

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 498

Short Title: Mandate Autism Health Insurance Coverage. (Public)

Sponsors: Representatives McGrady, Murry, Cotham, and Shepard (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Insurance, if favorable, Appropriations.

April 3, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE HEALTH BENEFIT PLANS, INCLUDING THE STATE HEALTH
3 PLAN FOR TEACHERS AND STATE EMPLOYEES, TO PROVIDE COVERAGE FOR
4 THE TREATMENT OF AUTISM SPECTRUM DISORDERS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 3 of Chapter 58 of the General Statutes is amended by adding
7 a new section to read as follows:

8 "**§ 58-3-192. Coverage for autism spectrum disorders.**

9 (a) As used in this section, the following definitions apply:

10 (1) Applied behavior analysis. – The design, implementation, and evaluation of
11 environmental modifications using behavioral stimuli and consequences to
12 produce socially significant improvement in human behavior, including the
13 use of direct observation, measurement, and functional analysis of the
14 relationship between environment and behavior.

15 (2) Autism spectrum disorder. – Any of the pervasive developmental disorders
16 or autism spectrum disorders as defined by the most recent edition of the
17 Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most
18 recent edition of the International Statistical Classification of Diseases and
19 Related Health Problems.

20 (3) Behavioral health treatment. – Counseling and treatment programs,
21 including applied behavior analysis, that are both of the following:

22 a. Necessary to (i) increase appropriate or adaptive behaviors, (ii)
23 decrease maladaptive behaviors, or (iii) develop, maintain, or restore,
24 to the maximum extent practicable, the functioning of an individual.

25 b. Provided or supervised by (i) a Board Certified Behavior Analyst or
26 (ii) a licensed psychologist or licensed psychological associate, so
27 long as the services performed are commensurate with the
28 psychologist's training and experience.

29 (4) Diagnosis of autism spectrum disorder. – Any medically necessary
30 assessments, evaluations, or tests to diagnose whether an individual has
31 autism spectrum disorder.

32 (5) Health benefit plan. – As defined in G.S. 58-3-167 and including the State
33 Health Plan for Teachers and State Employees established under Article 3B
34 of Chapter 135 of the General Statutes.



- 1 (6) Pharmacy care. – Medications prescribed by a licensed physician and any
2 health-related services deemed medically necessary to determine the need
3 for or effectiveness of the medications.
- 4 (7) Psychiatric care. – Direct or consultative services provided by a licensed
5 psychiatrist.
- 6 (8) Psychological care. – Direct or consultative services provided by a licensed
7 psychologist or licensed psychological associate.
- 8 (9) Therapeutic care. – Direct or consultative services provided by a licensed or
9 certified speech therapist, occupational therapist, or physical therapist.
- 10 (10) Treatment for autism spectrum disorders. – Any of the following care or
11 related equipment prescribed or ordered for an individual diagnosed with
12 autism spectrum disorder by a licensed physician or a licensed psychologist
13 who determines the care to be medically necessary:
- 14 a. Behavioral health treatment.
- 15 b. Pharmacy care.
- 16 c. Psychiatric care.
- 17 d. Psychological care.
- 18 e. Therapeutic care.
- 19 (b) Every health benefit plan shall provide coverage for the screening, diagnosis, and
20 treatment of autism spectrum disorder. No insurer shall terminate coverage or refuse to issue,
21 amend, or renew coverage to an individual solely because the individual is diagnosed with
22 autism spectrum disorder or has received treatment for autism spectrum disorder.
- 23 (c) Coverage under this section may not be subject to any limits on the number of visits
24 an individual may have for treatment of autism spectrum disorder.
- 25 (d) Coverage under this section may not be denied on the basis that the treatments are
26 habilitative or educational in nature.
- 27 (e) Coverage under this section may be subject to co-payment, deductible, and
28 coinsurance provisions of a health benefit plan that are not less favorable than the co-payment,
29 deductible, and coinsurance provisions that apply to substantially all other medical services
30 covered by the health benefit plan.
- 31 (f) This section shall not be construed as limiting benefits that are otherwise available
32 to an individual under a health benefit plan.
- 33 (g) Coverage for behavioral health treatment under this section may be subject to a
34 maximum benefit of up to seventy-five thousand dollars (\$75,000) per year. After December
35 31, 2014, the Commissioner of Insurance shall, on an annual basis, adjust the maximum benefit
36 for inflation by using the Medical Care Component of the United States Department of Labor
37 Consumer Price Index for all urban consumers (CPI-U). The Commissioner shall publish the
38 adjusted maximum benefit no later than March 1 of each year, and the published adjusted
39 maximum benefit shall apply to any health benefit plan year commencing on or after January 1
40 of the following year. Payments made by an insurer on behalf of a covered individual for any
41 care, treatment, intervention, service, or item other than behavioral health treatment shall not be
42 applied toward any maximum benefit established under this section.
- 43 (h) Except for inpatient services, if an individual is receiving treatment for autism
44 spectrum disorder, a health benefit plan shall have the right to request a review of that
45 treatment not more than once annually unless the insurer and the individual's licensed physician
46 or licensed psychologist agrees that a more frequent review is necessary. Any such agreement
47 regarding the right to review a treatment plan more frequently shall apply only to a particular
48 insured being treated for an autism spectrum disorder and shall not apply to all individuals
49 being treated for an autism spectrum disorder by a physician or psychologist. The cost of
50 obtaining any review shall be borne by the insurer.

