

Acquired Brain Injury Services

Policy Number: BIP137.H
Effective Date: July 1, 2021

[➔ Instructions for Use](#)

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Related Benefit Interpretation Policies

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Federal/State Mandated Regulations

Texas Insurance Code, Title 8. Health Insurance and Other Health Coverages, Subtitle E Benefits Payable under Health Coverages, Chapter 1352 Brain Injury

[Texas Insurance Code Section 1352.003 - Required Coverages—health Benefit Plans Other Than Small Employer Health Benefit Plans \(2019\) \(public.law\)](#)

Section 1352.003 Required Coverages – Health Benefit Plans other than Small Employer Health Benefit Plans

- (a) A health benefit plan must include coverage for cognitive rehabilitation therapy, cognitive communication therapy, neurocognitive therapy and rehabilitation, neurobehavioral, neurophysiological, neuropsychological, and psychophysiological testing and treatment, neurofeedback therapy, and remediation required for and related to treatment of an acquired brain injury.
- (b) A health benefit plan must include coverage for post-acute transition services, community reintegration services, including outpatient day treatment services, or other post-acute care treatment services necessary as a result of and related to an acquired brain injury.
- (c) A health benefit plan may not include, in any annual or lifetime limitation on the number of days of acute care treatment covered under the plan, any post-acute care treatment covered under the plan.
 - (c-1) A health benefit plan may not limit the number of days of covered post-acute care, including any therapy or treatment or rehabilitation, testing, remediation, or other service described by Subsections (a) and (b), or the number of days of covered inpatient care to the extent that the treatment or care is determined to be medically necessary as a result of and related to an acquired brain injury. The insured's or enrollee's treating physician shall determine whether treatment or care is medically necessary for purposes of this subsection in consultation with the treatment or care provider, the insured or enrollee, and, if appropriate, members of the insured's or enrollee's family. The determination is subject to review under Section 1352.006.

- (d) Except as provided by Subsection (c) or (c-1), a health benefit plan must include the same amount limitations, deductibles, copayments, and coinsurance factors for coverage required under this chapter as applicable to other medical conditions for which coverage is provided under the health benefit plan.
- (e) To ensure that appropriate post-acute care treatment is provided, a health benefit plan must include coverage for reasonable expenses related to periodic reevaluation of the care of an individual covered under the plan who:
 - (1) has incurred an acquired brain injury;
 - (2) has been unresponsive to treatment; and
 - (3) becomes responsive to treatment at a later date.
- (f) A determination of whether expenses, as described by Subsection (e), are reasonable may include consideration of factors including:
 - (1) cost;
 - (2) the time that has expired since the previous evaluation;
 - (3) any difference in the expertise of the physician or practitioner performing the evaluation;
 - (4) changes in technology; and
 - (5) advances in medicine.
- (g) The commissioner shall adopt rules as necessary to implement this chapter.
- (h) This section does not apply to a small employer health benefit plan.

Section 1352.0035 Required Coverages – Small Employer Health Benefit Plans

<https://texas.public.law/statutes/tex.ins.code.section.1352.0035?highlight=1352.0035&hide=no>

- (a) A small employer health benefit plan may not exclude coverage for cognitive rehabilitation therapy, cognitive communication therapy, neurocognitive therapy and rehabilitation, neurobehavioral, neurophysiological, neuropsychological, or psychophysiological testing or treatment, neurofeedback therapy, remediation, post-acute transition services, or community reintegration services necessary as a result of and related to an acquired brain injury.
- (b) Coverage required under this section may be subject to deductibles, copayments, coinsurance, or annual or maximum amount limits that are consistent with the deductibles, copayments, coinsurance, or annual or maximum amount limits applicable to other medical conditions for which coverage is provided under the small employer health benefit plan.
- (c) The commissioner shall adopt rules as necessary to implement this section.

Section 1352.006 Determination of Medical Necessity; Extension of Coverage

<https://texas.public.law/statutes/tex.ins.code.section.1352.006>

- (a) In this section, "utilization review" has the meaning assigned by Section 4201.002.
- (b) Notwithstanding Chapter 4201 or any other law relating to the determination of medical necessity under this code, a health benefit plan shall respond to a person requesting utilization review or appealing for an extension of coverage based on an allegation of medical necessity not later than three business days after the date on which the person makes the request or submits the appeal. The person must make the request or submit the appeal in the manner prescribed by the terms of the plan's health insurance policy or agreement, contract, evidence of coverage, or similar coverage document. To comply with the requirements of this section, the health benefit plan issuer must respond through a direct telephone contact made by a representative of the issuer. This subsection does not apply to a small employer health benefit plan.

