

SENATE BILL No. 353

May 21, 2015, Introduced by Senator O'BRIEN and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3406s (MCL 500.3406s), as added by 2012 PA 100.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3406s. (1) Except as otherwise provided in this section,
2 **AN INSURER THAT DELIVERS, ISSUES FOR DELIVERY, OR RENEWS IN THIS**
3 **STATE** an expense-incurred hospital, medical, or surgical group or
4 individual policy or certificate ~~delivered, issued for delivery, or~~
5 ~~renewed in this state and~~ **OR** a health maintenance organization **THAT**
6 **ISSUES OR RENEWS A** group or individual contract shall provide
7 coverage for the **TIMELY** diagnosis of autism spectrum disorders and

1 TIMELY treatment of autism spectrum disorders. AN INSURER OR HEALTH
2 MAINTENANCE ORGANIZATION SHALL ENSURE THAT EACH INSURED OR ENROLLEE
3 HAS ACCESS TO IN-NETWORK PARTICIPATING PROVIDERS THAT ARE A
4 REASONABLE DISTANCE FROM THE RESIDENCE OF THE INSURED OR ENROLLEE
5 AND THAT DO NOT REQUIRE A WAITING TIME THAT IS LONGER THAN ALLOWED
6 BY THE NCQA FOR AN APPOINTMENT TO BEGIN THE PROCESS OF OBTAINING A
7 DIAGNOSIS OF AUTISM SPECTRUM DISORDERS. FOR THE PURPOSES OF THIS
8 SUBSECTION, A DIAGNOSIS OR A TREATMENT IS CONSIDERED TO BE TIMELY
9 IF IT MEETS THE DEFINITION OF TIMELY AS PROVIDED BY THE NCQA. FOR
10 THE PURPOSES OF THIS SUBSECTION, A DISTANCE IS CONSIDERED TO BE
11 REASONABLE IF IT MEETS THE DEFINITION OF REASONABLE DISTANCE
12 PROVIDED BY THE NCQA.

13 (2) An insurer ~~and~~ OR a health maintenance organization
14 SUBJECT TO THIS SECTION shall not do any of the following:

15 (a) Terminate coverage or refuse to deliver, execute, issue,
16 amend, adjust, or renew coverage solely because an individual is
17 diagnosed with, or has received treatment for, an autism spectrum
18 disorder.

19 (b) Limit the number of visits an insured or enrollee may use
20 for treatment of autism spectrum disorders covered under this
21 section.

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

24 (D) DENY COVERAGE UNDER THIS SECTION TO, OR LIMIT COVERAGE
25 UNDER THIS SECTION TO ONLY, AN INDIVIDUAL WHO EXHIBITS PROBLEM
26 BEHAVIORS.

27 (E) ~~(d)~~—Except as otherwise provided in this subdivision,

1 subject coverage under this section to dollar limits, copays,
2 deductibles, or coinsurance provisions that do not apply to
3 physical illness generally. ~~Coverage~~ **SUBJECT TO SUBSECTION (8), AN**
4 **INSURER OR HEALTH MAINTENANCE ORGANIZATION MAY LIMIT COVERAGE** under
5 this section for treatment of autism spectrum disorders ~~may be~~
6 ~~limited to~~ an insured or enrollee through 18 years of age and may
7 ~~be~~ **THE COVERAGE** to a maximum annual benefit as follows:

8 (i) For a covered insured or enrollee through 6 years of age,
9 \$50,000.00.

10 (ii) For a covered insured or enrollee from 7 years of age
11 through 12 years of age, \$40,000.00.

12 (iii) For a covered insured or enrollee from 13 years of age
13 through 18 years of age, \$30,000.00.

14 **(F) ESTABLISH A NETWORK OF PARTICIPATING PROVIDERS FOR THE**
15 **DIAGNOSIS OR TREATMENT OF AUTISM SPECTRUM DISORDERS THAT ONLY**
16 **INCLUDES AUTISM EVALUATION CENTERS APPROVED BY THE INSURER OR**
17 **HEALTH MAINTENANCE ORGANIZATION. THE INSURER OR HEALTH MAINTENANCE**
18 **ORGANIZATION SHALL ESTABLISH A NETWORK OF PARTICIPATING PROVIDERS**
19 **FOR THE TIMELY DIAGNOSIS AND TIMELY TREATMENT OF AUTISM SPECTRUM**
20 **DISORDERS THAT INCLUDES LICENSED PHYSICIANS AND LICENSED**
21 **PSYCHOLOGISTS WHOSE SCOPE OF PRACTICE INCLUDES THE DIAGNOSIS OF**
22 **AUTISM SPECTRUM DISORDERS OR TREATMENT OF AUTISM SPECTRUM**
23 **DISORDERS, AS APPLICABLE, REGARDLESS OF THE PHYSICIAN'S OR**
24 **PSYCHOLOGIST'S AFFILIATION WITH AN APPROVED AUTISM EVALUATION**
25 **CENTER.**

26 (3) ~~(2)~~ This section does not limit benefits that are
27 otherwise available to an insured or enrollee under a policy,

1 contract, or certificate. An insurer or health maintenance
2 organization shall utilize evidence-based care and managed care
3 cost-containment practices pursuant to the insurer's or health
4 maintenance organization's procedures ~~so long as~~ **IF** that care and
5 those practices are consistent with this section. ~~The~~ **AN INSURER OR**
6 **HEALTH MAINTENANCE ORGANIZATION MAY SUBJECT** coverage under this
7 section ~~may be subject~~ to other general exclusions and limitations
8 of the policy, contract, or certificate, including, but not limited
9 to, coordination of benefits, **AFFILIATED OR** participating provider
10 requirements, restrictions on services provided by family or
11 household members, utilization review of health care services
12 including review of medical necessity, case management, and other
13 managed care provisions.

