



AAT Case Management Guide Applied Behavioural Analysis (ABA)

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Field	Content	Reference Documents
Title	Applied Behavioural Analysis (ABA)	
Purpose	This document is part of a suite of guidance documents for case managers to use in formulating their approach to managing individual cases before the Administrative Appeals Tribunal (AAT).	
Scope	<p>ABA therapy refers to a non-pharmacological behavioural intervention to help children diagnosed with autism spectrum disorder (ASD), intellectual disability or developmental delay to develop skills in communication, self-care, and social interaction, and or reduce behaviours that are barriers to learning and participation.</p> <p>ABA is one of several different evidence-based approaches to support children with ASD. It is characterised by intensive interventions, delivered by trained personnel in a clinical or childcare environment.</p>	<p>Applied Behavioural Analysis (ABA) Therapy Disability Support Guide</p> <p>Behavioural interventions NDIS</p> <p>Autism CRC early intervention report NDIS</p>
Escalation to Hearing Oversight Committee (HOC)	If a matter is within the parameters of this document, the AAT Case Management Branch Manager may approve proceeding to hearing. Where there is substantial risk or the matter is outside the parameters of this document, the matter should be referred to HOC.	
Current National Disability Insurance Agency (NDIA) policy on the subject	<p>The AAT process is often seen as stressful and adversarial by the participants and our focus should be on resolving issues as practicably and quickly as possible. The role of the NDIA is to assist the AAT and the participant in reaching the best possible resolution for the participant by agreement.</p> <p>The NDIA will fund ABA therapy when the NDIA is satisfied it is a reasonable and necessary support. Where ABA therapy is to be funded as an early intervention support, the NDIA must also be satisfied that it is likely to reduce a participant's need for future disability supports.</p> <p>Supports for children with ASD should be evidence-based and delivered using a family-centred approach that incorporates individual planning. ABA therapy is</p>	<p>NDIA Dispute Resolution Policy</p> <p>Appendix B to the Legal Services Directions 2017</p> <p>Section 34(1) of the National Disability Insurance Scheme Act 2013</p> <p>Rules 3.2 and 3.3 of the National Disability Insurance Scheme (Supports for Participants) Rules 2013</p>

Commented [JM1]: As per my previous comments.



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	<p>likely to NOT be delivered with a family centred approach and more likely to be delivered in an allied health clinic or childcare/school environment.</p>	<p>Operational Guideline – Applying to the NDIS Operational Guideline – Early childhood approach ECIA National Guidelines – Best Practice in Early Childhood Intervention Council of Australian Governments (COAG) – Principles to determine responsibilities of the NDIS and other service systems</p>
<p>NDIA Posture in relation to this subject</p>	<p>It is important that the NDIA closely consider a participant’s unique circumstances, including their functional impairment, individual goals and aspirations, and evidence which considers their specific circumstances.</p> <p>The NDIA is likely to fund up to 20 hours per week of ABA therapy where it is considered likely to be effective and beneficial.</p> <p>Evidence from a meta-analysis of clinical studies indicates that it is unlikely that more than 15 hours per week of ABA will be effective and beneficial.</p> <p>Where more than 20 hours of ABA is requested, the NDIA is likely to run the matter to hearing. The matter will turn on the question of the participant’s age, and their own capacity as well as their family’s capacity to meet the time obligations of ABA therapy.</p> <p>Where a participant has commenced school and requests more than 10 hours of ABA per week, the NDIA must consider the capacity of the participant and their family to sustain both full-time schooling and intensive therapy.</p>	<p>Operational Guideline – Creating your plan CXZS v National Disability Insurance Agency [2021] AATA 511 Intervention Recommendations for Children with Autism in Light of a Changing Evidence Base Report, Dr M Sandbank et al (Generalised findings, specific to older children) Autism CRC early intervention report NDIS The Department of Defence (USA) Comprehensive Autism Care Demonstration Annual Report 2021 A Multisite Randomized Controlled Trial Comparing the Effects</p>

Commented [JM2]: We contradict ourselves here. We say it should be a family-based approach and then say it is delivered outside the family unit.

Commented [JM3]: Individual instead of unique?

Commented [JM4]: Just to check here: should this be we 'will' fund up to 20 hrs p/w where the therapy is considered to be effective and beneficial. The use of the word likely is a little confusing. If we agree to fund the therapy then we have already considered it to be effective and beneficial for the participant. I may have misinterpreted this however.

