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State Name: Virginia

State Plan Amendment (SPA) #: 19-009

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Approved CMS-179
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
801 Market Street, Suite 9400
Philadelphia, Pennsylvania 19107



Regional Operations Group

SWIFT #061720194005

August 7, 2019

Jennifer S. Lee, M.D., Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Dear Dr. Lee:

The Centers for Medicare & Medicaid Services (CMS) has reviewed Virginia's State Plan Amendment (SPA) 19-009, Behavioral Therapy. The purpose of this SPA is to update the service definition, service components, staff requirements, and limits for Behavioral Therapy services provided under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit.

This SPA is acceptable. Therefore, we are approving SPA 19-009 with an effective date of April 1, 2019. Enclosed are the approved SPA pages and signed CMS-179 form.

If you have further questions about this SPA, please contact Margaret Kosherzenko of my staff at 215-861-4288.

Sincerely,

/S/

Francis T. McCullough
Director
Eastern Regional Operations Group

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER
1 9 - 0 0 9

2. STATE
Virginia

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
4/1/2019

5. TYPE OF PLAN MATERIAL (Check One)

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION

7. FEDERAL BUDGET IMPACT

a. FFY 2019 \$ -0-
b. FFY 2020 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

3.1 A&B, Supplement 1 - new pages 6.4.16,
6.4.17, and 6.4.18
4.19-B revised page 6.2.1.1.

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Same as box 8.

10. SUBJECT OF AMENDMENT

Behavioral Therapy

GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT²⁰¹⁹
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

Secretary of Health and Human Resources

12. SIGNATURE OF STATE AGENCY OFFICIAL

[Redacted] /S/

13. TYPED NAME

Jennifer S. Lee, M.D.

14. TITLE

Director

15. DATE SUBMITTED

6/7/19

16. RETURN TO

Dept. of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Regulatory Coordinator

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED
June 13, 2019

18. DATE APPROVED
August 7, 2019

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

April 1, 2019

20. SIGNATURE OF REGIONAL OFFICIAL

/S/

21. TYPED NAME

Francis T. McCullough

22. TITLE

Director Eastern Regional Operations Group

23. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**AMOUNT, DURATION, AND SCOPE OF MEDICAL
AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY
and MEDICALLY NEEDY**

N. Behavioral Therapy Services.

1. Definitions. The following words and terms when used in this subsection shall have the following meanings unless the context clearly indicates otherwise:

"Behavioral therapy" means systematic interventions provided by licensed practitioners acting within the scope of practice defined under a Virginia Department of Health Professions regulatory board and covered as remedial care under 42 CFR 440.130(c) to individuals younger than 21 years of age. Behavioral therapy includes applied behavioral analysis. Family training related to the implementation of the behavioral therapy shall be included as part of the behavioral therapy service. Behavioral therapy services shall be subject to clinical reviews and determined as medically necessary. Behavioral therapy may be provided in the individual's home and community settings as deemed by DMAS or its contractor as medically necessary treatment.

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives, (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Individual" means the youth younger than 21 years of age who is receiving behavioral therapy services.

"Licensed Assistant Behavioral Analyst" or "LABA" means a Board Certified Assistant Behavior Analyst licensed by the Virginia Board of Medicine in accordance with state law.

"Primary care provider" means a licensed medical practitioner who provides preventive and primary health care and is responsible for providing routine EPSDT screening and referral and coordination of other medical services needed by the individual.

"Registered behavior technician" or "RBT" means a paraprofessional certified by the Behavior Analyst Certification Board.

2. Service Definition: Behavioral therapy services are a preventative benefit provided according to 42 CFR 440.130(c). Behavioral therapy services are covered for individuals younger than 21 years of age. Behavioral therapy services shall be designed to promote communication skills and decrease maladaptive patterns of behavior, which if left untreated, could lead to more complex problems and the need for a greater or a more intensive level of care. The service goal shall be to ensure the individual's family or caregiver is trained to effectively manage the individual's behavior in the home using modification strategies. The service goal shall be to: 1) ameliorate the medically necessary conditions that qualified the youth for the service; 2) support and teach the individual using effective strategies and techniques; 3) ensure the individual's family or caregiver is trained to effectively manage the individual's behavior in the home and community using modification strategies. All services shall be provided in accordance with the ISP and clinical assessment summary. Services to the beneficiary's family and significant others is for the direct benefit of the beneficiary, in accordance with the beneficiary's needs and treatment goals identified in the beneficiary's treatment plan, and for the purpose of assisting in the beneficiary's recovery.

