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**DATE:** January 21, 2020  
**TO:** Interested Parties  
**FROM:** Michelle Probert, Director, MaineCare Services  
**SUBJECT: Proposed Rule:** 10-144 C.M.R., Chapter 101, MaineCare Benefits Manual, Section 106, School-Based Services, Chapter II and Chapter III

**PUBLIC HEARING:**

Date and Time: Tuesday, February 18, 2020 at 9 a.m.  
Location: Augusta Civic Center  
76 Community Drive  
Augusta, ME 04330

**COMMENT DEADLINE:** Comments must be received by 11:59 PM on Friday, February 28, 2020.

This rule is being proposed to implement specific requirements for the provision of School-Based Services. MaineCare members have been receiving MaineCare covered services in school settings, but additional clarity is needed regarding the requirements for the provision and reimbursement of these services. Section 106 consolidates policy for various types of MaineCare covered services that are provided to children so they can thoroughly benefit from their education, as required by the Individuals with Disabilities Education Act (IDEA). Federal Medicaid law requires that School-Based Services be included in the student's Individualized Education Program (IEP) or an Individualized Family Service Plan (IFSP) and may be covered by Medicaid if all relevant statutory and regulatory requirements are met, including generally: (1) the services are listed in section 1905(a) of the Act and are medically necessary; (2) all Federal and State regulations are followed, including those specifying provider qualifications; and (3) the services are included in the State Plan or are available under the EPSDT benefit.

Through Chapter III, which covers reimbursement, this rule will also allow the Department to more clearly identify claims for School-Based Services in order to properly account for "seed" payments that must be paid by the Department of Education to the Department (DOE).

The Department has worked since July 2016 on drafting this new policy, which includes input from DOE and various other stakeholders.

The Department will delay implementation of this rule from the date of adoption with an effective date of July 1, 2020. This date was mutually agreed upon with the Department of Education. This delayed implementation will allow for significant education and training to be conducted for all School-based providers and stakeholders.

The Department is seeking and anticipates receiving approval from CMS for this section. Pending CMS approval, this policy will be effective July 1, 2020.

Rules and related rulemaking documents may be reviewed at, or printed from, the MaineCare website at <http://www.maine.gov/dhhs/oms/rules/index.shtml> or for a fee, interested parties may request a paper copy of rules by calling (207) 624-4050 or Maine Relay number 711.

A concise summary of the proposed rule is provided in the Notice of Agency Rulemaking Proposal, which can be found at <http://www.maine.gov/sos/cec/rules/notices.html>. This notice also provides information regarding the rulemaking process. Please address all comments to the agency contact person identified in the Notice of Agency Rulemaking Proposal.

## **Notice of Agency Rule-making Proposal**

**AGENCY:** Department of Health and Human Services, MaineCare Services, Division of Policy

**CHAPTER NUMBER AND TITLE:** 10-144 C.M.R., Chapter 101, MaineCare Benefits Manual, Proposed Rule - 10-144, Chapter 101, MaineCare Benefits Manual (MBM), Chapters II and III, Section 106, School-Based Services

**PROPOSED RULE NUMBER:**

**CONCISE SUMMARY:**

This rule is being proposed to implement specific requirements for the provision of School-Based Services. MaineCare members have been receiving MaineCare covered services in school settings, but additional clarity was needed regarding the requirements for the provision and reimbursement of these services. Section 106 consolidates policy for various types of covered MaineCare-covered services provided to children so they can thoroughly access their education, as required by the Individuals with Disabilities Education Act (IDEA). Federal Medicaid law requires that School-Based Services be included in the student's Individualized Education Program (IEP) or an Individualized Family Service Plan (IFSP) and may be covered by Medicaid if all relevant statutory and regulatory requirements are met, including generally: (1) the services are listed in section 1905(a) of the Act and are medically necessary; (2) all Federal and State regulations are followed, including those specifying provider qualifications; and (3) the services are included in the State Plan or are available under the Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT) benefit.

Through Chapter III, which covers reimbursement, this rule will also allow the Department to more clearly identify claims for School-Based Services in order to properly account for "seed" payments that must be paid by the Department of Education (DOE) to the Department.

The Department has worked since July 2016 on drafting this new policy, which includes input from the DOE and various other stakeholders.

In addition to generally consolidating policy for various MaineCare covered services provided in schools, Section 106 also implements new covered services, including Behavior Supports and Developmental Preschool. Some other major changes in Section 106 include:

- Moving Behavioral Health Services, Children's Behavioral Health Day Treatment Section 65 to this new section.
- More clearly defining School-Based Services that are currently under Section 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations, and moving them to this new section;
- Allowing members to receive Social Work, Crisis Assistance and Counseling services outside of the day treatment program when needed;
- Allowing for reimbursement for Adaptive Behavior Assessments;
- Clarifying that electronic signatures are allowable for the provision of services;
- Providing clear detail regarding eligibility and documentation requirements for all services.

The Department is seeking and anticipates receiving approval from CMS for this section. Pending CMS approval, this policy will be effective July 1, 2020. This will allow time for providers to prepare for the transition to this new policy.

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for rules and related rulemaking documents.

**STATUTORY AUTHORITY:** 22 M.R.S. §§ 42, 3173

**PUBLIC HEARING:**

Date and Time: Tuesday, February 18, 2020, 9 a.m.  
Location: Augusta Civic Center  
76 Community Drive  
Augusta, ME 04330

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Thursday, February 13, 2020.

**DEADLINE FOR COMMENTS:** Comments must be received by 11:59 PM on Friday, February 28, 2020.

**AGENCY CONTACT PERSON:** Trista Collins, State Medicaid Educational Liaison  
[Trista.Collins@maine.gov](mailto:Trista.Collins@maine.gov)

**ADDRESS:** 109 Capitol Street, 11 State House Station  
Augusta, Maine 04333-0011

**TELEPHONE:** 207-624-4094 FAX: (207) 287-6106  
TTY: 711 (Deaf or Hard of Hearing)

**IMPACT ON MUNICIPALITIES OR COUNTIES (if any):** Municipalities in which school districts have not budgeted for the state share of Medicaid claims for School-based services provided may have increased cost, for the provision of these services.

**CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different):** N/A

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SECTION 106

**SCHOOL-BASED SERVICES**

ESTABLISHED  
EFFECTIVE

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### 106.01 INTRODUCTION

This section of policy contains requirements for School-Based Services.

In Maine, the Office of MaineCare Services (OMS) is responsible for operating the Medicaid program. The State of Maine Department of Education (DOE) collaborates with MaineCare in the implementation and administration of the Medicaid School-Based Services.

**\*The Department is seeking and anticipates receiving approval from CMS for this section.  
Pending CMS approval, this policy will be effective July 1, 2020.**

### 106.02 DEFINITIONS

- 106.02-1 Applied Behavior Analysis (ABA)** means an evidence-based behavioral treatment model that focuses on the careful assessment of behaviors and their underlying functions, examination of how environmental triggers reinforce behaviors, and the structured teaching of skills and positive behaviors. ABA requires collecting and analyzing data to understand behaviors, individualize treatment, and chart progress. ABA-based therapies are based on reliable evidence and are not experimental.
- 106.02-2 Behavioral Health Professional (BHP)** is staff member who has completed the BHP certification training and is certified as a BHP. BHPs may perform MaineCare reimbursable services under this section of policy.
- 106.02-3 Child** is a person between the ages of birth through twenty (20) years of age.
- 106.02-4 Child and Adolescent Needs and Strengths (CANS)** assessment is a multipurpose tool that assesses the needs and strengths of Children and adolescents with mental illness, developmental disabilities/intellectual disabilities, and autism spectrum disorders. The CANS may be used to support decision making (including level of care and service planning), to facilitate quality improvement initiatives, and to allow for the monitoring of outcomes of services.
- 106.02-5 Developmental Delay** An infant or toddler with a disability means an individual under three years of age who needs early intervention services because the individual is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.



