

256B.0949 AUTISM EARLY INTENSIVE INTERVENTION BENEFIT.

Subdivision 1. **Purpose.** This section creates a new benefit to provide early intensive intervention to a child with an autism spectrum disorder diagnosis. This benefit must provide coverage for diagnosis, multidisciplinary assessment, ongoing progress evaluation, and medically necessary treatment of autism spectrum disorder.

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Autism spectrum disorder diagnosis" is defined by diagnostic code 299 in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(c) "Child" means a person under the age of 18.

(d) "Commissioner" means the commissioner of human services, unless otherwise specified.

(e) "Early intensive intervention benefit" means autism treatment options based in behavioral and developmental science, which may include modalities such as applied behavior analysis, developmental treatment approaches, and naturalistic and parent training models.

(f) "Generalizable goals" means results or gains that are observed during a variety of activities with different people, such as providers, family members, other adults, and children, and in different environments including, but not limited to, clinics, homes, schools, and the community.

(g) "Mental health professional" has the meaning given in section 245.4871, subdivision 27, clauses (1) to (6).

Subd. 3. **Initial eligibility.** This benefit is available to a child enrolled in medical assistance who:

(1) has an autism spectrum disorder diagnosis;

(2) has had a diagnostic assessment described in subdivision 5, which recommends early intensive intervention services; and

(3) meets the criteria for medically necessary autism early intensive intervention services.

Subd. 4. **Diagnosis.** (a) A diagnosis must:

(1) be based upon current DSM criteria including direct observations of the child and reports from parents or primary caregivers; and

(2) be completed by either (i) a licensed physician or advanced practice registered nurse or (ii) a mental health professional.

(b) Additional diagnostic assessment information may be considered including from special education evaluations and licensed school personnel, and from professionals licensed in the fields of medicine, speech and language, psychology, occupational therapy, and physical therapy.

Subd. 5. **Diagnostic assessment.** The following information and assessments must be performed, reviewed, and relied upon for the eligibility determination, treatment and services recommendations, and treatment plan development for the child:

(1) an assessment of the child's developmental skills, functional behavior, needs, and capacities based on direct observation of the child which must be administered by a licensed mental health professional, must

include medical or assessment information from the child's physician or advanced practice registered nurse, and may also include observations from family members, school personnel, child care providers, or other caregivers, as well as any medical or assessment information from other licensed professionals such as rehabilitation therapists, licensed school personnel, or mental health professionals; and

(2) an assessment of parental or caregiver capacity to participate in therapy including the type and level of parental or caregiver involvement and training recommended.

Subd. 6. **Treatment plan.** (a) Each child's treatment plan must be:

(1) based on the diagnostic assessment information specified in subdivisions 4 and 5;

(2) coordinated with medically necessary occupational, physical, and speech and language therapies, special education, and other services the child and family are receiving;

(3) family-centered;

(4) culturally sensitive; and

(5) individualized based on the child's developmental status and the child's and family's identified needs.

(b) The treatment plan must specify the:

(1) child's goals which are developmentally appropriate, functional, and generalizable;

(2) treatment modality;

(3) treatment intensity;

(4) setting; and

(5) level and type of parental or caregiver involvement.

(c) The treatment must be supervised by a professional with expertise and training in autism and child development who is a licensed physician, advanced practice registered nurse, or mental health professional.

(d) The treatment plan must be submitted to the commissioner for approval in a manner determined by the commissioner for this purpose.

(e) Services authorized must be consistent with the child's approved treatment plan.

Services included in the treatment plan must meet all applicable requirements for medical necessity and coverage.

Subd. 7. **Ongoing eligibility.** (a) An independent progress evaluation conducted by a licensed mental health professional with expertise and training in autism spectrum disorder and child development must be completed after each six months of treatment, or more frequently as determined by the commissioner, to determine if progress is being made toward achieving generalizable goals and meeting functional goals contained in the treatment plan.

(b) The progress evaluation must include:

(1) the treating provider's report;

(2) parental or caregiver input;

(3) an independent observation of the child which can be performed by the child's licensed special education staff;

(4) any treatment plan modifications; and

(5) recommendations for continued treatment services.

(c) Progress evaluations must be submitted to the commissioner in a manner determined by the commissioner for this purpose.

