

# 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.

18 Coverage for applied behavior analysis and develop-  
19 mental, individual-differences, relationship-based treatment shall be  
20 subject to a maximum benefit of six hundred eighty hours of treatment  
21 per policy during a calendar year per covered individual. This paragraph  
22 shall not be construed as limiting the benefits that are otherwise  
23 available to an individual under the policy, provided however that such  
24 policy shall not contain any limitations on visits that are solely  
25 applied to the treatment of autism spectrum disorder, except as provided  
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;

(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.

§ 2. Subparagraphs (B) and (C) of paragraph 17 of subsection (1) 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 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 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, 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.

(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, but not limited to, autistic spectrum disorder.

(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, 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 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 supervision of a licensed provider 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]~~ providers in the fields of counseling, occupational therapy, physical therapy, social work, or speech and language pathology.

(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.

§ 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 supervision of a licensed provider pursuant to this subsection 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.

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.