

# STATE OF NEW YORK

7673

## IN SENATE

January 6, 2022

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed 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  
26 coverage to an individual solely because the individual is diagnosed  
27 with autism spectrum disorder or has received treatment for autism spec-  
28 trum disorder. Coverage shall be subject to utilization review and

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

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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 autistic disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, or pervasive developmental disorder not otherwise specified.

(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 and applied behavioral analysis, 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 or supervised by a ~~[person licensed, certified or otherwise authorized to provide applied behavior analysis,]~~ behavior analyst certified pursuant to the behavior analyst certification board, 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 or a certified behavior analyst 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.

(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 habitative 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 or 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. 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 autistic disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, or pervasive developmental disorder not otherwise specified.

(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 and applied behavioral analysis, 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 or supervised by a ~~[person-licensed, certified or otherwise authorized to provide applied behavior analysis]~~ behavior analyst certified pursuant to the behavior analyst certification board, 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 or a certified behavior analyst 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.

(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

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.