

1 HB284
2 182346-2
3 By Representative Patterson
4 RFD: Insurance
5 First Read: 21-FEB-17

SYNOPSIS: Under existing law, a health benefit plan is required to offer coverage for the treatment of Autism Spectrum Disorder for a child age nine or under for certain defined group insurance plans and contracts.

This bill would require health benefit plans to cover the treatment of Autism Spectrum Disorder for all insureds under certain insurance plans and contracts.

This bill would also require the Department of Insurance to file an annual report with the Legislature on the costs of providing treatment for Autism Spectrum Disorder.

A BILL
TO BE ENTITLED
AN ACT

Relating to health benefit plans; to amend Sections 10A-20-6.16, 27-21A-23, and 27-54A-2, Code of Alabama 1975, to

1 require health benefit plans to cover the treatment of Autism
2 Spectrum Disorder certain health insurance plans and
3 contracts; and to require the Department of Insurance to file
4 an annual report with the Legislature on the costs of
5 providing treatment for Autism Spectrum Disorder.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 10A-20-6.16, 27-21A-23, and
8 27-54A-2, Code of Alabama 1975, are amended to read as
9 follows:

10 "§10A-20-6.16.

11 "(a) No statute of this state applying to insurance
12 companies shall be applicable to any corporation organized
13 under this article and amendments thereto or to any contract
14 made by the corporation; except the corporation shall be
15 subject to all of the following:

16 "(1) The provisions regarding annual premium tax to
17 be paid by insurers on insurance premiums.

18 "(2) Chapter 55 of Title 27, regarding the
19 prohibition of unfair discriminatory acts by insurers on the
20 basis of an applicant's or insured's abuse status.

21 "(3) The Medicare Supplement Minimum Standards set
22 forth in Article 2 of Chapter 19 of Title 27, and Long-Term
23 Care Insurance Policy Minimum Standards set forth in Article 3
24 of Chapter 19 of Title 27.

25 "(4) Section 27-1-17, requiring insurers and health
26 plans to pay health care providers in a timely manner.

1 "(5) Chapter 56 of Title 27, regarding the Access to
2 Eye Care Act.

3 "(6) Rules promulgated by the Commissioner of
4 Insurance pursuant to Sections 27-7-43 and 27-7-44.

5 "(7) Chapter 54 of Title 27.

6 "(8) Chapter 57 of Title 27, requiring coverage to
7 be offered for the payment of colorectal cancer examinations
8 for covered persons who are 50 years of age or older, or for
9 covered persons who are less than 50 years of age and at high
10 risk for colorectal cancer according to current American
11 Cancer Society colorectal cancer screening guidelines.

12 "(9) Chapter 58 of Title 27, requiring that policies
13 and contracts including coverage for prostate cancer early
14 detection be offered, together with identification of
15 associated costs.

16 "(10) Chapter 59 of Title 27, requiring that
17 policies and contracts including coverage for chiropractic be
18 offered, together with identification of associated costs.

19 "(11) Chapter 54A of Title 27, requiring that
20 policies and contracts ~~to offer coverage for~~ cover certain
21 treatment for Autism Spectrum Disorder under certain
22 conditions.

23 "(12) Chapter 12A of Title 27.

24 "(13) Chapter 2B of Title 27.

25 "(b) The provisions in subsection (a) that require
26 specific types of coverage to be offered or provided shall not
27 apply when the corporation is administering a self-funded

1 benefit plan or similar plan, fund, or program that it does
2 not insure.

3 "§27-21A-23.

4 "(a) Except as otherwise provided in this chapter,
5 provisions of the insurance law and provisions of health care
6 service plan laws shall not be applicable to any health
7 maintenance organization granted a certificate of authority
8 under this chapter. This provision shall not apply to an
9 insurer or health care service plan licensed and regulated
10 pursuant to the insurance law or the health care service plan
11 laws of this state except with respect to its health
12 maintenance organization activities authorized and regulated
13 pursuant to this chapter.

