

PFA Tips

Maryland's Habilitative Services Mandate Insurance for Autism Treatment

In March 2014, Maryland finalized the long awaited regulation that requires coverage of meaningful Autism benefits, such as Applied Behavior Analysis (ABA). With the new law there is much excitement, but there are also many questions.

Who is covered by the mandate?

As with any state mandate, only insurance plans regulated by Maryland law are subject to Maryland mandates.

Plans covered include:

- Individual Plans purchased in Maryland
- Fully Funded Plans purchased in Maryland
- Plans purchased on the Maryland Health Benefits Exchange (Obamacare/ACA)
- MD State Employee Health Plan (will adopt the ABA regulation on January 1, 2015)

Plans NOT covered include:

- Federal Employee Health Plans
- Medicaid
- Military
- Employer Self-funded Plans (Self-insured Plans)

If you need help determining who regulates your insurance visit the PFA Insurance Guide. The guide can help you determine whether you are entitled to autism treatment under your policy.

What are Habilitative Services?

Habilitative services (HS) are therapeutic services that are provided to children with a genetic or congenital condition to enhance the child's ability to function. Habilitative Services include, but are not limited to, Physical Therapy, Occupational Therapy, Speech Therapy and Behavioral Health treatment, including ABA, for the treatment of a child with a congenital or genetic birth defect (including Autism/ASD).

How are Habilitative Services different from Rehabilitative Services?

Rehabilitative services are geared towards **reacquiring a skill that has been lost or impaired due to illness or an accident.** It is not uncommon for providers and carriers to confuse Habilitative Services with Rehabilitative Services.

What Autism treatments are covered under Maryland's Habilitative Services Mandate?

Medically necessary Habilitative Services for children younger than 19 years old and diagnosed with Autism or ASD include:

- Behavioral health treatment, including Applied Behavior Analysis (ABA). ABA may not be denied on the basis that it is experimental or investigational
- Psychological care, including direct or consultative services and psychotherapy
- Therapeutic care, including speech therapy, physical therapy and occupational therapy

A carrier may not deny coverage based solely on the number of hours of Habilitative Services prescribed, for:

- Less than or equal to 25 hours per week in the case of a child who is at least 18 months of age and who has not reached the child's sixth birthday, or
- Less than or equal to 10 hours per week in the case of a child who has reached the child's sixth birthday and who has not reached the child's nineteenth birthday



- A carrier may authorize additional hours of Habilitative Services that are medically necessary and appropriate for the treatment of Autism and ASD

The regulation does not establish caps or limits, but instead, establishes a floor for coverage that carriers may not deny based solely on the number of hours of Habilitative Services prescribed. Payment for Habilitative Services are limited to service providers who are licensed, certified or otherwise authorized under the Maryland Health Occupations Article (such as psychologists, occupational therapists).

Is there work still to be done on this mandate?

What we have learned from the other states that enacted Autism insurance laws is that there are often bumps in the road to implementation. The regulation is not perfect and there are still issues to be worked out, such as:

- Payment for Habilitative Services are limited to service providers who are

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licensed in Maryland. Currently, Board Certified Behavior Analysts (BCBAs) are not licensed in the state (they are certified nationally). However, a licensure Bill for BCBAs was passed by the Maryland General Assembly during the 2014 session. It is expected that the state will begin issuing licenses to BCBA's beginning in 2015.

- There is concern that the licensure requirement may affect the service delivery model typical of ABA (a licensed professional who works with the patient to develop a treatment plan that is then implemented by a non-credentialed therapist). The regulation does not address this at all which means it neither compels nor prohibits the carrier to reimburse for services delivered by a non-credentialed therapist. Carriers are

reimbursing for services under this model in other states and we are hopeful they will act according to this precedent. Pathfinders for Autism will be following these matters closely as the new law rolls out. We have been proactive in addressing our concerns with the Maryland Insurance Administration and the carriers. We expect the situation to be very fluid over the coming months as: (1) the carriers address how they will implement the new regulation, (2) providers get up to speed on billing matters and (3) the legislative process unfolds.

Additional Resources

Pathfinders for Autism Insurance Guide

<http://pathfindersforautism.org/resources/understanding-insurance/>

Utilization Review of Treatment for Autism and Autism Spectrum Disorders (regulation)

http://pathfindersforautism.org/wp-content/uploads/2017/01/Maryland-Final-Regs-3_17_2014.pdf

Parent's Guide to Habilitative Services

This document by the Maryland Insurance Administration is not updated to include ABA, but it still provides useful information.

<http://www.insurance.maryland.gov/Consumer/Documents/publicnew/parents%27-guide-to-habilitative-services.pdf>

Questions to Ask Your Health Insurance Company or HMO About Your Child's Access to Habilitative Services Benefits

<http://pathfindersforautism.org/wp-content/uploads/2017/01/questions-to-ask-your-health-insurer.pdf>

Insurance Claim Denials

<http://www.insurance.maryland.gov/Consumer/Pages/AppealsAndGrievances.aspx>

Autism Speaks

<https://www.autismspeaks.org/advocacy/insurance>

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