



Health Insurance Appeal Tips for Treating Physicians, Clinicians and ABA Providers

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First Level Appeals – Prevention is the Best Medicine

Make sure that your care plan is solid and is medical/clinical

Health insurance covers medical/clinical services. The Indiana Autism Mandate does not address the educational requirements for children to attend a public private or home-schooling program. The costs for such school programs are to be borne by those responsible for these services. Thus, if a child is using your services to fulfill educational requirements, these services must be negotiated with the public school district as part of the IEP process, or the parents must fund this part of the program as private or home-school program fees. Only medical/clinical programming should be written into the ABA care plan that is submitted to insurance for reimbursement.

What is medical/clinical? (Examples, not exhaustive)

- Services that are needed to address the core deficits, impairments and signs and symptoms of autism.
- Cognitive, functional communication, pragmatic communication, life skills, pre-vocational skills, pre-academic skills, fine and gross motor skills.
- Skills necessary to catch up to the typical developmental trajectory.
- Transition services to step down to full natural environment without clinical support (Phase out of intensive intervention for best outcome cases in to full time school placement, for example).

What is educational? (Examples, not exhaustive)

- Services that fulfill core curriculum or state curriculum requirements.
- Hours spent in on-line public school instructional sessions.
- Services that are primarily to teach subject matter, such as subject matter tutoring.

A service is NOT “educational” simply because it uses some of the tools that may also be used in school settings, such as books, or a computer or calculator. The issue is the primary goal of the intervention.

Just because a service MAY be available in a school setting under IDEA does not necessarily mean that it is outside of clinical/medical services and cannot be part of the clinical program. IDEA only covers services that are needed to access a free appropriate public education (FAPE), in the least restrictive environment (LRE), and that are needed in the education program to accommodate the child’s disability. IDEA does NOT require schools to TREAT disabling medical conditions. Nor is it designed to be the ONLY source or necessarily the PRIMARY source of intervention for a disabling condition.

For ABA, make sure that your care plan and your conduct follow BACB guidelines in general and the BACB guidelines for health plan coverage for autism services in particular.

Children may do “braided” or “blended” programs where part of the day is spent in public, private or home school and part of the day is spent in therapy. When a child cannot attend a full school day due to medical reasons, a letter documenting the need for medical release from a full school day in order to pursue medically necessary therapy should be obtained and updated as needed, or at least annually. Many children who have finished intensive programming and are in focused programming do these types of braided or blended programs. Children transitioning from intensive therapy to full school programming may also do these types of braided or blended programs.

In recent years, some insurers have sought to impose a variety of “crack down” measures based on an apparent perception that providers are engaged in inappropriate practices. Such carrier actions risk interfering with proper clinical judgment and risk access to medically necessary care. Therefore, you should take care to do nothing that would give support to such “crack down” measures.

Some provider Dos and Don’ts

Do make sure that you can back up your care plan with research and data as necessary. Make sure that you keep up on the latest research. You may wish to attach a copy of particularly pertinent research and data to the care plan.

Do make sure that programmatic decisions are ultimately driven by the needs of the child, and not administrative concerns or conveniences. For example, for ABA, it is generally accepted that not all children need full time therapy programs. Based on this, some insurers are cracking down on the use of full time programs, punishing the children who need them, and the providers who are utilizing them appropriately. Typically, an ABA provider would be expected to have a mix of full time and part time programs at varying front-line hours, and would not have a policy that all children will have full time programs. If you have chosen to focus your practice solely on those children who do require full time intensive intervention, you should make that clear in your organizational materials and each plan should be supported on a child-by-child basis. Insurer perceptions that some providers are telling parents that they should “by-pass the school

system and get insurance to pay for full time ABA” are not helpful and should not be reinforced.

Do ensure that only ABA services are being billed as ABA. There have been some allegations that providers who do not provide ABA therapy, or who provide services that are not typically covered by health insurance, are billing services as ABA in order to get them covered. This is insurance fraud and may be punishable with sizeable fines per infraction and loss of license or certification.