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**106.02 DEFINITIONS (cont.)**

- 106.02-6 Developmental Disability** is a diagnosed condition denoting a significant delay in Child development that meets the requirement of 22 M.R.S. § 3573 (1)(A).
- 106.02-7 Discharge Plan** is a plan incorporated in the Individualized Treatment Plan that describes the member’s planned exit from treatment. The plan must identify discharge criteria, documentation of any after care or support services recommended at the time of discharge and must be minimally reviewed by the Treatment Team every ninety (90) days.
- 106.02-8 Durable Medical Equipment** is equipment as defined in 10-144 C.M.R. Ch. 101 (the “MaineCare Benefits Manual”), Ch. II, Sec. 60.01-4, which can only be secured for a Member pursuant to requirements listed in Ch. II, Sec. 60.05-1 of the MaineCare Benefits Manual.
- 106.02-9 Educational Team** is the group identified in IDEA 20 U.S.C §1414 for making decisions regarding the IEP/IFSP outlining the Medically Necessary Services necessary for FAPE in order for the student to participate in their educational program. A Practitioner of the Healing Arts must be included in the Educational Team.
- 106.02-10 Educational Technicians** are educational professionals as defined by 20-A M.R.S. §13001-A (8) and 05-071 C.M.R. Chapter 115, Part 1 by the State of Maine Board of Education. Services provided by Educational Technicians are not reimbursable under this policy.
- 106.02-11 Escort** an Escort is only utilized for transportation services as outlined in this policy, and in *MaineCare Benefits Manual*, Section 113, Non-Emergency (NET) Services. An Escort is a family member, friend, volunteer or facility employee who accompanies a member for the entire NET trip. The Escort may or may not stay with the Member while the medical service is provided to the Member at the provider location. Escorts are not arranged for or funded by the Broker. The term “Escort” may be used interchangeably with the term “Personal Assistant.”
- 106.02-12 Free Appropriate Public Education (FAPE)** means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the Maine State Department of Education; include an appropriate preschool, elementary School or secondary School education in the state; and are provided in conformity with an Individualized Education Program, that meets the requirements of 34 CFR §§ 300.320 through 300.324.
- 106.02-13 Individualized Education Program (IEP)** is a written statement for a child with a disability aged three through twenty that is developed, reviewed and revised in accordance with 34 CFR §§ 300.320 through 300.324.

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**106.02 DEFINITIONS (cont.)**

- 106.02-14 Individualized Family Services Plan (IFSP)** is a written plan for providing early intervention services to an infant or toddler with a disability under Part C of the IDEA and the infant's or toddler's family that is developed in accordance with the IFSP procedures in 34 CFR §§ 303.342 through 303.346.
- 106.02-15 Individuals with Disabilities Education Act (IDEA)** is a federal law ensuring the provision of services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to eligible infants, toddlers, children and youth with disabilities 20 U.S.C. §§ 1400 *et seq.*
- 106.02-16 Individual Treatment Plan (ITP)** is the Plan of Care developed by the Treatment Team and is based on the Service Assessment and a diagnostic evaluation of the member. The ITP must include an individualized Discharge Plan, along with other elements of the Plan of Care. When applicable, the ITP must include a Crisis/Safety Plan. The ITP describes the MaineCare covered services the member will receive.
- 106.02-17 Institutional Setting** means an organization or establishment used to enforce or promote a particular public purpose. Examples of Institutional Settings include inpatient psychiatric hospitalization and juvenile detention centers, and Maine state prisons.
- 106.02-18 Licensed Practitioner of the Healing Arts** include physicians and all others registered or licensed in the healing arts, including, but not limited to: advanced practice registered nurses, licensed clinical social workers, nurse practitioners, podiatrists, optometrists, chiropractors, physical therapists, occupational therapists, speech therapists, dentists, psychologists and physicians' assistants practicing within the scope of their license.
- 106.02-19 Maine Unified Special Education Regulation (MUSER)** refers to 05-071 C.M.R. Chapter 101, which defines Special Education requirements for the State of Maine.
- 106.02-20 Parent or Guardian** may be the biological, adoptive, or legal guardian.
- 106.02-21 Plan of Care** is for Members receiving Occupational Therapy, Speech Therapy, Physical Therapy, or Personal Duty Nursing Services that is authorized by the Assessing Services Agency, the Department, or its Authorized Entity which shall specify all services to be delivered to a Member under this Section, including the number of hours for all covered services. The Plan of Care must be based upon the Member's assessment outcome scores recorded in the Department's medical eligibility determination form.

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**106.02 DEFINITIONS (cont.)**

- 106.02-22 Psychiatric Residential Treatment Facility (PRTF)** means a private psychiatric treatment facility, pursuant to the MaineCare Benefits Manual, Ch. II, Sec. 107, licensed by the State of Maine as a PNMI Level 2 facility and Certified by the Centers of Medicare and Medicaid Services as a Psychiatric Residential Treatment Facility. The PRTF is an inpatient setting providing psychiatric services to individuals under the age of twenty-one (21).
- 106.02-23 School** is a program that has been approved by the Department of Education, as either a Special Purpose Private School or a Regular Education Public School Program. In order to be reimbursed for School-Based services a school must be an enrolled Medicaid provider.
- 106.02-24 School-Based Services** are MaineCare covered services as described in this Section 106 that satisfy all requirements of this rule identified as required for a student to access their education. MaineCare covered services must be listed in a member's IEP or IFSP. Medical services provided in a school for the convenience of access to the member are not considered School-Based Services for the purposes of this policy.
- 106.02-25 Specially Designed Instruction (SDI)** is an educational term defined in MUSER as instruction provided to Children ages three to twenty by an appropriately qualified special education professional or an appropriately authorized and supervised Educational Technician consistent with a Child's IEP.
- 106.02-26 Utilization Review** is a formal assessment of the medical necessity, efficiency and appropriateness of services and treatment plans on a prospective, concurrent or retrospective basis by the Department or its authorized entity.

**106.03 ELIGIBILITY FOR SERVICE**

Individuals must meet the eligibility criteria as set forth in 10-144 C.M.R. Ch. 332 (the "*MaineCare Eligibility Manual*"). Some members may have restrictions on the type and amount of services they are eligible to receive. It is the responsibility of the provider to verify a member's eligibility for MaineCare, as described in *MaineCare Benefits Manual*, Ch. I, Section 1 (General Administrative Policies and Procedures), prior to providing services. Along with all MaineCare covered services, goals, objectives, and interventions must be described in the member's ITP or Plan of Care. Individuals also must meet all of the specific eligibility criteria herein for Section 106 covered services.

**106.03-1 IEP/IFSP Documentation**

Pursuant to Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to Children under IDEA through a Child's IEP or IFSP. In order for a member to be eligible for School-Based services, the medical service being provided must be listed on the member's IEP or IFSP.

**106.03 ELIGIBILITY FOR SERVICE (cont.)**

**106.03-2 Parental Consent**

Parental consent is reflected through a Parent or Guardian's signature on a Parental Consent Form, which provides informed consent for a provider to seek reimbursement from MaineCare for medical services provided through a member's IEP or IFSP. The consent form must meet standards outlined in this section of policy.

**Prior to the start of services**, a Parent Consent Form must be completed by the member's parent or legal guardian in order for a member to be eligible for School-Based services. In the case of a child in the custody of the state, the signature must be from the state representative; an Educational Surrogate as defined by 34 CFR §300.30 does not meet the requirements for parental consent for MaineCare services.

The school district responsible for a student member at the time of the service must create the Parent Consent form in compliance with the following, including but not limited to for any requirements for specialized transportation through the NET brokerage system:

- A. Each Parental Consent Form for School-Based service reimbursement from MaineCare must include the following components:
  1. Student and parent/guardian names;
  2. Student date of birth;
  3. Student's Medicaid number;
  4. Name of school district requesting reimbursement;
  5. Date of Parental Consent start, and end (this should coincide with IEP expiration date);
  6. For Extended School Year (ESY) transportation requests, specific start and end dates for those ESY services must be included;
  7. List of specific services for which claims will be submitted, including:
    - a. Frequency and duration for each service; and
    - b. Explanation that if a Child has MaineCare through the Katie Beckett program, the cost of services provided by the School Administrative Unit will count toward the student's annual cap; and

**106.03 ELIGIBILITY FOR SERVICE (cont.)**

8. The Parental Consent Form needs to be signed by the Parent or Guardian, as well as the Medicaid provider, at the initial start of service(s), and then at any point there is a change in the service(s) being sought for reimbursement from DHHS, the parent must initial the change and re-sign their name and date. Electronic signatures that a provider obtains pursuant to Ch. I Sec. 1.03-8(Q) may satisfy this requirement. Providers must maintain evidence of the original signature(s) in the member's record.

**106.04 COVERED SERVICES**

Covered services in this section are covered only when they are listed in an eligible member's IEP or IFSP.

**106.04-1 Behavioral Supports:** Behavioral supports are intended for individuals who have mental health diagnoses or developmental disabilities that interfere with the member's ability to participate in an academic program. Supports are designed as a 1:1 or group service. When determined to be appropriate additional supports can be added with prior authorization from the DHHS or its authorized entity. Services are intended to address behavior problems, social adaptation, daily living skills, and other functional deficits that may exist as a result of the member's mental health or developmental concerns. This service is designed to increase the member's skills in their identified problem areas so that they may participate in their educational program to the greatest possible degree. Behavioral Supports are performed by a BHP when supervised by a Clinician or Board-Certified Behavioral Analyst (BCBA).

**A. Eligibility Criteria:** To be found eligible for Behavioral Supports:

1. Members must have a Neurodevelopmental or Mental Health Diagnosis from the most recent version of the Diagnostic and Statistical Manual (DSM); and
2. Members must have a Functional Assessment using the Battelle, Bayley, Vineland, ABAS, or other tools approved by DHHS administered within one (1) year prior to the date of the referral, as well as other clinical assessment information obtained from the member and family, demonstrating the member has a significant functional impairment (defined as a substantial interference with or limitation of a member's achievement or maintenance of one or more developmentally appropriate, social, behavioral, cognitive, or adaptive skills); and
3. Members must have a completed CANS assessment with a score of 2 or higher in Item 16, and a score of 2 or higher in Behavioral Emotional needs; and

**106.04 COVERED SERVICES (cont.)**

4. Members must exhibit medical needs that are beyond the scope of an Educational Technician employed at a School and are not educational in nature.

