STATE OF NEW YORK

7673--A

IN SENATE

January 6, 2022

Introduced by Sens. HARCKHAM, CLEARE, KENNEDY, LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to coverage for the screening, diagnosis and treatment of autism spectrum disorder

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraphs (B) and (C) of paragraph 25 of subsection (i) of section 3216 of the insurance law, subparagraph (B) as amended by section 2 of subpart A of part BB of chapter 57 of the laws of 2019, subparagraph (C) as amended by chapter 596 of the laws of 2011, items (i) and (iii) of subparagraph (C) as amended by section 3 of subpart A of part BB of chapter 57 of the laws of 2019, are amended to read as follows:

(B) Every policy that provides physician services, medical, major medical or similar comprehensive-type coverage shall provide coverage for the screening, diagnosis and treatment of autism spectrum disorder in accordance with this paragraph and shall not exclude coverage for the screening, diagnosis or treatment of medical conditions otherwise covered by the policy because the individual is diagnosed with autism spectrum disorder. Such coverage may be subject to annual deductibles, copayments and coinsurance as may be deemed appropriate by the superintendent and shall be consistent with those imposed on other benefits under the policy. **Coverage for applied behavior analysis and developmental, individual-differences, relationship-based treatment shall be subject to a maximum benefit of six hundred eighty hours of treatment per policy during a calendar year per covered individual.** This paragraph shall not be construed as limiting the benefits that are otherwise available to an individual under the policy, provided however that such policy shall not contain any limitations on visits that are solely applied to the treatment of autism spectrum disorder**, except as provided in this subparagraph for coverage for applied behavior analysis and developmental, individual differences, relationship-based treatment**. No

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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insurer shall terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder. Coverage shall be subject to utilization review and external appeals of health care services pursuant to article forty-nine of this chapter as well as case management and other managed care provisions.

(C) For purposes of this paragraph:

(i) "autism spectrum disorder" means any pervasive developmental disorder as defined in the most recent edition of the diagnostic and statistical manual of mental disorders**, including, but not limited to, autistic spectrum disorder**.

(ii) "applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(iii) "behavioral health treatment" means counseling and treatment programs, **including developmental, individual-differences and relationship-based treatment,** when provided by a licensed provider **with a professional certificate in developmental, individual-differences, relationship-based treatment from the interdisciplinary council on development and learning**, and applied behavior analysis, when provided by a person licensed, certified or otherwise authorized to provide applied behavior analysis, that are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual. **Individuals that provide behavioral health treatment under the supervision of a licensed provider pursuant to this paragraph shall be subject to standards of professionalism, supervision and relevant experience pursuant to regulations promulgated by the superintendent in consultation with the commissioners of health and education.**

(iv) "diagnosis of autism spectrum disorder" means assessments, evaluations, or tests to diagnose whether an individual has autism spectrum disorder.

(v) "pharmacy care" means medications prescribed by a licensed health care provider legally authorized to prescribe under title eight of the education law.

(vi) "psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(vii) "psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(viii) "therapeutic care" means services provided by licensed or certified [~~speech therapists, occupational therapists, social workers, or physical therapists~~] **providers in the fields of counseling, occupational therapy, physical therapy, social work, or speech and language pathology**.

(ix) "treatment of autism spectrum disorder" shall include the following care and assistive communication devices prescribed or ordered for an individual diagnosed with autism spectrum disorder by a licensed physician or a licensed psychologist:

(1) behavioral health treatment;

(2) psychiatric care;

(3) psychological care;

(4) medical care provided by a licensed health care provider;
(5) therapeutic care, including therapeutic care which is deemed habilitative or nonrestorative, in the event that the policy provides coverage for therapeutic care; and
(6) pharmacy care in the event that the policy provides coverage for prescription drugs.
(x) "developmental, individual-differences, relationship-based treatment" means the implementation of a floortime intervention that is based on an assessment of functional-emotional development and the person's individual profile, while understanding that human development is fostered in the context of relationships with others. The primary goal is to promote development and address developmental challenges and deficits that often accompany autism and other neurodevelopmental disorders.
§ 2. Subparagraphs (B) and (C) of paragraph 17 of subsection (l) of section 3221 of the insurance law, subparagraph (B) as amended by section 19 of subpart A of part BB of chapter 57 of the laws of 2019, subparagraph (C) as amended by chapter 596 of the laws of 2011, items (i) and (iii) of subparagraph (C) as amended by section 20 of subpart A of part BB of chapter 57 of the laws of 2019, are amended to read as follows:
(B) Every group or blanket policy that provides physician services, medical, major medical or similar comprehensive-type coverage shall provide coverage for the screening, diagnosis and treatment of autism spectrum disorder in accordance with this paragraph and shall not exclude coverage for the screening, diagnosis or treatment of medical conditions otherwise covered by the policy because the individual is diagnosed with autism spectrum disorder. Such coverage may be subject to annual deductibles, copayments and coinsurance as may be deemed appropriate by the superintendent and shall be consistent with those imposed on other benefits under the group or blanket policy. **Coverage for applied behavior analysis and developmental, individual-differences, relationship-based treatment shall be subject to a maximum benefit of six hundred eighty hours of treatment per policy during a calendar year per covered individual.** This paragraph shall not be construed as limiting the benefits that are otherwise available to an individual under the group or blanket policy, provided however that such policy shall not contain any limitations on visits that are solely applied to the treatment of autism spectrum disorder**, except as provided in this subparagraph for coverage for applied behavior analysis and developmental, individual differences, relationship-based treatment**. No insurer shall terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder. Coverage shall be subject to utilization review and external appeals of health care services pursuant to article forty-nine of this chapter as well as case management and other managed care provisions.
(C) For purposes of this paragraph:
(i) "autism spectrum disorder" means any pervasive developmental disorder as defined in the most recent edition of the diagnostic and statistical manual of mental disorders**, including, but not limited to, autistic spectrum disorder**.
(ii) "applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and

functional analysis of the relationship between environment and behavior.

