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3 WARD SUBSTITUTE TO HB284, AS ENGROSSED  
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8 SYNOPSIS: Under existing law, a health benefit plan is  
9 required to offer coverage for the treatment of  
10 Autism Spectrum Disorder for a child age nine or  
11 under for certain defined group insurance plans and  
12 contracts.

13 This bill would require health benefit plans  
14 to cover the treatment of Autism Spectrum Disorder  
15 for certain insured individuals under certain  
16 insurance plans and contracts.  
17

18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 Relating to health benefit plans; to amend Sections  
23 10A-20-6.16, 27-21A-23, and 27-54A-2, Code of Alabama 1975, to  
24 require health benefit plans to cover the treatment of Autism  
25 Spectrum Disorder under certain health insurance plans and  
26 contracts.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 10A-20-6.16, 27-21A-23, and  
2 27-54A-2, Code of Alabama 1975, are amended to read as  
3 follows:

4           "§10A-20-6.16.

5           "(a) No statute of this state applying to insurance  
6 companies shall be applicable to any corporation organized  
7 under this article and amendments thereto or to any contract  
8 made by the corporation; except the corporation shall be  
9 subject to all of the following:

10           "(1) The provisions regarding annual premium tax to  
11 be paid by insurers on insurance premiums.

12           "(2) Chapter 55 of Title 27, regarding the  
13 prohibition of unfair discriminatory acts by insurers on the  
14 basis of an applicant's or insured's abuse status.

15           "(3) The Medicare Supplement Minimum Standards set  
16 forth in Article 2 of Chapter 19 of Title 27, and Long-Term  
17 Care Insurance Policy Minimum Standards set forth in Article 3  
18 of Chapter 19 of Title 27.

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

21           "(5) Chapter 56 of Title 27, regarding the Access to  
22 Eye Care Act.

23           "(6) Rules promulgated by the Commissioner of  
24 Insurance pursuant to Sections 27-7-43 and 27-7-44.

25           "(7) Chapter 54 of Title 27.

26           "(8) Chapter 57 of Title 27, requiring coverage to  
27 be offered for the payment of colorectal cancer examinations

1 for covered persons who are 50 years of age or older, or for  
2 covered persons who are less than 50 years of age and at high  
3 risk for colorectal cancer according to current American  
4 Cancer Society colorectal cancer screening guidelines.

5 "(9) Chapter 58 of Title 27, requiring that policies  
6 and contracts including coverage for prostate cancer early  
7 detection be offered, together with identification of  
8 associated costs.

9 "(10) Chapter 59 of Title 27, requiring that  
10 policies and contracts including coverage for chiropractic be  
11 offered, together with identification of associated costs.

12 "(11) Chapter 54A of Title 27, requiring that  
13 policies and contracts ~~to offer coverage for~~ cover certain  
14 treatment for Autism Spectrum Disorder under certain  
15 conditions.

16 "(12) Chapter 12A of Title 27.

17 "(13) Chapter 2B of Title 27.

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

23 "§27-21A-23.

24 "(a) Except as otherwise provided in this chapter,  
25 provisions of the insurance law and provisions of health care  
26 service plan laws shall not be applicable to any health  
27 maintenance organization granted a certificate of authority

1 under this chapter. This provision shall not apply to an  
2 insurer or health care service plan licensed and regulated  
3 pursuant to the insurance law or the health care service plan  
4 laws of this state except with respect to its health  
5 maintenance organization activities authorized and regulated  
6 pursuant to this chapter.

7 "(b) Solicitation of enrollees by a health  
8 maintenance organization granted a certificate of authority  
9 shall not be construed to violate any provision of law  
10 relating to solicitation or advertising by health  
11 professionals.

12 "(c) Any health maintenance organization authorized  
13 under this chapter shall not be deemed to be practicing  
14 medicine and shall be exempt from the provisions of Section  
15 34-24-310, et seq., relating to the practice of medicine.