**106.04-2**

**\*The Department is seeking and anticipates receiving approval from CMS for this section. Pending CMS approval, the change will be effective July 1, 2020.\***

**Center-Based Behavioral and Developmental Programs:** Center-Based Behavioral and Developmental Programs are programs that operate independently from a typically integrated public or private School classrooms and may be separate classrooms or independently managed educational settings. These programs focus on addressing behavioral health needs in an educational environment by offering an array of clinical and behavioral services within the scope of the educational program. This program is for individuals whose behavioral health needs cannot be met in a less restrictive environment. Services offered can include a combination of behavioral supports and social work services.

**A. Children's Behavioral Health Day Treatment:**

Children's Behavioral Health Day Treatment is a center-based program that focuses on addressing behavioral health needs in an educational environment by offering an array of School-based Services within the scope of the program. Services offered can include a combination of behavioral supports and social work services. Children's Behavioral Health Day Treatment service is a structured therapeutic program designed to improve a member's social and behavioral functioning with a long-term goal of returning the student to a less restrictive environment. Children's Behavioral Health Day Treatment may use evidence-based interventions using the most current available research for models shown to significantly improve the behavioral achievement of youth in their academic program. Often these programs also collaborate closely with Occupational Therapy, Physical Therapy, and Speech Therapy services. Work is completed by qualified staff within the scope of their certification or licensure. Services are designed with the intent to be able to return the member to his or her home school administrative unit and/or to a less restrictive environment.

Children's Behavioral Health Day Treatment Services are available to members Monday through Friday, up to six (6) hours per day, as determined by the Educational Team, and the Treatment Team. These services must be Prior Authorized by the Department or its authorized entity.

**1. Eligibility:**

To be found eligible for Children's Behavioral Health Day Treatment, members must need treatment that is beyond what can be appropriately

**106.04 COVERED SERVICES** (cont.)

managed in a typically integrated School classroom, resource room, or self-contained class. Members must have a significant functional impairment (defined as a substantial interference with or limitation of a member's achievement or maintenance of one or more developmentally appropriate social, behavioral, cognitive, or adaptive skills) and:

- a. Members must be ages five (5) through twenty (20) years, as determined by Maine's Department of Education; and
- b. Members must have a neurodevelopmental or mental health diagnosis from the most recent version of the Diagnostic and Statistical Manual (DSM); and
- c. Members must have a Functional Assessment using the Battelle, Bayley, Vineland, ABAS, or other tools approved by DHHS administered within one (1) year prior to the date of the referral, as well as other clinical assessment information obtained from the member and family, demonstrating the member has a significant functional impairment (defined as a substantial interference with or limitation of a member's achievement or maintenance of one or more developmentally appropriate, social, behavioral, cognitive, or adaptive skills); OR
- d. Have a Functional Assessment administered within one (1) year prior to the date of the referral documenting functional impairment measured as two (2) standard deviations below the mean on the composite score; or have one point five (1.5) standard deviations below the mean on the composite score and two standard deviations below the mean in the communication or social domain sub score of the most current version of the Vineland Adaptive Behavior Scale, the Adaptive Behavior Assessment Scales (ABAS), the Battelle Developmental Inventory, or the Bayley Scales of Infant and Toddler Development; and
- e. Members must have a completed CANS assessment with a score of 2 or higher in Item 16, a score of two (2) or higher in Behavioral Emotional needs, and at least one three (3) in items 17, 18, or 20; and
- f. Members must exhibit needs that are beyond the scope of an Educational Technician employed at a School in a typically integrated classroom environment.
- g. For members seeking Comprehensive Applied Behavior Analysis services, members must have an Autism Spectrum Disorder, or Intellectual Disability with documented Challenging Behaviors or known precursors to Challenging Behaviors. Members must score a two (2) or

**106.04 COVERED SERVICES (cont.)**

higher on CANS question 40 and have at least three (3) scores of two (2) or higher in the Developmental/Intellectual Disabilities sub categories.

- h. Members requiring 2:1 staffing must have active challenging behaviors necessitating an additional staff member to maintain safety for the member and/or others for any portion of the day. A Challenging Behavior means behavior that:
  - 1. Presents an imminent risk to the health and safety of the Member or others; OR
  - 2. Presents serious and imminent risk of damage to property of others; OR
  - 3. Seriously interferes with a Member's ability to have positive life experiences and maintain relationships, or independently perform age and developmentally appropriate activities of daily living, as determined by the Member's Treatment Team; OR
  - 4. Presents as persistent, chronic or repetitive behaviors(s) whose cumulative effects are deemed by a physician or psychologist to pose a serious danger to the Member's health or well-being.

**B. Developmental Preschool:**

Developmental Preschools are center-based programs designed to provide services to Children who have been diagnosed with a Developmental Disability or a Developmental Delay. Facilities must be an approved school through the Maine Department of Education (DOE) or have an active child care license with the State of Maine and Early Childhood program approval through the Maine DOE. Services are focused on habilitative skill building, including a focus on social, behavioral, emotional, and ADL skills, with the goal of increasing the Child's independence and readiness for School. Developmental Preschools may utilize evidence-based principles. Services must not be academic in nature. Many times, these programs also collaborate closely with OT, PT, and Speech Therapy services. Parents must participate, at minimum, in treatment planning and treatment reviews.

**1. Eligibility:**

To be found eligible for Developmental Preschool, members must meet all of the following criteria:



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**106.04 COVERED SERVICES** (cont.)

- a. Services must be prescribed by a physician or Licensed Practitioner of the Healing Arts; and
- b. Members must have a diagnosis of a Developmental Delay or Developmental Disability in accordance with the most recent version of the DSM; OR
- c. A member, who has a diagnosis from a physician (including psychiatrist) of a specific congenital or acquired condition, and a written assessment by a physician (including psychiatrist) that there is a significant probability that because of that condition, the member will meet the functional impairment criteria in (e) below, later in life if services and supports are not provided to the member; and
- d. Have a Functional Assessment administered within one (1) year prior to the date of the referral documenting functional impairment measured as two (2) standard deviations below the mean on the composite score; or have one point five (1.5) standard deviations below the mean on the composite score and two standard deviations below the mean in the communication or social domain sub score of the most current version of the Vineland Adaptive Behavior Scale, the Adaptive Behavior Assessment Scales (ABAS), the Battelle Developmental Inventory, or the Bayley Scales of Infant and Toddler Development; and
- e. Members must have a completed CANS assessment with a score of 2 or higher in Item forty (40), a score of two (2) or higher in Child Behavioral Emotional Needs (Ages 0-5) or a score of two (2) or higher in Child Functioning/Development (Ages 0-5).
- f. Members requiring 2:1 staffing must have active challenging behaviors necessitating an additional staff member to maintain safety for the member and/or others for any portion of the day. A Challenging Behavior means behavior that:
  1. Presents an imminent risk to the health and safety of the Member or others; OR
  2. Presents serious and imminent risk of damage to property of others; OR
  3. Seriously interferes with a Member's ability to have positive life experiences and maintain relationships, or independently perform age and developmentally appropriate activities of daily living, as determined by the Member's Treatment Team; OR

**106.04 COVERED SERVICES (cont.)**

4. Presents as persistent, chronic or repetitive behaviors(s) whose cumulative effects are deemed by a physician or psychologist to pose a serious danger to the Member's health or well-being.

**106.04-3 Comprehensive Applied Behavioral Analysis (CABA) Services:**

CABA Services is an intensive treatment model utilizing Applied Behavior Analysis which is available for ABA-eligible members within their educational program. CABA represents an intensive intervention designed to promote skill development of a wide range of skills, generalized across environments, and impacting the global measures of functioning. CABA services use clear instruction, reinforcement, repeated trials, and teaching small units of behavior to maximize learning opportunities. Center-Based programs utilizing CABA can be delivered in half-day and full day intensities, with the session length consistent with the member's developmental capability and treatment needs.

