

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 358.00: RATES FOR APPLIED BEHAVIOR ANALYSIS

Section

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358.01: General Provisions

- (1) Scope and Purpose. 101 CMR 358.00 governs the rates to be used by all governmental units in making payments to eligible providers of applied behavior analysis to publicly aided individuals.
- (2) Effective Date. Rates contained in 101 CMR 358.00 are effective for dates of service on or after October 1, 2022.
- (3) Disclaimer of Authorization of Services. 101 CMR 358.00 is not authorization for or approval of the services for which rates are determined pursuant to 101 CMR 358.00. Governmental units that purchase care and services are responsible for the definition, authorization, and approval of care and services provided to publicly aided individuals.
- (4) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on and understanding of substantive provisions of 101 CMR 358.00.

358.02: General Definitions

Terms used in 101 CMR 358.00 have the meanings in 101 CMR 358.02.

Applied Behavior Analysis. A MassHealth service that focuses on the analysis, design, implementation, and evaluation of social and other environmental modifications to produce meaningful changes in human behavior. This service provides for the performance of behavioral assessments; interpretation of behavior analytic data; development of a highly specific treatment plan; supervision and coordination of interventions; and training other interveners to address specific objectives or performance goals in order to support the acquisition of socially significant adaptive skills and reduction of challenging behaviors that interfere with a youth's successful functioning.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

Eligible Provider. Any person, partnership, corporation, or other entity that is authorized to provide Applied Behavior Analysis services in the Commonwealth of Massachusetts and who meets such conditions of participation as have been adopted by a governmental unit.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Governmental Unit. The Commonwealth of Massachusetts or any of its departments, agencies, boards, commissions, or political subdivisions.

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MassHealth. The Medicaid program of the Commonwealth of Massachusetts, administered by EOHHS pursuant to M.G.L. c. 118E, Titles XIX and XXI of the Social Security Act, and other applicable laws and waivers thereto.

Publicly Aided Individual. A person for whose medical and other services a governmental unit is in whole or in part liable under a statutory program.

358.03: Rate Provisions

(1) Rates as Full Compensation. The rates under 101 CMR 358.03 constitute full compensation for applied behavior analysis services provided by eligible providers to publicly aided individuals, including full compensation for necessary administration and professional supervision associated with patient care.

(2) Rates of Payment. Payment rates under 101 CMR 358.03 are the lowest of
(a) the eligible provider's usual charge to the general public; or
(b) the schedule of allowable rates for services as set forth in 101 CMR 358.03(3).

(3) Fee Schedule.

| Code | Payment Rate | Service Description |
|-------|--------------|--|
| 97151 | \$30.73 | Behavior identification assessment, administered by a physician or other qualified health care professional, each 15 minutes of the physician's or other qualified health care professional's time face-to-face with patient and/or guardian(s)/caregiver(s) administering assessments and discussing findings and recommendations, and non-face-to-face analyzing past data, scoring/interpreting the assessment, and preparing the report/treatment plan. (Initial functional behavior assessment and reassessment). |
| 97153 | \$16.37 | Adaptive behavior treatment by protocol, administered by technician under the direction of a physician or other qualified health care professional, face-to-face with one patient, each 15 minutes. (Adaptive behavior treatment). |
| 97154 | \$13.91 | Group adaptive behavior treatment by protocol, administered by technician under the direction of a physician or other qualified health care professional, face-to-face with two or more patients, each 15 minutes. (Social skills group, up to 8 participants). |

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| Code | Payment Rate | Service Description |
|----------|--------------|--|
| 97155 | \$30.73 | Adaptive behavior treatment with protocol modification, administered by physician or other qualified health care professional, which may include simultaneous direction of technician, face-to-face with one patient, each 15 minutes. (Adaptive behavior treatment). |
| 97156 | \$30.73 | Family adaptive behavior treatment guidance, administered by physician or other qualified health care professional (with or without the patient present), face-to-face with guardian(s)/caregiver(s), each 15 minutes. (Parent training with or without child present). |
| 97157 | \$26.12 | Multiple-family group adaptive behavior treatment guidance, administered by physician or other qualified health care professional (without the patient present), face-to-face with multiple sets of guardians/caregivers, each 15 minutes. (Multiple group parent training, up to 8 participants). |
| H0031-U2 | \$30.73 | Mental health assessment by physician or other qualified health professional (Assessment and case planning for home services by a licensed professional. 15-minute rate.) |

(4) Coding Updates and Corrections.

(a) EOHHS may publish procedure code updates and corrections in the form of an administrative bulletin. The publication of such updates and corrections will list

1. codes for which only the code numbers changed, with the corresponding crosswalk;
 2. codes for which the code number remains the same but the description has changed;
- and
3. deleted codes for which there is no crosswalk.

(b) In addition, for entirely new codes that require new pricing, EOHHS will list these codes and apply individual consideration in reimbursing these new codes until rates are established.

(5) Billing. Each eligible provider must bill the governmental unit according to the appropriate fee schedule on a prescribed form. Each specific service must be separately enumerated on the bill.

358.04: Reporting Requirements

(1) An eligible provider that was paid by a governmental unit for applied behavior analysis services provided in a prior fiscal year, and whose program operated for the entire prior fiscal year must submit the following information to the Operational Services Division or to the Center, as applicable:

- (a) an annual Uniform Financial Statements and Independent Auditor's Report (UFR) completed in accordance with

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1. the filing requirements and schedule of 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*; and
 2. any special instructions appearing in the UFR Audit & Preparation Manual, which may require that certain providers distinguish certain cost centers or programs by filing separate UFR-Schedule Bs for each cost center or program; and
- (b) any cost report supplemental schedule or any additional information requested by the Center within the timeframe specified by the Center on the request.

(2) Penalty for Noncompliance. A purchasing governmental unit may impose a penalty in the amount of up to 15% of its payments to any provider that fails to submit required information. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 358.04(2).

358.05: Severability

The provisions of 101 CMR 358.00 are severable. If any provision of 101 CMR 358.00 or application of such provision to any eligible provider or circumstances is held to be invalid or unconstitutional, such invalidity will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 358.00 or application of such provisions to eligible providers or circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 358.00: M.G.L. c. 118E.