

Title of Rule: Creation of the Medical Assistance Act Rule Concerning Pediatric Behavioral Therapy, Section 8.281
Rule Number: MSB 25-09-04-A
Division / Contact / Email: Policy, Communication & Administration/ Rachel Larson/
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STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The Department seeks to create a rule for the Pediatric Behavioral Therapy (PBT) benefit. This rule will outline purpose, some definitions, member eligibility, provider requirements, benefit limitations, prior authorizations, and non-covered services, among other areas. The PBT rule will help clarify and better regulate this benefit area, and will improve service quality and safety for Medicaid members. The total spend for FY22/23 was approximately \$157 million. The total spend for FY23/24 for PBT was approximately \$207 million. The total cost of the benefit was approximately \$287 million in FY24/25. The cost of the PBT benefit is growing significantly year over year and grew approximately 45% from FY22/23 to FY24/25. That trajectory is not sustainable for the state and ultimately puts this benefit—and others—at risk. The rule will increase consistency and accountability for enrolled providers, protect program integrity, and ensure safety for our Health First Colorado members by clearly outlining the requirements of the program. For reference, when the rule discusses a Provider Attestation form, that form is attached as part of this rule packet.

2. An emergency rule-making is imperatively necessary

- ☒ to comply with state or federal law or federal regulation and/or
- ☒ for the preservation of public health, safety and welfare.

Explain:

The Department is advancing Pediatric Behavioral Therapy (PBT) provider requirements through an emergency rule to address urgent compliance issues and ensure continued access to safe, high-quality services for children enrolled in Health First Colorado, to ensure the continued receipt of federal matching funds, and to minimize any risk of further disallowance of funds from the Centers for Medicare and Medicaid Services (CMS).

The Department has recently learned that some staff delivering Applied Behavioral Analysis (ABA) therapy do not meet national standards for training and supervision. Recent federal audit activities identified tens of millions of dollars in Health First Colorado reimbursements for services provided by uncredentialed behavioral technicians. Currently, credentialing for these

Initial Review

Proposed Effective Date **12/12/25**

Final Adoption

Emergency Adoption

12/12/25

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technicians is not clearly required in our regulations, however, it was not the intent of the Department to pay for uncredentialed technicians to provide services to our members. This creates health and safety risks in addition to financial risks. Currently, there are no requirements for technicians to have any background checks, qualifications, or supervision, so HCPF may be paying providers for potentially unqualified personnel providing services to this vulnerable population completely unsupervised. Regarding financial risk, preliminary audit findings suggest between \$60–150 million may have to be repaid to the federal CMS because uncredentialed technicians were reimbursed by Colorado Medicaid, and because of improper service documentation and billing for unapproved services. Colorado Medicaid has limited funds, and we are also experiencing a severe state budget crisis. Colorado cannot risk having to pay additional funds back to CMS because of this issue. Without this emergency rule, Colorado risks losing federal matching funds, which cover approximately half of all PBT service costs. Any loss in funds will impact services and the health, safety and welfare of all Health First Colorado members.

Additionally, it is imperative that technicians working with vulnerable children with high needs receive services from qualified workers who are appropriately supervised in line with standards of care. Otherwise, there exists a safety and quality of care/treatment risk for some of our most vulnerable members who may be receiving services from individuals without formal training or certification.

Therefore, to preserve public health, safety and welfare for Health First Colorado members, and to comply with federal and state program requirements for preventing fraud, waste, and abuse, it is imperatively necessary to bring this proposed rule creation on an emergency basis. This emergency rule is also necessary to prevent the Department from continuing to pay for services that should not be covered, thereby increasing the Department's liability to pay back the federal share to CMS.

3. Federal authority for the Rule, if any:

42 C.F.R. Part 441 Subpart B—Early and Periodic Screening and Diagnosis and Treatment of Individuals Under Age 21; 42 C.F.R. Part 455

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S.

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Health First Colorado members will benefit from the addition of the PBT rule language as they will experience more consistency and higher quality of care based on clarity in areas such as purpose, definitions, member eligibility, and provider requirements. There will also be explicit requirements for registered behavioral technician credentialing. Providers will need to become up-to-date with registration requirements and will bear the cost for meeting this well-established national training and credentialing standard.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Quantitatively, this rule update will assist in protecting the federal funding for this benefit by requiring providers to meet national standards. Qualitatively, the rule addition will result in better care for members and more accountability for providers as well as more clarity for both providers and members about the PBT benefit.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Department does not anticipate any costs to the Department or to any other state agency as a result of the proposed rule. The rulemaking clarifies existing benefit standards for Pediatric Behavioral Therapy services under Health First Colorado and does not create new services, or expand member eligibility. As such, no additional resources will be required for implementation or enforcement. Likewise, there is no anticipated effect on state revenues from the adoption of this rule, other than minimizing ongoing liability to repay the federal government for uncovered services.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

There are no benefits to inaction because ensuring appropriate provider credentialing and supervision, and clarifying the scope of PBT services that are covered by Health First Colorado, will improve member safety and protect taxpayer dollars in this benefit.