14 "(b) Solicitation of enrollees by a health
15 maintenance organization granted a certificate of authority
16 shall not be construed to violate any provision of law
17 relating to solicitation or advertising by health
18 professionals.

19 "(c) Any health maintenance organization authorized
20 under this chapter shall not be deemed to be practicing
21 medicine and shall be exempt from the provisions of Section
22 34-24-310, et seq., relating to the practice of medicine.

23 "(d) No person participating in the arrangements of
24 a health maintenance organization other than the actual
25 provider of health care services or supplies directly to
26 enrollees and their families shall be liable for negligence,

1 misfeasance, nonfeasance, or malpractice in connection with
2 the furnishing of such services and supplies.

3 "(e) Nothing in this chapter shall be construed in
4 any way to repeal or conflict with any provision of the
5 certificate of need law.

6 "(f) Notwithstanding the provisions of subsection
7 (a), a health maintenance organization shall be subject to all
8 of the following:

9 "(1) Section 27-1-17.

10 "(2) Chapter 56, regarding the Access to Eye Care
11 Act.

12 "(3) Chapter 54, regarding mental illness coverage.

13 "(4) Chapter 57, requiring coverage to be offered
14 for the payment of colorectal cancer examinations for covered
15 persons who are 50 years of age or older, or for covered
16 persons who are less than 50 years of age and at high risk for
17 colorectal cancer according to current American Cancer Society
18 colorectal cancer screening guidelines.

19 "(5) Chapter 58, requiring that policies and
20 contracts including coverage for prostate cancer early
21 detection be offered, together with identification of
22 associated costs.

23 "(6) Chapter 59, requiring that policies and
24 contracts including coverage for chiropractic be offered,
25 together with identification of associated costs.

26 "(7) Rules promulgated by the Commissioner of
27 Insurance pursuant to Sections 27-7-43 and 27-7-44.

1 "(8) Chapter 12A.

2 "(9) Chapter 54A, requiring policies and contracts
3 to ~~offer coverage for~~ cover certain treatment for Autism
4 Spectrum Disorder under certain conditions.

5 "(10) Chapter 2B, regarding risk-based capital.

6 "(11) Chapter 29, regarding insurance holding
7 company systems.

8 "§27-54A-2.

9 "(a) As used in this section, the following words
10 have the following meanings:

11 "(1) APPLIED BEHAVIOR ANALYSIS. The design,
12 implementation, and evaluation of environmental modifications,
13 using behavioral stimuli and consequences, to produce socially
14 significant improvement in human behavior, including the use
15 of direct observation, measurement, and functional analysis of
16 the relationship between environment and behavior.

17 "(2) AUTISM SPECTRUM DISORDER. Any of the pervasive
18 developmental disorders or autism spectrum disorders as
19 defined by the most recent edition of the Diagnostic and
20 Statistical Manual of Mental Disorders (DSM), ~~including~~
21 ~~Autistic Disorder, Asperger's Disorder, and Pervasive~~
22 ~~Developmental Disorder Not Otherwise Specified~~ or the edition
23 that was in effect at the time of diagnosis.

24 "(3) BEHAVIORAL HEALTH TREATMENT. Counseling and
25 treatment programs, including applied behavior analysis that
26 are both of the following:

1 "a. Necessary to develop, maintain, or restore, to
2 the maximum extent practicable, the functioning of an
3 individual.

4 "b. Provided or supervised by a Board Certified
5 Behavior Analyst, licensed in the State of Alabama, or a
6 psychologist, licensed in the State of Alabama, so long as the
7 services performed are commensurate with the psychologist's
8 formal university training and supervised experience.

9 "c. Behavioral health treatment does not include
10 psychological testing, neuropsychology, psychotherapy,
11 intellectual assessment, cognitive therapy, sex therapy,
12 psychoanalysis, hypotherapy, and long-term counseling as
13 treatment modalities.

