

STATE OF NEW YORK

8548

2021-2022 Regular Sessions

IN ASSEMBLY

December 13, 2021

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Insurance

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:

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

8 (B) Every policy that provides physician services, medical, major
9 medical or similar comprehensive-type coverage shall provide coverage
10 for the screening, diagnosis and treatment of autism spectrum disorder
11 in accordance with this paragraph and shall not exclude coverage for the
12 screening, diagnosis or treatment of medical conditions otherwise
13 covered by the policy because the individual is diagnosed with autism
14 spectrum disorder. Such coverage may be subject to annual deductibles,
15 copayments and coinsurance as may be deemed appropriate by the super-
16 intendent and shall be consistent with those imposed on other benefits
17 under the policy. Coverage for applied behavior analysis and develop-
18 mental, individual-differences, relationship-based treatment shall be
19 subject to a maximum benefit of six hundred eighty hours of treatment
20 per policy or calendar year per covered individual. This paragraph shall
21 not be construed as limiting the benefits that are otherwise available
22 to an individual under the policy, provided however that such policy
23 shall not contain any limitations on visits that are solely applied to
24 the treatment of autism spectrum disorder. No insurer shall terminate
25 coverage or refuse to deliver, execute, issue, amend, adjust, or renew

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

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1 coverage to an individual solely because the individual is diagnosed
2 with autism spectrum disorder or has received treatment for autism spec-
3 trum disorder. Coverage shall be subject to utilization review and
4 external appeals of health care services pursuant to article forty-nine
5 of this chapter as well as case management and other managed care
6 provisions.

7 (C) For purposes of this paragraph:

8 (i) "autism spectrum disorder" means any pervasive developmental
9 disorder as defined in the most recent edition of the diagnostic and
10 statistical manual of mental disorders, including autistic disorder,
11 Asperger's disorder, Rett's disorder, childhood disintegrative disorder,
12 or pervasive developmental disorder not otherwise specified.

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

19 (iii) "behavioral health treatment" means counseling and treatment
20 programs, including developmental, individual-differences, relation-
21 ship-based treatment and applied behavioral analysis, when provided by a
22 licensed provider with a professional certificate in developmental,
23 individual-differences, relationship-based treatment from the interdis-
24 ciplinary council on development and learning, and applied behavior
25 analysis, when provided or supervised by a [~~person licensed, certified~~
26 ~~or otherwise authorized to provide applied behavior analysis,~~] behavior
27 analyst certified pursuant to the behavior analyst certification board,
28 that are necessary to develop, maintain, or restore, to the maximum
29 extent practicable, the functioning of an individual. Individuals that
30 provide behavioral health treatment under the supervision of a licensed
31 provider or a certified behavior analyst pursuant to this paragraph
32 shall be subject to standards of professionalism, supervision and rele-
33 vant experience pursuant to regulations promulgated by the superinten-
34 dent in consultation with the commissioners of health and education.

35 (iv) "diagnosis of autism spectrum disorder" means assessments, evalu-
36 ations, or tests to diagnose whether an individual has autism spectrum
37 disorder.

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

41 (vi) "psychiatric care" means direct or consultative services provided
42 by a psychiatrist licensed in the state in which the psychiatrist prac-
43 tices.

44 (vii) "psychological care" means direct or consultative services
45 provided by a psychologist licensed in the state in which the psychol-
46 ogist practices.

47 (viii) "therapeutic care" means services provided by licensed or
48 certified speech therapists, occupational therapists, social workers, or
49 physical therapists.

50 (ix) "treatment of autism spectrum disorder" shall include the follow-
51 ing care and assistive communication devices prescribed or ordered for
52 an individual diagnosed with autism spectrum disorder by a licensed
53 physician or a licensed psychologist:

- 54 (1) behavioral health treatment;
- 55 (2) psychiatric care;
- 56 (3) psychological care;

1 (4) medical care provided by a licensed health care provider;
2 (5) therapeutic care, including therapeutic care which is deemed habi-
3 litative or nonrestorative, in the event that the policy provides cover-
4 age for therapeutic care; and
5 (6) pharmacy care in the event that the policy provides coverage for
6 prescription drugs.

