

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to applied behavior analysis services delivered by registered behavior technicians and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

This proposed rule making allows registered behavior technicians to deliver applied behavior analysis (ABA) services under the direct supervision of behavior analysts or assistant behavior analysts licensed pursuant to Iowa Code chapter 154D. Claims for payment for such services must be submitted by the licensed supervisor.

ABA services are covered as a benefit under Medicaid. This proposed rule making recognizes a new level of certification to provide a pathway for staff under the supervision of a board-certified behavior analyst (BCBA) to provide services to enrolled members. BCBAs must directly supervise individuals working in this new provider class.

This proposed rule making outlines the qualifications for a registered behavior technician, the treatment limitations, and how claims must be submitted. It will also position providers to expand their organizations by creating positions for registered behavior technicians.

Fiscal Impact

ABA services are provided today by BCBAs and assistant BCBAs. A limited number of ABA providers practice in the state currently, and expanding that workforce could increase the utilization of services, but it is unknown what the increase in utilization would be. ABA services are currently covered under Medicaid as a benefit. The proposed subrule recognizes a new level of certification to provide a pathway for staff under the supervision of a BCBA. BCBAs must directly supervise individuals working in this new provider class. The number of BCBAs practicing across the state would limit overall utilization. The fiscal impact is expected to be minimal. Any expenditures will be absorbed within the medical assistance appropriation.

Jobs Impact

This proposed rule making will position providers to expand their organizations by creating positions for registered behavior technicians. Specific projections are not available.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 10, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** subrule 77.26(10):

77.26(10) Registered behavior technicians.

- a.* A person is eligible to participate as a registered behavior technician when the person holds:
- (1) A current certification from the Behavior Analyst Certification Board as a registered behavior technician; or
 - (2) A bachelor’s degree in education, psychology, social work, physical therapy, occupational therapy, or speech language pathology.
- b.* A registered behavior technician must provide treatment under the supervision of a behavior analyst or assistant behavior analyst licensed pursuant to Iowa Code chapter 154D. Claims for payment for such services must be submitted by the supervising licensed behavior analyst.