14 (4) ~~(3)~~—If an insured or enrollee is receiving treatment for
15 an autism spectrum disorder, an insurer or health maintenance
16 organization may, as a condition to providing the coverage under
17 this section, do all of the following:

18 (a) Require a review of that treatment consistent with current
19 protocols and may require a treatment plan. If requested by the
20 insurer or health maintenance organization, the cost of treatment
21 review shall be borne by the insurer or health maintenance
22 organization.

23 (b) Request the results of the autism diagnostic observation
24 schedule that has been used in the diagnosis of an autism spectrum
25 disorder for that insured or enrollee.

26 (c) Request that the autism diagnostic observation schedule be
27 performed on that insured or enrollee not more frequently than once

1 every 3 years.

2 (d) Request that an annual development evaluation be conducted
3 and the results of that annual development evaluation be submitted
4 to the insurer or health maintenance organization.

5 (5) ~~(4) Beginning January 1, 2014, a~~ A qualified health plan
6 offered through an American health benefit exchange established in
7 this state pursuant to the federal act is not required to provide
8 coverage under this section to the extent that it exceeds coverage
9 that is included in the essential health benefits as required
10 pursuant to the federal act. As used in this subsection, "federal
11 act" means the federal patient protection and affordable care act,
12 Public Law 111-148, as amended by the federal health care and
13 education reconciliation act of 2010, Public Law 111-152, and any
14 regulations promulgated under those acts.

15 (6) ~~(5)~~—This section does not apply to a short-term or 1-time
16 limited duration policy or certificate of no longer than 6 months
17 as described in section 2213b.

18 (7) ~~(6)~~—This section does not require the coverage of
19 prescription drugs and related services unless the insured or
20 enrollee is covered by a prescription drug plan. This section does
21 not require an insurer or health maintenance organization to
22 provide coverage for autism spectrum disorders to an insured or
23 enrollee under more than 1 of its policies, certificates, or
24 contracts. If an insured or enrollee has more than 1 policy,
25 certificate, or contract that covers autism spectrum disorders, the
26 benefits provided are subject to the limits of this section when
27 coordinating benefits.

1 (8) THE DEPARTMENT SHALL ADJUST THE COVERAGE LIMITS ALLOWED
2 UNDER SUBSECTION (2) (E) BY MARCH 31 EACH YEAR IN ACCORDANCE WITH
3 THE ANNUAL AVERAGE PERCENTAGE INCREASE OR DECREASE IN THE UNITED
4 STATES CONSUMER PRICE INDEX FOR THE 12-MONTH PERIOD ENDING THE
5 PRECEDING DECEMBER 31.

6 (9) ~~(7)~~—As used in this section:

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

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

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

23 (i) Autistic disorder.

24 (ii) Asperger's disorder.

25 (iii) Pervasive developmental disorder not otherwise specified.

26 (d) "Behavioral health treatment" means evidence-based
27 counseling and treatment programs, including applied behavior

1 analysis, that meet both of the following requirements:

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

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

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

13 (f) "Diagnostic and statistical manual" or "DSM" means the
14 diagnostic and statistical manual of mental disorders published by
15 the American ~~psychiatric association~~ **PSYCHIATRIC ASSOCIATION** or
16 other manual that contains common language and standard criteria
17 for the classification of mental disorders and that is approved by
18 the ~~commissioner,~~ **DIRECTOR** if the ~~commissioner~~ **DIRECTOR** determines
19 that the manual is recognized by the health care industry and the
20 classification of mental disorders is at least as comprehensive as
21 the manual published by the American ~~psychiatric association~~
22 **PSYCHIATRIC ASSOCIATION** on ~~the effective date of this section.~~ **APRIL**
23 **18, 2012.**

24 (G) **"NCQA" MEANS THE NATIONAL COMMITTEE FOR QUALITY ASSURANCE.**

25 (H) ~~(g)~~ "Pharmacy care" means medications prescribed by a
26 licensed physician and related services performed by a licensed
27 pharmacist and any health-related services considered medically

1 necessary to determine the need or effectiveness of the
2 medications.

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

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

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

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

17 (i) Behavioral health treatment.

18 (ii) Pharmacy care.

19 (iii) Psychiatric care.

20 (iv) Psychological care.

21 (v) Therapeutic care.

22 (M) ~~(l)~~—"Treatment plan" means a written, comprehensive, and
23 individualized intervention plan that incorporates specific
24 treatment goals and objectives and that is developed by a board
25 certified or licensed provider who has the appropriate credentials
26 and who is operating within his or her scope of practice, ~~when~~ **IF**
27 the treatment of an autism spectrum disorder is first prescribed or

1 ordered by a licensed physician or licensed psychologist as
2 described in subdivision ~~(k)~~-(l) .

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.