TN No. 19-009

Approval Date 08/07/2019

Effective Date 04-01-19

Supersedes

TN No. New Page

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**AMOUNT, DURATION, AND SCOPE OF MEDICAL
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<i>Service Component Definitions – Behavioral Therapy</i>	<i>Staff That Provide Service Components</i>
<p>Assessment: the face-to-face interaction in which the provider obtains information from the youth, and parent, guardian, or other family member or members, as appropriate, about the youth’s mental health status and symptoms. It includes documented history of the severity, intensity, and duration of behavioral and emotional issues. Assessment also includes structured observation to determine levels of adaptive behavior and to evaluate a youth’s social behavior to determine social skills as well as the contexts in which social responses are likely or unlikely to occur.</p>	<p>LMHP LMHP-S LMHP-R LMHP-RP LABA</p>
<p>Treatment Planning: The ISP shall demonstrate the need for Behavioral Therapy and document the methods to be used in the coordination of other professional services and medical evaluations as necessary to implement the behavior modification plan. The ISP shall specifically describe each treatment goal, targeted behavior, one or more measurable objectives for each targeted behavior, the behavioral modification strategy to be used to manage each targeted behavior, the plan for parent or caregiver training, care coordination, and the measurement and data collection methods to be used for each targeted behavior in the ISP.</p>	<p>LMHP LMHP-S LMHP-R LMHP-RP LABA</p>
<p>Behavioral training to increase the individual’s adaptive functioning and communication skills. Behavioral training involves monitoring the needs of the individual and adjusting therapeutic techniques in real-time to address targeted social deficits and problem behaviors using modeling, rehearsing, and corrective feedback. The practitioner develops activities in which the individual has an opportunity to practice encounters. Behavioral training includes therapeutic consultation: a supervising or higher licensed practitioner oversees and adjusts treatment provided to the youth as the treatment is occurring. The beneficiary must be present for any Therapeutic Consultation services to occur.</p>	<p>LMHP LMHP-S LMHP-R LMHP-RP LABA RBT *</p>
<p>Training a family member in behavioral modification methods: Family training involves teaching techniques to increase positive behaviors, build motivation, and develop social, communication, and adaptive skills (e.g. discrete trial teaching, modeling, social skills instruction, picture exchange communication systems, pivotal response training, social narratives, self-management, and prompting) and teaching parents to provide individualized interventions for the benefit of the youth (e.g. parent implemented intervention). Family training involving the individual’s family and significant others to advance the treatment goals of the individual shall be provided when (i) the training with the family member or significant other is for the direct benefit of the individual, (ii) the training is not aimed at addressing the treatment needs of the individual’s family or significant others, (iii) the individual is present except when it is clinically appropriate for the individual to be absent in order to advance the individual’s treatment goals, and (iv) the training is aligned with the goals of the individual’s treatment plan.</p>	<p>LMHP LMHP-S LMHP-R LMHP-RP LABA RBT *</p>

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

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**AMOUNT, DURATION, AND SCOPE OF MEDICAL
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Provider qualifications are defined in Attachment 3.1 A&B, Supplement 1, pages 31 through 31.3.

* Unlicensed personnel may be utilized to perform: 1) non-client-related tasks, including clerical and maintenance activities and the preparation of the work area and equipment; and 2) certain routine client-related tasks that, in the opinion of and under the supervision of an LMHP, LMHP-R, LMHP-RP, LMHP-S, or LABA, have no potential to adversely impact the client or the client's treatment plan and do not constitute the practice of behavior analysis.

Limits:

1. Behavioral therapy services shall be covered for individuals younger than 21 years of age when recommended by the individual's primary care provider, licensed physician, licensed physician assistant, or licensed nurse practitioner and determined by DMAS or its contractor to be medically necessary to correct or ameliorate significant impairments in major life activities that have resulted from either developmental, behavioral, or mental disabilities.
2. Reimbursement for the assessment and the initial ISP shall be limited to five hours without service authorization. If additional time is needed to complete these documents, service authorization shall be required.
3. Service authorization shall be required for behavioral therapy services.
4. Behavioral therapy services shall not be reimbursed concurrently with community mental health services or behavioral, psychological, or psychiatric therapeutic consultation.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE --
OTHER TYPES OF CARE**

- 16.6. Behavioral Therapy Services, as defined per Supplement 1 to Attachment 3.1 A&B, page 6.4.16 and provided by the individuals who are listed in Supplement 1 to Attachment 3.1 A&B, page 6.4.17 through 6.4.18 and defined in Supplement 1 to Attachment 3.1 A&B, pages 30-31.1, are reimbursed based on a 15-minute unit of service. The agency's rates were set as of April 1, 2012 and are effective for services on or after that date. All governmental and private providers are reimbursed according to the same published fee schedule, located on the agency's website at the following address: www.dmas.virginia.gov

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Supersedes

TN No. 17-027