Section 1352.007 Treatment Facilities

<https://texas.public.law/statutes/tex.ins.code.section.1352.007>

- (a) A health benefit plan may not deny coverage under this chapter based solely on the fact that the treatment or services are provided at a facility other than a hospital. Treatment for an acquired brain injury may be provided under the coverage required by this chapter, as appropriate, at a facility at which appropriate services may be provided including:
 - 1. hospital regulated under Chapter 241, Health and Safety Code, including an acute or post-acute rehabilitation hospital; and
 - 2. an assisted living facility regulated under Chapter 247, Health and Safety Code
- (b) This section does not apply to a small employer health benefit plan.
- (c) The issuer of a health benefit plan, including a preferred provider benefit plan or health maintenance organization plan, that contracts with or approves admission to a service provider under this chapter may not, solely because a facility is licensed by this state as an assisted living facility, refuse to contract with or approve admission to that facility to provide services that are:
 - (1) Required under this chapter;

- (2) Within the scope of the license of an assisted living facility; and
- (3) Within the scope of the services provided under a CARF-accredited rehabilitation program for brain injury or another nationally recognized accredited rehabilitation program for brain injury.
- (d) The issuer of a health benefit plan that requires or encourages insureds or enrollees to use health care providers designated by the plan shall ensure that the services required by this chapter that are within the scope of the license of an assisted living facility and that may be provided under a program described by Subsection (c)(3) are made available and accessible to the insureds or enrollees at an adequate number of assisted living facilities.
- (e) A health benefit plan may not treat care provided in accordance with this chapter as custodial care solely because it is provided by an assisted living facility if the facility holds a CARF accreditation or other nationally recognized accreditation for a rehabilitation program for brain injury.
- (f) To ensure the health and safety of insureds and enrollees, the commissioner may require that a licensed assisted living facility that provides covered post-acute care other than custodial care under this chapter to an insured or enrollee with acquired brain injury hold a CARF accreditation or other nationally recognized accreditation for a rehabilitation program for brain injury.

State Market Plan Enhancements

None

Covered Benefits

Important Note: Covered benefits are listed in *Federal/State Mandated Regulations*, *State Market Plan Enhancements*, and *Covered Benefits* sections. Always refer to the *Federal/State Mandated Regulations* and *State Market Plan Enhancements* sections for additional covered services/benefits not listed in this section.

Note: Refer to the member's Evidence of Coverage (EOC)/Schedule of Benefit (SOB) to determine coverage eligibility.

Inpatient

Acquired Brain Injury rehabilitation services and facility charges are covered when the member meets medical necessity criteria for an inpatient stay and the services are being provided in a hospital setting (an acute hospital, rehabilitation hospital or Skilled Nursing Facility) or assisted living facility licensed in the state of Texas, when determined Medically Necessary, clinically proven, goal-oriented, efficacious, based on individualized treatment plans and provided by or ordered and provided under the direction of a licensed health care practitioner acting within the scope of their licensure or certification and all of the following criteria are met.

The following services are eligible for coverage: Cognitive Rehabilitation Therapy, Cognitive Communication Therapy, Community Reintegration Services, Neurocognitive Therapy and Rehabilitation, Neurobehavioral Testing and Treatment, Neurophysiological, Neuropsychological, and Psychophysiological Testing and Treatment, Neurofeedback Therapy, and Remediation:

- A documented cognitive impairment with compromised functional status exists;
- Acquired Brain Injury services are being provided as part of a multidisciplinary rehabilitation treatment plan for multiple conditions with documented short and long term goals. Acquired Brain Injury services are not covered when the primary focus is educational in nature, such as vocational rehabilitation or educational training;
- Rehabilitation is required in an inpatient rehabilitation facility rather than a less intense setting. Rehabilitative care services are determined by the member's functional needs, and the availability of resources. Documentation provided in the member's medical record must support medical necessity and should include relevant medical history, including the member's rehabilitation potential and prior level of function, physical examination, and results of pertinent diagnostic test or procedures. In addition, the documentation must reflect the ongoing assessment and necessary adjustments to the plan of care. Current functional status and measurable goals individualized to the needs and abilities of the member should be part of the plan of care. The member's progress toward established goals should be reviewed at least weekly and should include objective measurements (e.g., FIM scores) as well as a clinical narrative which demonstrates functional improvement and progress towards attainable treatment goals as a result of the therapy provided.
- The member is stable enough medically and is capable and willing to participate in intensive therapy for a minimum of three hours per day, at least five days per week;

- The member requires skilled nursing services or skilled rehabilitation services on a daily basis;
- Services must be provided with the expectation that the member's condition will improve or that the service is necessary to establish a safe and effective maintenance program;
- Services must be provided under a licensed healthcare practitioner acting within the scope of their licensure or certification, must require the skills of qualified or professional health personnel such as RNs, LVN/LPNs, and/or therapists (physical, occupational, speech pathologists or audiologists) and must be provided directly by or under the supervision of these skilled nursing or rehabilitation personnel who can safely perform the services;
- The amount, frequency and duration of the services must be reasonable (Refer to C.4.e below for determination of reasonable).

