



Salisbury Behavioral Health, Inc. Provider response to proposed IBHS Regulations

Salisbury behavioral health at this time is not in support of all the proposed IBHS regulation changes. These proposed IBHS regulations, while purported as cost neutral, will increase program costs and make it more difficult for many providers to stay afloat. The proposed regulations contribute to additional barriers related to staffing and will ultimately contribute to the inability of many providers continuing to be viable IBHS providers. Existing service recipients will be impacted negatively, by elimination of programs and providers, which is unacceptable.

Additional costs associated with increase in frequency and modality of supervision, in conjunction with changing and unrealistic staffing qualifications are the most salient of barriers endorsed by these proposed regulations. Comments on the impact of these proposed changes are detailed below.

1155.31 General Payment

- Clarification needed in reference to when compliance with the regulations within 90 days becomes in affect
 - Is it within 90 days of the promulgation or the effective date of adoption of the new regulations?
- Required training clarification, supervision and quality management protocols
 - Will all agencies and staff have to follow these new standards within 90-day effective date?
 - Financially this poses a threat to the viability of many IBHS programs
 - Many agencies will struggle with meeting staff qualifications and ration of staff needed to accommodate the current census
 - There is already a shortage of individuals to staff these programs due to current rate of pay increasing qualification and not increasing reimbursement rate will further create hiring barriers and overall viability of the programs in addition to not being able to meet child/family needs and creating longer wait lists.

1155.32 payment conditions for individual services

The order for service must include (d) the measurable improvements in the identified therapeutic needs that indicate when services may be reduced, changed or terminated.

- This can contribute to increased barrier to initiation of services, given that the scope of professionals permitted to write an order are likely not familiarized with this specific IBHS regulation for an order, and will not likely have necessary clinical information needed to assist with identification of targeted improvements. This will prevent initiating services and result in delay, which the IBHS regulations purportedly are attempting to circumvent. It is recommended that this requirement be removed.
- *Written orders*- currently the Best Practice evaluation contains all the necessary clinical information needed to accurately complete the written order and assessment. This practice assure that the Psychiatrist/psychologist is able to make the best

recommendations and determine measurable improvements based on the initial data collected

- With new players in the game, who will be providing them with the necessary training needed to appropriately determine the amount of prescribe hours needed, settings and measurable improvements if they are not familiar with the process
- Payment won't be made without an active treatment plan however the IPT is not required to be completed until after the assessment and within 45 day of initiation of services (75 days for ABA)
 - What defines a *treatment plan*? What is the difference and who will define it?
 - Not clear on whether a prior/preauthorization process will remain in affect
 - What about financial viability? No current program will be able to sustain if they can't assure payment will be reimbursed for services rendered.

1155.33 Payment conditions for ABA services (2) (v)

(v) The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of the ABA services identified in the ITP

- How is 'significant progress' defined when there is (ii) No significant progress has been made within 90 days from the initiation of ABA services identified in the ITP, necessitating an update of an ITP. This will likely result in more frequent assessment and ITP's which translates to greater expense in staff providing additional tasks than under current BHRS regulations for the same activity

5240.7 coordination of services

- Requirement that a written referral process for children whose needs cannot be served and to include documented referrals (e)
 - Need clarification, does this relate to individuals who are already being served within the agency or someone with a written prescription that the agency does not have the capability to serve?
 - If it refers to clients needing services how will the agencies provide this level of case management without compensation and additional staff availability

5240.11 staffing requirements

- Ensuring that staff schedules meet the needs of the children, youth and young adults served and accommodate their parents.... (b)2
 - While it is nice to be able to accommodate as needed it is not always realistic the treatment needs, could be used to avoid and hinder treatment goal progression is just one barrier.
 - Would recommend adding *Attempt to accommodate*. If accommodation doesn't hinder treatment and if provided enough notice.

