

1 SB283
2 140570-4
3 By Senator Ward
4 RFD: Health
5 First Read: 09-FEB-12

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To require health benefit plans to offer certain
12 coverage for treatment of Autism Spectrum Disorder for certain
13 children in certain policies and contracts; and to amend
14 Sections 10A-20-6.16 and 27-21A-23, Code of Alabama 1975,
15 relating to health care service plans and health maintenance
16 organizations.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. This act may be known and cited as the
19 "Riley" Ward Act.

20 Section 2. (a) As used in this section, the
21 following words have the following meanings:

22 (1) APPLIED BEHAVIOR ANALYSIS. The design,
23 implementation, and evaluation of environmental modifications,
24 using behavioral stimuli and consequences, to produce socially
25 significant improvement in human behavior, including the use
26 of direct observation, measurement, and functional analysis of
27 the relationship between environment and behavior.

1 (2) AUTISM SPECTRUM DISORDER. Any of the pervasive
2 developmental disorders as defined by the most recent edition
3 of the Diagnostic and Statistical Manual of Mental Disorders
4 (DSM), including Autistic Disorder, Asperger's Disorder, and
5 Pervasive Developmental Disorder Not Otherwise Specified.

6 (3) BEHAVIORAL HEALTH TREATMENT. Counseling and
7 treatment programs, including applied behavior analysis that
8 are both of the following:

9 a. Necessary to develop or restore, to the maximum
10 extent practicable, the functioning of an individual.

11 b. Provided or supervised by a Board Certified
12 Behavior Analyst, licensed in the State of Alabama, or a
13 psychologist, licensed in the State of Alabama, so long as the
14 services performed are commensurate with the psychologist's
15 formal university training and supervised experience.

16 c. Behavioral health treatment does not include
17 psychological testing, neuropsychology, psychotherapy,
18 intellectual assessment, cognitive therapy, sex therapy,
19 psychoanalysis, hypotherapy, and long-term counseling as
20 treatment modalities.

21 (4) DIAGNOSIS OF AUTISM SPECTRUM DISORDER. Medically
22 necessary assessment, evaluations, or tests to diagnose
23 whether an individual has an autism spectrum disorder.

24 (5) HEALTH BENEFIT PLAN. Any group insurance plan,
25 policy, or contract for health care services that covers
26 hospital, medical, or surgical expenses, health maintenance
27 organizations, preferred provider organizations, medical

1 service organizations, physician-hospital organizations, or
2 any other person, firm, corporation, joint venture, or other
3 similar business entity that pays for, purchases, or furnishes
4 group health care services to patients, insureds, or
5 beneficiaries in this state. For the purposes of this section,
6 a health benefit plan located or domiciled outside of the
7 State of Alabama is deemed to be subject to this section if
8 the plan, policy, or contract is issued or delivered in the
9 State of Alabama. The term includes, but is not limited to,
10 entities created pursuant to Article 6, Chapter 20, Title 10A,
11 Code of Alabama 1975. The term does not include the Alabama
12 Health Insurance Plan or the Alabama Small Employer Allocation
13 Program provided in Chapter 52 of Title 27, Code of Alabama
14 1975. The term does not include accident-only, specified
15 disease, individual hospital indemnity, credit, dental-only,
16 Medicare-supplement, long-term care, or disability income
17 insurance, other limited benefit health insurance policies,
18 coverage issued as a supplemental to liability insurance,
19 workers' compensation or similar insurance, or automobile
20 medical-payment insurance.

21 (6) PHARMACY CARE. Medications prescribed by a
22 licensed physician and any health related services deemed
23 medically necessary to determine the need or effectiveness of
24 the medications.

25 (7) PSYCHIATRIC CARE. Direct or consultative
26 services provided by a psychiatrist licensed in the State of
27 Alabama.

1 (8) PSYCHOLOGICAL CARE. Direct or consultative
2 services provided by a psychologist licensed in the State of
3 Alabama.

4 (9) THERAPEUTIC CARE. Services provided by licensed
5 and certified speech therapists, occupational therapists, or
6 physical therapists.

7 (10) TREATMENT FOR AUTISM SPECTRUM DISORDER.
8 Evidence-based care prescribed or ordered for an individual
9 diagnosed with an autism spectrum disorder by a licensed
10 physician or a licensed psychologist who determines the care
11 to be medically necessary, including, but not limited to, all
12 of the following:

- 13 a. Behavioral health treatment.
- 14 b. Pharmacy care.
- 15 c. Psychiatric care.
- 16 d. Psychological care.
- 17 e. Therapeutic care.

