CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

Steven L. Beshear
Governor

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Janie Miller
Secretary

Neville Wise
Acting Commissioner

September 23, 2011

Jackie Glaze
Associate Regional Administrator
Division of Medicaid and Children's Health Operations
Centers for Medicare and Medicaid Services
61 Forsyth Street, SW, Suite 4T20
Atlanta, Georgia 30303-8909

RE: Kentucky State Plan Amendment 11-009

Dear Ms. Glaze:

Enclosed please find Kentucky Title XIX Transmittal Number 11-008. The purpose of this SPA is to add the following providers to behavioral health services for school based services: A board certified behavior analyst, a board certified assistant behavior analyst, a licensed professional clinical counselor and a licensed professional counselor associate.

If additional information is needed, please contact my office at 502-564-4321.

Sincerely,

Neville L. Wise

Neville Wise
Acting Commissioner

NW/sjh

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 11-008

2. STATE: Kentucky

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
08/05/2011

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN X AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:
Section 1903© and 1905(a) of the Social Security Act and 42 CFR 440.110

7. FEDERAL BUDGET IMPACT:
a. FFY 2011 - $ 259,350
b. FFY 2012 - $1,296,750

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Att. 3.1-A – Page 7.1.7(c)
Att. 3.1-B – Page 20.1(c) and 20.1(d)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:

SAME

10. SUBJECT OF AMENDMENT
The purpose of this SPA is add the following providers to behavioral health services for school based services: A board certified behavior analyst, a board certified assistant behavior analyst, a licensed professional clinical counselor and a licensed professional counselor associate.

11. GOVERNOR'S REVIEW *(Check One)*:
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
X OTHER, AS SPECIFIED: Review delegated to Commissioner, Department for Medicaid Services

12. SIGNATURE OF STATE AGENCY OFFICIAL: Neville Wise

13. TYPED NAME: Neville Wise

14. TITLE: Acting Commissioner, Department for Medicaid Services

15. DATE SUBMITTED: Sept 23, 2011

16. RETURN TO:

Department for Medicaid Services
275 East Main Street 6W-A
Frankfort, Kentucky 40621

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

18. DATE APPROVED:

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

22. TITLE:

23. REMARKS:

Applied behavior analysis is a component of an assessment which:

1. means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior;
2. may only be provided by a licensed behavior analyst or licensed assistant behavior analyst; and
3. is limited to ten hours per child per state fiscal year (July 1 through June 30 of the following year).

Treatment services

Service may include one or more of the following as appropriate:

Cognitive-behavioral therapy, rational-emotive therapy, family therapy, individual interactive psychotherapy using play equipment, physical devices, language interpreter or other mechanisms of non verbal communication and sensory integrative therapy.

Applied behavior analysis intervention is a component of treatment which:

1. is based on scientific research and the direct observation and measurement of behavior and environment which utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and elicit behaviors under specific environmental conditions;
2. may only be provided by a licensed behavior analyst or licensed assistant behavior analyst; and
3. is limited to four hours per week per child.

Qualifications of Providers:

Minimum qualifications for providing services are licensure as follows:

1. An individual currently licensed by the Kentucky Board of Examiners of Psychology as a licensed psychologist, licensed psychological practitioner, certified psychologist with autonomous functioning, certified psychologist, or licensed psychological associate;
2. A licensed clinical social worker currently licensed by the Kentucky Board of Social Work;
3. A licensed social worker currently licensed by the Kentucky Board of Social Work;
4. A certified social worker currently licensed by the Kentucky Board of Social Work;
5. An advanced registered nurse practitioner who has a specialty area in accordance with the American Nurses' Association Statement on Psychiatric Mental Health Clinical Nursing Practice and Standards of Psychiatric Mental Health Clinical Nursing Practice.
6. A licensed professional clinical counselor currently licensed by the Kentucky Board of Licensed Professional Counselors.
7. A licensed professional counselor associate currently licensed by the Kentucky Board of Licensed Professional Counselors.

Qualifications of Providers for Applied Behavior Analysis and Applied Behavior Analysis Interventions:

1. A licensed behavior analyst currently licensed by the Kentucky Applied Behavior Analyst Licensing Board.
2. A licensed assistant behavior analyst currently licensed by the Kentucky Applied Behavior Analyst Licensing Board.

(e) Speech

Services must be medically necessary and appear in the child's Individualized Education Plan. Covered services include:

Assessment services

Service may include testing and/or clinical observation as appropriate for chronological or developmental age for all the following areas of functioning and shall yield a written report:

Receptive and expressive language, auditory memory, discrimination, and processing, vocal quality and resonance patterns, phonological development, pragmatic language, rhythm/fluency, oral mechanism, swallowing assessment, augmentative communication and hearing status based on pass/fail criteria.

Treatment services

Service includes one or more of the following as appropriate:
Articulation therapy, language therapy; receptive and expressive language, augmentative communication training, auditory processing, discrimination, and training, fluency training, disorders of speech flow, voice therapy, oral motor training; swallowing therapy and speech reading.

Qualifications of Providers

Treatment services may be performed by a Speech/Language Pathologist with the following qualifications:

Applied behavior analysis is a component of an assessment which:

1. means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior;
2. may only be provided by a licensed behavior analyst or licensed assistant behavior analyst; and
3. is limited to ten hours per child per state fiscal year (July 1 through June 30 of the following year).

Treatment services
Service may include one or more of the following as appropriate:

Cognitive-behavioral therapy, rational-emotive therapy, family therapy, individual interactive psychotherapy using play equipment, physical devices, language interpreter or other mechanisms of non verbal communication and sensory integrative therapy.

