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HOUSE BILL 498  
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Short Title: Autism Health Insurance Coverage.

(Public)

Sponsors:

Referred to:

April 3, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE HEALTH BENEFIT PLANS, INCLUDING THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES, TO PROVIDE COVERAGE FOR THE TREATMENT OF AUTISM SPECTRUM DISORDERS.

The General Assembly of North Carolina enacts:

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

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

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

- (1) Applied behavior analysis. – 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.
- (2) Autism spectrum disorder. – Any of the pervasive developmental disorders or autism spectrum disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most recent edition of the International Statistical Classification of Diseases and Related Health Problems.
- (3) Behavioral health treatment. – Counseling and treatment programs, including applied behavior analysis, that are both of the following:
  - a. Necessary to (i) increase appropriate or adaptive behaviors, (ii) decrease maladaptive behaviors, or (iii) develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.
  - b. Provided or supervised by (i) a Board Certified Behavior Analyst or (ii) a licensed psychologist or licensed psychological associate, so long as the services performed are commensurate with the psychologist's training and experience.
- (4) Diagnosis of autism spectrum disorder. – Any medically necessary assessments, evaluations, or tests to diagnose whether an individual has autism spectrum disorder.
- (5) Health benefit plan. – As defined in G.S. 58-3-167, and including the State Health Plan for Teachers and State Employees established under Article 3B of Chapter 135 of the General Statutes.



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- 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, physical therapist, or  
10          licensed clinical social worker.  
11          (10) Treatment for autism spectrum disorders. – Any of the following care or  
12          related equipment ordered for an individual diagnosed with autism spectrum  
13          disorder by a licensed physician, or a licensed psychologist who determines  
14          the care to be medically necessary:  
15               a.    Behavioral health treatment.  
16               b.    Pharmacy care.  
17               c.    Psychiatric care.  
18               d.    Psychological care.  
19               e.    Therapeutic care.

20          (b)   Every health benefit plan shall provide coverage for the screening, diagnosis, and  
21          treatment of autism spectrum disorder for individuals 23 years of age or younger. No insurer  
22          shall terminate coverage or refuse to issue, amend, or renew coverage to an individual solely  
23          because the individual is diagnosed with autism spectrum disorder or has received treatment for  
24          autism spectrum disorder. Individuals must have received a diagnosis of autism spectrum  
25          disorder prior to the age of eight to qualify for required coverage under this section.

26          (c)   Coverage under this section may not be subject to any limits on the number of visits  
27          an individual may have for treatment of autism spectrum disorder.

28          (d)   Coverage under this section may not be denied on the basis that the treatments are  
29          habilitative or educational in nature.

30          (e)   Coverage under this section may be subject to co-payment, deductible, and  
31          coinsurance provisions of a health benefit plan that are not less favorable than the co-payment,  
32          deductible, and coinsurance provisions that apply to substantially all other medical services  
33          covered by the health benefit plan.

34          (f)   This section shall not be construed as limiting benefits that are otherwise available  
35          to an individual under a health benefit plan.

36          (g)   Coverage for behavioral health treatment under this section may be subject to a  
37          maximum benefit of up to thirty-six thousand dollars (\$36,000) per year.

38          (h)   Except for inpatient services, if an individual is receiving treatment for autism  
39          spectrum disorder, an insurer shall have the right to request a review of that treatment not more  
40          than once annually, unless the insurer and the individual's licensed physician or the individual's  
41          licensed psychologist agree that a more frequent review is necessary. Any such agreement  
42          regarding the right to review a treatment plan more frequently shall apply only to a particular  
43          insured being treated for an autism spectrum disorder and shall not apply to all individuals  
44          being treated for an autism spectrum disorder by a physician or psychologist. The cost of  
45          obtaining any review shall be borne by the insurer.

46          (i)   This section shall not apply to plans that are certified as qualified health plans, as  
47          defined in 45 C.F.R. § 155.20, if the requirements of this section are determined by the federal  
48          government to require the State to make payments for a state-required benefit that is in excess  
49          of the essential health benefits, pursuant to 45 C.F.R. § 155.170(a)(3). Nothing in this  
50          subsection shall nullify the application of this section to plans that are not certified as qualified  
51          health plans.

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

4       (k) The Commissioner of Insurance shall grant a health benefit plan issuer a waiver  
 5 from the provisions of this section for a health benefit plan if the issuer demonstrates to the  
 6 Commissioner, by actual claims experience over any consecutive 12-month period, that  
 7 compliance with this section has increased the cost of the health benefit plan by an amount of  
 8 one percent (1%) or greater in the premium rate charged under the health benefit plan over the  
 9 most recent calendar year."

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

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

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

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

23       **SECTION 3.(a)** G.S. 135-48.51 reads as rewritten:

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

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

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

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

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

32           ~~(3)~~(4) G.S. 58-3-223, Managed care access to specialist care.

33           ~~(4)~~(5) G.S. 58-3-225, Prompt claim payments under health benefit plans.

34           ~~(5)~~(6) G.S. 58-3-235, Selection of specialist as primary care provider.

35           ~~(6)~~(7) G.S. 58-3-240, Direct access to pediatrician for minors.

36           ~~(7)~~(8) G.S. 58-3-245, Provider directories.

37           ~~(8)~~(9) G.S. 58-3-250, Payment obligations for covered services.

38           ~~(9)~~(10) G.S. 58-3-265, Payment obligations for covered services.

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

41           ~~(11)~~(12) G.S. 58-3-285, Coverage for hearing aids.

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

48           ~~(13)~~(14) G.S. 58-67-88, Continuity of care."

49       **SECTION 3.(b)** No later than March 1, 2015, and every March 1st thereafter, the  
 50 Department of the State Treasurer shall submit a report to the General Assembly regarding the

1 implementation of coverage under the State Health Plan for Teachers and State Employees  
2 required under this section. The report shall include the following information:

- 3 (1) The total number of insureds diagnosed with autism spectrum disorder.
- 4 (2) The total costs of all claims paid out in the prior fiscal year for coverage  
5 required by this section.
- 6 (3) The cost of coverage required under this section per insured per month.
- 7 (4) The average cost per insured for coverage of any treatment involving applied  
8 behavior analysis.

9 **SECTION 4.** Section 1 of this act becomes effective October 1, 2013, and applies  
10 to insurance contracts issued, renewed, or amended on or after that date. Section 3 of this act  
11 becomes effective January 1, 2014. The remainder of this act is effective when it becomes law.