

# STATE OF NEW YORK

8548--A

2021-2022 Regular Sessions

## IN ASSEMBLY

December 13, 2021

Introduced by M. of A. ABINANTI, SIMON, JENSEN -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- 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:

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 during a calendar year per covered individual. This paragraph  
21 shall not be construed as limiting the benefits that are otherwise  
22 available to an individual under the policy, provided however that such

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

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1 policy shall not contain any limitations on visits that are solely  
2 applied to the treatment of autism spectrum disorder, except as provided  
3 in this subparagraph for coverage for applied behavior analysis and  
4 developmental, individual differences, relationship-based treatment. No  
5 insurer shall terminate coverage or refuse to deliver, execute, issue,  
6 amend, adjust, or renew coverage to an individual solely because the  
7 individual is diagnosed with autism spectrum disorder or has received  
8 treatment for autism spectrum disorder. Coverage shall be subject to  
9 utilization review and external appeals of health care services pursuant  
10 to article forty-nine of this chapter as well as case management and  
11 other managed care provisions.

12 (C) For purposes of this paragraph:

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

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

23 (iii) "behavioral health treatment" means counseling and treatment  
24 programs, including developmental, individual-differences and relation-  
25 ship-based treatment, when provided by a licensed provider with a  
26 professional certificate in developmental, individual-differences, rela-  
27 tionship-based treatment from the interdisciplinary council on develop-  
28 ment and learning, and applied behavior analysis, when provided by a  
29 person licensed, certified or otherwise authorized to provide applied  
30 behavior analysis, that are necessary to develop, maintain, or restore,  
31 to the maximum extent practicable, the functioning of an individual.  
32 Individuals that provide behavioral health treatment under the super-  
33 vision of a licensed provider pursuant to this paragraph shall be  
34 subject to standards of professionalism, supervision and relevant expe-  
35 rience pursuant to regulations promulgated by the superintendent in  
36 consultation with the commissioners of health and education.

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

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

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

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

49 (viii) "therapeutic care" means services provided by licensed or  
50 certified [~~speech therapists, occupational therapists, social workers,~~  
51 ~~or physical therapists~~] providers in the fields of counseling, occupa-  
52 tional therapy, physical therapy, social work, or speech and language  
53 pathology.

54 (ix) "treatment of autism spectrum disorder" shall include the follow-  
55 ing care and assistive communication devices prescribed or ordered for

1 an individual diagnosed with autism spectrum disorder by a licensed  
2 physician or a licensed psychologist:

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

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

19 § 2. Subparagraphs (B) and (C) of paragraph 17 of subsection (1) of  
20 section 3221 of the insurance law, subparagraph (B) as amended by  
21 section 19 of subpart A of part BB of chapter 57 of the laws of 2019,  
22 subparagraph (C) as amended by chapter 596 of the laws of 2011, items  
23 (i) and (iii) of subparagraph (C) as amended by section 20 of subpart A  
24 of part BB of chapter 57 of the laws of 2019, are amended to read as  
25 follows:

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

53 (C) For purposes of this paragraph:

54 (i) "autism spectrum disorder" means any pervasive developmental  
55 disorder as defined in the most recent edition of the diagnostic and

1 statistical manual of mental disorders, including, but not limited to,  
2 autistic spectrum disorder.

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

9 (iii) "behavioral health treatment" means counseling and treatment  
10 programs, including developmental, individual-differences, relation-  
11 ship-based treatment, when provided by a licensed provider with a  
12 professional certificate in developmental, individual-differences, rela-  
13 tionship-based treatment from the interdisciplinary council on develop-  
14 ment and learning, and applied behavior analysis, when provided by a  
15 person licensed, certified or otherwise authorized to provide applied  
16 behavior analysis, that are necessary to develop, maintain, or restore,  
17 to the maximum extent practicable, the functioning of an individual.  
18 Individuals that provide behavioral health treatment under the super-  
19 vision of a licensed provider pursuant to this paragraph shall be  
20 subject to standards of professionalism, supervision and relevant expe-  
21 rience pursuant to regulations promulgated by the superintendent in  
22 consultation with the commissioners of health and education.

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

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

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

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

35 (viii) "therapeutic care" means services provided by licensed or  
36 certified [~~speech therapists, occupational therapists, social workers,~~  
37 ~~or physical therapists~~] providers in the fields of counseling, occupa-  
38 tional therapy, physical therapy, social work, or speech and language  
39 pathology.

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

44 (1) behavioral health treatment;

45 (2) psychiatric care;

46 (3) psychological care;

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

48 (5) therapeutic care, including therapeutic care which is deemed habi-  
49 litative or nonrestorative, in the event that the policy provides cover-  
50 age for therapeutic care; and

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

53 (x) "developmental, individual-differences, relationship-based treat-  
54 ment" means the implementation of a floortime intervention that is based  
55 on an assessment of functional-emotional development and the person's  
56 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

1 supervision of a licensed provider pursuant to this subsection shall be  
2 subject to standards of professionalism, supervision and relevant expe-  
3 rience pursuant to regulations promulgated by the superintendent in  
4 consultation with the commissioners of health and education.

5 (D) "diagnosis of autism spectrum disorder" means assessments, evalu-  
6 ations, or tests to diagnose whether an individual has autism spectrum  
7 disorder.

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

11 (F) "psychiatric care" means direct or consultative services provided  
12 by a psychiatrist licensed in the state in which the psychiatrist prac-  
13 tices.

14 (G) "psychological care" means direct or consultative services  
15 provided by a psychologist licensed in the state in which the psychol-  
16 ogist practices.

17 (H) "therapeutic care" means services provided by licensed or certi-  
18 fied [~~speech therapists, occupational therapists, social workers, or~~  
19 ~~physical therapists~~] providers in the fields of counseling, occupational  
20 therapy, physical therapy, social work, or speech and language  
21 pathology.

22 (I) "treatment of autism spectrum disorder" shall include the follow-  
23 ing care and assistive communication devices prescribed or ordered for  
24 an individual diagnosed with autism spectrum disorder by a licensed  
25 physician or a licensed psychologist:

26 (i) behavioral health treatment;

27 (ii) psychiatric care;

28 (iii) psychological care;

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

30 (v) therapeutic care, including therapeutic care which is deemed habi-  
31 litative or nonrestorative, in the event that the policy provides cover-  
32 age for therapeutic care; and

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

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