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

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

25 "(f) Notwithstanding the provisions of subsection  
26 (a), a health maintenance organization shall be subject to all  
27 of the following:

- 1                   "(1) Section 27-1-17.
- 2                   "(2) Chapter 56, regarding the Access to Eye Care  
3 Act.
- 4                   "(3) Chapter 54, regarding mental illness coverage.
- 5                   "(4) Chapter 57, requiring coverage to be offered  
6 for the payment of colorectal cancer examinations for covered  
7 persons who are 50 years of age or older, or for covered  
8 persons who are less than 50 years of age and at high risk for  
9 colorectal cancer according to current American Cancer Society  
10 colorectal cancer screening guidelines.
- 11                   "(5) Chapter 58, requiring that policies and  
12 contracts including coverage for prostate cancer early  
13 detection be offered, together with identification of  
14 associated costs.
- 15                   "(6) Chapter 59, requiring that policies and  
16 contracts including coverage for chiropractic be offered,  
17 together with identification of associated costs.
- 18                   "(7) Rules promulgated by the Commissioner of  
19 Insurance pursuant to Sections 27-7-43 and 27-7-44.
- 20                   "(8) Chapter 12A.
- 21                   "(9) Chapter 54A, requiring policies and contracts  
22 to ~~offer coverage for~~ cover certain treatment for Autism  
23 Spectrum Disorder under certain conditions.
- 24                   "(10) Chapter 2B, regarding risk-based capital.
- 25                   "(11) Chapter 29, regarding insurance holding  
26 company systems.
- 27                   "§27-54A-2.

1           "(a) As used in this section, the following words  
2 have the following meanings:

3           "(1) APPLIED BEHAVIOR ANALYSIS. The design,  
4 implementation, and evaluation of environmental modifications,  
5 using behavioral stimuli and consequences, to produce socially  
6 significant improvement in human behavior, including the use  
7 of direct observation, measurement, and functional analysis of  
8 the relationship between environment and behavior.

9           "(2) AUTISM SPECTRUM DISORDER. Any of the pervasive  
10 developmental disorders or autism spectrum disorders as  
11 defined by the most recent edition of the Diagnostic and  
12 Statistical Manual of Mental Disorders (DSM), ~~including~~  
13 ~~Autistic Disorder, Asperger's Disorder, and Pervasive~~  
14 ~~Developmental Disorder Not Otherwise Specified~~ or the edition  
15 that was in effect at the time of diagnosis.

16           "(3) BEHAVIORAL HEALTH TREATMENT. Counseling and  
17 treatment programs, including applied behavior analysis that  
18 are both of the following:

19           "a. Necessary to develop, maintain, or restore, to  
20 the maximum extent practicable, the functioning of an  
21 individual.

22           "b. Provided or supervised, either in person or by  
23 telemedicine, by a Board Certified Behavior Analyst, licensed  
24 in the State of Alabama, or a psychologist, licensed in the  
25 State of Alabama, so long as the services performed are  
26 commensurate with the psychologist's formal university  
27 training and supervised experience.

1            "c. Behavioral health treatment does not include  
2            psychological testing, neuropsychology, psychotherapy,  
3            intellectual assessment, cognitive therapy, sex therapy,  
4            psychoanalysis, hypotherapy, and long-term counseling as  
5            treatment modalities.

6            "(4) DIAGNOSIS OF AUTISM SPECTRUM DISORDER.  
7            Medically necessary assessment, evaluations, or tests to  
8            diagnose whether an individual has an autism spectrum  
9            disorder.

10            "(5) HEALTH BENEFIT PLAN. Any group insurance plan,  
11            policy, or contract for health care services that covers  
12            hospital, medical, or surgical expenses, health maintenance  
13            organizations, preferred provider organizations, medical  
14            service organizations, physician-hospital organizations, or  
15            any other person, firm, corporation, joint venture, or other  
16            similar business entity that pays for, purchases, or furnishes  
17            group health care services to patients, insureds, or  
18            beneficiaries in this state. For the purposes of this section,  
19            a health benefit plan located or domiciled outside of the  
20            State of Alabama is deemed to be subject to this section if  
21            the plan, policy, or contract is issued or delivered in the  
22            State of Alabama. The term includes, but is not limited to,  
23            entities created pursuant to Article 6, Chapter 20, Title 10A.  
24            On and after December 31, 2018, the term includes health  
25            insurance plans administered or offered by the State Employees  
26            Insurance Board and the Public Education Employees Health  
27            Insurance Plan. The term does not include the Alabama Health