1 (i) This section shall not apply to a qualified health plan offered on a health benefit
2 exchange operating in this State and that is established pursuant to 42 U.S.C. § 18031, to the
3 extent that this section requires benefits that exceed the "essential health benefits" defined
4 pursuant to 42 U.S.C. § 18022(b)(1). Nothing in this subsection shall nullify the application of
5 this section to plans offered outside a health benefit exchange.

6 (j) This section shall not be construed as affecting any obligation to provide services to
7 an individual under an individualized family service plan, an individualized education program,
8 or an individualized service plan."

9 **SECTION 2.** G.S. 90-270.4 is amended by adding a new subsection to read as
10 follows:

11 "(f1) Nothing in this Article shall be construed to prevent a Board Certified Behavior
12 Analyst (BCBA) or a Board Certified Assistant Behavior Analyst (BCaBA) from offering
13 services within the scope of practice authorized by the Behavior Analyst Certification Board,
14 including behavior analysis and therapy, in accordance with professional standards of the
15 BCBA or BCaBA's certification if both of the following are true:

16 (1) The BCBA or BCaBA is properly certified and in good standing with the
17 Behavior Analyst Certification Board.

18 (2) The BCBA or BCaBA does not hold himself or herself out to the public by
19 any title or description stating or implying that the BCBA or BCaBA is a
20 psychologist or is licensed, certified, or registered to practice psychology in
21 this State."

22 **SECTION 3.** G.S. 135-48.51 reads as rewritten:

23 **"§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General**
24 **Statutes.**

25 The following provisions of Chapter 58 of the General Statutes apply to the State Health
26 Plan:

27 (1) G.S. 58-3-191, Managed care reporting and disclosure requirements.

28 (2) G.S. 58-3-192, Coverage for autism spectrum disorders.

29 ~~(2)~~(3) G.S. 58-3-221, Access to nonformulary and restricted access prescription
30 drugs.

31 ~~(3)~~(4) G.S. 58-3-223, Managed care access to specialist care.

32 ~~(4)~~(5) G.S. 58-3-225, Prompt claim payments under health benefit plans.

33 ~~(5)~~(6) G.S. 58-3-235, Selection of specialist as primary care provider.

34 ~~(6)~~(7) G.S. 58-3-240, Direct access to pediatrician for minors.

35 ~~(7)~~(8) G.S. 58-3-245, Provider directories.

36 ~~(8)~~(9) G.S. 58-3-250, Payment obligations for covered services.

37 ~~(9)~~(10) G.S. 58-3-265, Payment obligations for covered services.

38 ~~(10)~~(11) G.S. 58-3-280, Coverage for the diagnosis and treatment of
39 lymphedema.

40 ~~(11)~~(12) G.S. 58-3-285, Coverage for hearing aids.

41 ~~(12)~~(13) G.S. 58-50-30, Right to choose services of optometrist, podiatrist,
42 licensed clinical social worker, certified substance abuse professional,
43 licensed professional counselor, dentist, physical therapist, chiropractor,
44 psychologist, pharmacist, certified fee-based practicing pastoral counselor,
45 advanced practice nurse, licensed marriage and family therapist, or physician
46 assistant.

47 ~~(13)~~(14) G.S. 58-67-88, Continuity of care."

48 **SECTION 4.** This act becomes effective October 1, 2013, and applies to insurance
49 contracts issued, renewed, or amended on or after that date.