Commented [JM5]: Why is our policy position above what clinical evidence shows?

Commented [JM6]: Suggest re-wording.

Commented [JM7]: So the content above (ie up to 20 hrs p/w) only applies to non-school age children? Are matters where disputes for more than 10 hrs p/w also likely to proceed to hearing?



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		of Intervention Intensity and Intervention Style on Outcomes for Young Children With Autism - ScienceDirect
Evidence recommended to inform NDIA position in a specific matter before the Administrative Appeals Tribunal (AAT)	<p>To consider funding for ABA therapy, the NDIA requires evidence of a relevant diagnosis from a paediatrician, psychiatrist, psychologist, or a specialist multi-disciplinary team. The Diagnostic and Statistical Manual of Mental Disorders, fifth edition (DSM-5) is the NDIA's preferred diagnostic standard.</p> <p>Clinical evidence that ABA therapy satisfies the criteria in section 34(1) is also required to be provided by a psychologist, occupational therapist, paediatrician or, where a participant has received ABA therapy previously - an ABA therapist.</p> <p>Clinical evidence must address the link between ABA therapy and a participant's goals and specify how the requested number of hours of ABA therapy will be effective in assisting the participant to achieve those goals.</p> <p>Evidence from a behavioural paediatrician who has assessed the participant in person is recommended.</p>	<p>Australia's First National Guideline for the Assessment and Diagnosis of Autism Spectrum Disorders Autism CRC</p> <p>List A: Conditions that are likely to meet the disability requirements NDIS</p> <p>Section 34(1) of the National Disability Insurance Scheme Act 2013</p> <p>Rules 3.2 and 3.3 of the National Disability Insurance Scheme (Supports for Participants) Rules 2013</p> <p>Persons Giving Expert and Opinion Evidence Guideline Administrative Appeals Tribunal</p>
Other considerations	<p>The NDIA must also be satisfied that ABA therapy meets the National Disability Insurance Scheme (NDIS) funding criteria – in particular, that it:</p> <ul style="list-style-type: none"> is unlikely to cause harm to a participant or pose a risk to others; and is not duplicated by other funded supports. <p>Consider the <u>The NDIA considers the</u> context and circumstances of the family and their capacity to support the delivery of 15 – 20 hours of intervention in</p>	<p>Rule 5.1 of the National Disability Insurance Scheme (Supports for Participants) Rules 2013</p> <p>How we work out if a support meets the funding criteria NDIS</p>

Commented [JM8]: How did we select these reference documents? There is a wealth of reporting on ABA so I wondered why these? They should be consistent with what is on web/or by responsible area for the Agency's Guidelines on this issue.

Commented [JM9]: We should be consistent here with previous advice above. Suggest changing to 'up to 20 hrs'.



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	<p>the learning environment of the child (usually the home or school).</p> <p>Also-The NDIA will also consider:</p> <ul style="list-style-type: none"> • children with greater baseline cognitive skills and higher adaptive behaviour scores at baseline have better outcomes from early intensive ABA therapy; and • younger children have better outcomes from ABA therapy. <p>The NDIA must also have regard to a participant's choice and control in the pursuit of their goals and the planning and delivery of their supports.</p>	<p>Autism CRC early intervention report NDIS</p> <p>Section 3 of the National Disability Insurance Scheme Act 2013</p>
<p>Previous matters that may advise the NDIA position</p>	<p>The AAT will not consider whether ABA therapy is an effective early behavioural intervention strategy for children diagnosed with ASD, but whether ABA therapy satisfies the criteria in section 34(1), which will be determined on the facts of each case.</p> <p>When considering funding for ABA therapy, the NDIA must also consider the promotion of an applicant's choice and control in the pursuit of their goals and the planning and delivery of their supports.</p> <p>It is the responsibility of the NDIA to show that ABA therapy can be substituted with other mainstream therapies and achieve the same outcomes for the applicant.</p>	<p>FRCT v National Disability Insurance Agency [2019] AATA 1478</p> <p>WKZQ v National Disability Insurance Agency [2019] AATA 1480</p> <p>CXZS v National Disability Insurance Agency [2021] AATA 511</p>
<p>Document admin</p>	<p>Quality, Reporting, Strategy and Training</p>	
<p>Approved</p>	<p>Matthew Swainson, Chief Counsel</p>	

Commented [JM10]: How were these cases selected?