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Champa, Heidi

From:	Grier, Jessica H <jgrier@wellspan.org>
Sent:	Friday, August 17, 2018 11:08 AM
To:	PW, IBHS; Grier, Jessica H
Cc:	Wright, Sara J
Subject:	proposed rulemaking comments- Intensive Behavioral Health Services
Attachments:	Intensive Behavioral Health Services_questions_state_8-15-18.docx

Good morning!
Please see attached comments and questions regarding the proposed rulemaking for Intensive Behavioral Health Services. I am happy to clarify or discuss further any of my comments. Thank you and have a nice day!

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Intensive Behavioral Health Services

Questions/Comments on Proposed Rulemaking.

August, 17, 2018

Payment for IBHS 1155.31-1155.37

"licensed professional whose scope of practice includes the diagnosis and treatment of behavioral health disorder"

Question/Comment:

- Does this allow for LPC's & LCSW's whose training includes Diagnosis to complete the written order? Addition of LPC/LCSW could increase access to completing the written order.
- Would this count as a first date of service?

General Provisions 5240.1-5240.7

"This proposed rulemaking requires IBHS agencies to have an administrative director, clinical director, and staff."

Question/Comment:

- Is the agency required to have these positions at each site location OR for the agency? This impacts overhead cost significantly if at each site location. Consider across agency. Example, agency has 1 administrative director, clinical director at each site, ABA supervisor at each site.

"As part of their initial licensing application package, IBHS agencies will also be required to submit to the Department for review and approval a written description of the services the agency will provide. IBHS agencies can include all services in one service description that will be reviewed and approved as part of the licensing process."

Question/Comment:

- Will each agency need to update their Service Description as part of obtaining a license? This will be a lot of volume for the MCO's, counties, and State to manage. This could cause an administrative back log in addition to administrative burden to manage in addition to implementing changes.

"This proposed rulemaking prohibits the use ***of any restrictive procedures*** other than manual restraints"

Comment:

- The term "restrictive procedure" applies to more than just restraints and should not be prohibited. This term is being used broadly. Concern on the impact in behavior planning and

safety in working with clients. At times, the BC, under the supervision of a Behavior Analyst, will work with the treatment team, including the individual if possible, and caregivers to create a Restrictive Procedure Plan to target behaviors which impair the safety or quality of life.

Definitions for behavioral programming or contingencies which are restrictive or considered as punishment:

Behavior programming or contingencies which are classified as restrictive and are being implemented solely for the physical protection and safety of the client:

a. Response blocking defined as the physical obstruction of movement in only one direction to reduce the likelihood of injury to the client or others (e.g. blocking head hitting while all other motion of the arm is permitted)
b. Physical safety equipment (e.g. helmet, arm sleeves, bite guard) prescribed by a medical doctor

Behavior programming or contingencies which are classified as restrictive that are being implemented to reduce a behavior that is either harmful to the individual, harmful to others, or significantly reduces the quality of life of the individual include:

c. Physical prompting/guiding/redirection defined as staff physically touching and moving parts of the client's body in order to cause a behavior to occur
d. Extinction defined as the withholding or removal of reinforcement after a behavior which was previously reinforced
e. Time-out defined as removal of the person from an area or removal of access to reinforcers within an area for a designated amount of time
f. Overcorrection defined as the exaggerated practice of a replacement behavior or a high amount of effort to restore an environment to a previous state
g. Response-cost defined as the contingent loss of a previously earned reinforcer or reward

Behavior analysts recommend reinforcement rather than punishment whenever possible. If punishment procedures are necessary, behavior analysts always include reinforcement procedures for alternative behavior in the behavior-change program.

Consider/Suggestion: Removing language that restrictive procedures are prohibited.
Add following structure:

- Behavior Analyst will work with the treatment team including the individual if possible and caregivers to create a Restrictive Procedure Plan to target behaviors which impair the safety or quality of life.
- Treatment Review Team consisting of the Supervisor of ABA Services, Director of BHRS/IBHS or designee, and other clinical experts (e.g. BCBA, Psychologist, Psychiatrist, LPC, LCSW) with at least three individuals present will review the proposal and evaluate the necessity of the restrictive procedure plan.
- Upon approval of the Restrictive Procedure, the Behavior Analyst along with the treatment team will incorporate the restrictive intervention and a description of its implementation into the treatment plan.
- The Behavior Analyst will develop a training that must be completed and competency assessment that must be measured and shown to mastery for every staff engaging the restrictive procedure, before they are allowed to implement the restrictive procedure with the client.
- The Behavior Analyst will develop a specific data collection system and ensure that

accurate data collection on the behaviors and regular analysis of treatment effectiveness is conducted.