Second Level Appeals or Medical Director Peer to Peer Phone Calls

- 1) Ask if the call is being recorded. Your state may require you to be notified if your call is being recorded. Get the reference number for the call.
- 2) Questions to ask the Medical Director
 - a. What is your specialty? If psychiatry, what is your subspecialty or area of concentration in practice?
 - b. How many hours per week are you in clinical practice?
 - c. If not in clinical practice currently, how long have you been out of clinical practice?
 - d. Is at least 50% or more of your practice treating children with autism (if child) adults with autism (if adult patient)?
 - e. What is your specific training in ABA? From where? By whom?
 - f. How many ABA programs have you personally supervised?
 - g. How many years of experience do you have supervising BCBA's, BCaBA's and or ABA programs?
- 3) If the clinical reviewer is a BCBA
 - a. Do you have a degree in Behavior Analysis?
 - b. If not, what is your degree?
 - c. How many years have you been a BCBA?
 - d. How many years have you been in clinical practice (at least 50% of time clinical not administrative)?
 - e. How many ABA programs for persons with autism have you personally supervised?
 - f. Are you currently in clinical practice, what percentage of your time is clinical?
 - g. Do you supervise home, center, or school programs?

Documenting the above will be important if your case goes to external appeal, state or federal insurance complaint processes or legal action.

How to Respond to Demands for Education/IEP/ISP Information

- 1) Document that your client parents are meeting their legal obligations to educate their child.
- 2) Ask the reviewer to please show you the language in the Autism Mandate or in IDOI Bulletin 136 where the insurer is given the authority to use the IEP or presumed educational services to deny medically necessary services? (It is not in

- there; they do not have that authority from the mandate or IDOI Bulletin 136).
When they cannot, re-direct to discussing clinical needs.
- 3) We are discussing medical treatment; let's discuss specific clinical features of this case and let me answer your specific clinical questions about this case.
 - 4) Medical treatment is about reducing or eliminating the disabling affects of a condition and managing the condition. Let's talk about how this plan does that. This plan is not about educating the child.
 - 5) Be vigilant against attempts to deny services because of the tools you are using, not the therapy goals or progress (e.g., the insurer concluding that a book must be educational, kicking a ball recreational, or circle time is educational or play) and be prepared to explain the role of these tools in achieving your clinical therapy goals.
 - 6) Know your diagnostic criteria and tie treatment to the diagnostic criteria

Document all phone calls with the insurer clinical reviewers in order to have a "paper trail" should the case go to external appeal, complaint process or legal action.

Items to document:

- 1) Date, time of call
- 2) Case(s) discussed
- 3) Name of medical director or clinical reviewer
- 4) How were you treated by the clinical reviewer/medical director – document if they were hostile, rude, unwilling to listen or unprofessional, such as "bargaining" for hours of ABA, refusal to follow BACB and proper industry standards for ABA; did they give you misinformation about the mandate law, Bulletin 136, or IDEA/Article 7 requirements?
- 5) Document questions asked – were they clinical or trying to categorize the whole program as educational?
- 6) Document if any coercive statements were made – implication of losing network status, using you as an "example", threatening to take away supervision hours if you do not take reduced front line hours, etc.

Keys to successful appeals

- 1) Clinical care plan preparation – well researched, data driven, individual, clinical
- 2) Abide by BACB standards
- 3) Document, document, document medical reviewer interactions
- 4) Handle all internal appeals as preparation for an external appeal or further action
- 5) Maintain professional, objective stance on the issues, do not be led into emotional debates
- 6) Know the mandate law and IDOI Bulletin 136
- 7) Do not engage in discussions about IDEA and educational law; it is irrelevant in the Indiana Autism Mandate and Bulletin 136; IDEA and educational law is also irrelevant to medical care