- A. **CABA Treatment Services** are services performed by a Behavioral Health Professionals trained in the principles of behavior, under close supervision of a Board-Certified Behavior Analyst (BCBA), utilizing evidence-based treatments to produce meaningful changes in behavior. CABA treatment services are delivered following behavioral analytic principles to develop, maintain, or restore to the maximum extent possible member functioning within the educational program. Services focus on addressing multiple affected developmental domains, such as cognitive, communicative, social, emotional, and adaptive functioning” as well as maladaptive behaviors.
- B. **BCBA Services** are services performed by a BCBA in connection with CABA Services. The BCBA is responsible for the supervision and delivery of the Specialized Services. BCBA services are defined as the following:
  1. Conduct Functional Behavioral Assessments (FBA). FBAs are a process of gathering information from multiple sources to hypothesize and understand what reliably predicts and maintains a problem behavior. The FBA evaluates behavior to analyze the antecedent and consequence as a reinforcement of a problem behavior. Behaviors are defined in measurable terms. The FBA uses a validated assessment which may also include interview, direct and/or indirect observation in the member's natural environment, functional analysis, preference assessment, assessment of reinforcement effectiveness, data collection, and reporting. An initial FBA is limited to fifteen (15) hours. One update is allowed per year, limited to ten (10) hours;

**106.04 COVERED SERVICES** (cont.)

2. Conduct Individual Treatment Plan development, positive behavior support planning, and periodic reviews/revision of the ITP and positive behavior support plan. Planning services are limited to six (6) hours for developing the initial treatment plan, and up to one (1) hour per month to review, and update as necessary, the treatment plan;
3. Conduct summary and analysis of data on Member progress, and review data trends with staff to refine Member treatment. Summary and data analysis services are limited to one (1) hour per Member per month;
4. Conduct evidence-based practices congruent with CABA Treatment Services with Members in accordance with the Member's Individualized Treatment Plan. CABA Treatment Services are limited to two (2) hours per Member per month;
5. Conduct coordination of Member care with other providers. Coordination Services are limited to two (2) hours per Member per month;
6. Conduct parent training on behavioral principles and interventions specific to the Member. Parent training services are limited to six (6) hours per Member per quarter;
7. Conduct monthly Member treatment team meetings. There is a limit of one (1) hour per Member per month for monthly Member treatment team meetings.

Providers may request additional hours/units beyond the stated limitations through supported documentation and Prior Authorization through the Department or its Authorized entity. Total frequency, intensity, and duration of BCBA services above must be consistent with the Member's IEP/IFSP.

**C. Eligibility:**

To be found eligible for CABA services (CABA Treatment Services or BCBA Services), a member must meet eligibility criteria for Behavioral Supports or a Center-Based Behavioral and Developmental Programs, **and:**

1. Have an Autism Spectrum Disorder as described in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders* or in the *Diagnostic Classifications of Mental Health and Developmental Disabilities of Infancy and Early Childhood Zero to Three*; or

**106.04 COVERED SERVICES** (cont.)

2. Have a diagnosis of an intellectual disability with a challenging behavior. A Challenging Behavior means behavior that:
  - a. Presents an imminent risk to the health and safety of the Member or others; OR
  - b. Presents serious and imminent risk of damage to property of others; OR
  - c. Seriously interferes with a Member's ability to have positive life experiences and maintain relationships, or independently perform age and developmentally appropriate activities of daily living, as determined by the Member's Treatment Team; OR
  - d. Presents as persistent, chronic or repetitive behaviors(s) whose cumulative effects are deemed by a physician or psychologist to pose a serious danger to the Member's health or well-being.

**106.04-4 Social Work and Psychological Services:** Social Work and Psychological Services are services related to the diagnosis, assessment and evaluation, treatment planning, and services meant to address a student's mental, emotional, or behavioral disorder. School social workers will be licensed with the State of Maine and practice within the scope of their licensure. Social Work services consists of the following:

- A. **Psychosocial Assessment** is completed with the goal of improving a student's social, emotional, behavioral, and academic outcomes. Assessments may include interview, direct observation, standardized instruments, and surveys including the youth, family, and systems/organizations. Assessments are completed to determine the student's needs, characteristics, and interactions of students, families, and School personnel. This assessment may enhance, but not duplicate, a Comprehensive Assessment completed through Section 65.06-3.
- B. **Interventions** shall be evidence-informed and designed to enhance positive educational experiences involving the student, family, School personnel, other team members, and community resources (as applicable). Interventions are based on the findings of the assessment and include measurable goals and objectives, methods of tracking progress, and outcomes. Interventions may include:
  1. **Individual, Family, and Group Counseling:** This service is available to a member with a mental health disorder as described in the most recent version of the DSM. Counseling can take place with individuals, families, and/or groups. The group counseling rate adjusts per the number of members in the group. Groups must at minimum be comprised of four members. Groups larger than 10 members require a second Clinician to facilitate the group.

C. **106.04 COVERED SERVICES** (cont.)

2. **Crisis Assistance:** Performed by a Clinician as defined in 106.02-6, crisis assistance consists of direct intervention during a member's escalated state with the aim to de-escalate the member to ensure member and public safety. Crisis assistance can also mean working with the member to develop a plan for safety during escalated states and ensuring that plan is disseminated to all personnel who may interact with the member during an escalated event and precursors to an escalated event. This is intended to be direct and short term to support the member in their current environment. If escalation continues, community-based crisis services, available via *MaineCare Benefits Manual*, Section 65, Behavioral Health Services, may be warranted.

D. **Neurobehavioral Status Exam, Neuropsychological Testing, Psychological Testing, and Adaptive Assessments**

1. Neurobehavioral Status Exam (Procedure Code 96116 and 96121) and Psychological Testing (Procedure Code 96130 and 96131):

Neurobehavioral Status Exam and Psychological Testing services include clinical assessment of thinking, reasoning and judgment, meeting face-to-face with the member, time interpreting test results and preparing the report of test results. Services also may include testing for diagnostic purposes to measure a member's personality, emotions, intellectual functioning, personality characteristics, and psychopathology, through the use of standardized test instruments or projective tests.

2. Neuropsychological Testing by a Psychologist or Physician (Procedure Code 96132, 96133, 96136, 96137) e.g., Halstead-Reitan Neuropsychological Battery Wechsler Memory Scales and Wisconsin Card Sorting:

When performed by a Psychologist or Physician, Neuropsychological Testing services includes both face-to-face time administering tests to the member and time interpreting these test results and preparing the report. Testing focuses on thinking, reasoning, judgment, and memory to evaluate the member's neurocognitive abilities. In addition to the administration, scoring, interpretation and report writing, this code also allows reimbursement for additional time necessary to integrate other sources of clinical data, including previously completed and reported technician and computer administered tests. 96132 and 96133 are reported when administering one test. 96136 and 96137 are used when administering two or more tests.

3. Neuropsychological Testing by a Psychological Examiner (Procedure Code 96138 and 96139) e.g., Halstead-Reitan Neuropsychological Battery Wechsler Memory Scales and Wisconsin Card Sorting):

**106.04 COVERED SERVICES (cont.)**

When provided by a Psychological Examiner, Neuropsychological Testing services includes interview/test administration, report preparation, and interpretation. The test is administered by a Psychological Examiner (i.e. technician) and includes any reportable amount of time the technician spent with the client to assist them in completing the assessment.

4. Adaptive Assessments (96151):

Adaptive Assessments includes administration of the assessment, report preparation, and interpretation. The test includes any reportable amount of time the technician spent with the client to assist them in completing the assessment. Adaptive Assessments include the Vineland Adaptive Behavior Scale, Adaptive Behavior Assessment System (ABAS), Bayley Scales of Infant and Toddler Development, and the Battelle Developmental Inventory.

Neurobehavioral Status Exam, Neuropsychological Testing, Psychological testing, and Adaptive Assessments do not require Prior Authorization, nor do they require the completion of a Comprehensive Assessment or Treatment Plan. As these services are provided in a School, the need for the evaluation must be documented in the member's IFSP or IEP and must be maintained in the member's record.

**106.04-5 Ancillary Services** Ancillary services as described below are billed pursuant to their appropriate section of the MaineCare Benefits Manual and must utilize the TL or TM modifiers. Ancillary services must be listed in a member's IEP or IFSP. Ancillary services must not duplicate any School-based services provided through this section of policy. Ancillary Services are as follows:

- A. **Audiology and Hearing Services** are services performed by a licensed Audiologist who meets the qualifications in accordance with *MaineCare Benefits Manual*, Section 109, Speech and Hearing Services. Audiology Services means those services requiring the application of theories, principles and procedures related to hearing and hearing disorders for the purpose of assessment and treatment.
- B. **Nursing Services** are services performed by a registered nurse or licensed practical nurse who meets the qualifications in accordance with *MaineCare Benefits Manual*, Section 96, Private Duty Nursing and Personal Care Services.

In order for Nursing Services to be approved for a Member at a School, there must be sufficient documentation to indicate what specific services will be provided to the member.

**106.04 COVERED SERVICES** (cont.)

If services are being requested from a nursing agency, in cases where a nurse is already employed at a School site either part-time or full-time, documentation must indicate why the nurse already on site or at another school administrative unit's location cannot provide the medical services required in the Member's Plan of Care if there is a request for a student to be provided with a 1:1 nurse.

MaineCare will not reimburse for any services which are academic in nature including data collection or any additional 1:1 support listed in the Member's IEP/IFSP which is not also in the Member's authorized Plan of Care.

1. **MEDKids Assessment**

In order to obtain a Prior Authorization for School-Based Nursing Services, provider must have a MEDKids Assessment completed by a nursing agency, and also develop a Plan of Care for the member receiving services.