Outpatient

Acquired Brain Injury rehabilitation services are covered for members who meet medical necessity criteria and all of the following criteria:

- A documented cognitive impairment with compromised functional status exists;
- Acquired Brain Injury Services is being provided as part of an Acquired Brain Injury rehabilitation treatment plan with documented short and long term goals to reference an individualized treatment plan. Acquired Brain Injury Services are not covered when the primary focus is educational in nature, such as vocational rehabilitation or educational training.
- The member can actively participate in the treatment plan; and
- Significant cognitive improvement is expected and can be demonstrated by documentation.
 - Acquired Brain Injury rehabilitation services includes Cognitive Rehabilitative Therapy, Cognitive Communication Therapy, Neurocognitive Rehabilitation, Neurocognitive Therapy, Neurobehavioral Testing, Neurobehavioral Treatment, Neurophysiological Testing, Neurophysiological treatment, Neuropsychological Testing, Neuropsychological Treatment, and Psychophysiological Testing, Psychophysiological Treatment, Neurofeedback Therapy, remediation, post-acute transition services, or community reintegration services necessary as a result of and related to an Acquired Brain Injury. These therapies may include but are not limited to: OT, PT, ST, psychology that helps retrain or alleviate problems caused by Acquired Brain Injury, e.g., deficits of visual processing, language, reasoning and problem solving.
 - The Acquired Brain rehabilitation services treatment plan should include:
 - Tasks that are designed to reinforce or re-establish previously learned patterns or to establish compensatory mechanisms for documented functional deficits
 - Therapy activities that are systematic, structured, goal directed and individualized to treat the member's documented functional deficits;
 - The member must be able to actively participate in the authorized treatment plan and significant cognitive improvement is expected.
 - Periodic re-evaluation of post-acute care treatment of an individual with Acquired Brain Injury when:
 - Has incurred an Acquired Brain Injury;
 - Has been unresponsive to treatment; and becomes responsive to treatment at a later date.
 - A determination of whether expenses, are reasonable may include consideration of factors including:
 - Cost;
 - The time that has expired since the previous evaluation;
 - Any difference in the expertise of the physician or practitioner performing the evaluation;
 - Changes in technology; and
 - Advances in medicine.

Biofeedback

Medically Necessary biofeedback services for a covered person with an Acquired Brain Injury are covered.

Not Covered

- Acquired Brain Injury rehabilitation services for any condition other than defined in *Federal/State Mandated Regulations* and *Covered Benefits* sections.
- Acquired Brain Injury rehabilitative services for a member who:
 - Is in a vegetative state
 - Has met the goals of the treatment plan (maximum benefit or plateau); or

- Cannot progress to meet the treatment plan goals
- Cannot participate or fails to comply with the treatment program for Acquired Brain Injury rehabilitation (e.g. failure to comply includes documented attendance issues that impacts the benefit of the program even after counseling by program staff)
- Treating physician discontinues the program
- The service primary focus is educational in nature, such as vocational rehabilitation or educational training
- Voluntarily withdraws from the program
- In-home Acquired Brain Injury rehabilitation care unless documented to be medically necessary and is prior authorized by the member's Primary Medical Group or UnitedHealthcare/UnitedHealth Group (Refer to the *Federal/State Mandated Regulations* and *Not Covered* sections. Check the member's EOC/SOB).
- Facility charges for room and board in residential settings are not covered, except when member is receiving medically necessary Acquired Brain Injury rehabilitation services in an acute inpatient hospital setting (an acute hospital, rehabilitation hospital, skilled nursing facility) or assisted living facility, licensed in the state of Texas. (Refer to the *Covered Benefits* section).
- Acquired Brain Injury Services for conditions such as dementia (including human immunodeficiency virus [HIV] dementia), cerebral palsy, attention deficit disorder, attention deficit hyperactivity disorder, schizophrenia, pervasive, developmental disorders, including autism, learning disabilities, mental retardation, Down's syndrome, Parkinson's disease and developmental delay. (Note: Member may have coverage under Mental Health Benefits; check the member's EOC/SOB to determine coverage eligibility. Refer to the Pervasive Developmental Disorder and Autism Spectrum Disorder policy.)
- Cognitive Behavioral Therapy, except as required by state law for an Acquired Brain Injury and for Covered Services for Mental Health Services
- Coma Stimulation
- Cognitive rehabilitative therapy for member who is receiving custodial care
- Physical or psychological examinations for court hearings, travel, premarital, pre-adoption, employment, or other nonpreventive health reasons are not covered, with the exception of services associated with Acquired Brain Injury
- Hypnotherapy
- Vocational Rehabilitation

