

STATE OF NEW YORK

7913

2023-2024 Regular Sessions

IN ASSEMBLY

August 4, 2023

Introduced by M. of A. SIMON, JENSEN -- 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 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

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

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1 developmental, individual differences, relationship-based treatment. No
2 insurer shall terminate coverage or refuse to deliver, execute, issue,
3 amend, adjust, or renew coverage to an individual solely because the
4 individual is diagnosed with autism spectrum disorder or has received
5 treatment for autism spectrum disorder. Coverage shall be subject to
6 utilization review and external appeals of health care services pursuant
7 to article forty-nine of this chapter as well as case management and
8 other managed care provisions.

9 (C) For purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (C) For purposes of this paragraph:

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

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

1 behavior, including the use of direct observation, measurement, and
2 functional analysis of the relationship between environment and behav-
3 ior.

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

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

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

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

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

30 (viii) "therapeutic care" means services provided by licensed or
31 certified [~~speech therapists, occupational therapists, social workers,~~
32 ~~or physical therapists~~] providers in the fields of counseling, occupa-
33 tional therapy, physical therapy, social work, or speech and language
34 pathology.

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

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

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

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

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

5 (2) Every contract that provides physician services, medical, major
6 medical or similar comprehensive-type coverage shall provide coverage
7 for the screening, diagnosis and treatment of autism spectrum disorder
8 in accordance with this paragraph and shall not exclude coverage for the
9 screening, diagnosis or treatment of medical conditions otherwise
10 covered by the contract because the individual is diagnosed with autism
11 spectrum disorder. Such coverage may be subject to annual deductibles,
12 copayments and coinsurance as may be deemed appropriate by the super-
13 intendent and shall be consistent with those imposed on other benefits
14 under the contract. Coverage for applied behavior analysis and develop-
15 mental, individual-differences, relationship-based treatment shall be
16 subject to a maximum benefit of six hundred eighty hours of treatment
17 per policy during a calendar year per covered individual. This paragraph
18 shall not be construed as limiting the benefits that are otherwise
19 available to an individual under the contract, provided however that
20 such contract shall not contain any limitations on visits that are sole-
21 ly applied to the treatment of autism spectrum disorder, except as
22 provided in this subparagraph for coverage for applied behavior analysis
23 and developmental, individual differences, relationship-based treatment.

24 No insurer shall terminate coverage or refuse to deliver, execute,
25 issue, amend, adjust, or renew coverage to an individual solely because
26 the individual is diagnosed with autism spectrum disorder or has
27 received treatment for autism spectrum disorder. Coverage shall be
28 subject to utilization review and external appeals of health care
29 services pursuant to article forty-nine of this chapter as well as case
30 management and other managed care provisions.

31 (3) For purposes of this subsection:

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

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

42 (C) "behavioral health treatment" means counseling and treatment
43 programs, including developmental, individual-differences, relation-
44 ship-based treatment, when provided by a licensed provider with a
45 professional certificate in developmental, individual-differences, rela-
46 tionship-based treatment from the interdisciplinary council on develop-
47 ment and learning, and applied behavior analysis, when provided by a
48 person that is licensed, certified or otherwise authorized to provide
49 applied behavior analysis, that are necessary to develop, maintain, or
50 restore, to the maximum extent practicable, the functioning of an indi-
51 vidual. Individuals that provide behavioral health treatment under the
52 supervision of a licensed provider pursuant to this subsection shall be
53 subject to standards of professionalism, supervision and relevant expe-
54 rience pursuant to regulations promulgated by the superintendent in
55 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.