

Michigan Occupational Therapy Association

124 West Allegan Street, Suite 1900
Lansing, MI 48933
Phone: (517) 484-8800

Michigan Speech Hearing Association

790 W. Lake Lansing Rd Ste 500A
East Lansing, MI 48823
Phone: (517) 332-5691

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Submitted to fossittr@michigan.gov

Deputy Commissioner Rhonda Fossitt
Insurance Rates and Forms Division
Financial and Insurance Regulation
Department of Licensing and Regulatory Affairs
P.O. Box 30220
Lansing, MI 48909

Re: Essential Health Benefits Habilitative Services Order No. 13-003-M

Dear Commissioner Fossitt:

We received your contact information from Sarah Hunt of Stateside Associates, and we appreciate your willingness to receive our comments regarding the Commissioner's Order Requiring Coverage for Habilitative Services (Order). As the professional associations for our respective professions, we represent thousands of therapy professionals and students in the state of Michigan, as well as their tens of thousands of patients and clients. We appreciate the Commissioner's efforts to implement the Affordable Care Act (ACA) by requiring coverage of habilitative services, especially within the short timeframe that is required. However, we have concerns about the content of the Order and the possibility of misinterpretation of its intent. We respectfully request you consider the following, and we would be glad to meet with you at your convenience to discuss these issues further.

Our primary concern is the possibility that the Order could be interpreted as allowing health plans to fulfill the requirement to cover habilitative services imposed by the ACA by only covering applied behavioral analysis (ABA). If that was not the intent of the Order, we would like to discuss the possibility of clarifying the Commissioner's intent with a follow-up order. If that was the Commissioner's intent, we would like to provide additional information as to why we believe that is not in the best interest of the citizens of Michigan.

The Order begins by citing the definition of habilitative services included in the uniform glossary, which is the same definition adopted by the National Association of Insurance Commissioners (NAIC). That definition explicitly identifies physical therapy, occupational therapy, and speech-language pathology as habilitative services. It does not explicitly mention ABA. While we believe ABA is more appropriately placed in the essential health benefit category of "mental health...services, including behavioral health treatment," we do not oppose

the Commissioner's inclusion of it as a habilitative service. We only urge that the therapy services explicitly mentioned in the definition the Order references also be included among those that health plans must cover as habilitative services.

In addition, we believe a focus on ABA and autism in the Order has the potential to lead to the exclusion of coverage of habilitative services for other populations whose conditions warrant such treatment. Again, we reference the NAIC definition that the Order also cited, which was designed to encompass an array of services "that help a person keep, learn or improve skills and functioning for daily living." There was no expression of intent to limit habilitative services to ABA or only those services that would be appropriate for individuals with an autism diagnosis. We would therefore encourage a clarification of the Order that indicates habilitative services should be covered for all conditions for which they are deemed appropriate by health care professionals. That construction would ensure that a child with a neurodevelopmental or other disability or condition, not limited to autism, who would benefit from habilitative services, may receive those services. Similarly, it would ensure there is no arbitrary age at which point such services are cut off.

We understand and appreciate the challenges the Commissioner faces in implementing the ACA, and as a result are happy to offer our expertise as front-line providers of habilitative services. We are available to provide additional insight into how the Order may produce unintended consequences. Once again, we greatly appreciate your willingness to consider our comments, and would welcome the opportunity to discuss these issues with you further.

Respectfully submitted,

Kirsten R. Matthews, MA, OTRL, CLT
Leader of the Executive Committee (President)
Michigan Occupational Therapy Association
Email: kirstenmatthews@charter.net

Deanna Klein, MA, CCC-SLPL
Assistant Manager of Rehab and Wellness, Fox Run
Michigan Speech Language Hearing Association
2012 President
Email: Deanna.Klein@erickson.com