1 Insurance Plan or the Alabama Small Employer Allocation  
2 Program provided in Chapter 52 of this title. The term also  
3 includes the terms health insurance policy and health  
4 insurance plan. The term does not include non-grandfathered  
5 plans in the individual and small group markets that were  
6 required to provide essential health benefits under the  
7 Patient Protection and Affordable Care Act as of January 1,  
8 2017, or accident-only, specified disease, individual hospital  
9 indemnity, credit, dental-only, Medicare-supplement, long-term  
10 care, or disability income insurance, other limited benefit  
11 health insurance policies, coverage issued as a supplemental  
12 to liability insurance, workers' compensation or similar  
13 insurance, or automobile medical-payment insurance.

14 "(6) PHARMACY CARE. Medications prescribed by a  
15 licensed physician and any health related services deemed  
16 medically necessary to determine the need or effectiveness of  
17 the medications.

18 "(7) PSYCHIATRIC CARE. Direct or consultative  
19 services provided by a psychiatrist licensed in the State of  
20 Alabama.

21 "(8) PSYCHOLOGICAL CARE. Direct or consultative  
22 services provided by a psychologist licensed in the State of  
23 Alabama.

24 "(9) THERAPEUTIC CARE. Services provided by licensed  
25 and certified speech therapists, occupational therapists, or  
26 physical therapists.



1                   "(10) TREATMENT FOR AUTISM SPECTRUM DISORDER.

2 Evidence-based care prescribed or ordered for an individual  
3 diagnosed with an autism spectrum disorder by a licensed  
4 physician or a licensed psychologist who determines the care  
5 to be medically necessary, including, but not limited to, all  
6 of the following:

7                   "a. Behavioral health treatment.

8                   "b. Pharmacy care.

9                   "c. Psychiatric care.

10                  "d. Psychological care.

11                  "e. Therapeutic care.

12                  "(b) (1) A health benefit plan shall ~~offer coverage~~  
13 ~~for~~ cover the screening, diagnosis, and treatment of Autism  
14 Spectrum Disorder for an insured ~~nine years of age or under~~ in  
15 policies and contracts issued or delivered in the State of  
16 Alabama to employers with at least 51 employees for at least  
17 50 percent of its working days during the preceding calendar  
18 year. Coverage provided under this section is limited to  
19 treatment that is prescribed by the insured's treating  
20 licensed physician or licensed psychologist in accordance with  
21 a treatment plan.

22                  "(2) To the extent that the screening, diagnosis,  
23 and treatment of autism spectrum disorder are not already  
24 covered by a health insurance policy, a health benefit plan  
25 shall include coverage under this section ~~shall be offered for~~  
26 ~~inclusion in health insurance~~ in policies and contracts that  
27 are delivered, executed, issued, amended, adjusted, or renewed

1 in the State of Alabama ~~at the date of the annual renewal for~~  
2 ~~coverage~~ on or after October 1, 2017.

3 "(3) A health benefit plan may not deny or refuse to  
4 issue coverage on, refuse to contract with, or refuse to renew  
5 or refuse to reissue or otherwise terminate or restrict  
6 coverage on an individual solely because the individual is  
7 diagnosed with Autism Spectrum Disorder.

8 "(c) (1) ~~The~~ Except as provided in subsection (g),  
9 the coverage required pursuant to this section ~~may~~ shall not  
10 be subject to dollar limits, deductibles, or coinsurance  
11 provisions that are less favorable to an insured than the  
12 dollar limits, deductibles, or coinsurance provisions that  
13 apply to ~~physical illness generally~~ substantially all medical  
14 and surgical benefits under the health insurance plan, ~~except~~  
15 ~~as otherwise provided for in subsection (e).~~

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

24 "(d) Coverage under this section shall not be  
25 subject to any limits on the number of visits an individual  
26 may make for treatment of autism spectrum disorder.