- Without a higher reimbursement rate, it will be difficult to comply with the increased administrative oversight, required additional clinical supervision and program monitoring requirements, training/quality assurance. (e)
- An IBHS agency must employ a sufficient number of staff to provide the maximum number of service hours identified in the written order and the ITP. (f)
 - It will be difficult to comply with this regulation due to the current staffing crisis and inability to pay higher staff wages with the low reimbursement rates currently offered
 - It will be a barrier if having to go back to the original prescriber to re-order a more appropriate amount of hours
 - It does state that the ITP can recommend fewer hours and a new order is not needed but without the new order is the Agencies still held accountable to the original Maximum hours require in the order? This is not clear

5240.13 Staff training plans

- Agency training plans should be based on service outcomes and staff performance evaluations (3) this needs clarification
 - If service planning and outcomes are related to individual served and staff performance and training plan is needs are specific to individual staff, what is meant by annual review and update of the agency training plan if it is meant to be individualized based on the staff needs and evaluated through their performance
 - Additionally, what will be the approval process for all department approved trainings that will be required to be completed within a 90-day timeframe (5240.73, 83 & 93)

5240.21 Assessments

- (5) and (f)(2) ...child has not made significant progress in 90 days from initiation.
 - What is considered “significant”?
 - Who makes that determination?
 - As the assessment contains primarily biopsychosocial information, why would an updated assessment be required each time the ITP is updated in accordance with the regulations?

5240.22. Individual treatment plan. {Also, 5240.86, 5240.96}

- (6) Settings where services may be provided.
 - Needing to include number of hours for each setting is unrealistic and not flexible but rather dictates time rather than client centered need (7)
 - Stakeholders, including families, had expressed the need for flexibility in service provision. These requirements are more restrictive and are not client centered.

5240.61. Quality improvement requirements.

- Annual Review - (iii) Assessment of the outcomes of services delivered and if ITP goals have been completed.
 - Wouldn't this be specific to each individual child not the agency?
 - Will this be done for each child in the Annual Review or will a sample of individual records be enough?
 - (2)(i) Seems to indicate that a sample would be enough. There appears to be contradictions in other portions of the regulations at 5240.41(b)(3) and 5240.11 (d)(4)

5240.71. Staff qualifications for individual services.

- Behavior Consultation Services
 - (b) Individuals who provide behavior consultation services to children diagnosed with ASD must meet the additional training requirements or experience in ABA even though the Individual Services section does not apply to ABA. This requirement will decrease treatment access to children with ASD who ARE NOT seeking ABA services. This requirement should be removed from the Individual Services section and be replaced with the ACT 62 requirement of licensure.
- BHT – Behavior Health Technician (by January 1, 2021)
 - The certifications required are all based on ABA even though this section applies to Individual Services. Therefore, the Department is mandating training and certification in a specific treatment modality.
 - (5) 40-hour training covering the RBT List – certification – BCBA or BCaBA as trainer {Also 5240.81 (5)}
 - During stakeholder discussions, access to services was stressed. Certifications that require a BCBA as a trainer and supervisor are going to limit access and are not necessary in the Individual Services section. As this service is NOT listed under the ABA services, ABA certifications should not be a requirement for a BHT.
 - Recommendation: the 40-hour training covering the RBT Task List is available through many venues including on-line training platforms. Individuals with a high school diploma who have successfully completed the 40 hours of training should be qualified for hire as a BHT. Instead, this section should read “completion certificate(s)” of the 40-hour training covering the RBT Task List and should not require a trainer who is a BCBA or BCaBA. This is inferred in the preamble on page 18 but stated very differently in the regulations.
 - (6) Have a minimum of 2 years of experience in the provision of behavioral health services.
 - While this may allow for a transition of current Therapeutic Staff Support workers, access will become an immediate issue for all children, not just ASD. It will be extremely difficult to hire new BHT staff that have one of the five certifications listed.