18 (b)(1) A health benefit plan shall offer coverage
19 for the screening, diagnosis, and treatment of Autism Spectrum
20 Disorder for an insured nine years of age or under in policies
21 and contracts issued or delivered in the State of Alabama to
22 employers with at least 51 employees for at least 50 percent
23 of its working days during the preceding calendar year.
24 Coverage provided under this section is limited to treatment
25 that is prescribed by the insured's treating licensed
26 physician or licensed psychologist in accordance with a
27 treatment plan.

1 (2) To the extent that the screening, diagnosis, and
2 treatment of autism spectrum disorder are not already covered
3 by a health insurance policy, coverage under this section
4 shall be offered for inclusion in health insurance policies
5 that are delivered, executed, issued, amended, adjusted, or
6 renewed in the State of Alabama at the date of the annual
7 renewal for coverage.

8 (3) A health benefit plan may not deny or refuse to
9 issue coverage on, refuse to contract with, or refuse to renew
10 or refuse to reissue or otherwise terminate or restrict
11 coverage on an individual solely because the individual is
12 diagnosed with Autism Spectrum Disorder.

13 (c) (1) The coverage required pursuant to this
14 section may not be subject to dollar limits, deductibles, or
15 coinsurance provisions that are less favorable to an insured
16 than the dollar limits, deductibles, or coinsurance provisions
17 that apply to physical illness generally under the health
18 insurance plan, except as otherwise provided for in subsection
19 (e).

20 (2) The coverage required pursuant to subsection (b)
21 may be subject to other general exclusions and limitations of
22 the health benefit plan, including, but not limited to,
23 coordination of benefits, participating provider requirements,
24 restrictions on services provided by family or household
25 members, utilization review of health care services including
26 review of medical necessity, case management, and other
27 managed care provisions.

1 (d) The treatment plan required pursuant to
2 subsection (b) shall include all elements necessary for the
3 health insurance plan to appropriately pay claims. These
4 elements include, but are not limited to, a diagnosis,
5 proposed treatment by type, frequency, and duration of
6 treatment, the anticipated outcomes stated as goals, the
7 frequency by which the treatment plan will be updated, and the
8 treating licensed physician's or licensed psychologist's
9 signature. The health insurance plan may only request an
10 updated treatment plan once every six months from the treating
11 licensed physician or licensed psychologist to review medical
12 necessity, unless the health insurance plan and the treating
13 licensed physician or licensed psychologist agree that a more
14 frequent review is necessary for a particular patient.

15 (e) The benefits and coverage provided pursuant to
16 this section shall be provided to any eligible person nine
17 years of age or under. Coverage for behavioral therapy is
18 subject to a thirty-six thousand dollars (\$36,000) maximum
19 benefit per year. Beginning one year after the effective date
20 of this act, this maximum benefit shall be adjusted annually
21 on January 1 of each calendar year to reflect any change from
22 the previous year in the current Consumer Price Index, All
23 Urban Consumers, as published by the United States Department
24 of Labor's Bureau of Labor Statistics.

25 Section 3. Sections 10A-20-6.16 and 27-21A-23, Code
26 of Alabama 1975, are amended to read as follows:

27 "§10A-20-6.16.

1 "(a) No statute of this state applying to insurance
2 companies shall be applicable to any corporation organized
3 under this article and amendments thereto or to any contract
4 made by the corporation unless expressly mentioned in this
5 article and made applicable; except as follows:

6 "(1) The corporation shall be subject to the
7 provisions regarding annual premium tax to be paid by insurers
8 on insurance premiums.

9 "(2) The corporation shall be subject to the
10 provisions of Chapter 55, Title 27, regarding the prohibition
11 of unfair discriminatory acts by insurers on the basis of an
12 applicant's or insured's abuse status.

13 "(3) The corporation shall be subject to the
14 provisions regarding Medicare Supplement Minimum Standards set
15 forth in Article 2 of Chapter 19 of Title 27, and Long-Term
16 Care Insurance Policy Minimum Standards set forth in Article 3
17 of Chapter 19 of Title 27.

18 "(4) The corporation shall be subject to Section
19 27-1-17, requiring insurers and health plans to pay health
20 care providers in a timely manner.

21 "(5) The corporation shall be subject to the
22 provisions of Chapter 56 of Title 27, regarding the Access to
23 Eye Care Act.

24 "(6) The corporation shall be subject to the
25 regulations promulgated by the Commissioner of Insurance
26 pursuant to Sections 27-7-43 and 27-7-44.