Definitions

Acquired Brain Injury: A neurological insult to the brain, which is not hereditary, congenital, or degenerative. The injury to the brain has occurred after birth and results in a change in neuronal activity, which results in an impairment of physical functioning, sensory processing, cognition, or psychosocial behavior.

Acquired Brain Injury Services: Include medically necessary cognitive rehabilitative therapy, Cognitive Communication Therapy, Neurocognitive Rehabilitation, Neurocognitive Therapy, Neurobehavioral Testing, Neurobehavioral Treatment, Neurophysiological Testing, Neurophysiological Treatment, Neuropsychological Testing, Neuropsychological Treatment, and Psychophysiological Testing, Psychophysiological Treatment, Neurofeedback Therapy, remediation, post-acute transition services, or Community Reintegration Services necessary as a result of and related to an Acquired Brain Injury.

Cognitive Communication Therapy: Services designed to address modalities of comprehension and expression, including understanding, reading, writing, and verbal expression of information.

Cognitive Behavioral Therapy: Psychotherapy where the emphasis is on the role of thought patterns in moods and behaviors.

Cognitive Rehabilitation Therapy: Services designed to address therapeutic cognitive activities, based on an assessment and understanding of the individual's brain-behavioral deficits.

Community Reintegration Services: Services that facilitate the continuum of care as an affected individual transitions into the community.

Neurobehavioral Testing: An evaluation of the history of neurological and psychiatric difficulty, current symptoms, current mental status, and premorbid history, including the identification of problematic behavior and the relationship between behavior and the variables that control behavior. This may include interviews of the individual, family, or others.

Neurobehavioral Treatment: Interventions that focus on behavior and the variables that control behavior.

Neurocognitive Rehabilitation: Services designed to assist cognitively impaired individuals to compensate for deficits in cognitive functioning by rebuilding cognitive skills and/or developing compensatory strategies and techniques.

Neurocognitive Therapy: Services designed to address neurological deficits in informational processing and to facilitate the development of higher cognitive abilities.

Neurofeedback Therapy: Services that utilize operant conditioning learning procedure based on electroencephalography (EEG) parameters, and which are designed to result in improved mental performance and behavior, and stabilized mood.

Neurophysiological Testing: An evaluation of the functions of the nervous system.

Neurophysiological Treatment: Interventions that focus on the functions of the nervous system.

Neuropsychological Testing: The administering of a comprehensive battery of tests to evaluate neurocognitive, behavioral, and emotional strengths and weaknesses and their relationship to normal and abnormal central nervous system functioning.

Neuropsychological Treatment: Interventions designed to improve or minimize deficits in behavioral and cognitive processes.

Psychophysiological Testing: An evaluation of the interrelationships between the nervous system and other bodily organs and behavior.

Psychophysiological Treatment: Interventions designed to alleviate or decrease abnormal physiological responses of the nervous system due to behavioral or emotional factors.

Remediation: The process(es) of restoring or improving a specific function.

Policy History/Revision Information

Date	Summary of Changes
07/01/2021	<p>Federal/State Mandated Regulations</p> <ul style="list-style-type: none">Added reference link to:<ul style="list-style-type: none">Section 1352.0035Section 1352.006Section 1352.007Updated reference link to <i>Texas Insurance Code, Title 8 Health Insurance and Other Health Coverages, Subtitle E Benefits Payable Under Health Coverages, Chapter 1352 Brain Injury</i> <p>Supporting Information</p> <ul style="list-style-type: none">Archived previous policy version BIP137.G

Instructions for Use

Covered benefits are listed in three (3) sections: *Federal/State Mandated Regulations*, *State Market Plan Enhancements*, and *Covered Benefits*. All services must be medically necessary. Each benefit plan contains its own specific provisions for coverage, limitations, and exclusions as stated in the member's Evidence of Coverage (EOC)/Schedule of Benefits (SOB). If there is a discrepancy between this policy and the member's EOC/SOB, the member's EOC/SOB provision will govern.