5240.72 Supervision of staff who provide individual services

Supervision of BC/MT

(1) One hour of INDIVIDUAL supervision per month plus (2) and additional one hour of supervision if supervisor of BHT services

- This requirement will decrease availability of each BC/MT providing services by one to two hours per month.
- This will add cost to providers due to non-reimbursement by payer for supervision.
- Supervisor requirements of BCBA are prohibitive in the expense associated with BCBA salaries. Provider costs are increased by reducing available billable hours and need to hire BCBA to provide supervision.
- (3) Mobile therapists should not have direct observation of services being provided during therapy sessions.
- Additionally, requires an excessive amount of supervision for graduate and/or licensed individuals

Recommendation: Allow individuals who meet criteria for clinical directors to provide supervision as this cost is already embedded within program expenses and allow for group supervision to enable efficient use of supervisor's time.

Supervision of BHT

One hour of individual supervision per week. (1) Each full-time BHT will require one hour of individual supervision that includes only the supervisor and the BHT. This *individual* supervision should be required monthly (as in past BHRS bulletins). Weekly supervision should be allowed as group supervision as outlined in 5240.72. (4)(d). This increased amount of *individual* supervision will dramatically increase the costs to providers.

- Supervision is currently provided in groups which is an effective supervisory modality. Requiring individual BHT supervision increases program cost as whomever is providing supervision is unavailable to provide direct service; supervision is non-reimbursable and will result in loss of available billable and clinical activity.
- This increased amount of *individual* supervision will dramatically increase the costs to providers.

Recommendation: Continue with group supervision to avoid increased program expenses

BHT-Behavior Health Technician (by January 1, 2021)

- The certifications required are all based on ABA, which translates to the Commonwealth recommending training in a specific treatment modality. This undermines clinical judgment during treatment planning.

(5) 40-hour training covering RBT List-certification BCBA or BCaBA as trainer

- Provider concern is again, additional program expense for training which is not reimbursed by current funding streams. Difficulty accessing training will limit availability of staff and negatively impact and disrupt services.

(6) Have a minimum of 2 years' experience in the provision of behavioral health

- Provider concern: This change allows for transition of existing staff, however limits available staffing pool and will become an immediate issue for all recipients of IBHS services. Current TSS turnover is exorbitant, and adding additional, difficult to meet criteria to a new BHT role, will eliminate ability for providers to hire and staff programs. Service needs will go unmet.

BHT Behavioral Health Technician (by January 1, 2021)

(5) 40-hour training covering the RBT list certification-BCBA or BCaBA as trainer

- Provider issue: Requiring BCBA or BCaBA trainers will decrease availability of training, impacting hiring and delivering services. BCBA's command high salaries which are not currently supported by reimbursement rates for BHRS services. (December 2016 statistics from *PayScale* revealed a national average salary for BCBA's of \$55,839, with top earners bringing home an average salary of \$95,521.)
- This is a huge issue and significant barrier to ability of providers to operate programs. Additionally, rural areas will be impacted significantly as availability of BCBA's is not on par with urban and suburban areas.

Applied Behavioral Analysis

5240.81 Staff qualification for ABA services

Clinical Director-ABA BCBA required by July 1, 2022

- BCBA certification requirement by July 1, 2022
 - Barrier presented, limit availability of individuals who will qualify by this deadline.
 - BABC is not expanding eligible education for BCBA certification to include social workers until January 1, 2022.
 - Current clinical supervisors who meet BHRS supervisory regulations will not be able to begin to work towards obtaining BCBA until January 1, 2022. There is not adequate time allowed for current staff to be begin and complete BCBA track approved training by the July 1, 2022 deadline.

Recommendation: expand deadline for clinical supervisors to obtain BCBA until 2023 OR permit waivers until education standard is met.

Our agency has put considerable time and effort into identifying the significant barriers embedded in the proposed IBHS regulations. The ultimate goal is to be able to continue to provide comprehensive, quality and cost-effective services to the children, youth and young

adults of our Commonwealth. Our hope is that our concerns and recommendations will be considered, and revisions to the proposed regulations modified.