



HABILITATIVE? – IS THIS THE RIGHT QUESTION FOR CHILDREN?

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The word “habilitative” has been at the heart of health insurance coverage denials for children with autism. Health insurers typically claim to not cover “habilitative” care and often deny coverage for behavioral therapies as the care is not “rehabilitative.” Insurers describe “habilitative” services as educational or long-term care services, both of which are non-covered services. “Rehabilitative” services are defined as those used to treat a condition that is a result of an injury or illness and are covered services.

The word “habilitative” comes from the Latin verb *habilitare*, to make able to. In turn, “rehabilitative” means to restore ability. In the first instance the ability was not present to begin with and is developed through “habilitative” care. In the second, the ability was lost and is restored through “rehabilitative” care.

“Habilitative” is a word long used in Medicaid home and community-based care programs that have provided long-term care supports to individuals with disabilities since the early 1980s. Examples of habilitative programs include supported employment and day services for adults. Federal Medicaid law defines “habilitative” services as “services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings.” In contrast, “rehabilitative” services are those that reduce a disability and “restore” an individual to his or her best possible functional level. Again, the key distinction is whether the service helps develop a function for the first time or “restores” a function that has been impaired or lost.

It is this distinction that health insurers use to deny behavioral therapies to children with autism. For example, in denying coverage for Applied Behavioral Analysis Therapy (ABA), insurers claim that the service is “habilitative” and does not “restore” a child to a prior level of function. Occupational, physical, or speech therapies also may be denied on this basis. In fact, insurers may even deny coverage

for early intervention services for children with or at risk for developmental delays on the basis that these services are not habilitative.

Federal court in Ohio recently considered this issue when the Parents League for Effective Autism Services challenged a new Ohio Medicaid rule that denied coverage of ABA to children because it did not “restore” functioning. In its opinion ruling in favor of the Parents League, the court stated the obvious:

If the term “restoration of an individual to the best possible functional level” requires that the individual once actually possess the functional level, very few young children could ever receive “rehabilitative services.” Under this definition, for instance, a child born with a disability that prohibited him from learning to walk could not receive rehabilitative services that would help him to walk, because the service would not “restore” him to a best possible functional level. On the other hand, a child who is injured shortly after learning to walk, would be able to receive rehabilitative services that would help him to walk again.

Many states have enacted laws to prohibit insurers from denying coverage for autism treatment based on the “habilitative” argument and they have done so for the same reason given by the Ohio court. In fact, the New Hampshire Legislature is now considering this matter in House Bill 569. In a hearing on this bill, Representative Susi Nord of Candia asked insurers who spoke in opposition to House Bill 569 if they covered the repair of cleft palate. After being assured that they do, Representative Nord also pointed out the obvious – that coverage for this treatment cannot be considered a restoration as the child never had anything but a cleft palate.

Currently, all major federal health reform bills working their way through Congress include habilitative service coverage as a required coverage for health insurance plans. Whether or not this requirement will be part of the final health reform bill and how “habilitative service” ultimately will be defined remains to be seen.

Until then, the questions regarding habilitative service, especially for children, remain –

- ◆ Can you “restore” a condition that was never there?
- ◆ If you cannot “restore” a condition, is it reasonable to deny coverage for treatment when the condition is treatable?
- ◆ If it is reasonable to provide “non-restorative” coverage for treatment of some conditions, but not all, how do you make the distinction on what is covered?

As efforts for health care reform move forward, we hope that these questions will receive thoughtful consideration and that a rational approach to ensuring coverage of services for children with autism and other disabilities will result.