- The Behavior Analyst will work with the treatment team to develop criteria for when the Restrictive Procedure Plan can be removed and provide monitoring of the client's behavior to ensure that when that criterion is met, the Restrictive Procedure Plan is discontinued.

Discharge 5240.31-5240.32

"An IBHS agency is required to complete at least two telephone contacts within the first 30 days after discharge to monitor the child's, youth's or young adult's maintenance of treatment progress."

Question/Comment:

- Why two calls? Instead consider one call within 30 days.
- There should be additional wording that includes families with "unplanned Discharges". Such as due to non-compliance, unable to contact, or No Shows. *These should be an exception and NOT require follow up calls from the provider.*
- Will this service have an event code to be a billable service?
- What if unable to contact? Can this be documented and count as an "attempt". This require no additional follow up.

Individual Services 5240.71, 5240.73 & 5240.75

"An individual can be a BHT if the individual has or obtains within 18 months of being hired by an IBHS agency as a BHT or within 2 years after the effective date of adoption of this proposed rulemaking, whichever is later, a behavior analysis certification from a Nationally-recognized certification board or the Pennsylvania Certification Board."

Question:

1. Does the RBT qualify?
2. BHT's are required to obtain additional training even if not working with ASD or in ABA. Will all RBT's be able to bill the RBT rate no matter the diagnosis or service requested, but based on the qualifications of the staff person? BHT's should be billing as an RBT since it requires additional training and ongoing supervision.

"if the individual has a bachelor's degree in psychology, social work, counseling, sociology, education or related field, or is licensed as a registered nurse and has a minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults. A BHT that does not have the required certification but has an associate's degree or at least 60 credits towards a bachelor's degree and 1 year of full-time experience in providing mental health direct services to children"

Comment: Access to care is driven by staffing issues. Limiting the potential candidates and areas of expertise further drives access problems. Above limits individuals who have come from education backgrounds or have obtained field experience working in classroom or behavioral health settings. It is also above the requirements for an RBT. ***Consider instead*** for BHT:

- A High School Diploma with completed RBT and under the supervision of a BCBA or BCaBA

OR

- Associates degree with 3 years experience working in a CASSP system, with completed RBT within 18 months of hire, under the supervision of a BCBA or BCaBA

OR

- Bachelors degree in psychology, social work, education, or ABA with no experience. Within 18 months of hire completed RBT and under the supervision of a BCBA or BCaBA.

OR

- Bachelors degree in unrelated field with at least one year's experience in a CASSP system. Within 18 months of hire completed RBT and under supervision of a BCBA or BCaBA.

BC- "Behavior specialists can assess the behavioral needs of children, youth and young adults; design and direct the implementation of behavioral interventions in the ITP; identify behavioral goals and select appropriate interventions for inclusion in the ITP; and review, analyze and interpret data to determine any changes to goals and objectives included in the ITP; consult with mobile therapists or BHTs on behavioral management protocols and review clinical outcomes for the behavioral interventions being implemented in the treatment plan with the youth, young adult, or parent or caregiver of the child to determine effectiveness of the individual services on a monthly basis."

MT - "Mobile therapists can provide individual and family therapy; assess the strengths and therapeutic needs of a child, youth or young adult and family or caregiver; and develop the ITP and provide assistance with crisis stabilization and addressing problems a child, youth or young adult has encountered."

Comment: There is variation in MCO's on defining billable activities of the MT & BC. As much clarity and definition in this area as possible. It is essential that BC's be able to bill to develop the TX Plan. It was

mentioned above how important supervision is. On-site and individual supervision of BHT should be a billable activity (it is by many private insurance companies for the RBT).

