

March 29, 2023

Re: Testimony FOR LD 473 “Resolve, to Expand the Eligibility for and Increase the Number of Hours of Applied Behavior Analysis Services Authorized by the MaineCare Program”

Chairman Baldacci, Chairwoman Meyer, and Distinguished Members of the Joint Standing Committee on Health and Human Services:

My name is Alan Cobo-Lewis. I live in Orono. I am director of the Center for Community Inclusion and Disability Studies (CCIDS) at the University of Maine. I am also the parents of two 22-year-olds, one of whom has autism and who has benefitted from applied behavior analysis (ABA).

CCIDS is Maine’s federally funded University Center for Excellence in Developmental Disabilities (UCEDD, pronounced “YOU-said”), authorized by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (“DD Act”). The purpose of the national network of UCEDDs is to provide leadership in advise federal state and community policy leaders about, and promote opportunities for individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life. Part of the federal mandate of CCIDS is to educate and advise policymakers, including members of the state legislature. Consistent with CCIDS responsibilities under the DD Act and consistent with University of Maine Board of Trustees policies [212](#) and [214](#), I am submitting material pertaining to LD 473 for myself and for CCIDS, not for the University of Maine or the University of Maine System as a whole.

1 Existing behavioral support extremely limited in Section 21, absent from Section 29

As I have previously brought to this Committee’s attention, the Legislature directed the Department back in 2009 years to include services by Board Certified Behavior Analysts (BCBAs) in Section 21 and Section 29 ([Resolve 2009 chapter 33](#)) to oversee ABA programming. The Department added this as a consultation service to Section 21 in 2014¹, but limited it to only 16.5 hours per year, at the same level as it limited other consultation services. And it has not added this service to Section 29.

2 ABA in adulthood

Private health insurance in all 50 states covers ABA to address behavioral challenges in people with autism, and insurance companies in Maine generally recognize that because of mental health parity requirements, they do

¹ Contrast the rule at

<https://web.archive.org/web/20130702094555/http://maine.gov/sos/cec/rules/10/144/ch101/c3s021.doc> (which still lacked behavior consultation) with the rule at

<https://web.archive.org/web/20140928102406/http://maine.gov/sos/cec/rules/10/144/ch101/c3s021.docx> (which finally covered behavior consultation)

so without age limit²—which is fortunate, because while most work in the area has focused on children, there is also evidence for the effectiveness of ABA for adolescents and adults³.

But most people on the Section 21 and 29 waivers don't have private health insurance, so don't have access to this service.

3 Clarity on what the bill is requiring

Typically private health insurance coverage includes evaluation, treatment design, and supervision of behavioral technicians by a BCBA at a ratio of about 5:1 (5 hours behavior technician to 1 hour of masters- or doctoral-level BCBA support and supervision)⁴.

3.1 120 hours/year of BCBA oversight? 😊

If the bill is requiring reimbursement for up to 120 hours/year of BCBA oversight then that would correspond to about 11.5 hours/week of contact with a behavioral technician.

If direct support professionals are implementing the program essentially in the role of behavioral technician then 120 hours/year of BCBA oversight seems modest—but a vast improvement over the current limit of 16.5.

3.2 120 hours/year of just behavior technician support? 😊

If, on the other hand, the bill is directing the Department to cover up to 120 hours/year of behavioral technician support then, at the 5:1 ratio from private health insurance, that would correspond to only 24 hours/year of BCBA oversight—far too low for anything but the most modest treatment program.

4 Improvements to the bill

4.1 120 hours/year of BCBA oversight

I therefore suggest that the bill be amended to clarify that it is requiring coverage for up to 120 hours/year of BCBA support.

4.2 Scope of BCBA activities

I further suggest that the bill be amended to clarify that the BCBA support may include evaluation and program design as well as direct case supervision (with the client present) and indirect case supervision (without the client present). These would be important improvements to ensure that people with disabilities receiving Section 21 or 29 support get behavioral support designed to have some fidelity to treatment model.

² Joubert, J., & Hooper, M. (2015, May). *A report to the Joint Standing Committee on Insurance and Financial Services of the 127th Maine Legislature. Review of Financial Impact of PUBLIC Law, Chapter 635, LD 1198. An Act To Reform Insurance Coverage To Include Diagnosis and Treatment for Autism Spectrum Disorders*. Retrieved 03/29/2023 from https://digitalmaine.com/cgi/viewcontent.cgi?article=1014&context=bi_docs

³ Roth, M. E., Gillis, J. M., & DiGennaro Reed, F. D. (2014). A meta-analysis of behavioral interventions for adolescents and adults with autism spectrum disorders. *Journal of Behavioral Education, 23*(2), 258-286. <https://doi.org/10.1007/s10864-013-9189-x>

⁴ For example, see Cigna's Medical Coverage Policy Number 0499 at https://static.cigna.com/assets/chcp/pdf/coveragePolicies/medical/mm_0499_coveragepositioncriteria_intensive_behavioral_interventions.pdf