1 "(7) The corporation shall be subject to the
2 provisions of Chapter 54 of Title 27.

3 "(8) The corporation shall be subject to the
4 provisions of Chapter 57 of Title 27, requiring coverage to be
5 offered for the payment of colorectal cancer examinations for
6 covered persons who are 50 years of age or older, or for
7 covered persons who are less than 50 years of age and at high
8 risk for colorectal cancer according to current American
9 Cancer Society colorectal cancer screening guidelines.

10 "(9) The corporation shall be subject to Chapter 58
11 of Title 27, requiring that policies and contracts including
12 coverage for prostate cancer early detection be offered,
13 together with identification of associated costs.

14 "(10) The corporation shall be subject to Chapter 59
15 of Title 27 requiring that policies and contracts including
16 coverage for chiropractic be offered, together with
17 identification of associated costs.

18 "(11) The corporation shall be subject to Section 1
19 of the act adding this subdivision requiring that policies and
20 contracts to offer coverage for certain treatment for Autism
21 Spectrum Disorder under certain conditions.

22 "(b) The provisions in subsection (a) that require
23 specific types of coverage to be offered or provided shall not
24 apply when the corporation is administering a self-funded
25 benefit plan or similar plan, fund, or program that it does
26 not insure.

27 "§27-21A-23.

1 "(a) Except as otherwise provided in this chapter,
2 provisions of the insurance law and provisions of health care
3 service plan laws shall not be applicable to any health
4 maintenance organization granted a certificate of authority
5 under this chapter. This provision shall not apply to an
6 insurer or health care service plan licensed and regulated
7 pursuant to the insurance law or the health care service plan
8 laws of this state except with respect to its health
9 maintenance organization activities authorized and regulated
10 pursuant to this chapter.

11 "(b) Solicitation of enrollees by a health
12 maintenance organization granted a certificate of authority
13 shall not be construed to violate any provision of law
14 relating to solicitation or advertising by health
15 professionals.

16 "(c) Any health maintenance organization authorized
17 under this chapter shall not be deemed to be practicing
18 medicine and shall be exempt from the provisions of Section
19 34-24-310, et seq., relating to the practice of medicine.

20 "(d) No person participating in the arrangements of
21 a health maintenance organization other than the actual
22 provider of health care services or supplies directly to
23 enrollees and their families shall be liable for negligence,
24 misfeasance, nonfeasance, or malpractice in connection with
25 the furnishing of such services and supplies.

1 "(e) Nothing in this chapter shall be construed in
2 any way to repeal or conflict with any provision of the
3 certificate of need law.

4 "(f) Notwithstanding the provisions of subsection
5 (a), a health maintenance organization shall be subject to
6 Section 27-1-17.

7 "(g) Notwithstanding the provisions of subsection
8 (a), a health maintenance organization shall be subject to the
9 provisions of Chapter 56 of this title, regarding the Access
10 to Eye Care Act.

11 "(h) Notwithstanding the provisions of subsection
12 (a), a health maintenance organization shall be subject to the
13 provisions of Chapter 54 of this title.

14 "(i) Notwithstanding the provisions of subsection
15 (a), a health maintenance organization shall be subject to the
16 provisions of Chapter 57 of this title, requiring coverage to
17 be offered for the payment of colorectal cancer examinations
18 for covered persons who are 50 years of age or older, or for
19 covered persons who are less than 50 years of age and at high
20 risk for colorectal cancer according to current American
21 Cancer Society colorectal cancer screening guidelines.

22 "(j) Notwithstanding the provisions of subsection
23 (a), a health maintenance organization shall be subject to
24 Chapter 58 of Title 27, requiring that policies and contracts
25 including coverage for prostate cancer early detection be
26 offered, together with identification of associated costs.

1 "(k) Notwithstanding the provisions of subsection
2 (a), a health maintenance organization shall be subject to
3 Chapter 59 of this title, requiring that policies and
4 contracts including coverage for chiropractic be offered,
5 together with identification of associated costs.

6 "(l) Notwithstanding the provisions of subsection
7 (a), a health maintenance organization shall be subject to
8 Section 1 of the act adding this subsection requiring policies
9 and contracts to offer coverage for certain treatment for
10 Autism Spectrum Disorder under certain conditions."

11 Section 4. This act shall become effective on
12 October 1, 2012.

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Senate

Read for the first time and referred to the Senate
committee on Health..... 09-FEB-12

Read for the second time and placed on the calen-
dar..... 15-MAR-12

Read for the third time and passed as amended 10-APR-12

Yeas 32
Nays 0

Patrick Harris
Secretary