



May 18, 2016

Submitted in Person

Legislative Committee on Healthcare
Grant Sawyer State Office Building
555 East Washington Avenue
Room 4401
Las Vegas, NV

Re: **Legislative Committee on Healthcare
Public Meeting to Solicit Comments – May 18, 2016**

Chairman Oscarson and Members:

Thank you for making time today to review the efforts of the State of Nevada to comply with the July 7, 2014 instructional bulletin from CMS reminding state Medicaid agencies that autism treatment is a covered benefit for individuals who are under 21 years of age.¹ I am a Board Certified Behavior Analyst and a Licensed Behavior Analyst in the State of Nevada employed by the Center for Autism and Related Disorders (CARD). CARD is among the world's largest organizations treating autism spectrum disorder (ASD) and the nation's third largest non-governmental organization contributing to autism research. CARD provides services to thousands of individuals diagnosed with ASD, employing a workforce of just over 2,000 dedicated professionals at over 60 locations throughout the United States, including one location in Henderson, Nevada.

CARD commends the efforts of this committee to ensure that children in Nevada who receive an autism diagnosis have access to medically necessary autism treatment. As the Medicaid benefit has become available for Nevada's children with autism, we have encountered multiple challenges that impede access to treatment, including:

- Nevada Medicaid's rate for the Registered Behavior Technician (RBT) continues to be one of the lowest in the country, hindering provider efforts to hire and retain a sufficient number of RBTs and acting as a disincentive for providers to treat Medicaid beneficiaries when commercial rates are substantially higher. While Nevada Medicaid has adopted the American Medical Association's Current Procedural Terminology (CPT) Category III Adaptive Behavior Assessment and Treatment Codes, it has disregarded the intent of the codes to incorporate the cost of the "physician or other qualified healthcare professional [who] directs the treatment."² The CPT Assistant describes the RBT task as "administered by a single technician under the direction (on-site or off-site) of the physician or other qualified health care professional..." (page 7). Further, Nevada statute has incorporated the RBT credential established by the Behavior Analyst Certification Board (BACB). The BACB

¹ Clarification of Medicaid Coverage for Children with Autism, Department of Health & Human Services, CMCS Informational Bulletin (July 7, 2014).

² American Medical Association CPT Assistant (June, 2014), *Adaptive Behavior Assessments and Treatment Descriptors for July 1, 2014 Reporting*, Volume 24, Issue 6.

requires ongoing supervision of the RBT by a Board Certified Behavior Analyst (BCBA), but the rates implemented by DHCFP do not account for the cost of that supervision, which is intended to be reflected in the RBT rate. TRICARE, the insurance for active and retired military, commissioned a study from the Rand Corporation³ and a second analysis Kennell and Associates, Inc.,⁴ to determine regionally specific competitive rates for autism treatment and concluded that Nevada behavior technicians would be reimbursed \$42.50 per hour. CARD respectfully urges this committee to consider increasing Medicaid's budget to enable it to match TRICARE's reimbursement rate, which is still considered substantially lower than prevailing commercial rates.

- The requirement for the frontline therapist to be an RBT acts as a barrier to treatment as newly hired technicians must undergo training *and* complete the RBT application, competency, and exam process. CARD views ATAP's six-month grace period as a potential solution for Medicaid. That is, allow behavior technicians with sufficient training to begin providing services while they obtain their RBT. Technicians with sufficient training but without an RBT do not represent a lower standard of care, as the RBT is neither autism specific nor NCCA accredited. Moreover, because autism treatment is so data driven, ineffective treatment would be immediately apparent to the supervising BCBA and to the Medicaid agency.
- The FA-11F form, which is required for all initial requests, has been interpreted by Nevada Medicaid to require the signature of the diagnosing provider. This interpretation creates a delay as beneficiaries and/or providers try to secure that signature. Often, the diagnosing provider is no longer in the state, has retired, or is no longer a Medicaid provider. When the original diagnosing provider does not sign the form, Medicaid requires additional documentation. CARD recommends that any qualified health professional acting within the scope of his or her license be allowed to complete and sign the form.
- When Medicaid acts as the secondary payer for children with commercial insurance coverage, Medicaid requires secondary authorization in order for the child's cost-sharing to be covered by Medicaid. Most state Medicaid agencies provide cost-sharing without this secondary authorization upon confirmation of the beneficiary's diagnosis and coverage, and CARD respectfully urges Nevada Medicaid to consider this model.

CARD respectfully urges DHCFP to increase the RBT hourly rate to the \$40-50 range to enable existing providers to accept Medicaid patients without jeopardizing their businesses and to ensure that Nevada's rate is able to attract sufficient providers to the state to comply with the July 7, 2014 instructional bulletin from CMS.⁵

³ Maglione, Margaret A., Srikanth Kadiyala, Amii Kress, Jaime Hastings and Claire E. O'Hanlon. TRICARE Applied Behavior Analysis (ABA) Benefit: Comparison with Medicaid and Commercial Benefits. Santa Monica, CA: RAND Corporation, 2016. http://www.rand.org/pubs/research_reports/RR1334.html.

⁴ Brooks, Arnie, Kennell, Dave, Witsberger, Chris, Superina, Christina and Irie, Sarah. Option for 2016 TRICARE ABA Reimbursement Rates (Task Order No. 1505-005): Kennell and Associates, Inc., 2015. <http://www.health.mil>.

⁵ Clarification of Medicaid Coverage for Children with Autism, Department of Health & Human Services, CMCS Informational Bulletin (July 7, 2014).

Thank you for the opportunity to comment. Should you require additional information, please do not hesitate to contact me at L.Weigel@centerforautism.com.

Respectfully submitted,

A handwritten signature in cursive script that reads "Laura Weigel".

Laura Weigel, M.S., BCBA

NV Licensed Behavior Analyst #LBA0084