The MEDKids Private Duty Nursing Assessment is a Medical Eligibility Determination tool approved by the Department for medical eligibility determinations and service authorization for the Plan of Care based upon the assessment outcome scores. The definitions, scoring mechanisms and time – frames relating to this form are outlined in *MaineCare Benefits Manual*, Section 96, Private Duty Nursing and Personal Care Services and provide the basis for services and the care plan approved through the Prior Authorization process, authorized by ASA. Assessing Services Agency (ASA) refers to the agency responsible for completing the assessment and care plan. For Children, the proposed Plan of Care is submitted to OMS for approval through the Prior Authorization process.

The care plan summary contained in the MedKids Private Duty Nursing Assessment form documents the authorized service plan. The care plan summary also identifies other services the member is receiving, in addition to the authorized services provided under this Section. For all members under age 21, excluding those receiving care under the family provider service option, and for all those classified for medication services or venipuncture services under this Section, any Home-Health Agency can conduct this assessment.

- C. **Occupational Therapy Services** are covered pursuant to regulations outlined in *MaineCare Benefits Manual*, Section 68, Occupational Therapy Services. Staff qualified to provide Occupational Therapy Services must meet qualifications in *MaineCare Benefits Manual*, Section 68, Occupational Therapy Services.

An Occupational Therapy Practitioner is an individual who is licensed as an Occupational Therapist, Occupational Therapy Assistant, Temporary

**106.04 COVERED SERVICES (cont.)**

Occupational Therapist, or Temporary Occupational Therapy Assistant by the State of Maine Board of Occupational Therapy Practice.

Occupational Therapy Services are the assessment, planning and implementation of a program of purposeful activities to develop or maintain adaptive skills necessary to achieve the maximal physical and mental functioning of the individual in the individual's daily pursuits. The practice of Occupational Therapy Services includes assessment and treatment of individuals whose abilities to cope with the tasks of living are threatened or impaired by developmental deficits, the aging process, learning disabilities, poverty and cultural differences, physical injury or disease, psychological and social disabilities, or anticipated dysfunction.

- D. **Physical Therapy Services** are covered pursuant to regulations outlined in *MaineCare Benefits Manual*, Section 85, Physical Therapy Services. Staff qualified to provide Physical Therapy Services must meet qualifications in *MaineCare Benefits Manual*, Section 85, Physical Therapy Services.

A Physical Therapy Practitioner is an individual who is licensed as a Physical Therapist or licensed as a Physical Therapy Assistant working under the supervision of a licensed Physical Therapist.

Physical Therapy Services are the evaluation, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease and any other bodily condition; the administration, interpretation and evaluation of tests and measurements of bodily functions and structures for the purpose of treatment planning includes the planning, administration, evaluation and modification of treatment and instruction; and the use of physical agents and procedures, activities and devices for preventive and therapeutic purposes; and the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain.

- E. **Speech and Hearing Services** are covered pursuant to regulations outlined in *MaineCare Benefits Manual*, Section 109, Speech and Hearing Services. Staff qualified to provide Speech Therapy Services must meet qualifications in *MaineCare Benefits Manual*, Section 109, Speech and Hearing Services.

A Speech and Hearing Agency is a facility that offers, at a minimum, both speech-language pathology services and Audiology Services by qualified professional staff who are employees of the Speech and Hearing Agency. Contracted staff are not considered employees.



**106.04 COVERED SERVICES** (cont.)

Speech and Language Pathology Services are those services requiring the application of theories, principles and procedures related to the development and disorders of speech, voice, language, and oral pharyngeal and related functions, for purposes of assessment and treatment.

- F. **Transportation** is a service provided through *MaineCare Benefits Manual*, Ch. II, Section 113, Non-Emergency Transportation (NET) Services. Transportation Services may be provided through Section 106 when all the requirements herein are satisfied. Reimbursement for Transportation Services will be provided through the Broker system, pursuant to Section 113 MBM. Claims will not be paid directly from MaineCare to School-Based providers for Transportation services.

In most cases, members with special education needs who ride the regular School bus to School with other non-disabled Children will not have a medical need for Transportation Services and the Services will not be listed in their IEP. The fact that members may receive a medical service on a given day does not necessarily mean Transportation Services also would be reimbursed for that day. This is because the education is the primary purpose of attending school, while any medical services rendered are secondary.

1. Transportation Services are covered only when all of the following criteria are met:
  - a. Transportation is provided to and/or from a Medicaid-covered service on the day the service was provided. This must be verified pursuant to Section 113, by Brokers prior to approval of a standing order request;
  - b. The Medicaid-covered service is included in the member's Individualized Education Program (IEP) or Individualized Family Services Plan (IFSP); and
  - c. The member's IEP or IFSP includes Transportation Service as a medical service.
2. Transportation Services may include any of the following:
  - a. Transportation from the member's place of residence or other setting, to School where the member receives Section 106 Covered Services and return to the place of residence or other setting.
  - b. Transportation from the School to the office (and return to School) of a medical provider who has a contract with the School to provide Section 106 Covered Services.

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- c. Transportation may be provided by a School District (directly or indirectly sub-contracted). In either case this Transportation Service is approved and reimbursed or provided through the Broker system.
- d. Transportation may be reimbursed through NET's *Friends, Family, Volunteers program* as defined in MBM Section 113.

**106.05 NON-COVERED SERVICES**

Please refer to the *MaineCare Benefits Manual*, Chapter I, "General Administrative Policies and Procedures," for a general listing of non-covered services including academic, vocational, social, recreational, or custodial services and associated definitions that are applicable to all Sections of the *MaineCare Benefits Manual*.

Additional non-covered services are as follows:

- A. Any services not listed under Covered Services;
- B. Services provided to Children that are not included or are in excess of services described in the Child Members' current written IEP or IFSP;
- C. Services provided to Children when there is no signed Parental Consent form executed prior to the time services are rendered;
- D. Services provided to a Child who has been admitted to a hospital, PRTF, or other Institutional Setting on an inpatient basis;
- E. Services of an experimental or research nature (investigational) which are not generally recognized by professions, the Food and Drug Administration, the U.S. Public Health Service, Medicare, and the Department's contracted Peer Review Organization, as universally accepted treatment;
- F. Development of the IEP/IFSP;
- G. Home and Community Based Treatment (HCT) available via Section 65;
- H. Response to Intervention (RTI) services;
- I. Specially Designed Instruction (SDI);
- J. Concurrent services for the same Child involving duplicative services or procedures;
- K. Time spent to document clinical service notes, treatment plans, or summaries on progress;

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- L. Services provided outside of regular School hours including services provided on a Saturday, Sunday, or nationally recognized holiday;
- M. Services provided by an Educational Technician;
- N. Medical Services listed only on a 504 education or health plan;
- O. Services provided by School Health Clinics through the MaineCare Benefits Manual, Chapter II, Section 3, Ambulatory Care Clinic Services;
- P. The purchase of Durable Medical Equipment (DME) will not be considered a School-Based service. Members requiring DME equipment as defined in *MaineCare Benefits Manual*, Ch. II, 60.01-4 must make request pursuant to requirements listed in Section 60 of the *MaineCare Benefits Manual*.

**106.06 PROVIDER REQUIREMENTS**

All providers seeking reimbursement for School-Based Services must have a MaineCare Provider Agreement and be enrolled per Ch. I Sec. 1 of MBM prior to providing services.

All providers seeking reimbursement for School-Based Services must be enrolled with a contract for this Section of policy prior to providing services or submitting any claims. Providers should contact our Provider Relations Department to verify this information.

All enrollment requests for service locations from schools, including Special Purpose Private Schools, will be verified with the Department of Education.

Requests for enrollment as Early Childhood Providers will require a copy of the provider's program approval letter issued annually through the Department of Education. Providers will be required to provide the Department annually a copy of this verification to remain an approved Early Childhood provider. **If at any point a provider's approval from the Department of Education is revoked, provider must notify the Department and discontinue providing services through Section 106.**

Upon receiving notification of any approval being revoked by the Department of Education or its authorized entity, provider will no longer be authorized to continue providing MaineCare services.

**106.06-1 Background Checks**

School-Based providers must conduct background checks every two (2) years on all prospective employees, persons contracted or hired, consultants, volunteers, students, and other persons who may be providing direct support services under this Section. A background check is required for any adult who may be providing direct or indirect

**106.06 PROVIDER REQUIREMENTS (cont.)**

services for members receiving School-Based services. Background checks completed pursuant to Title 20-A Section 6103 shall satisfy this requirement. Background checks on persons professionally licensed by the State of Maine will include a confirmation that the licensee is in good standing with the appropriate licensing board or entity. The provider shall not hire or retained in any capacity any person who may directly provide services to a member under this Section if that person has a record of:

- a. any criminal conviction that involves abuse, neglect or exploitation;
- b. any criminal conviction in connection to intentional or knowing conduct that caused, threatened, solicited or created the substantial risk of bodily injury to another person;
- c. any criminal conviction resulting from a sexual act, contact, touching or solicitation in connection to any victim;
- d. any other criminal conviction, classified as Class A, B, or C or the equivalent of any of these, or any reckless conduct that caused, threatened, solicited or created the substantial risk of bodily injury to another person within the preceding two (2) years or;
- e. a habitual offender status under 29-A, M.R.S. § 2551-A.