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area. The benefits of the proposed rule include member safety, provider accountability, increased clarity, and consistency across this benefit area. Another benefit to the rule creation is minimizing the risk of the Department to repay CMS in the future.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Stakeholders have asked the Department to continue to pay for uncredentialed technician services. However, without explicit CMS approval, this would risk federal matching dollars. After considering alternatives, there are no less costly or less intrusive methods for achieving the purpose of the proposed rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The Department considered keeping this benefit out of rule given that the coverage source falls within Early and Periodic Screening and Diagnostic Treatment (EPSDT), which is already outlined in Department rules. However, due to confusion among providers and members, the Department decided building out a rule section for this benefit was necessary.



Behavioral Therapy Provider Attestation

Provider Type 84, Specialty 831; Provider Type 15, Specialty 220

Provider Request

Provider Name: _____ National Provider Identifier (NPI) _____

I attest that I have licensing, credentials, experience and/or training as indicated below:

Note: Check all that apply in the applicable section.

-
- ☐ Doctoral degree with a specialty in psychiatry (PhD), medicine (MD) or clinical psychology (PhD) and am actively licensed by the state board of examiners. Attach a copy of the license; **and**
- ☐ have completed 400 hours of training **and/or**
 - ☐ have direct supervised experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
-
- ☐ Doctoral degree in one of the behavioral or health sciences. Attach a copy of diploma or transcript; **and**
- ☐ have completed 800 hours of specific training **and/or**
 - ☐ experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
-
- ☐ Nationally certified as a Board-Certified Behavior Analyst (BCBA) or Qualified Autism Service Practitioner-Supervisor (QASP). Attach a copy of the certification. In lieu of BCBA Certificate, a screen shot from the Behavioral Analyst Certification Board (BACB) or Qualified Applied Behavior Analysis Credentialing Board website indicating name, location, level, number, and valid date span is acceptable.
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- ☐ Master's degree or higher, in behavioral health sciences or education. Attach a copy of diploma or transcript; **and**
- ☐ licensed teacher with an endorsement of school psychologist. Attach a copy of the license; **or**
 - ☐ licensed teacher with an endorsement of special education or early childhood special education. Attach a copy of the license; **or**
 - ☐ credentialed as a related services provider (Physical Therapist, Occupational Therapist, or Speech Therapist. Attach a copy of the license;
- and** one of the following:
- ☐ have completed 1,000 hours of direct supervised training **or**
 - ☐ experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
-



Provider Signature _____

- Evidence of license (if applicable) must be included.
- Evidence of training must be included: written documentation including dates, hours (with total) and signature of supervisor.
- Evidence of behavioral therapy experience must be included: written documentation indicating experience signed by supervisor.
- Upload all documents on 'Attachments and Fees' page of the Online Provider Enrollment application.

Revised: September 2025

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8.280 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT

8.281 PEDIATRIC BEHAVIORAL THERAPY

8.281.1 PURPOSE

8.281.1.A. This section establishes standards for Pediatric Behavioral Therapy (PBT) services covered by Health First Colorado for members under age 21.

8.281.1.B. Section 8.281 applies only to PBT services delivered outside of the Health First Colorado behavioral health benefit and does not govern behavioral health services covered through managed care entities.

8.281.2 DEFINITIONS

8.281.2.A. At Risk For Delay refers to the potential for a child to experience significant delays in reaching developmental milestones in one or more areas (communication, motor, cognitive, social-emotional, adaptive) due to certain biological or environmental factors. This risk may not be tied to a specific condition but indicates that the child is vulnerable to developmental delays without intervention.

8.281.2.B. Pediatric Behavioral Therapy Provider means any person who provides direct services to a person with an autism spectrum disorder or related developmental condition and is licensed, certified, or registered by the applicable state licensing board or by a nationally recognized organization. A Pediatric Behavioral Therapy Provider must meet one of the following qualifications listed:

1. Doctoral-Level Provider means a person with all of the following:

a. A doctoral degree with a specialty in psychiatry, medicine, clinical psychology, behavior board, or another applicable behavioral or health science;

b. An active license by the Colorado medical or state licensing board, if applicable; and

c. At least one year of direct experience in behavioral, developmental, or relationship-based therapies that are consistent with best practice and research on effectiveness for people with autism spectrum disorders or related developmental conditions.

2. Master's-Level Related Services Provider means a person with all of the following:

a. A master's degree or higher in one of the behavioral or health sciences or in education;

b. A credential as a related services provider; and

c. At least one year of direct supervised experience in behavioral, developmental, or relationship-based therapies consistent with best practice and research on effectiveness for people with autism spectrum disorders or related developmental conditions.

