and a);

(ii) A plan for the next visit(, along with);

(iii) Behavior tracking sheets that record and graph data collected for each visit; and

~~((g) Maintain documentation of family's confirmation that the visit occurred, recording signature, and date.))~~ (iv) Confirmation

that each visit has occurred, recording the parent's signature and the date.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.

Center of excellence.

(1) ~~((**Stage one.** The))~~ A center of ((excellence's (COE's))) excellence (COE) may be an entity or an individual. The COE's evaluating and prescribing providers must function as a multidisciplinary care team ((whether facility-based or practitioner-based.

~~(a) The qualifications for a COE are:~~

~~(i) The entity or individual employs:~~
~~(A))~~.

(2) The COE must employ:

(a) A person ((or persons)) licensed under Title 18 RCW who is experienced in the diagnosis and treatment of autism spectrum disorders and ((has a specialty in one of the following:

~~(I) Neurology;~~

~~(II) Pediatric neurology;~~

~~(III) Developmental pediatrics;~~

~~(IV) Psychology;~~

~~(V) Pediatric psychiatry; or~~

~~(VI) Psychiatry; or~~

~~(B) A licensed midlevel practitioner (i.e., advanced registered nurse practitioner (ARNP) or physician assistant (PA)) who has been trained by and works under the tutelage of one of the specialists in (a)(i)(A) of this subsection and meets the qualifications in (a)(ii) of this subsection; or~~

~~(C) Another)) is:~~

(i) An advanced registered nurse practitioner (ARNP);

(ii) A developmental pediatrician;

(iii) A neurologist;

(iv) A pediatric neurologist;

(v) A pediatric psychiatrist;

(vi) A psychiatrist; or

(vii) A psychologist; or

(b) A qualified medical provider who meets qualifications in ((a)(ii)) subsection (3) of this ((subsection)) section and who has been designated by the agency as a ((center of excellence by the agency)) COE.

((ii) The entity or individual has been)) (3) The COE must be prequalified by the agency as meeting or employing ((persons meeting)) people who meet the following criteria:

((A)) (a) ARNPs, physicians, and psychologists must have demonstrated expertise ((to diagnose)) in diagnosing an autism spectrum disorder by:

(i) Using a validated diagnostic tool ((or confirm));

(ii) Confirming the diagnosis by observing the client's behavior((r)) and interviewing family members((r)); or

~~((iii))~~ Reviewing the documentation available from the client's primary care provider, ~~((the child's))~~ individualized education plan ~~((IEP))~~, or individualized family service plan ~~((IFSP); or~~

~~((B))~~ Have sufficient experience in or knowledge of);

((b)) ARNPs, physicians, and psychologists must understand the medically necessary use of applied behavior analysis (ABA);

~~((C))~~ Are) and

((c)) ARNPs, physicians, and psychologists must be sufficiently qualified to conduct and document a comprehensive diagnostic evaluation, and ((to)) develop a multidisciplinary clinical treatment plan ((as described in WAC 182-531-1418(2)); and

~~((iii))~~ The entity or individual is) under WAC 182-531A-0500(2).

((4)) The COE must be enrolled with the agency or the client's ((MC)) managed care organization, unless the client has third-party insurance.

~~((b))~~ ((5)) Examples of providers who can qualify ~~((and be paid for these services))~~ as a designated COE ~~((are))~~ include:

~~((i))~~ ((a)) Multidisciplinary clinics;

~~((ii))~~ ((b)) Individual qualified provider offices; and

~~((iii))~~ ((c)) Neurodevelopmental centers.

~~((2))~~ ((6)) All ABA providers must meet the specified minimum qualifications and comply with applicable state laws.

~~((a))~~ **Lead behavior analysis therapist** ~~((LBAT))~~.

~~((i))~~ Requirements.