The provider shall contact child and adult protective services (including OADS and the Office of Child and Family Services) units within State government to obtain any record of substantiated allegations of abuse, neglect or exploitation against an employment applicant before hiring the same. In the case of a child or adult protective services investigation substantiating abuse, neglect or exploitation by a prospective employee of the provider, it is the provider's responsibility to decide what hiring action to take in response to that substantiation, while acting in accordance with licensing standards. Within sixty (60) days of the effective date of this rule, all staff and adults providing services to a member must have all background checks completed. All background checks must be completed every twenty-four (24) months thereafter. Cost for background checks are the provider's responsibility **and shall not be reimbursed by MaineCare.**

**106.06-2 Staff Eligibility**

Staff members providing direct services to Children and families under any capacity under this section of policy must complete a criminal background check. Checks will be conducted at hire and every two years at minimum thereafter. Staff may not begin direct services to Children and families until the background check is complete.

**106.06 PROVIDER REQUIREMENTS (cont.)**

**106.06-3 Certification of Behavioral Health Professionals**

Direct care professionals working in behavioral health services (i.e. Behavior Supports, Center-based Behavioral and Developmental Programs, and Comprehensive Applied Behavior Analysis) must become certified as a

Behavioral Health Professional. At minimum, the direct care professional must complete the provisional BHP certification training prior to initiating work with members. The provisional candidate must then complete the training and obtain full certification within six (6) months from the date of hire.

Provisional candidates who have not completed all certification requirements within six (6) months from the date of hire are not eligible to perform reimbursable services with any provider until certification is complete. An individual hired as a BHP may only complete the provisional certification once. Upon completion of the provisional certification, the provisional candidate must be fully certified within the time frame described above in order to be eligible to continue serving in this role.

**106.06-4 Clinician**

In this policy a clinician is an individual appropriately licensed or certified in the state in which he or she practices, practicing within the scope of that licensure or certification, and qualified to deliver treatment under this Section. A Clinician includes the following: licensed clinical professional counselor (LCPC); licensed clinical professional counselor-conditional (LCPC-C); licensed clinical social worker (LCSW); licensed master social worker clinical conditional (LMSW-CC); licensed marriage and family therapist (LMFT); licensed marriage and family counselor-conditional (LMFT-C); and licensed Psychologist. For drug and alcohol treatment only, licensed Alcohol and Drug Counselors (LADC) and Certified Alcohol and Drug Counselors (CADC) can be included under this definition.

**106.06-5 Behavioral Supports**

An individual providing behavioral supports must:

- A. Be at least 18 years of age;
- B. Have a high School diploma or equivalent;
- C. Have an active Behavioral Health Professional certificate; and
- D. Be supervised by a Clinician or a BCBA.

**106.06 PROVIDER REQUIREMENTS (cont.)**

**106.06-6 Children's Behavioral Health Day Treatment and Developmental Preschool**

Staff qualified to provide this treatment include the following: Clinicians as described in 106.06-3, Psychologists, or Board Certified Behavior Analysts (BCBA), and direct-care staff certified as a Behavioral Health Professional (BHP).

Staff qualified to provide program supervision are Psychologists, Clinicians, and BCBA's. The program supervisor is responsible for determining a member's medical needs and developing the ITP. A BCBA, when appropriate, may provide supervision of BHP staff, but may not be responsible for ITP development or overall program supervision.

**A. Direct Care Staff must:**

1. Be at least 18 years of age;
2. Have a high School diploma or equivalent; and ninety (90) credit hours;
3. Have an active Behavioral Health Professional certificate; and
4. Be supervised by a Clinician as defined in 106.06-4, or a BCBA.

**106.06-7 Comprehensive ABA Services (CABA)**

Programs delivering BCBA services in accordance with a CABA program must adhere to the following:

**A. Requirements for Board Certified Behavioral Analyst (BCBA)**

BCBA's provide the supervision and oversight of CABA Services to assure fidelity to the evidence-based model. The following requirements apply to BCBA's:

1. The individual must be an independent practitioner who is certified as a graduate level BCBA by the Behavioral Analyst Certification Board.

**106.06-8 Social Work and Psychological Services**

Staff qualified to perform Psychosocial Evaluations or Interventions must have attained a Master of Social Work at minimum or be a Clinician as defined in 106.06-4. Neuropsychological Testing may be provided by a Physician, Psychologist, or Psychological Examiner using the appropriate codes described in the covered services and Chapter III. Adaptive Assessments may be administered by an appropriate professional as described by the developer of the assessment.

**106.06 PROVIDER REQUIREMENTS (cont.)**

**106.06-9 Telehealth**

Telehealth may be utilized as clinically appropriate, according to the standards described in Chapter I, Section 4 of the MaineCare Benefits Manual.

**106.06-10 Treatment Team** is the group of individuals charged with participating in decision making in a member's treatment. Treatment Teams must minimally include the Medicaid provider, relevant School personnel, the member (when developmentally appropriate), and the parent/guardian (unless contraindicated). As appropriate, other members may include medical professionals, family members, natural supports, or other professional supports. The Treatment Team may include the individuals who developed the IEP/IFSP.

**106.07 LIMITATIONS**

**106.07-1 Service Assessment and Individualized Treatment Plan (ITP):**

- A. The Service Assessment and ITP development will be reimbursed to a maximum of eight (8) units each per calendar year.

Service Assessment and ITP reviews may be reimbursed at a maximum of four (4) units per event. In the event a significant life event occurs which would alter the course of treatment, an additional four (4) units may be utilized to update the Service Assessment and ITP.

An additional Service Assessment of two (2) hours or eight (8) units may be authorized during the same year if a copy of the existing annual assessment cannot be obtained after reasonable efforts or if the member chooses not to authorize access to the existing assessment.

- B. Service Assessments and ITP development and reviews shall be completed to schedule as described in 106.08-1B.

**106.07-2 Center-Based Behavioral and Developmental Programs:**

- A. These treatment services are limited to a maximum of six (6) hours per day, five (5) days a week, Monday-Friday. This limit may be exceeded when supported by clinical documentation and Prior Authorized by the Department or its Authorized Entity for members with safety concerns who require 2:1 staffing only, pursuant to the requirements in 106.04-2(A) and (B).
- B. Should the Center-based Behavioral or Developmental Program wish to make child-care opportunities available for when School is not in session, this care is

**106.07 LIMITATIONS (cont.)**

not reimbursable by MaineCare, and instead must be negotiated as customary between the facility and the family.

**106.07-3 Comprehensive Applied Behavioral Analysis (CABA):**

- A. Programs using this model are not subject to the limitations described in 106.07-2.
- B. CABA programs are limited to be delivered only in a Center-Based Behavioral and Developmental Program as defined in 106.04-2.
- C. Programs utilizing CABA are limited to the following schedule:
  - 1. Half-day programs are limited between fifteen (15) and twenty (20) hours per week.
  - 2. Full-day programs are limited between twenty-one (21) and thirty (30) hours per week.
  - 3. Programs are available five days per week, Monday through Friday.
- D. CABA Services deemed medically necessary to continue during School vacations may not be billed or reimbursed through Section 106, because they are not considered School Based Services. Similar services may be available through alternative sections of policy. Members must meet all eligibility criteria of the appropriate section of policy. Services must be Prior Authorized in accordance with the appropriate section of policy. Extended School Year activities are exempt from this limitation.
- E. BCBA services are not subject to the limitations above. BCBA services may be delivered as outlined in 106.04-3.B.

**106.07-4 Psychological Testing and Adaptive Assessments**

Psychological testing and Adaptive Assessments include the administration of the test, the interpretation of the test, and the preparation of test reports. Psychometric testing does not include preliminary diagnostic interviews or subsequent consultation visits. Reimbursement for psychological testing and adaptive assessments will be limited to testing administered at such intervals indicated by the testing instrument and as clinically indicated.

Adaptive assessments are limited to no more than two (2) hours per assessment annually. Psychological evaluations are limited to no more than four (4) hours for each test except for the tests described below. Providers must maintain



### **106.07 LIMITATIONS**

documentation that clearly supports the hours billed for administration and associated paperwork.

Each Halstead-Reitan Battery or any other comparable neuropsychological battery is limited to no more than seven (7) hours (including testing and assessment). This is to be used only when there is a question of a neuropsychological and cognitive deficit.

Testing for intellectual level is limited to no more than two (2) hours for each test. Each self-administered test is limited to thirty (30) minutes. Only the testing for the eligible member is reimbursable. This includes self-administered tests completed for the benefit of the member as indicated by the testing instrument. The following tests are considered self-administered, and include but are not limited to:

- A. Achenbach Child Behavior Checklist;
- B. Adult Adolescent Parenting Inventory;
- C. Child Abuse Potential Survey;
- D. Connor's Rating Scales;
- E. Parenting Stress Index;
- F. Piers-Harris Self Concept Scale;
- G. Reynolds Children's Depression Scale;
- H. Rotter Incomplete Sentences Blank;
- I. Shipley Institutes of Living Scale; and
- J. Fundamental Interpersonal Relations Orientation Scale-Behavior (FIROB).