ABA – 5240.81-52.83 & 5240.87

"This proposed rulemaking includes qualifications, training and supervision requirements for individuals who deliver ABA services to ensure that staff providing ABA have adequate knowledge, skills and experience. This proposed rulemaking includes additional requirements for the clinical director of an IBHS agency that provides ABA. All clinical directors of IBHS agencies shall be licensed or certified, but the clinical director of an IBHS agency that provides ABA shall either have a current certification as a board-certified behavior analyst (BCBA) from the Behavior Analyst Certification Board or other graduate-level certification in behavior analysis from a Nationally-recognized certification board, or a graduate degree in ABA and a minimum of 1 year of full-time experience in the provision of ABA and obtain BCBA certification or other graduate-level certification in behavior analysis from a Nationally-recognized certification board within 3 years from starting work as the clinical director for any IBHS agency. Based upon discussion and input from stakeholders, this proposed rulemaking allows individuals 3 years to obtain a BCBA or other graduate-level certification in behavior analysis from a Nationally-recognized certification board to ensure that there is adequate qualified staff to perform the functions of the clinical director in an IBHS agency providing ABA services when this proposed rulemaking becomes effective. The 3-year time frame accounts for the requirements for certification which include a graduate degree with specific coursework related to ABA, experience, supervision hours and testing."

Comment: Recommend removing the term Clinical "Director" and change to Clinical "***Supervisor***". It is important for a supervisor with a BCBA to help drive and oversee clinical treatment to help maintain a culture of ABA. This is supported through regular supervision both on-site & in the office, a vigorous training schedule, professional articles, & core competency feedback. It is important to help support the expertise off our BCBA's to drive and maintain clinical excellence. To shift to the role "director" moves into different job expectations that takes the position away from clinical work and focused on more administrative task and responsibilities. Even if there is also an Administrative Director in place. Having title of "director" requires many admin task that would take away from ABA oversight. It is important to utilize this key expertise to continue to drive clinical care.

"ABA can be provided by a behavior specialist analyst, assistant behavior specialist analyst (ABSA) and a BHT-ABA. The qualifications for a behavior specialist analyst, formerly a behavior specialist consultant, have been changed from the requirements included in the bulletins. Behavior specialist analysts shall be licensed as a psychologist, professional counselor, marriage and family therapist, clinical social worker, social worker or behavior specialist, and have a graduate or undergraduate-level certification in behavior analysis from the Behavior Analyst Certification Board or other Nationally-recognized

certification board, or a current certification as a behavior specialist analyst with a competency in ABA from the Pennsylvania Certification Board, or a minimum of 12 credits in ABA and 1 year of full-time experience in the provision of ABA, or a minimum of 1 year of full-time experience in the provision of ABA under the supervision of an individual with a graduate-level certification in behavior analysis."

Comment: Access to Care is an on-going issue, which is driven by staffing. This will significantly increase the expectations for hiring BC's. Many candidates do not come in with ABA credits, but are willing to continue their education. This will increase wait list. Consider instead the following categories to ***all to qualify:***

- BCBA

OR

- BCaBA

OR

- BC with BSL under the supervision of a BCBA. Degree can be in psychology, social work, education, or related field. BC must obtain BCBA within 3 years of starting role as BC in ABA.

This will provide consistent clinical oversite on cases and organizations can provide employees support through tuition reimbursement and BCBA supervision. It also allows for more professional development opportunity and remain nimble to access and staffing needs.

Question: Will the BCaBA be approved for billing as a BC?

"A BHT-ABA shall have or obtain within 18 months of being hired by an IBHS agency as a BHT-ABA or within 2 years after the effective date of adoption of this proposed rulemaking, whichever is later, a behavior analysis certification from a Nationally-recognized certification board"

Question: Does the RBT qualify?

"if the individual has a bachelor's degree in psychology, social work, nursing, counseling, education or related field or if the individual has an associate's degree or at least 60 credits towards a bachelor's degree with 12 credits in providing ABA and a minimum of 1 year of full-time experience in the provision of ABA."