14 "(4) DIAGNOSIS OF AUTISM SPECTRUM DISORDER.
15 Medically necessary assessment, evaluations, or tests to
16 diagnose whether an individual has an autism spectrum
17 disorder.

18 "(5) HEALTH BENEFIT PLAN. Any individual or group
19 insurance plan, policy, or contract for health care services
20 that covers hospital, medical, or surgical expenses, health
21 maintenance organizations, preferred provider organizations,
22 medical service organizations, physician-hospital
23 organizations, or any other person, firm, corporation, joint
24 venture, or other similar business entity that pays for,
25 purchases, or furnishes group health care services to
26 patients, insureds, or beneficiaries in this state. For the
27 purposes of this section, a health benefit plan located or

1 domiciled outside of the State of Alabama is deemed to be
2 subject to this section if the plan, policy, or contract is
3 issued or delivered in the State of Alabama. The term
4 includes, but is not limited to, entities created pursuant to
5 Article 6, Chapter 20, Title 10A and health insurance plans
6 administered or offered by the State Employees Insurance Board
7 and the Public Education Employees Health Insurance Plan. The
8 term does not include the Alabama Health Insurance Plan or the
9 Alabama Small Employer Allocation Program provided in Chapter
10 52 of this title. The term does not include non-grandfathered
11 plans in the individual and small group markets that are
12 required to provide essential health benefits under the
13 Patient Protection and Affordable Care Act, or accident-only,
14 specified disease, individual hospital indemnity, credit,
15 dental-only, Medicare-supplement, long-term care, or
16 disability income insurance, other limited benefit health
17 insurance policies, coverage issued as a supplemental to
18 liability insurance, workers' compensation or similar
19 insurance, or automobile medical-payment insurance.

20 "(6) PHARMACY CARE. Medications prescribed by a
21 licensed physician and any health related services deemed
22 medically necessary to determine the need or effectiveness of
23 the medications.

24 "(7) PSYCHIATRIC CARE. Direct or consultative
25 services provided by a psychiatrist licensed in the State of
26 Alabama.

1 "(8) PSYCHOLOGICAL CARE. Direct or consultative
2 services provided by a psychologist licensed in the State of
3 Alabama.

4 "(9) THERAPEUTIC CARE. Services provided by licensed
5 and certified speech therapists, occupational therapists, or
6 physical therapists.

7 "(10) TREATMENT FOR AUTISM SPECTRUM DISORDER.
8 Evidence-based care prescribed or ordered for an individual
9 diagnosed with an autism spectrum disorder by a licensed
10 physician or a licensed psychologist who determines the care
11 to be medically necessary, including, but not limited to, all
12 of the following:

13 "a. Behavioral health treatment.

14 "b. Pharmacy care.

15 "c. Psychiatric care.

16 "d. Psychological care.

17 "e. Therapeutic care.

18 "(b) (1) A health benefit plan shall ~~offer coverage~~
19 ~~for~~ cover the screening, diagnosis, and treatment of Autism
20 Spectrum Disorder ~~for an insured nine years of age or under in~~
21 policies and contracts issued or delivered in the State of
22 Alabama. ~~to employers with at least 51 employees for at least~~
23 ~~50 percent of its working days during the preceding calendar~~
24 ~~year.~~ Coverage provided under this section is limited to
25 treatment that is prescribed by the insured's treating
26 licensed physician or licensed psychologist in accordance with
27 a treatment plan.

1 "(2) To the extent that the screening, diagnosis,
2 and treatment of autism spectrum disorder are not already
3 covered by a health insurance policy, coverage under this
4 section shall be ~~offered for inclusion~~ included in health
5 insurance policies that are delivered, executed, issued,
6 amended, adjusted, or renewed in the State of Alabama at the
7 date of the annual renewal for coverage.

8 "(3) A health benefit plan may not deny or refuse to
9 issue coverage on, refuse to contract with, or refuse to renew
10 or refuse to reissue or otherwise terminate or restrict
11 coverage on an individual solely because the individual is
12 diagnosed with Autism Spectrum Disorder.