### **106.08 POLICIES AND PROCEDURES**

#### **106.08-1 Member Records**

The record of a member receiving School-Based services must include a copy of the IEP/IFSP, a Service Assessment, an ITP and progress notes. Along with satisfaction of requirements in Section 106, the IEP/IFSP process determines the medical necessity, intensity, frequency and duration of Section 106 Covered Services.

#### **A. Individualized Education Program (IEP)/Individualized Family Service Plan (IFSP)**

1. The IEP/IFSP is a document created by the Educational Team outlining the Special Education services and/or accommodations necessary for the student to access their education.

The IEP/IFSP team does not determine whether the member may need or access Covered services outside Section 106.

**106.08 POLICIES AND PROCEDURES (cont.)**

**B. Service Assessment**

1. The intent of the Service Assessment is to gain an understanding of the member's functioning in order to provide the foundation for decision-making for the interventions employed in the ITP. The Service Assessment must be utilized to formulate the ITP.
2. The supervising Clinician, Psychologist, or BCBA must complete the Service Assessment within thirty (30) days of the day the member begins services. The Service Assessment process must include a direct encounter with the member and if appropriate, parents, family members, School personnel and guardian when applicable. The Service Assessment must be updated at minimum when there is a change in level of care, or when major life events occur that would influence the course of action for treatment, and annually.
3. The Service Assessment must contain documentation relevant to the member for the development of the ITP including the member's current status, history, strengths and needs. The Service Assessment must contain documented evidence of reviewing any psychological evaluations or Functional Assessments to show an understanding of member functioning to inform treatment interventions.
4. The Service Assessment must be dated, signed, and credentialed by the individual completing the assessment.
5. The Service Assessment must be reviewed in coordination with the ITP as described in 106.09-3.C.3.g. Assessment review will be conducted by the appropriate service supervisor, and will include a combination of contact with program staff and record review to assure the assessment remains relevant to current functioning.

**C. Individual Treatment Plan (ITP)**

1. An ITP must be completed for the following School-Based services
  - a. Behavior Supports;
  - b. Center-based Behavioral and Developmental Programs;
  - c. CABA Services; and
  - d. Individual, Family, and Group Counseling.
2. The supervising Clinician, Psychologist, or BCBA, member and other participants as appropriate (i.e. School personnel, service providers, parents or guardian) must develop an ITP. Goals, objectives, and interventions must be appropriate to the developmental level of the member.

**106.08 POLICIES AND PROCEDURES (cont.)**

3. An ITP must be developed based on the results of the Service Assessment and must contain the following:
  - a. The member's diagnosis and reason for receiving each Section 106 Covered Service;
  - b. Measurable long-term goals with target dates for achieving the goals;
  - c. Measurable short-term goals with target dates for achieving the goals with objectives that allow for measurement of progress;
  - d. Specific interventions to be provided with amount, frequency, duration and practice methods of services and designation of who will provide the service, including documentation of co-occurring services and natural supports, when applicable;
  - e. A Crisis/Safety plan, when applicable, for behavioral and/or medical needs;
  - e. Measurable discharge criteria, including a description of the member's functioning and services and supports (when applicable) to be in place in order for a member to achieve a successful discharge;
  - f. Special accommodations needed to address physical or other disabilities to provide the service; and
  - g. All participants must sign, credential (if applicable) and date the ITP. The first ninety (90) day period begins on the date of the initial ITP implementation. The ITP must be reviewed at all major decision points but no less frequently than as described in 106.09-1.C.5. If clinically indicated, the member's needs may be reassessed and the ITP may be reviewed and amended more frequently than described in 106.09-1.C.5. The ITP and any changes made thereto are considered to be in effect as of the date it is signed by the program supervisor or Clinician, and the member or, when appropriate, the Parent or Guardian. Electronic signatures that a provider obtains pursuant to Ch. I Sec. 1.03-8(Q) may satisfy this requirement. Providers must maintain evidence of original signature(s) in the member's record.
4. MaineCare will reimburse for covered services provided before the ITP is complete as long as the ITP is completed within thirty (30) days of start of service. An ITP is completed when it contains all the goals and objectives associated with each Covered Service, along with provider signatures, credentials and documentation of consultation with the parent/guardian, when

**106.08 POLICIES AND PROCEDURES (cont.)**

applicable. ITP reviews shall be completed at minimum every ninety (90) days from when the ITP was initially complete or when a major life event occurs resulting in the change of course for treatment.

5. The School provider must consult with the parent/guardian during the ITP development, when applicable, prior to implementation. The consult must be a direct contact via phone or in person. The contact will be documented in the member record. Parent/guardian signature on the plan is required when applicable and may be obtained up to thirty (30) days past the date of implementation. If the signature is not received by the provider by day thirty (30), then services provided will not be billable until the signature is received.

**6. Crisis/Safety Plan**

The Crisis/Safety Plan must address the safety of the member and others surrounding a member experiencing a medical or behavioral crisis. The plan must:

- a. Identify the precursors to the crisis, and the medical interventions or de-escalation techniques known to be effective to prevent the crisis;
- b. Identify the strategies and techniques that may be utilized to stabilize the situation;
- c. Identify the individuals responsible for the implementation of the plan including any individuals whom the member (or parents or guardian, as appropriate) identifies as significant to the member's stability and well-being; and
- d. Be reviewed every ninety (90) days or as part of the required review of the ITP.

**D. Documentation**

Providers must keep a written or electronic record of all member information gathered throughout the course of treatment including daily progress notes, quarterly reviews, Treatment Team meetings, collateral contacts, and data collection sheets. All documents will have the appropriate printed name, signature and credential of the professional completing the service. Documents must also include the date of service and duration of service and must be kept in chronological order.

**106.08 POLICIES AND PROCEDURES (cont.)**

All entries in the progress note must include the service provided, the provider's signature and credentials, the date on which the service was provided, the duration of the service, and the progress the member is making toward attaining the goals or outcomes for each Covered Service identified in the ITP. Any additional data collection sheets shall be considered an extension of the daily progress note. In the case of co-therapists providing group psychotherapy, the provider who bills for the service for a specific member is responsible for maintaining records and signing entries for that member.

Separate records must be maintained for all members receiving any type of group services. The records must not identify any other member or confidential information of another member.

The clinical record shall also specifically include written information or reports on all medication reviews, medical consultations, psychometric testing, and collateral contacts made on behalf of the member (name, relationship to member, etc.).

**E. Discharge/Closing Summary**

A closing summary shall be signed, credentialed and dated and included in the clinical record at the time of discharge. This will include a summary of the treatment, to include any after care or support services recommended and outcome in relation to the ITP. A copy of this summary must be sent to the parent/guardian, when applicable.

**106.09 APPEALS**

Members and providers have the right to appeal in accordance with Chapter I, Section 1 of the MaineCare Benefits Manual.

**106.10 BILLING**

**106.10-1 Prior Authorization**

Prior Authorization (PA) is the process of obtaining approval prior to the start of the service. The provider will receive a PA letter containing an authorization number and a description of the type, frequency, duration and costs of the services authorized. The provider shall retain this letter in the case record for audit purposes. The provider is responsible for providing services in accordance with the PA letter. The PA number is required on the CMS 1500 claim form. All extensions of services beyond the original authorization must be prior authorized by this same procedure.

**106.10 BILLING (cont.)**

Certain services under this section of policy require Prior Authorization. When Prior Authorization is required providers must submit to the Department or its' authorized entity:

- A. Copy of Member's IEP or IFSP;
- B. Copy of the ITP; or Plan of Care (when applicable); and
- C. Any additional documentation requested by the Department or its' authorized entity.

**106.10-2 Non-Emergency Transportation (NET) Prior Authorization**

All requests for transportation must be routed directly to the appropriate Broker covering the region in which the member lives, pursuant to Section 113, MBM.

- A. NET transportation requests to the Broker require the following:
  - 1. Copy of Member's IEP or IFSP;
  - 2. Parental Consent Form to bill MaineCare;
  - 3. Standing Order Request Form; and
  - 4. Any additional documentation requested by the Broker, or the Department or its' authorized entity.
- B. NET transportation requests made by CDS staff to the Broker require the following:
  - 1. Most current version of the CDS form titled "Transportation: Parental Consent to Share Data and Seek Payment and Referral/Ride Request Form."
  - 2. Any additional documentation requested by the Broker, or the Department or its' authorized entity.
  - 3. CDS staff will retain on file a copy of the Member's IEP or IFSP in addition to their Parental Consent Form to bill MaineCare. The CDS "Transportation" form will be the attestation that CDS staff have secured parental permission to bill MaineCare.

**106.10-3 Modifiers**

All claims submitted for School-Based Covered or Ancillary Services must include a modifier of "TL" or "TM" to indicate if a service is provided in accordance with the member having an IEP or IFSP. "TM" indicates the medical services are listed on an IEP and "TL" indicates medical services are listed on an IFSP.