(d) A child who continues to achieve generalizable goals and treatment goals as specified in the treatment plan is eligible to continue receiving this benefit.

(e) A child's treatment shall continue during the progress evaluation using the process determined under subdivision 8, clause (8). Treatment may continue during an appeal pursuant to section 256.045.

Subd. 8. Refining the benefit with stakeholders. The commissioner must develop the implementation details of the benefit in consultation with stakeholders and consider recommendations from the Health Services Advisory Council, the Department of Human Services Autism Spectrum Disorder Advisory Council, the Legislative Autism Spectrum Disorder Task Force, and the Interagency Task Force of the Departments of Health, Education, and Human Services. The commissioner must release these details for a 30-day public comment period prior to submission to the federal government for approval. The implementation details must include, but are not limited to, the following components:

(1) a definition of the qualifications, standards, and roles of the treatment team, including recommendations after stakeholder consultation on whether board-certified behavior analysts and other types of professionals trained in autism spectrum disorder and child development should be added as mental health or other professionals for treatment supervision or other functions under medical assistance;

(2) development of initial, uniform parameters for comprehensive multidisciplinary diagnostic assessment information and progress evaluation standards;

(3) the design of an effective and consistent process for assessing parent and caregiver capacity to participate in the child's early intervention treatment and methods of involving the parents and caregivers in the treatment of the child;

(4) formulation of a collaborative process in which professionals have opportunities to collectively inform a comprehensive, multidisciplinary diagnostic assessment and progress evaluation processes and standards to support quality improvement of early intensive intervention services;

(5) coordination of this benefit and its interaction with other services provided by the Departments of Human Services, Health, and Education;

(6) evaluation, on an ongoing basis, of research regarding the program and treatment modalities provided to children under this benefit;

(7) determination of the availability of licensed physicians, nurse practitioners, and mental health professionals with expertise and training in autism spectrum disorder throughout the state to assess whether there are sufficient professionals to require involvement of both a physician or nurse practitioner and a mental health professional to provide access and prevent delay in the diagnosis and treatment of young children, so as to implement subdivision 4, and to ensure treatment is effective, timely, and accessible; and

(8) development of the process for the progress evaluation that will be used to determine the ongoing eligibility, including necessary documentation, timelines, and responsibilities of all parties.

Subd. 9. Revision of treatment options. (a) The commissioner may revise covered treatment options as needed based on outcome data and other evidence.

(b) Before the changes become effective, the commissioner must provide public notice of the changes, the reasons for the change, and a 30-day public comment period to those who request notice through an electronic list accessible to the public on the department's Web site.

Subd. 10. Coordination between agencies. The commissioners of human services and education must develop the capacity to coordinate services and information including diagnostic, functional, developmental, medical, and educational assessments; service delivery; and progress evaluations across health and education sectors.

Subd. 11. Federal approval of the autism benefit. (a) This section shall apply to state plan services under title XIX of the Social Security Act when federal approval is granted under a 1915(i) waiver or other authority which allows children eligible for medical assistance through the TEFRA option under section 256B.055, subdivision 12, to qualify and includes children eligible for medical assistance in families over 150 percent of the federal poverty guidelines.

(b) The commissioner may use the federal authority for a Medicaid state plan amendment under Early and Periodic Screening Diagnosis and Treatment (EPSDT), United States Code, title 42, section 1396D(R)(5), or other Medicaid provision for any aspect or type of treatment covered in this section if new federal guidance is helpful in achieving one or more of the purposes of this section in a cost-effective manner. Notwithstanding subdivisions 2 and 3, any treatment services submitted for federal approval under EPSDT shall include appropriate medical criteria to qualify for the service and shall cover children through age 20.

Subd. 12. Autism benefit; training provided. After approval of the autism early intensive intervention benefit under this section by the Centers for Medicare and Medicaid Services, the commissioner shall provide statewide training on the benefit for culturally and linguistically diverse communities. Training for autism service providers on culturally appropriate practices must be online, accessible, and available in multiple languages. The training for families, lead agencies, advocates, and other interested parties must provide information about the benefit and how to access it.

History: 2013 c 108 art 7 s 14; 2014 c 275 art 1 s 63,140; 2014 c 312 art 27 s 52-55