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

14 § 2. Subparagraphs (B) and (C) of paragraph 17 of subsection (l) of
15 section 3221 of the insurance law, subparagraph (B) as amended by
16 section 19 of subpart A of part BB of chapter 57 of the laws of 2019,
17 subparagraph (C) as amended by chapter 596 of the laws of 2011, items
18 (i) and (iii) of subparagraph (C) as amended by section 20 of subpart A
19 of part BB of chapter 57 of the laws of 2019, are amended to read as
20 follows:

21 (B) Every group or blanket policy that provides physician services,
22 medical, major medical or similar comprehensive-type coverage shall
23 provide coverage for the screening, diagnosis and treatment of autism
24 spectrum disorder in accordance with this paragraph and shall not
25 exclude coverage for the screening, diagnosis or treatment of medical
26 conditions otherwise covered by the policy because the individual is
27 diagnosed with autism spectrum disorder. Such coverage may be subject to
28 annual deductibles, copayments and coinsurance as may be deemed appro-
29 priate by the superintendent and shall be consistent with those imposed
30 on other benefits under the group or blanket policy. Coverage for
31 applied behavior analysis and developmental, individual-differences,
32 relationship-based treatment shall be subject to a maximum benefit of
33 six hundred eighty hours of treatment per policy or calendar year per
34 covered individual. This paragraph shall not be construed as limiting
35 the benefits that are otherwise available to an individual under the
36 group or blanket policy, provided however that such policy shall not
37 contain any limitations on visits that are solely applied to the treat-
38 ment of autism spectrum disorder. No insurer shall terminate coverage or
39 refuse to deliver, execute, issue, amend, adjust, or renew coverage to
40 an individual solely because the individual is diagnosed with autism
41 spectrum disorder or has received treatment for autism spectrum disor-
42 der. Coverage shall be subject to utilization review and external
43 appeals of health care services pursuant to article forty-nine of this
44 chapter as well as case management and other managed care provisions.

45 (C) For purposes of this paragraph:

46 (i) "autism spectrum disorder" means any pervasive developmental
47 disorder as defined in the most recent edition of the diagnostic and
48 statistical manual of mental disorders, including autistic disorder,
49 Asperger's disorder, Rett's disorder, childhood disintegrative disorder,
50 or pervasive developmental disorder not otherwise specified.

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

1 (iii) "behavioral health treatment" means counseling and treatment
2 programs, including developmental, individual-differences, relation-
3 ship-based treatment and applied behavioral analysis, when provided by a
4 licensed provider with a professional certificate in developmental,
5 individual-differences, relationship-based treatment from the interdis-
6 ciplinary council on development and learning, and applied behavior
7 analysis, when provided or supervised by a [~~person-licensed, certified~~
8 ~~or otherwise authorized to provide applied behavior analysis~~] behavior
9 analyst certified pursuant to the behavior analyst certification board,
10 that are necessary to develop, maintain, or restore, to the maximum
11 extent practicable, the functioning of an individual. Individuals that
12 provide behavioral health treatment under the supervision of a licensed
13 provider or a certified behavior analyst pursuant to this paragraph
14 shall be subject to standards of professionalism, supervision and rele-
15 vant experience pursuant to regulations promulgated by the superinten-
16 dent in consultation with the commissioners of health and education.

17 (iv) "diagnosis of autism spectrum disorder" means assessments, evalu-
18 ations, or tests to diagnose whether an individual has autism spectrum
19 disorder.

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

23 (vi) "psychiatric care" means direct or consultative services provided
24 by a psychiatrist licensed in the state in which the psychiatrist prac-
25 tices.

26 (vii) "psychological care" means direct or consultative services
27 provided by a psychologist licensed in the state in which the psychol-
28 ogist practices.

29 (viii) "therapeutic care" means services provided by licensed or
30 certified speech therapists, occupational therapists, social workers, or
31 physical therapists.

32 (ix) "treatment of autism spectrum disorder" shall include the follow-
33 ing care and assistive communication devices prescribed or ordered for
34 an individual diagnosed with autism spectrum disorder by a licensed
35 physician or a licensed psychologist:

- 36 (1) behavioral health treatment;
- 37 (2) psychiatric care;
- 38 (3) psychological care;
- 39 (4) medical care provided by a licensed health care provider;
- 40 (5) therapeutic care, including therapeutic care which is deemed habi-
41 litative or nonrestorative, in the event that the policy provides cover-
42 age for therapeutic care; and
- 43 (6) pharmacy care in the event that the policy provides coverage for
44 prescription drugs.