Applied behavior analysis intervention is a component of treatment which:

1. is based on scientific research and the direct observation and measurement of behavior and environment which utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and elicit behaviors under specific environmental conditions;
2. may only be provided by a licensed behavior analyst or licensed assistant behavior analyst; and
3. is limited to four hours per week per child.

Qualification of Providers for Assessment and Treatment Services Other than Applied Behavior Analysis or Applied Behavior Analysis Interventions:

1. An individual currently licensed by the Kentucky Board of Examiners of Psychology as a licensed psychologist, licensed psychological practitioner, certified psychologist with autonomous functioning, certified psychologist, or licensed psychological associate;
2. A licensed clinical social worker currently licensed by the Kentucky Board of Social Work;
3. A licensed social worker currently licensed by the Kentucky Board of Social Work;
4. A certified social worker currently licensed by the Kentucky Board of Social Work;
5. An advanced registered nurse practitioner who has a specialty area in accordance with the American Nurses' Association Statement on Psychiatric Mental Health Clinical Nursing Practice and Standards of Psychiatric Mental Health Clinical Nursing Practice.
6. A licensed professional clinical counselor currently licensed by the Kentucky Board of Licensed Professional Counselors.
7. A licensed professional counselor associate currently licensed by the Kentucky Board of Licensed Professional Counselors.

Qualifications of Providers for Applied Behavior Analysis and Applied Behavior Analysis Interventions:

1. A licensed behavior analyst currently licensed by the Kentucky Applied Behavior Analyst Licensing Board.
2. A licensed assistant behavior analyst currently licensed by the Kentucky Applied Behavior Analyst Licensing Board.

(e) Speech

Services must be medically necessary and appear in the child's Individualized Education Plan. Covered services include:

Assessment services

Service may include testing and/or clinical observation as appropriate for chronological or developmental age for all the following areas of functioning and shall yield a written report:
Receptive and expressive language, auditory memory, discrimination, and processing, vocal quality and resonance patterns, phonological development, pragmatic language, rhythm/fluency, oral mechanism, swallowing assessment, augmentative communication and hearing status based on pass/fail criteria.

Treatment services

Service includes one or more of the following as appropriate:
Articulation therapy, language therapy; receptive and expressive language, augmentative communication training, auditory processing, discrimination, and training, fluency
training, disorders of speech flow, voice therapy, oral motor training; swallowing therapy and speech reading.

Qualifications of Providers: Treatment services may be performed by a Speech/Language Pathologist with the following qualifications:

1. Current Certificate of Clinical Competence from the American Speech Hearing Association (ASHA);
2. Current license as Speech Language Pathologist from KY Board of Speech Language Pathology and Audiology;

As of August 1, 2011, Speech Therapy services will only be performed by individuals meeting applicable requirements of 42 CFR 440.110, including the possession of a Speech/Language Pathologist with a current Certificate of Clinical Competence from the American Speech Hearing Association (ASHA).

3) For medically-necessary evaluative, diagnostic, preventive, and treatment services listed in Section 1905(a) of the Social Security Act, the state shall pay in accordance with items (1) or (3), as applicable, except that for governmental providers the payment shall be a fee-for-service system designed to approximate cost in the aggregate with settlement to reconciled cost. The following describes the methodology utilized in arriving at the rates.

(a) Medicaid providers are paid according to the Kentucky Medicaid Fee Schedule and its modifiers which are maintained by the department and paid through the fee-for-service system. "Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of covered services. The agency's current fee schedule rate was set as of January, 2010 and is effective for services provided on or after that date. All rates are published on the KY Medicaid web site at http://chfs.ky.gov/dms/fee.htm.

(b) Fee for new services are established based on the fees for similar existing services. If there are no similar services the fee is established at 75% of estimated average charge.

(c) Fees for particular services can be increased based on administrative review if it is determined that the service is essential to the health needs of Medicaid recipients, that no alternative treatment is available, and that a fee adjustment is necessary to maintain physician participation at a level adequate to meet the needs of Medicaid recipients. A fee may also be decreased based on administrative review if it is determined that the fee may exceed the Medicare allowable amount for the same or similar services, or if the fee is higher than Medicaid fees for similar services, or if the fee is too high in relation to the skills, time and other resources required to provide the particular service.

(d) Medicaid Services Provided in Schools are services that are medically necessary and provided in schools to Medicaid recipients in accordance with an Individualized Education Program, (IEP) or an Individual Family Service Plan (IFSP). Covered services include the following as described in Attachment 3.1-A and Attachment 3.1-B

1. Audiology
2. Occupational Therapy
3. Physical Therapy
4. Behavorial Health Services
   a. Applied behavior analysis
   b. Applied behavior analysis intervention
5. Speech
6. Nursing Services
7. Respiratory Therapy
8. Transportation

The interim payment to the Local Education Agencies for services outlined in Paragraph (d), except for applied behavior analysis and applied behavior analysis interventions, above are based on the physician fee schedule methodology as outlined in Kentucky Medicaid Fee Schedule. Reimbursement for applied behavior analysis and applied behavior analysis interventions are based on the payments that the Kentucky Medicaid program pays for similar services that are covered and reimbursed via a 1915(c) home and community based waiver program.

(e) Direct Medical Services Payment Methodology

Beginning with cost reporting period August 1, 2008, the Department for Medicaid Services (DMS) will begin using a cost based methodology for all Local Education Agencies (LEAs). This methodology will consist of a cost report, time study and reconciliation. If payments exceed Medicaid-allowable costs, the excess will be recouped.

Once the first year's cost reports are received, and each subsequent year, the Department will examine the cost data for all direct medical services to determine if an interim rate change is justified.