CLIENT ALERTS & INSIGHTS

Heightened Scrutiny of Medicaid-Funded ABA Services-Key Takeaways for Providers

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Featured Practices: Healthcare

Key Takeaways

- Medicaid-funded Applied Behavior Analysis (ABA) services for autism are facing heightened scrutiny due to rapid industry growth, inconsistent oversight and reports of overbilling and compliance failures, prompting increased audits and enforcement actions nationwide.
- Providers are at greater risk of investigations, financial penalties and reputational harm as regulators implement stricter controls, standardized rates and caps on services. Failure to address compliance gaps could result in significant legal and financial consequences.
- ABA providers can begin strengthening compliance protocols, ensuring treatment intensity matches clinical necessity and preparing for new reimbursement models by auditing documentation, training staff and reviewing operational sustainability to adapt to evolving regulatory expectations.

A recent investigative reporting by The Wall Street Journal highlights significant concerns within the Medicaid-funded autism therapy sector, particularly Applied Behavior Analysis (ABA). The article details how rapid industry growth, inconsistent oversight and certain state reimbursement structures have created conditions ripe for overbilling, compliance failures and in some cases outright fraud. ABA providers should take note of the concerns that The Wall Street Journal highlights in this article, as well as recommendations from our experienced ABA attorneys on how providers can increase their compliance efforts in areas in which ABA billing fraud can occur.

Across the country, Medicaid spending on ABA has surged-from hundreds of millions to over $2 billion annually-as more providers and investors entered the market to meet rising demand. Yet, regulators now acknowledge that oversight mechanisms did not keep pace. As The Wall Street Journalarticle investigates, in states like Indiana, where Medicaid reimbursed a fixed percentage of whatever providers billed, some organizations charged exceptionally high rates, resulting in payments exceeding $600 per hour and annual spending of more than $300,000 per child. [1]

Federal and state audits have also found widespread documentation issues, instances of excessive treatment hours being prescribed uniformly and situations where therapy was billed while children engaged in non-therapeutic activities such as watching movies or napping. Enforcement actions and

fraud investigations in several states-including Minnesota, Wisconsin and Colorado-underscore regulators' increasing focus on this area. [2] Agencies have described the ABA landscape as "immature" and vulnerable to abuse,[3] prompting states to implement new controls such as standardized rates, reduced reimbursement levels and caps on lifetime ABA hours.

As policymakers and oversight bodies ramp up enforcement, ABA providers should expect elevated scrutiny. Providers who proactively strengthen compliance and ensure clinical integrity will be better positioned to navigate this evolving environment.

Recommendations for ABA Providers

1. Strengthen Compliance and Documentation Protocols

Regulators have identified common issues for ABA providers such as missing documentation, billing during non-therapeutic activities and discrepancies between treatment plans and billed hours. Providers should:

- Conduct internal audits of treatment notes, time logs and authorization alignment.
- Implement standardized, defensible clinical documentation that clearly links services to individualized need.
- Train staff routinely on compliant billing practices and fraud-prevention protocols.

2. Ensure Treatment Intensity Aligns with Clinical Necessity

Investigators observed that some providers billed 30-40 therapy hours per week for nearly every child, despite expert guidance that such intensive schedules are rarely needed. Providers should:

- Establish utilization review processes to validate the clinical rationale for high-hour treatment plans.
- Ensure BCBAs-not business incentives-drive treatment recommendations.
- Document medical necessity thoroughly, particularly when prescribing high intensity levels.

3. Prepare for New Reimbursement Realities

States are moving toward tighter controls, including uniform reimbursement rates, rate reductions and lifetime caps on services. Providers should:

- Review operating and staffing models to ensure sustainability under reduced rates.
- Strengthen efficiency in scheduling, supervision and administrative processes.
- Consider diversifying payer mixes and leveraging value-based care approaches where possible.

Looking Ahead

The ABA sector is undergoing rapid regulatory recalibration. Providers who invest now in compliance, transparency and clinically sound service models will not only reduce legal and financial exposure but also reinforce trust across the Medicaid and private payer landscape. For organizations seeking to adapt, now is the time to reassess clinical practices, audit readiness and financial structures to ensure long-term viability in this increasingly scrutinized environment.

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[1] *The Boom in Autism Therapy Is Medicaid's Fastest-Growing Jackpot*, The Wall Street Journal (March 10, 2026); https://www.wsj.com/health/healthcare/autism-therapy-medicaid-payments-640aa435.

[2] See, i.e., *Colorado Made at Least $77.8 Million in Improper Fee-for-Service Medicaid Payments for Applied Behavior Analysis Provided to Children*, U.S. Department of Health and Human Services (March 2, 2026); https://oig.hhs.gov/reports/all/2025/wisconsin-made-at-least-185-million-in-improper-fee-for-service-medic
.

[3] See *The Boom in Autism Therapy Is Medicaid's Fastest-Growing Jackpot*, The Wall Street Journal (March 10, 2026); https://www.wsj.com/health/healthcare/autism-therapy-medicaid-payments-640aa435.