13 "(c) (1) The coverage required pursuant to this
14 section ~~may~~ shall not be subject to dollar limits,
15 deductibles, or coinsurance provisions that are less favorable
16 to an insured than the dollar limits, deductibles, or
17 coinsurance provisions that apply to ~~physical illness~~
18 generally substantially all medical and surgical benefits
19 under the health insurance plan, ~~except as otherwise provided~~
20 ~~for in subsection (e).~~

21 "(2) The coverage required pursuant to subsection
22 (b) may be subject to other general exclusions and limitations
23 of the health benefit plan, including, but not limited to,
24 coordination of benefits, participating provider requirements,
25 restrictions on services provided by family or household
26 members, utilization review of health care services including

1 review of medical necessity, case management, and other
2 managed care provisions.

3 "(d) Coverage under this section shall not be
4 subject to any limits on the number of visits an individual
5 may make for treatment of autism spectrum disorder.

6 "(e) This section may not be construed as limiting
7 benefits that are otherwise available to an individual under a
8 health insurance policy.

9 "(f) Coverage for applied behavior analysis shall
10 include the services of the personnel who work under the
11 supervision of the board certified behavior analyst or the
12 licensed psychologist overseeing the program.

13 "(g) This section may not be construed as affecting
14 any obligation to provide services to an individual under an
15 individualized family service plan, an individualized
16 education program, or an individualized service plan.

17 ~~"(d)~~ (h) The treatment plan required pursuant to
18 subsection (b) shall include all elements necessary for the
19 health insurance plan to appropriately pay claims. These
20 elements include, but are not limited to, a diagnosis,
21 proposed treatment by type, frequency, and duration of
22 treatment, the anticipated outcomes stated as goals, the
23 frequency by which the treatment plan will be updated, and the
24 treating licensed physician's or licensed psychologist's
25 signature. The health insurance plan may ~~only~~ request an
26 updated treatment plan only once every six months from the
27 treating licensed physician or licensed psychologist to review

1 medical necessity, unless the health insurance plan and the
2 treating licensed physician or licensed psychologist agree
3 that a more frequent review is necessary for a particular
4 patient. Any agreement regarding the right to review a
5 treatment plan more frequently applies only to a particular
6 insured being treated for an autism spectrum disorder and does
7 not apply to all individuals being treated for autism spectrum
8 disorder by a physician or psychologist. The cost of obtaining
9 any review or treatment plan shall be borne by the insurer.

10 ~~"(e)(i)(1) The benefits and coverage provided~~
11 ~~pursuant to this section shall be provided to any eligible~~
12 ~~person nine years of age or under. Coverage for behavioral~~
13 ~~therapy is subject to a thirty-six thousand dollars (\$36,000)~~
14 ~~maximum benefit per year. Beginning October 1, 2013, this~~
15 ~~maximum benefit shall be adjusted annually on January 1 of~~
16 ~~each calendar year to reflect any change from the previous~~
17 ~~year in the current Consumer Price Index, All Urban Consumers,~~
18 ~~as published by the United States Department of Labor's Bureau~~
19 ~~of Labor Statistics. By February 1, 2019, and every February~~
20 ~~first thereafter, the Department of Insurance shall submit a~~
21 ~~report to the Legislature regarding the implementation of the~~
22 ~~coverage required under this section. The report shall~~
23 ~~include, but not be limited to, all of the following:~~

24 "a. The total number of insureds diagnosed with
25 autism spectrum disorder.

26 "b. The total cost of all claims paid out in the
27 preceding calendar year for coverage required by this section.

1 "c. The cost of coverage required by this section
2 per insured per month.

3 "d. The average cost per insured for coverage of
4 applied behavior analysis.

5 "(2) All health benefit plans subject to this
6 section shall provide the department with the data requested
7 by the department for inclusion in the annual report."

8 Section 2. This act shall become effective October
9 1, 2017.