1           "(e) This section may not be construed as limiting  
2 benefits that are otherwise available to an individual under a  
3 health insurance policy.

4           "(f) Coverage for applied behavior analysis shall  
5 include the services of the personnel who work under the  
6 supervision of the board certified behavior analyst or the  
7 licensed psychologist overseeing the program.

8           "(g) (1) Except as provided in subdivision (2),  
9 coverage provided under this section for applied behavior  
10 analysis shall be subject to a maximum benefit as follows:

11           "a. Forty thousand dollars (\$40,000) per year for an  
12 insured individual between zero and nine years of age.

13           "b. Thirty thousand dollars (\$30,000) per year for  
14 an insured individual between 10 and 13 years of age.

15           "c. Twenty thousand dollars (\$20,000) per year for  
16 an insured individual between 14 and 18 years of age.

17           "d. Ten thousand dollars (\$10,000) per year for an  
18 insured individual 19 years of age or older.

19           "(2) The maximum benefit limit may be exceeded, upon  
20 prior approval by the insurer administering a health benefit  
21 plan, if the provision of applied behavior analysis services  
22 beyond the maximum limit is medically necessary for the  
23 insured individual. Payments made by a health benefit plan on  
24 behalf of an individual for any care, treatment, intervention,  
25 service, or item, the provision of which was for the treatment  
26 of a health condition unrelated to the individual's autism  
27 spectrum disorder, shall not be applied toward any maximum

1 benefit established under this subsection. Any coverage  
2 required under this section, other than the coverage for  
3 applied behavior analysis, shall not be subject to the dollar  
4 limitations described in this subsection.

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

9 ~~"(d)~~ (i) The treatment plan required pursuant to  
10 subsection (b) shall include all elements necessary for the  
11 health insurance plan to appropriately pay claims. These  
12 elements include, but are not limited to, a diagnosis,  
13 proposed treatment by type, frequency, and duration of  
14 treatment, the anticipated outcomes stated as goals, the  
15 frequency by which the treatment plan will be updated, and the  
16 treating licensed physician's or licensed psychologist's  
17 signature. The health insurance plan may ~~only~~ request an  
18 updated treatment plan only once every six months from the  
19 treating licensed physician or licensed psychologist to review  
20 medical necessity, unless the health insurance plan and the  
21 treating licensed physician or licensed psychologist agree  
22 that a more frequent review is necessary for a particular  
23 patient. Any agreement regarding the right to review a  
24 treatment plan more frequently applies only to a particular  
25 insured being treated for an autism spectrum disorder and does  
26 not apply to all individuals being treated for autism spectrum

1 disorder by a physician or psychologist. The cost of obtaining  
2 any review or treatment plan shall be borne by the insurer.

3 ~~"(e)(j) The benefits and coverage provided pursuant~~  
4 ~~to this section shall be provided to any eligible person nine~~  
5 ~~years of age or under. Coverage for behavioral therapy is~~  
6 ~~subject to a thirty-six thousand dollars (\$36,000) maximum~~  
7 ~~benefit per year. Beginning October 1, 2013, this maximum~~  
8 ~~benefit shall be adjusted annually on January 1 of each~~  
9 ~~calendar year to reflect any change from the previous year in~~  
10 ~~the current Consumer Price Index, All Urban Consumers, as~~  
11 ~~published by the United States Department of Labor's Bureau of~~  
12 ~~Labor Statistics."~~

13 Section 2. In the administration of and provision of  
14 benefits for the Alabama Medicaid program and the Children's  
15 Health Insurance Plan (ALL Kids), the Alabama Medicaid Agency  
16 and the Alabama Department of Public Health, on and after  
17 December 31, 2018, shall provide coverage and reimbursement  
18 for the treatment of Autism Spectrum Disorder in the same  
19 manner and same levels as health benefit plans.

20 Section 3. This act shall become effective October  
21 1, 2017.