

# 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:

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  
23 policy shall not contain any limitations on visits that are solely  
24 applied to the treatment of autism spectrum disorder, except as provided  
25 in this subparagraph for coverage for applied behavior analysis and  
26 developmental, individual differences, relationship-based treatment. No

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

LBD13801-03-2

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

8 (C) For purposes of this paragraph:

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

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

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

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

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

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

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

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 during a calendar year  
34 per covered individual. This paragraph shall not be construed as limit-  
35 ing 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, except as provided in this subpara-  
39 graph for coverage for applied behavior analysis and developmental,  
40 individual differences, relationship-based treatment. No insurer shall  
41 terminate coverage or refuse to deliver, execute, issue, amend, adjust,  
42 or renew coverage to an individual solely because the individual is  
43 diagnosed with autism spectrum disorder or has received treatment for  
44 autism spectrum disorder. Coverage shall be subject to utilization  
45 review and external appeals of health care services pursuant to article  
46 forty-nine of this chapter as well as case management and other managed  
47 care provisions.

48 (C) For purposes of this paragraph:

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

53 (ii) "applied behavior analysis" means the design, implementation, and  
54 evaluation of environmental modifications, using behavioral stimuli and  
55 consequences, to produce socially significant improvement in human  
56 behavior, including the use of direct observation, measurement, and

1 functional analysis of the relationship between environment and behav-  
2 ior.

3 (iii) "behavioral health treatment" means counseling and treatment  
4 programs, including developmental, individual-differences, relation-  
5 ship-based treatment, when provided by a licensed provider with a  
6 professional certificate in developmental, individual-differences, rela-  
7 tionship-based treatment from the interdisciplinary council on develop-  
8 ment and learning, and applied behavior analysis, when provided by a  
9 person licensed, certified or otherwise authorized to provide applied  
10 behavior analysis, that are necessary to develop, maintain, or restore,  
11 to the maximum extent practicable, the functioning of an individual.  
12 Individuals that provide behavioral health treatment under the super-  
13 vision of a licensed provider pursuant to this paragraph shall be  
14 subject to standards of professionalism, supervision and relevant expe-  
15 rience pursuant to regulations promulgated by the superintendent in  
16 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,~~  
31 ~~or physical therapists~~] providers in the fields of counseling, occupa-  
32 tional therapy, physical therapy, social work, or speech and language  
33 pathology.

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

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

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

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

1 596 of the laws of 2011, subparagraphs (A) and (C) of paragraph 3 as  
2 amended by section 32 of subpart A of part BB of chapter 57 of the laws  
3 of 2019, are amended to read as follows:

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

30 (3) For purposes of this subsection:

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

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

41 (C) "behavioral health treatment" means counseling and treatment  
42 programs, including developmental, individual-differences, relation-  
43 ship-based treatment, when provided by a licensed provider with a  
44 professional certificate in developmental, individual-differences, rela-  
45 tionship-based treatment from the interdisciplinary council on develop-  
46 ment and learning, and applied behavior analysis, when provided by a  
47 person that is licensed, certified or otherwise authorized to provide  
48 applied behavior analysis, that are necessary to develop, maintain, or  
49 restore, to the maximum extent practicable, the functioning of an indi-  
50 vidual. Individuals that provide behavioral health treatment under the  
51 supervision of a licensed provider pursuant to this subsection shall be  
52 subject to standards of professionalism, supervision and relevant expe-  
53 rience pursuant to regulations promulgated by the superintendent in  
54 consultation with the commissioners of health and 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~~] providers in the fields of counseling, occupational  
16 therapy, physical therapy, social work, or speech and language  
17 pathology.

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

22 (i) behavioral health treatment;

23 (ii) psychiatric care;

24 (iii) psychological care;

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

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

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

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