3. Registered Technician means a person with one of the following:

a. National certification as a Registered Behavior Technician (RBT), Applied Behavior Analysis Technician (ABAT) or Board Certified Autism Technician (BCAT) through a nationally recognized certification organization, and provides services under supervision.

8.281.2.C. Behavioral Therapy Provider Attestation means a Department-approved form that is required for Health First Colorado enrollment for Pediatric Behavioral Therapy billing providers.

8.281.2.D. Treatment Plan means a written plan developed by an enrolled Pediatric Behavioral Therapy Provider, as defined in this section, outlining therapeutic goals and behavior-change strategies based on a clinical assessment.

8.281.3 MEMBER ELIGIBILITY

8.281.3.A. Health First Colorado members are eligible for Pediatric Behavioral Therapy services if they:

1. Are under the age of 21;
2. Have a documented neurodevelopmental condition identified through behavioral and developmental characteristics (e.g., Autism Spectrum Disorder, developmental delay, or other functional behavioral conditions) or be At Risk For Delay for those under the age of three;
3. Have a documented order or referral for Pediatric Behavioral Therapy services; and
4. Have an individualized Treatment Plan indicating medical necessity for Pediatric Behavioral Therapy services with every prior authorization request submission.

8.281.4 PROVIDER REQUIREMENTS

8.281.4.A. Pediatric Behavioral Therapy Providers eligible to provide Pediatric Behavioral Therapy services must:

1. Be licensed, certified and/or registered by an appropriate credentialing body as listed in Section 8.281.2.B above;
2. Provide covered services within their scope of practice under their registration, certification or licensure;
3. Complete annual background checks for any Pediatric Behavioral Therapy Providers they supervise;
4. Ensure certification, licensure and/or registration for the following Pediatric Behavioral Therapy Providers they supervise and provide supervision that meets the technicians' respective certification board requirements:

a. Registered Behavior Technicians (RBT) must have a high school diploma; have completed 40 hours of training that meets the Behavior Analyst Certification Board (BACB) specifications; demonstrate competency in basic behavioral skills included within the RBT training; and pass the Registered Behavior Technician exam developed by the BACB and proctored at an approved testing center. The RBT must receive ongoing supervision per the requirements of the BACB, and obtain professional development units (PDUs) to maintain the RBT credential;

b. Applied Behavior Analysis Technicians (ABAT) must be 18 or older; have a high school diploma; have completed 40 hours of approved coursework or training that meets the standards set by the Qualified Applied Behavior Analysis Credentialing Board (QABA); have completed 15 or more supervised hours following approved coursework or training; adhere to quarterly supervision requirements; and have passed the competency exam administered by the Qualified Applied Behavior Analysis Credentialing Board (QABA); or

c. Board Certified Autism Technicians (BCAT) must be 18 years of age or older; have a high school diploma or equivalent; have completed a minimum of 40 hours of training based on the Behavioral Intervention Certification Council (BICC) approved content outline; have completed 15 hours or more of supervised fieldwork providing direct services to individuals with Autism Spectrum Disorder (ASD); and have passed the BCAT certification exam administered by the BICC. The BCAT must receive ongoing supervision per BICC requirements, and maintain certification.

5. Have no sanctions or disciplinary actions by the applicable state licensing board and/or their credentialing body that impose restrictions on the individual's ability to provide services.

8.281.3.B. All billing Pediatric Behavioral Therapy Providers must have a completed and approved Behavioral Therapy Provider Attestation form, attesting that they have the appropriate licensing, credentials, experience and/or training required of eligible billing providers as outlined in the Behavioral Therapy Provider Attestation form.

8.281.5 COVERED SERVICES [RESERVED]

8.281.6 BENEFIT LIMITATIONS

8.281.6.A. Initial pediatric behavioral therapy assessments are limited for each member to one session per provider every 12 calendar months.

8.281.6.B. Periodic pediatric behavioral therapy reassessments are limited for each member to one session per provider every 12 calendar months.

8.281.6.C. Additional sessions of initial pediatric behavioral therapy assessments and periodic pediatric behavioral therapy reassessments may be authorized by the Department if medically necessary.

8.281.7 REIMBURSEMENT [RESERVED]

8.281.8 PRIOR AUTHORIZATION REQUIREMENTS

8.281.8.A. Prior authorization is required for all Pediatric Behavioral Therapy services.

8.281.9 NON-COVERED SERVICES

8.281.9.A. The following are not covered under this benefit:

1. Academic tutoring;
2. Therapy for non-clinical behavior goals (e.g., etiquette);
3. Vocational rehabilitation;
4. Custodial care, such as nap time. Developing, restoring or maintaining self-help, daily living, or safety skills as part of a Treatment Plan does not constitute custodial care and are covered; and
5. Services not delivered or supervised by a certified Pediatric Behavioral Therapy Provider.

8.290 SCHOOL HEALTH SERVICES