

Testimony
Senate Bill No. 2190
Senate Human Services Committee
Senator Judy Lee, Chairman
January 20, 2025

Chairman Lee, and members of the Senate Human Services Committee, I am Sarah Aker, Executive Director of Medical Services with the Department of Health and Human Services (Department). I appear before you to provide neutral testimony related to Senate Bill No. 2190.

This bill significantly broadens the scope of covered Applied Behavior Analysis (ABA) services to treat common behavioral problems across the lifespan of individuals with a variety of psychological and medical diagnoses. Currently in ND Medicaid, ABA therapy is covered for children under 21 years of age with an autism spectrum disorder diagnosis.

ND Medicaid requires a service authorization for ABA therapy to verify medical necessity. Reassessment of ABA services is required every 180 days. Annual review of medical necessity is required for continued services. ABA services include assessment, adaptive behavior treatment, and skills training.

ND Medicaid allows Behavior Analyst providers to also provide certain behavioral health rehabilitative services, including screening, triage and referral, behavioral assessments, skills training and integration, and behavioral intervention services. Behavioral health rehabilitative services are provided to both adults and children. To receive behavioral

health rehabilitation services, members must be at risk of entering or re-entering a mental health facility or hospital and demonstrate functional limitations as evidenced by the World Health Organization Disability Assessment Schedule or Daily Living Activities-20 or have a mental health disorder and be in family at risk or that is experiencing dysfunction disrupting the family, or need substance use disorder services.

The expansion of services in this bill are not included in the Governor's budget. The Department calculates that expanding services to treat common behavioral problems across the lifespan of individuals with a variety of psychological and medical diagnoses would cost approximately \$13,967,000 in total funds. To calculate this fiscal impact, ND Medicaid used diagnoses provided by the North Dakota Association for Behavior Analysis for a similar bill¹ in the 2023 biennium. Those diagnoses include dementia, eating disorders, pyromania, kleptomania, intellectual disabilities, specific and pervasive developmental disorders, and global developmental delay. Using claims data, we estimated that 20,509 individuals in Traditional Medicaid have one of these diagnoses. Of the 20,509, we estimated that 15% or 3,076 would receive services and based utilization assumptions on the average utilization of existing ABA members.

Our team also reviewed the fiscal impact associated with expanding ABA coverage to adults with an autism spectrum disorder diagnosis. Using claims data, we estimated that 188 of individuals would receive services, totaling \$853,613 in total funds.

The Department has concerns about the efficacy of ABA for the broad list of diagnoses currently included in this bill, as evidence does not support ABA for all diagnoses. In

¹ House Bill 1530: [HB 1530 - Overview | North Dakota Legislative Branch](#)

addition, the Department knows that children with autism are not always able to access ABA today due to workforce shortages and geography. This bill would place additional demands on the already limited capacity available in North Dakota.

Additionally, the Department would require additional resources to support service authorizations for expansion of this service. Medicaid programs across the country are increasingly seeing fraud, waste, and abuse associated with these services. In Minnesota², the Federal Bureau of Investigation has gotten involved in the investigation of 2 autism providers as recently as December 2024, and another 29 providers are reportedly under investigation by the Minnesota Department of Human Services. ND Medicaid is currently conducting a program integrity review of ABA services but does not yet have findings to share associated with that review. Our team takes our responsibility to safeguard state tax dollars in the Medicaid program seriously. We estimate that the Department would need approximately \$250,000 per biennium to support the additional service authorizations and resources need to appropriately safeguard this service for our Medicaid members.

This concludes my testimony. I am happy to answer any questions the committee may have. Thank you.

² [Feds serve search warrants in autism fraud investigation • Minnesota Reformer](#)