**106.10 BILLING** (cont.)

**106.10-4 Place of Service Code**

For School-Based services, the place of service code must accurately indicate where the School-Based service was provided. Most commonly the two codes below should be used for School-Based services in this section.

“03”- School

“11”- Office

**106.10-5 Rounding Requirement**

Providers must bill units consistent with the method directed in MaineCare Benefits Manual Chapter I, Section 1.03-8.J. Following this Chapter I requirement, only whole units may be billed for services rendered. Providers may not bill in decimals or adjust the rate of the unit billed.

**106.10-6 MaineCare in Education School-Based Billing Guide**

Providers of School-Based Services should regularly consult the billing guidance in the most recent version of the publication, “MaineCare in Education.” This guide contains detailed information regarding the provision of School-Based services. It is updated regularly with clarifying information based on provider inquiries and is meant to supplement this School-Based policy. The guide is available at <http://www.maine.gov/dhhs/oms/provider/School.html>.

**106.11 REIMBURSEMENT RATES**

The amount of payment for services rendered by a provider shall be the lowest of the following:

- A. The amount listed in Chapter III;
- B. The lowest amount allowed by Medicare Part B carrier; or
- C. The provider’s usual and customary charge.

**106.12 UTILIZATION REPORT REQUIREMENTS**

Schools and their contracted providers are required to keep accurate data on all School-Based services delivered. Schools must keep a list of all current providers contracted to perform School-Based services and must generate or obtain monthly reports of service utilization.

Reports will include the member, service provided, appropriate associated procedure code, date of service, and duration of service. The report will show daily services rendered and include monthly aggregate totals per service

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**106.12 UTILIZATION REPORT REQUIREMENTS (cont.)**

delivered. Schools and contracted providers must retain the monthly reports in their records for a period of time consistent with record retention as described in Chapter I 1.03-3M. For quality assurance, the Department may request copies of these reports to assure all services are accurately identified as School-Based services.



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**In order to bill for services under Section 106, the provider MUST always use a TL modifier for Individualized Family Service Plan (IFSP) OR TM modifier for Individualized Education Program (IEP)**

Procedure Code	Modifier (s)	Unit	Service Description	Maximum Allowance	PA/UR
<b>School-Based Behavioral Supports</b>					
H2019	HA	15 minute	School-Based Behavioral Supports	\$10.54*	Y
H2019	HA SC	15 minute	School-Based Behavioral Supports – additional support add on	\$10.54*	Y
<b>Center-Based Behavioral and Developmental Programs</b>					
<b>Children’s Behavioral Health Day Treatment</b>					
H2019	HE	15 minute	Center-Based Behavioral Programs – BHP	\$14.94*	Y
H2019	HE UN	15 minute	Center-Based Behavioral Programs – BHP – two patients served	\$7.47*	Y
H2019	HE UP	15 minute	Center-Based Behavioral Programs – BHP – three patients served	\$4.98*	Y
H2019	HE UQ	15 minute	Center-Based Behavioral Programs – BHP – four patients served	\$3.74*	Y
H2019	AJ	15 minute	Center-Based Behavioral Programs – Clinician	\$24.23*	Y
H2019	AJ UN	15 minute	Center-Based Behavioral Programs – Clinician – two patients served	\$12.12*	Y
H2019	AJ UP	15 minute	Center-Based Behavioral Programs – Clinician – three patients served	\$8.08*	Y
H2019	AJ UQ	15 minute	Center-Based Behavioral Programs – Clinician – four patients served	\$6.06*	Y
<b>Developmental Preschool</b>					
H2019	HI	15 minute	Center-Based Developmental Programs – BHP	\$10.54*	Y
H2019	HI UN	15 minute	Center-Based Developmental Programs – BHP – two patients served	\$5.27*	Y
H2019	HI UP	15 minute	Center-Based Developmental Programs – BHP – three patients served	\$3.51*	Y
H2019	HI UQ	15 minute	Center-Based Developmental Programs – BHP – four patients served	\$2.64*	Y
H2019	HO	15 minute	Center-Based Developmental Programs – Clinician	\$24.23*	Y
H2019	HO UN	15 minute	Center-Based Developmental Programs – Clinician – two patients served	\$12.12*	Y
H2019	HO UP	15 minute	Center-Based Developmental Programs – Clinician – three patients served	\$8.08*	Y
H2019	HO UQ	15 minute	Center-Based Developmental Programs – Clinician – four patients served	\$6.06*	Y

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Procedure Code	Modifier (s)	Unit	Service Description	Maximum Allowance	PA/UR
<b>Comprehensive Applied Behavior Analysis - CABA</b>					
H2019	HK	15 minute	CABA - Behavioral Health Professional	\$14.59*	Y
H2019	HK UN	15 minute	CABA - Behavioral Health Professional – two patients served	\$7.30*	Y
H2019	HK UP	15 minute	CABA - Behavioral Health Professional – three patients served	\$4.86*	Y
H2019	HK UQ	15 minute	CABA - Behavioral Health Professional – four patients served	\$3.65*	Y
G9007		15 minute	CABA - BCBA Services	\$16.60*	Y
G9007	UN	15 minute	CABA - BCBA Services – two patients served	\$8.30*	Y
G9007	UP	15 minute	CABA - BCBA Services – three patients served	\$5.53*	Y
G9007	UQ	15 minute	CABA - BCBA Services – four patients served	\$4.15*	Y
T1023		15 minute	Psychosocial Assessment	\$14.03*	N
H0004	AJ	15 minute	Individual/Family Counseling	\$14.03	Y
H0004	AJ HQ	15 minute	Group Counseling	\$14.03	Y
90839		1 hour	Crisis Assistance – First 60 minutes	\$56.12*	N
90840		30 minutes	Crisis Assistance – each additional 30 minutes	\$28.06*	N
96116		1 hour	Neurobehavioral Status exam-Psychologist or Physician, includes face-to-face time with the member and time interpreting tests results and preparing the report. – First Hour of Service	\$80.78*	N
96121		1 hour	Neurobehavioral Status exam-Psychologist or Physician, includes face-to-face time with the member and time interpreting tests results and preparing the report. – First Hour of Service – Each Additional Hour	\$80.78*	N
96119		1 hour	Neuropsychological testing (e.g. Halstead-Reitan Neuropsychological Battery, Wechsler Memory Scales and Wisconsin Card Sorting Test), Psychological Examiner interpretation and report, administered by a technician, face-to-face.	\$51.22*	N

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**In order to bill for services under Section 106, the provider MUST always use a TL modifier for Individualized Family Service Plan (IFSP) OR TM modifier for Individualized Education Program (IEP)**

Procedure Code	Modifier (s)	Unit	Service Description	Maximum Allowance	PA/UR
96130		1 hour	Psychological testing -Psychologist or Physician, includes both face-to-face time administering tests to the member and time interpreting these results and preparing the report. – First Hour of Service	\$80.78*	N
96131		1 hour	Psychological testing -Psychologist or Physician, includes both face-to-face time administering tests to the member and time interpreting these results and preparing the report. – Each Additional Hour	\$80.78*	N
96132		1 hour	Neuropsychological testing (e.g.) Halstead-Reitan Neuropsychological Battery, Wechsler Memory Scales and Wisconsin Card Sorting Test, Psychologist or Physician, includes both face-to-face time administering tests to the member and time interpreting these test results and preparing the report. – First Hour of Service	\$80.78*	N
96133		1 hour	Neuropsychological testing (e.g.) Halstead-Reitan Neuropsychological Battery, Wechsler Memory Scales and Wisconsin Card Sorting Test, Psychologist or Physician, includes both face-to-face time administering tests to the member and time interpreting these test results and preparing the report. – Each Additional Hour	\$80.78*	N
96136		1 hour	Psychological testing when administering two or more tests -Psychologist or Physician, includes both face-to-face time administering tests to the member and time interpreting these results and preparing the report. – First 30 Minutes	\$40.46*	N
96137		1 hour	Psychological testing when administering two or more tests -Psychologist or Physician, includes both face-to-face time administering tests to the member and time interpreting these results and preparing the report. – Each Additional 30 Minutes	\$40.46*	N
96138		1 hour	Psychological testing- Psychological Examiner interpretation and report, administered by a technician, face-to-face. – First Hour of Service	\$40.46*	N
96139		1 hour	Psychological testing- Psychological Examiner interpretation and report, administered by a technician, face-to-face. – Each Additional Hour	\$40.46*	N

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Procedure Code	Modifier (s)	Unit	Service Description	Maximum Allowance	PA/UR
96112		1 hour	Adaptive Assessment – First Hour	\$84.69*	N
96113		30 minutes	Adaptive Assessment – each additional 30 minutes	\$42.35*	N

**\* The Department is seeking and anticipates receiving CMS approval for this Section. Pending approval, the Department will reimburse providers for these services on the effective date of the rule.\***

AJ: clinical social worker

HA: child/adolescent program

HQ: group

HI: base service

HK: Specialized Services

SC: medically necessary service

UN: two patients served

UP: three patients served

UQ: four patients served