RCPA
REHABILITATION & COMMUNITY PROVIDERS ASSOCIATION

December 24, 2020

Kristen Houser, Deputy Secretary
Office of Mental Health & Substance Abuse Services
PO Box 2675
Harrisburg, PA 17105-2675

Dear Secretary Houser,

As we approach implementation of the new IBHS Regulations on January 17, 2021, there remain critical unresolved issues. The most pressing area is the IBHS standard that center-based 1:1 services, Applied Behavior Analysis (ABA), and Individual, would need to be moved to home-based programing by January 17, 2021 to be compliant with the regulations**.** With final discontinuance of BHRS and full implementation of IBHS imminent, it is imperative that this be addressed.

The population at immediate risk are Medicaid-eligible children under age 21 in Pennsylvania; and it is reasonable to assume that these regulations will eventually set the tone for commercial insurance coverage, which currently covers services that are delivered in center-based settings. In the short term, children with dual coverage — commercial insurance and medical assistance (MA) — should expect to pay out-of-pocket for co-pays associated with center-based, 1:1 services, as these will likely not be covered by MA.

Forced Transitioning of children receiving 1:1 services in center-based placements to home-based services will have many negative effects on children and their families progress, including**:**

- It creates a parity issue that disproportionately denies access to the most vulnerable children whose parents do not have commercial insurance
- It reduces access to appropriate quality care, as the home can be less conducive to therapy and a more restrictive environment, and cannot offer the benefits associated with a center-based program — including increased clinical collaboration, training, and supervision with other behavior analysts, supervisors, and senior clinicians who may offer immediate support to technicians when there is a problem.

From a policy application, this position is contrary to universally accepted practices for the delivery of ABA services in commercial insurance, including policies subject to Act 62, which contemplates equal access to care for children with commercial insurance and those on MA, and which prohibits policies that impede access to medically necessary treatment by limiting access to care based on treatment setting. As emphasized, “By passing Act 62, the legislature intended to expand coverage for treatment of autism spectrum disorders.” In addition to commercial insurance, Act 62 specifically applies to MA policies, and therefore IBHS regulations.

Without a change to this position, which also violates federal Medicaid requirements for mandatory access to care for children (EPSDT) and mental health parity (MHPAEA), medically necessary, legally required care will be denied to hundreds of Medicaid eligible children under 21 in Pennsylvania.

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Solution: The only acceptable resolution is for OMHSAS to provide full access to center-based, 1:1 services using the Location Code 11 for services provided in an office setting. A child's access to medically necessary 1:1 services must not be restricted based on location of services. The decision to pursue center-based, 1:1 services should remain in the hands of providers and families, and based on the treatment needs as documented in the treatment plan.

The other major concern arises from the lack of parity in the codes or rate associated with the staff activities of IBHS Individual and ABA services. Previously, under BHRS, both ABA and Individual Service providers could bill for these services under CMS code H0032. Now, under IBHS, only ABA service providers can bill for those services using H0032.

Currently, the IBHS Individual Services funding is bundled into a rate, but that rate does not cover the cost to fully deliver the service.

OMHSAS has explained that these Individual Services are "different and perhaps are less intense in their delivery" than ABA.

There is no single, universally effective intervention for all children, with or without an autism diagnosis. Treatment intensity is based upon the treatment plan and a child's responsivity to treatment; not the activities associated with a milieu.

Solution: We feel the reinstatement of Code H0032 would provide parity for IBHS Individual Services to be billed for these case activities like their ABA counterparts. A failure to equally fund these treatment modalities would result in providers closing their programs and limiting family choice and access to care.

We look forward to working collaboratively with all stakeholders and families to implement these solutions in advance of the IBHS Implementation.

Sincerely,

Jim Sharp

Jim Sharp
RCPA Director, Children's Division

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