Comment: Access to care is driven by staffing issues. Limiting the potential candidates and areas of expertise further drives access problems. Above limits individuals who have come from education backgrounds or have obtained field experience working in classroom or behavioral health settings. It is also above the requirements for an RBT. ***Consider instead*** for BHT-ABA:

- A High School Diploma with completed RBT and under the supervision of a BCBA or BCaBA

OR

- Associates degree with 3 years experience working in a CASSP system, with completed RBT within 18 months of hire, under the supervision of a BCBA or BCaBA

OR

- Bachelors degree in psychology, social work, education, or ABA with no experience. Within 18 months of hire completed RBT and under the supervision of a BCBA or BCaBA.

OR

- Bachelors degree in unrelated field with at least one year's experience in a CASSP system. Within 18 months of hire completed RBT and under supervision of a BCBA or BCaBA.

"Supervision requirements have been included in this proposed rulemaking to ensure staff providing ABA services have the knowledge and skill to carry out the specific procedures and interventions that are identified in the ITP. Supervision includes direct observation of the provision of ABA to a child, youth or young adult during the implementation of the ITP goals. Supervision requirements are based upon staff qualifications, skills and job functions. Documentation of supervision is consistent with other IBHS supervision requirements and provides a mechanism to design the individual training plan for each staff."

Comment: Supervision both on-site and individual should be a billable activity.

Group Services 5240.101 and 5240.103 -5240.103-5240.108

"This proposed rulemaking requires that in addition to an administrative and clinical director, an IBHS agency that provides group services shall have a mental health professional."

Comment: This should be for the agency, not for location or site. An agency could be running time limited and focused groups services at a school, community, or agency site. This should not require an administrative and clinical director at each site.

"Group services are intended to replace summer therapeutic activities programs (STAP) and this proposed rulemaking incorporates the elements of STAP, although it expands the ability of IBHS agencies to provide group services."

Question: Clarify, that Group Services are replacing STAP, but can still be written in a Service Description to be provided for 5-8 weeks or a limited time frame similar to STAP. Example, a provider may request a summer only group service?

Do group services replace Out Patient school-based services?

"shall have a mental health professional. A mental health professional is required to have the same qualifications as a mobile therapist that provides individual services"

Comment: This limits expertise and field experience, hiring options, and impacts access to care. Group services also encompass behavior management as an essential skills. Suggestion, expand to include:

i. Master's degree in a human services field such as psychology, social worker, counseling, certificate in ABA or

ii. Master's degree in an unrelated field and One year full-time paid work experience in a CASSP serving system in the provision of behavioral health services and under supervision by a Licensed Clinician or BCBA

Comment: For group services currently running, there should be a period of transition to allow for MHP's to be put in place.

"Staff of an IBHS agency that provides group services may also include mental health workers and BHTs"

Question/Comment: What is the difference between a MHW and a BHT? Keep separated from BHT to avoid confusion with ABA services and unnecessary requirements.

"A mental health worker that provides group services shall have either a bachelor's degree in a recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapies, or have a graduate degree in a clinical discipline. A BHT shall have the qualifications of a BHT who provides individual services"

Comment: Access to care is driven by staffing issues. Limiting the potential candidates and areas of expertise further drives access problems. Above limits individuals who have come from education backgrounds or have obtained field experience working in classroom or behavioral health settings. ***Consider instead*** for MHW:

- A High School Diploma with completed RBT and under the supervision of a BCBA or BCaBA

OR

- Associates degree with 3 years experience working in a CASSP system

OR

- Bachelors degree in psychology, social work, education, or ABA with no experience.

OR

- Bachelors degree in unrelated field with at least one year's experience in a CASSP system

Comment: BHT in group service setting should not be required to obtain RBT.

Payment Conditions

Assessment & Tx Plan

"The assessment and all updates have been signed by the IBHS agency staff person that completed the assessment ***and the supervisor*** of the staff person that completed the assessment."

"The ITP and all updates have been reviewed and signed by the youth, young adult, or at least one parent or caregiver of the child or youth, the staff person who developed the ITP and the supervisor of the staff person who developed the ITP."

Comment: The Assessment and Treatment Plan if signed by a Master's level clinician, should NOT also require supervisor/or ABA supervisor/MHP supervisor to sign assessment/ treatment plan. Key individuals already signing would be the client, caregiver, clinician, and any team members. It is being developed and signed by a Master's level clinician. These are the key members driving treatment decisions. Requiring the supervisor/or ABA supervisor/ MHP supervisor to sign, becomes an unnecessary administrative barrier.