



## **Response to The Office of the Inspector General's Healthcare Division (HCD)'s analysis of MassHealth's Applied Behavior Analysis (ABA) Program**

The Massachusetts Office of Inspector General (OIG) recently issued a report of its analysis of applied behavior analysis (ABA) services for patients with autism that were funded by MassHealth (the state's Medicaid program) between January 2022 and October 2023. Key findings were that some ABA providers (a) failed to meet the payer's requirement for supervising service delivery; (b) submitted claims for "impossible" numbers of service hours; and (c) submitted claims for services delivered on holidays. The OIG's analysis of selected claims data led them to conclude that as a result, MassHealth made large overpayments for ABA services (see Executive Summary, p. 6 of the report).

The analysis is flawed on several dimensions: MassHealth's definition of "adequate supervision," the OIG's decision that it was inappropriate for ABA providers to deliver services on holidays, and the evidence on which the OIG's conclusions were based. Those issues are discussed next.

### **Supervision of ABA service delivery**

The report indicates that MassHealth managed care entities (MCEs) set a requirement for Licensed Applied Behavior Analysts (LABAs) to provide a minimum of 1 hour of "case supervision" for every 10 hours of direct services delivered to each patient by behavior technicians (BTs) or other paraprofessionals. The author did not specify the source of that requirement or indicate if it was based on the profession's standards of care or input from knowledgeable behavior analysts.

To determine whether ABA providers met the MCEs' 1:10 standard for "adequate supervision," the OIG examined only claims submitted for CPT® codes 97153 (behavior technician delivery of treatment to a single patient) and 97155 (LABA direction of the technician's treatment delivery). That is, *the OIG did not consider evidence about any of the other services that the profession deems essential for case supervision by a behavior analyst*, including but not limited to developing and updating the patient's treatment plan, evaluating patient progress frequently and modifying treatment goals and procedures as needed, training technicians and caregivers to implement certain treatment procedures with the patient, and coordinating care with the treatment team and other professionals (see [Model Coverage Policy for Adaptive Behavior Services](#), pp. 8 - 12. Additionally, the OIG considered only claims for 97155 and 97153 services that were submitted by providers, which may have reflected only the hours of such services that were authorized by the MCEs and therefore likely underestimated the actual amount of time LABAs spent directing BTs and other paraprofessionals while they were delivering 1-to-1 treatment to patients.

Even with those restrictions, the OIG found that across all providers, the average ratio of hours of LABA direction of treatment delivered by BTs and paraprofessionals was 1:7.78 – a bit *better* than the MCEs' minimum standard of 1:10. Their analysis of what was deemed overpayment for



inadequately supervised services – i.e., where the 1:10 ratio was exceeded – was derived from claims submitted by 108 of the total of 562 ABA providers. That is, the analysis was conducted on outlier claims.

These claims *should have* been caught before payment was made and may have required further review or consideration. It should be noted that MassHealth adopted the adaptive behavior codes in October 2022, and opted to maintain a hybrid code set to include H0031 for “Assessment and case planning for home services by a licensed professional” which could cover some of the elements of case supervision previously discussed. Furthermore, during the transition period, several of the MCE’s maintained use of the HCPCS codes through the end of a member’s authorization, thereby reducing the dataset further. For example, if a member’s authorization for continued treatment expired in December 2022, the MCE continued to permit providers to submit claims using the previously authorized code set (H2019, H0031, H0032).

### **Services delivered on holidays**

The OIG’s characterization of claims for ABA services delivered on holidays as “questionable” implies as of yet unfounded assumptions of possible wrongdoing, and seems to reflect a lack of understanding about autism, learning, and ABA. Autism doesn’t take holidays, and even brief interruptions in services can result in losses of treatment gains for some patients. Additionally, changes in daily routines and situations such as family gatherings can be particularly challenging for many people diagnosed with autism. Therefore, some ABA providers opt to deliver services to patients and supports to families on holidays if needed. They should not be criticized or penalized for doing so. It should also be noted that MassHealth requires providers to deliver culturally competent care; in that vein, it’s important to recognize that not all families observe the same holidays.

### **Summary**

Needless to say, we agree that it is essential for behavior analysts who are responsible for patients’ treatment plans to provide case supervision at the appropriate dosage for each patient, including frequent direct observation and coaching of BTs and other caregivers while they implement treatment protocols with patients and caregivers. We also understand MassHealth’s interest in preventing billing fraud, waste, and abuse. We commend the OIG for holding MassHealth and its MCEs responsible for seeing that providers comply with appropriate standards, and for including in its report some strong recommendations for the Commonwealth of Massachusetts to help alleviate the shortage of qualified ABA providers by investing in efforts to train more LABAs and BTs.

That said, we would like to see the Massachusetts OIG re-do its analysis with input from LABAs in the state who have expertise in the relevant research and professional standards of care as well as the ABA Coding Coalition’s experts on the CPT codes for ABA services and related resources. If that is not feasible, we recommend that the report be revised to temper the conclusions in light of the limitations that we’ve outlined and others, again with input from qualified professionals.



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[Partners Behavioral Health](#) is a strategy and management consulting firm for ABA and autism therapy practices. We help ABA practice leaders with clinical and business standards, compliance, and outcomes. Our team has collectively held leadership roles in virtually all pertinent segments of our market and are intimately familiar with industry standards and trends.

### **Footnote**

The OIG report cites a Frequently Asked Question from the ABA Coding Coalition specific to the difference between “direction” and “supervision;” however, it leaves out the critical next line, “Supervision activities that do not involve delivery of services directly to patients are generally not reportable or billable to health plans using CPT codes” As described, the activities of supervision do not involve delivery of services directly to patients.

### **References**

ABA Coding Coalition Model Coverage Policy:

<https://abacodes.org/wp-content/uploads/2022/01/Model-Coverage-Policy-for-ABA-01.25.2022.pdf>

The Office of the Inspector General’s Healthcare Division (HCD)’s analysis of MassHealth’s Applied Behavior Analysis (ABA) Program:

<https://www.mass.gov/doc/masshealths-applied-behavior-analysis-program-service-providers-oig-2024-annual-report/download>

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