

1 SB164
2 173958-1
3 By Senator Whatley
4 RFD: Banking and Insurance
5 First Read: 09-FEB-17

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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 a child age nine or under for certain insurance
16 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 for certain children in certain health
26 insurance plans and 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.

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 "§27-54A-2.

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

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

7 "(2) AUTISM SPECTRUM DISORDER. Any of the pervasive
8 developmental disorders as defined by the most recent edition
9 of the Diagnostic and Statistical Manual of Mental Disorders
10 (DSM), including Autistic Disorder, Asperger's Disorder, and
11 Pervasive Developmental Disorder Not Otherwise Specified.

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

15 "a. Necessary to develop, maintain, or restore, to
16 the maximum extent practicable, the functioning of an
17 individual.

18 "b. Provided or supervised by a Board Certified
19 Behavior Analyst, licensed in the State of Alabama, or a
20 psychologist, licensed in the State of Alabama, so long as the
21 services performed are commensurate with the psychologist's
22 formal university training and supervised experience.

23 "c. Behavioral health treatment does not include
24 psychological testing, neuropsychology, psychotherapy,
25 intellectual assessment, cognitive therapy, sex therapy,
26 psychoanalysis, hypotherapy, and long-term counseling as
27 treatment modalities.

1 "(4) DIAGNOSIS OF AUTISM SPECTRUM DISORDER.

2 Medically necessary assessment, evaluations, or tests to
3 diagnose whether an individual has an autism spectrum
4 disorder.

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

1 "(6) PHARMACY CARE. Medications prescribed by a
2 licensed physician and any health related services deemed
3 medically necessary to determine the need or effectiveness of
4 the medications.

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

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

11 "(9) THERAPEUTIC CARE. Services provided by licensed
12 and certified speech therapists, occupational therapists, or
13 physical therapists.

14 "(10) TREATMENT FOR AUTISM SPECTRUM DISORDER.
15 Evidence-based care prescribed or ordered for an individual
16 diagnosed with an autism spectrum disorder by a licensed
17 physician or a licensed psychologist who determines the care
18 to be medically necessary, including, but not limited to, all
19 of the following:

20 "a. Behavioral health treatment.

21 "b. Pharmacy care.

22 "c. Psychiatric care.

23 "d. Psychological care.

24 "e. Therapeutic care.

25 "(b) (1) A health benefit plan shall ~~offer coverage~~
26 ~~for~~ cover the screening, diagnosis, and treatment of Autism
27 Spectrum Disorder for an insured nine years of age or under in

1 policies and contracts issued or delivered in the State of
2 Alabama to employers with at least 51 employees for at least
3 50 percent of its working days during the preceding calendar
4 year. Coverage provided under this section is limited to
5 treatment that is prescribed by the insured's treating
6 licensed physician or licensed psychologist in accordance with
7 a treatment plan.

8 "(2) To the extent that the screening, diagnosis,
9 and treatment of autism spectrum disorder are not already
10 covered by a health insurance policy, coverage under this
11 section shall be ~~offered for inclusion~~ included in health
12 insurance policies that are delivered, executed, issued,
13 amended, adjusted, or renewed in the State of Alabama at the
14 date of the annual renewal for coverage.

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

20 "(c) (1) The coverage required pursuant to this
21 section may not be subject to dollar limits, deductibles, or
22 coinsurance provisions that are less favorable to an insured
23 than the dollar limits, deductibles, or coinsurance provisions
24 that apply to physical illness generally under the health
25 insurance plan, except as otherwise provided for in subsection
26 (e).

1 "(2) The coverage required pursuant to subsection
2 (b) may be subject to other general exclusions and limitations
3 of the health benefit plan, including, but not limited to,
4 coordination of benefits, participating provider requirements,
5 restrictions on services provided by family or household
6 members, utilization review of health care services including
7 review of medical necessity, case management, and other
8 managed care provisions.

9 "(d) 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.

24 "(e) The benefits and coverage provided pursuant to
25 this section shall be provided to any eligible person nine
26 years of age or under. Coverage for behavioral therapy is
27 subject to a thirty-six thousand dollars (\$36,000) maximum

1 benefit per year. Beginning October 1, 2013, this maximum
2 benefit shall be adjusted annually on January 1 of each
3 calendar year to reflect any change from the previous year in
4 the current Consumer Price Index, All Urban Consumers, as
5 published by the United States Department of Labor's Bureau of
6 Labor Statistics."

7 Section 2. This act shall become effective October
8 1, 2016.