(iii) "behavioral health treatment" means counseling and treatment programs, **including developmental, individual-differences, relationship-based treatment,** when provided by a licensed provider **with a professional certificate in developmental, individual-differences, relationship-based treatment from the interdisciplinary council on development and learning**, and applied behavior analysis, when provided by a person licensed, certified or otherwise authorized to provide applied behavior analysis, that are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual. **Individuals that provide behavioral health treatment under the supervision of a licensed provider pursuant to this paragraph shall be subject to standards of professionalism, supervision and relevant experience pursuant to regulations promulgated by the superintendent in consultation with the commissioners of health and education.**

(iv) "diagnosis of autism spectrum disorder" means assessments, evaluations, or tests to diagnose whether an individual has autism spectrum disorder.

(v) "pharmacy care" means medications prescribed by a licensed health care provider legally authorized to prescribe under title eight of the education law.

(vi) "psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(vii) "psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(viii) "therapeutic care" means services provided by licensed or certified [~~speech therapists, occupational therapists, social workers, or physical therapists~~] **providers in the fields of counseling, occupational therapy, physical therapy, social work, or speech and language pathology**.

(ix) "treatment of autism spectrum disorder" shall include the following care and assistive communication devices prescribed or ordered for an individual diagnosed with autism spectrum disorder by a licensed physician or a licensed psychologist:

(1) behavioral health treatment;

(2) psychiatric care;

(3) psychological care;

(4) medical care provided by a licensed health care provider;

(5) therapeutic care, including therapeutic care which is deemed habilitative or nonrestorative, in the event that the policy provides coverage for therapeutic care; and

(6) pharmacy care in the event that the policy provides coverage for prescription drugs.

(x) "developmental, individual-differences, relationship-based treatment" means the implementation of a floortime intervention that is based on an assessment of functional-emotional development and the person's individual profile, while understanding that human development is fostered in the context of relationships with others. The primary goal is to promote development and address developmental challenges and deficits that often accompany autism and other neurodevelopmental disorders.

§ 3. Paragraphs 2 and 3 of subsection (ee) of section 4303 of the insurance law, paragraph 2 as amended by section 31 of subpart A of part BB of chapter 57 of the laws of 2019, paragraph 3 as amended by chapter

596 of the laws of 2011, subparagraphs (A) and (C) of paragraph 3 as amended by section 32 of subpart A of part BB of chapter 57 of the laws of 2019, are amended to read as follows:

(2) Every contract that provides physician services, medical, major medical or similar comprehensive-type coverage shall provide coverage for the screening, diagnosis and treatment of autism spectrum disorder in accordance with this paragraph and shall not exclude coverage for the screening, diagnosis or treatment of medical conditions otherwise covered by the contract because the individual is diagnosed with autism spectrum disorder. Such coverage may be subject to annual deductibles, copayments and coinsurance as may be deemed appropriate by the superintendent and shall be consistent with those imposed on other benefits under the contract. **Coverage for applied behavior analysis and developmental, individual-differences, relationship-based treatment shall be subject to a maximum benefit of six hundred eighty hours of treatment per policy during a calendar year per covered individual.** This paragraph shall not be construed as limiting the benefits that are otherwise available to an individual under the contract, provided however that such contract shall not contain any limitations on visits that are solely applied to the treatment of autism spectrum disorder**, except as provided in this subparagraph for coverage for applied behavior analysis and developmental, individual differences, relationship-based treatment**. No insurer shall terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder. Coverage shall be subject to utilization review and external appeals of health care services pursuant to article forty-nine of this chapter as well as case management and other managed care provisions.

(3) For purposes of this subsection:

(A) "autism spectrum disorder" means any pervasive developmental disorder as defined in the most recent edition of the diagnostic and statistical manual of mental disorders**, including, but not limited to, autistic spectrum disorder**.

(B) "applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(C) "behavioral health treatment" means counseling and treatment programs, **including developmental, individual-differences, relationship-based treatment,** when provided by a licensed provider **with a professional certificate in developmental, individual-differences, relationship-based treatment from the interdisciplinary council on development and learning**, and applied behavior analysis, when provided by a person that is licensed, certified or otherwise authorized to provide applied behavior analysis, that are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual. **Individuals that provide behavioral health treatment under the supervision of a licensed provider pursuant to this subsection shall be subject to standards of professionalism, supervision and relevant experience pursuant to regulations promulgated by the superintendent in consultation with the commissioners of health and education.**

(D) "diagnosis of autism spectrum disorder" means assessments, evaluations, or tests to diagnose whether an individual has autism spectrum disorder.

(E) "pharmacy care" means medications prescribed by a licensed health care provider legally authorized to prescribe under title eight of the education law.

(F) "psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(G) "psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(H) "therapeutic care" means services provided by licensed or certified [~~speech therapists, occupational therapists, social workers, or physical therapists~~] **providers in the fields of counseling, occupational therapy, physical therapy, social work, or speech and language pathology**.

(I) "treatment of autism spectrum disorder" shall include the following care and assistive communication devices prescribed or ordered for an individual diagnosed with autism spectrum disorder by a licensed physician or a licensed psychologist:

(i) behavioral health treatment;

(ii) psychiatric care;

(iii) psychological care;

(iv) medical care provided by a licensed health care provider;

(v) therapeutic care, including therapeutic care which is deemed habilitative or nonrestorative, in the event that the policy provides coverage for therapeutic care; and

(vi) pharmacy care in the event that the contract provides coverage for prescription drugs.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.