

Act No. 99
Public Acts of 2012
Approved by the Governor
April 18, 2012
Filed with the Secretary of State
April 18, 2012
EFFECTIVE DATE: April 18, 2012

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Green, Caswell, Richardville, Emmons, Gleason, Smith, Whitmer, Bieda, Young, Hood, Gregory, Johnson, Pappageorge, Booher, Warren, Anderson, Brandenburg, Hopgood, Hunter, Kowall and Marleau

ENROLLED SENATE BILL No. 414

AN ACT to amend 1980 PA 350, entitled "An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," (MCL 550.1101 to 550.1704) by adding section 416e.

The People of the State of Michigan enact:

Sec. 416e. (1) Except as otherwise provided in this section, a health care corporation group or nongroup certificate shall provide coverage for the diagnosis of autism spectrum disorders and treatment of autism spectrum disorders. A health care corporation shall not do any of the following:

(a) Limit the number of visits a member may use for treatment of autism spectrum disorders covered under this section.

(b) Deny or limit coverage under this section on the basis that treatment is educational or habilitative in nature.

(c) Except as otherwise provided in this subdivision, subject coverage under this section to dollar limits, copays, deductibles, or coinsurance provisions that do not apply to physical illness generally. Coverage under this section for treatment of autism spectrum disorders may be limited to a member through 18 years of age and may be subject to a maximum annual benefit as follows:

(i) For a covered member through 6 years of age, \$50,000.00.

(ii) For a covered member from 7 years of age through 12 years of age, \$40,000.00.

(iii) For a covered member from 13 years of age through 18 years of age, \$30,000.00.

(2) This section does not limit benefits that are otherwise available to a member under a certificate. A health care corporation shall utilize evidence-based care and managed care cost-containment practices pursuant to the health care corporation's procedures so long as that care and those practices are consistent with this section. The coverage under this section may be subject to other general exclusions and limitations of the certificate, including, but not limited to, coordination of benefits, participating provider requirements, restrictions on services provided by family or household members, utilization review of health care services including review of medical necessity, case management, and other managed care provisions.

(3) If a member is receiving treatment for an autism spectrum disorder, a health care corporation may, as a condition to providing the coverage under this section, do all of the following:

(a) Require a review of that treatment consistent with current protocols and may require a treatment plan. If requested by the health care corporation, the cost of treatment review shall be borne by the health care corporation.

(b) Request the results of the autism diagnostic observation schedule that has been used in the diagnosis of an autism spectrum disorder for that member.

(c) Request that the autism diagnostic observation schedule be performed on that member not more frequently than once every 3 years.

(d) Request that an annual development evaluation be conducted and the results of that annual development evaluation be submitted to the health care corporation.

(4) Beginning January 1, 2014, a qualified health plan offered through an American health benefit exchange established in this state pursuant to the federal act is not required to provide coverage under this section to the extent that it exceeds coverage that is included in the essential health benefits as required pursuant to the federal act. As used in this subsection, "federal act" means the federal patient protection and affordable care act, Public Law 111-148, as amended by the federal health care and education reconciliation act of 2010, Public Law 111-152, and any regulations promulgated under those acts.

(5) This section does not require the coverage of prescription drugs and related services unless the member is covered by a prescription drug plan. This section does not require a health care corporation to provide coverage for autism spectrum disorders to a member under more than 1 of its certificates. If a member has more than 1 policy, certificate, or contract that covers autism spectrum disorders, the benefits provided are subject to the limits of this section when coordinating benefits.

(6) As used in this section:

(a) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(b) "Autism diagnostic observation schedule" means the protocol available through western psychological services for diagnosing and assessing autism spectrum disorders or any other standardized diagnostic measure for autism spectrum disorders that is approved by the commissioner, if the commissioner determines that the diagnostic measure is recognized by the health care industry and is an evidence-based diagnostic tool.

(c) "Autism spectrum disorders" means any of the following pervasive developmental disorders as defined by the diagnostic and statistical manual:

(i) Autistic disorder.

(ii) Asperger's disorder.

(iii) Pervasive developmental disorder not otherwise specified.

(d) "Behavioral health treatment" means evidence-based counseling and treatment programs, including applied behavior analysis, that meet both of the following requirements:

(i) Are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.

(ii) Are provided or supervised by a board certified behavior analyst or a licensed psychologist so long as the services performed are commensurate with the psychologist's formal university training and supervised experience.

(e) "Diagnosis of autism spectrum disorders" means assessments, evaluations, or tests, including the autism diagnostic observation schedule, performed by a licensed physician or a licensed psychologist to diagnose whether an individual has 1 of the autism spectrum disorders.

(f) "Diagnostic and statistical manual" or "DSM" means the diagnostic and statistical manual of mental disorders published by the American psychiatric association or other manual that contains common language and standard criteria for the classification of mental disorders and that is approved by the commissioner, if the commissioner determines that the manual is recognized by the health care industry and the classification of mental disorders is at least as comprehensive as the manual published by the American psychiatric association on the effective date of this section.

(g) "Pharmacy care" means medications prescribed by a licensed physician and related services performed by a licensed pharmacist and any health-related services considered medically necessary to determine the need or effectiveness of the medications.

(h) "Psychiatric care" means evidence-based direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(i) "Psychological care" means evidence-based direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(j) "Therapeutic care" means evidence-based services provided by a licensed or certified speech therapist, occupational therapist, physical therapist, or social worker.

(k) "Treatment of autism spectrum disorders" means evidence-based treatment that includes the following care prescribed or ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary:

(i) Behavioral health treatment.

(ii) Pharmacy care.

(iii) Psychiatric care.

(iv) Psychological care.

(v) Therapeutic care.

(l) "Treatment plan" means a written, comprehensive, and individualized intervention plan that incorporates specific treatment goals and objectives and that is developed by a board certified or licensed provider who has the appropriate credentials and who is operating within his or her scope of practice, when the treatment of an autism spectrum disorder is first prescribed or ordered by a licensed physician or licensed psychologist as described in subdivision (k).

Enacting section 1. This amendatory act applies to certificates delivered, executed, issued, amended, adjusted, or renewed in this state beginning 180 days after the date this amendatory act is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) Senate Bill No. 415.

(b) Senate Bill No. 981.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor

Compiler's note: Senate Bill No. 415, referred to in enacting section 2, was filed with the Secretary of State April 18, 2012, and became 2012 PA 100, Imd. Eff. Apr. 18, 2012.

Senate Bill No. 981, also referred to in enacting section 2, was filed with the Secretary of State April 18, 2012, and became 2012 PA 101, Imd. Eff. Apr. 18, 2012.