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

52 § 3. Paragraphs 2 and 3 of subsection (ee) of section 4303 of the
53 insurance law, paragraph 2 as amended by section 31 of subpart A of part
54 BB of chapter 57 of the laws of 2019, paragraph 3 as amended by chapter
55 596 of the laws of 2011, subparagraphs (A) and (C) of paragraph 3 as

1 amended by section 32 of subpart A of part BB of chapter 57 of the laws
2 of 2019, are amended to read as follows:

3 (2) Every contract that provides physician services, medical, major
4 medical or similar comprehensive-type coverage shall provide coverage
5 for the screening, diagnosis and treatment of autism spectrum disorder
6 in accordance with this paragraph and shall not exclude coverage for the
7 screening, diagnosis or treatment of medical conditions otherwise
8 covered by the contract because the individual is diagnosed with autism
9 spectrum disorder. Such coverage may be subject to annual deductibles,
10 copayments and coinsurance as may be deemed appropriate by the super-
11 intendent and shall be consistent with those imposed on other benefits
12 under the contract. Coverage for applied behavior analysis and develop-
13 mental, individual-differences, relationship-based treatment shall be
14 subject to a maximum benefit of six hundred eighty hours of treatment
15 per policy or calendar year per covered individual. This paragraph shall
16 not be construed as limiting the benefits that are otherwise available
17 to an individual under the contract, provided however that such contract
18 shall not contain any limitations on visits that are solely applied to
19 the treatment of autism spectrum disorder. No insurer shall terminate
20 coverage or refuse to deliver, execute, issue, amend, adjust, or renew
21 coverage to an individual solely because the individual is diagnosed
22 with autism spectrum disorder or has received treatment for autism spec-
23 trum disorder. Coverage shall be subject to utilization review and
24 external appeals of health care services pursuant to article forty-nine
25 of this chapter as well as case management and other managed care
26 provisions.

27 (3) For purposes of this subsection:

28 (A) "autism spectrum disorder" means any pervasive developmental
29 disorder as defined in the most recent edition of the diagnostic and
30 statistical manual of mental disorders, including autistic disorder,
31 Asperger's disorder, Rett's disorder, childhood disintegrative disorder,
32 or pervasive developmental disorder not otherwise specified.

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

39 (C) "behavioral health treatment" means counseling and treatment
40 programs, including developmental, individual-differences, relation-
41 ship-based treatment and applied behavioral analysis, when provided by a
42 licensed provider with a professional certificate in developmental,
43 individual-differences, relationship-based treatment from the interdis-
44 ciplinary council on development and learning, and applied behavior
45 analysis, when provided or supervised by a [~~person that is licensed,~~
46 ~~certified or otherwise authorized to provide applied behavior analysis~~]
47 behavior analyst certified pursuant to the behavior analyst certif-
48 ication board, that are necessary to develop, maintain, or restore, to
49 the maximum extent practicable, the functioning of an individual. Indi-
50 viduals that provide behavioral health treatment under the supervision
51 of a licensed provider or a certified behavior analyst pursuant to this
52 subsection shall be subject to standards of professionalism, supervision
53 and relevant experience pursuant to regulations promulgated by the
54 superintendent in consultation with the commissioners of health and
55 education.

- 1 (D) "diagnosis of autism spectrum disorder" means assessments, evalu-
2 ations, or tests to diagnose whether an individual has autism spectrum
3 disorder.
- 4 (E) "pharmacy care" means medications prescribed by a licensed health
5 care provider legally authorized to prescribe under title eight of the
6 education law.
- 7 (F) "psychiatric care" means direct or consultative services provided
8 by a psychiatrist licensed in the state in which the psychiatrist prac-
9 tices.
- 10 (G) "psychological care" means direct or consultative services
11 provided by a psychologist licensed in the state in which the psychol-
12 ogist practices.
- 13 (H) "therapeutic care" means services provided by licensed or certi-
14 fied speech therapists, occupational therapists, social workers, or
15 physical therapists.
- 16 (I) "treatment of autism spectrum disorder" shall include the follow-
17 ing care and assistive communication devices prescribed or ordered for
18 an individual diagnosed with autism spectrum disorder by a licensed
19 physician or a licensed psychologist:
- 20 (i) behavioral health treatment;
- 21 (ii) psychiatric care;
- 22 (iii) psychological care;
- 23 (iv) medical care provided by a licensed health care provider;
- 24 (v) therapeutic care, including therapeutic care which is deemed habi-
25 litative or nonrestorative, in the event that the policy provides cover-
26 age for therapeutic care; and
- 27 (vi) pharmacy care in the event that the contract provides coverage
28 for prescription drugs.
- 29 § 4. This act shall take effect on the ninetieth day after it shall
30 have become a law.