~~((A))~~ ((7)) The lead behavior analysis therapist (LBAT) must be:

~~((I))~~ ((a)) Licensed by the department of health (DOH) to practice independently as ~~((a))~~ an ARNP, physician, psychologist, or licensed mental health practitioner under Title 18 RCW, or credentialed as a certified counselor or certified counselor advisor under Title 18 RCW, ((in good standing with no license restrictions; or

~~((II))~~ and be an eligible provider according to chapter 182-502 WAC;

((b)) Employed by or contracted with an agency that is enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency and be licensed by DOH to practice independently as ~~((a))~~ an ARNP, physician, psychologist, licensed mental health practitioner, or credentialed as a counselor, under Title 18 RCW ((in good standing with no license restrictions; or

~~((III))~~), and be an eligible provider according to chapter 182-502 WAC; or

((c)) Employed or contracted with an agency that is enrolled as a participating provider and licensed by the department of social and health services' division of behavioral health and recovery (DBHR) with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC.

~~((B))~~ ((8)) The LBAT must ~~((+~~

~~((I))~~ enroll as a servicing provider ((and)), be authorized to supervise ancillary providers ~~((+and~~

~~((II))~~ Be)), and be:

((a)) A board-certified behavior analyst (BCBA) with proof of board certification through the Behavior Analysis Certification Board (BACB); or

~~((III))~~ Have two hundred twenty-five hours of course work related to behavior analysis and either: Seven hundred fifty hours of supervision under a BCBA, or two years of practical experience designing and

~~implementing comprehensive ABA therapy treatment plans. (a)(i)(B)(III) of this subsection is retroactive to January 1, 2013.~~

~~(ii) Role.)~~ (b) Eligible to sit for board certification under standards set by the BACB; or

(c) Certified by the BACB as an assistant behavior analyst (BCaBA) and practice according to the scope and responsibilities defined by the BACB.

(9) If the LBAT's role is filled by a BCaBA, the responsibilities below must be fulfilled by both the BCaBA and the supervising BCBA, as required by the BACB. The LBAT must:

~~((A))~~ (a) Develop and maintain an ABA therapy treatment plan that is comprehensive, incorporating treatment ((being)) provided by other health care professionals, and that states how all treatment will be coordinated((, as applicable)); and

~~((B))~~ (b) Supervise ((a minimum of)) at least five percent of the total direct care provided by the therapy assistant per week ((e.g., one hour per twenty hours of care)).

~~((b))~~ **Therapy assistant.** ~~((Requirements.~~

~~(i) Therapy assistants))~~ (10) The therapy assistant (TA) must be:

~~((A))~~ (a) Able to practice independently by being licensed by DOH as a licensed mental health practitioner or credentialed as a counselor under Title 18 RCW in good standing with no license restrictions; ((or

~~(B))~~ (b) Employed by or contracted with an agency ((that is)) enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency with a home health service category to provide ABA services, and be able to practice independently by being licensed by DOH as a licensed mental health practitioner or credentialed as a counselor under Title 18 RCW in good standing with no license restrictions; or

~~((C))~~ (c) Employed by or contracted with an agency ((that is)) enrolled as a participating provider and licensed by DBHR as a community mental health agency with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC;

~~((ii) The therapy assistant must:~~

~~(A) Have))~~ (11) The TA must enroll as a performing or servicing provider and have:

(a) Sixty hours of ABA training that includes applicable ABA principles and techniques, services, and caring for a ((child)) client with core symptoms of autism; and

~~((B) Have a written))~~ (b) A letter of attestation signed by the lead LBAT, documenting that the ((therapy assistant)) TA has demonstrated competency in implementing ABA therapy treatment plans and delivering ABA services ((prior to providing services without supervision to covered clients; and

~~(C) Enroll as a performing/servicing provider.~~

~~(iii) Role. The therapy assistant must:~~

~~(A))~~.

(12) The TA must:

(a) Deliver services according to the ABA therapy treatment plan; and

~~((B))~~ (b) Be supervised by an LBAT who meets the requirements ((in (a)(i) of this subsection)) under subsection (7), (8), and (9) of this section; and

~~((C))~~ (c) Review the client's progress with the LBAT at least every two weeks to confirm that the ABA therapy treatment plan still meets the ~~((child's))~~ client's needs. If changes are clinically indicated, they must be made by the LBAT.

~~((c) Licensure for facility based day program setting. This applies to the model described in WAC 182-531-1420 (2)(a).))~~

Facility-based day program.

