

Insurance-Funded Services in a School Setting

For behavioral health treatment services, the location, such as a school or community setting, may be an integral part of the treatment plan and may be necessary to ensure treatment goals are met, especially generalization of skills across settings. Medically necessary autism treatment may be provided in a school setting (a) to ensure that skills acquired in the home and community generalize to the school setting; (b) when the behavior occurs in the school setting; (c) or simply as a matter of logistics to ensure that a child's full treatment hours are delivered. Moreover, services provided by a school under an IEP do not preclude medically necessary services that are being provided across all natural settings, including the school. Schools do not typically provide medically necessary treatment; they may provide supports pursuant to a different standard (some educational benefit), for different purposes (to access the educational curriculum) with differently credentialed providers (special education teachers and aides). Such services do not supplant medically necessary treatment. Useful language to articulate some of these points may include:

- The location is often an integral part of the treatment plan and is necessary to ensure that treatment goals are met. That is, for treatment to be effective, it must be generalized across all natural environments, and the school is a natural environment for a school-age child.
- These services target goals in the treatment plan, which addresses the deficits and behaviors associated with your insured's autism diagnosis; school-based services do not address educational/academic goals.
- The location of services is part of the medically necessary treatment of the child's autism diagnosis.
- When this issue has been litigated, the Court has consistently determined that insurance carriers are responsible for funding of medically necessary treatment, regardless of the location where it occurs, including school settings.
- The duty as the insurance carrier to provide coverage for medically necessary treatment is a much higher standard than the duty of the school under IDEA to provide Free Appropriate Public Education.

Please note: When an insurer authorizes services, but a school prohibits the ABA provider from providing the services on campus, it may be helpful to update the IEP to include an agreement to allow the ABA provider on campus and into the classroom to provide medically necessary treatment. Additionally, parents may want to raise the school's required compliance with ADA, which includes an integration mandate. That is, providing services in natural settings in which the child functions, such as a school, is not only considered best practice but is also required under the integration mandate of the Americans with Disabilities Act (*Olmstead v. L.C.*, 527 U.S. 581, 1999). Finally, parents may want to raise Section 504 of the Rehabilitation Act which prohibits discrimination against students with disabilities. Since it is commonplace for schools to administer prescription drugs for students with medical ailments and to provide access to speech therapy on campus, a school that refuses to accommodate an ABA provider on campus is discriminating against a child who has a disability.

Inquiries should be directed to:

Julie Kornack
Director of Public Policy
Center for Autism and Related Disorders
J.Kornack@centerforautism.com