(13) All facility-based day program providers must meet the requirements under WAC 182-531A-0600 (3)(a), and meet the following licensure requirements:

(a) Outpatient hospital facilities ~~((providing these services))~~ must meet the applicable DOH licensure requirements~~((.))~~;

(b) A clinic or nonhospital-based facility ~~((providing these services))~~ must be licensed as a community mental health agency by DBHR~~((, as described in))~~ under chapter 388-877A WAC~~((.))~~;

(c) A provider rendering direct ABA services must meet the qualifications and applicable licensure or certification requirements as described in this subsection, as applicable~~((. Other))~~; and

(d) Any provider ~~((s))~~ serving as a member ~~((s))~~ of the multidisciplinary care team must be licensed or certified under Title 18 RCW~~((, as required))~~.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-0900 Applied behavior analysis (ABA)—Covered services. (1) The medicaid agency covers only the following applied behavior analysis (ABA) services, delivered in settings described in ~~((stage two, as noted in WAC 182-531-1420 (1) and (2),))~~ WAC 182-531A-0600, for eligible clients:

(a) The ABA assessments ~~((to))~~ that determine the relationship between environmental events and the client's behaviors;

(b) The direct provision of ABA services by the therapy assistant (TA) or lead behavior analysis therapist (LBAT);

(c) Initial ABA assessment and development of a written, initial ABA therapy treatment plan, limited to one per year;

(d) Up to four additional ABA assessments and revisions of the initial ABA therapy treatment plan per year, if necessary to meet client's needs~~((, limited to four per year))~~;

(e) Supervision of the ~~((therapy assistant))~~ TA;

(f) Training and evaluation of family members or caregivers to carry out the approved ABA therapy treatment plans;

(g) Observation of the client's behavior to determine the effectiveness of the approved ABA therapy treatment plan; and

(h) On-site assistance in ~~((a difficult or crisis situation))~~ the event of a crisis.

(2) The agency covers the following services, which may be provided in conjunction with ABA services under other agency programs ~~((and be consistent with the program rules in the Washington Administrative Code))~~:

~~((a) Speech and language therapy;~~

~~((b) Occupational therapy;~~

- ~~(c) Physical therapy;~~
- ~~(d) Counseling;~~
- ~~(e) Interpreter services;~~
- ~~(f) Dietician services)) Counseling;~~
- (b) Dietician services;
- (c) Interpreter services;
- (d) Occupational therapy;
- (e) Physical therapy;
- (f) Speech and language therapy; and
- (g) Transportation services.

(3) The agency does not authorize payment of ABA services ((if the services are duplicative of services being rendered)) that duplicate services provided in another setting.

(4) ((Limits in amount or frequency of the covered services described in this section are subject to the provisions in WAC 182-501-0169, limitation extension.)) If a provider's request for covered services exceeds limitations in this section, the agency evaluates the request under WAC 182-501-0169.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-1000 Applied behavior analysis (ABA)—Noncovered services. The medicaid agency does not cover ((the following)) certain services under the applied behavior analysis (ABA) program ((including, but)) include, but are not limited to:

- (1) Autism camps;
- (2) Dolphin therapy;
- (3) Equine therapy((≠)) or hippo therapy;
- (4) Primarily educational services;
- (5) Recreational therapy;
- (6) Respite care;
- (7) Safety monitoring services;
- (8) School-based health care services or early intervention program-based services under WAC 182-531A-0600 (3)(b)(iii), unless prior authorized ((and as described in WAC 182-531-1420 (2)(b)(iii))));
- (9) Vocational rehabilitation;
- (10) Life coaching; and
- (11) Treatment that is unproven or investigational ((e.g.)) for example, holding therapy, Higashi (day life therapy), auditory integration therapy).

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

WAC 182-531A-1200 Applied behavior analysis (ABA)—Services provided via telemedicine. Telemedicine, as defined in ((WAC 182-531-1730)) chapter 182-531 WAC, may be used to provide the following authorized services:

- (1) Program supervision when the client is present; and

(2) Family training, which does not require the client's presence.