

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 167
95TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, March 5, 2009, with recommendation that the Senate Committee Substitute do pass.

0845S.07C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 376.995, RSMo, and to enact in lieu thereof two new sections relating to insurance coverage for the diagnosis and treatment of autism spectrum disorders.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 376.995, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 376.995 and 376.1224, to read as
3 follows:

376.995. 1. This section shall be known as the "Limited Mandate Health
2 Insurance Act".

3 2. Limited mandate health insurance policies and contracts shall mean
4 those policies and contracts of health insurance as defined in section 376.960 and
5 which cover individuals and their families (but not including any Medicare
6 supplement policy or contract) and groups sponsored by an employer who employs
7 fifty or fewer persons.

8 3. No law requiring the coverage of a particular health care service or
9 benefit, or requiring the reimbursement, utilization or inclusion of a specific
10 category of licensed health care practitioner, shall apply to limited mandate
11 health insurance policies and contracts, except the following provisions:

12 (1) Subsection 1 of section 354.095, RSMo, to the extent that it regulates
13 maternity benefits;

14 (2) Section 375.995, RSMo;

15 (3) Section 376.406;

16 (4) Section 376.428;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 17 (5) Section 376.782;
18 (6) Section 376.816;
19 (7) Section 376.1210;
20 (8) Section 376.1215; [and]
21 (9) Section 376.1219; **and**
22 **(10) Section 376.1224.**

23 4. In order for an insurer as defined in section 376.960 to be eligible to
24 market, sell or issue limited mandate health insurance, the insurer shall:

25 (1) Restrict its marketing and sales efforts to only those persons or groups
26 as defined in subsection 2 of this section which currently do not have health
27 insurance coverage or to those persons or employers which certify in writing to
28 the insurer that they will terminate the coverage they currently have at the time
29 they would otherwise renew coverage because of cost;

30 (2) Fully and clearly disclose to the person or group to whom the limited
31 mandate health insurance policy or contract is to be issued that the reason
32 coverage for this product is less expensive than other coverage is because the
33 policy or contract does not contain coverages or health professional payment
34 mechanisms that are required by subsection 3 of this section;

35 (3) Clearly disclose in all sales, promotional and advertising material
36 related thereto that the product is a limited mandate health insurance policy or
37 contract.

38 5. The provisions of section 376.441 shall not apply to any group which
39 replaces its current coverage with a limited mandate health insurance policy or
40 contract if the benefit to be extended is one for services which are not covered by
41 the replacing policy or contract.

42 6. Notwithstanding any other provision of this section to the contrary, the
43 provisions of paragraph (b) of subdivision (11) of section 375.936, RSMo, shall
44 apply to limited mandate health insurance policies with respect to physician
45 services covered under such policies, which can be provided by persons licensed
46 pursuant to section 332.181, RSMo.

**376.1224. 1. For purposes of this section, the following terms
2 shall mean:**

3 **(1) "Applied behavior analysis", the design, implementation, and**
4 **evaluation of environmental modifications, using behavioral stimuli**
5 **and consequences, to produce socially significant improvement in**
6 **human behavior, including the use of direct observation, measurement,**

7 and functional analysis of the relationships between environment and
8 behavior;

9 (2) "Autism service provider":

10 (a) Any person, entity, or group that provides diagnostic or
11 treatment services for autism spectrum disorders who is licensed or
12 certified by the state of Missouri;

13 (b) Any person who is certified as a board certified behavior
14 analyst by the behavior analyst certification board; or

15 (c) Any person, if not licensed or certified, who is supervised by
16 a person who is certified as a board certified behavioral analyst by the
17 Behavioral Analyst Certification Board, whether such board certified
18 behavioral analyst supervises as an individual or as an employee of or
19 in association with an entity or group; provided however, the definition
20 of autism service provider shall specifically exclude parents and
21 siblings of autistic persons to the extent such parents or siblings are
22 providing applied behavioral analysis to their child or sibling;

23 (3) "Autism spectrum disorders", a neurobiological disorder, an
24 illness of the nervous system, which includes Autistic Disorder,
25 Asperger's Disorder, Pervasive Developmental Disorder Not Otherwise
26 Specified, Rett's Disorder, and Childhood Disintegrative Disorder, as
27 defined in the most recent edition of the Diagnostic and Statistical
28 Manual of Mental Disorders of the American Psychiatric Association;

29 (4) "Diagnosis of autism spectrum disorders", medically necessary
30 assessments, evaluations, or tests in order to diagnose whether an
31 individual has an autism spectrum disorder;

32 (5) "Habilitative or rehabilitative care", professional, counseling,
33 and guidance services and treatment programs, including applied
34 behavior analysis, that are necessary to develop and restore the
35 functioning of an individual;

36 (6) "Health benefit plan", shall have the same meaning ascribed
37 to it as in section 376.1350;

38 (7) "Health carrier", shall have the same meaning ascribed to it
39 as in section 376.1350;

40 (8) "Medically necessary", any care, treatment, intervention,
41 service or item that is prescribed and provided or ordered and
42 provided by a licensed physician or a licensed psychologist, pursuant
43 to the powers granted under such licensed physician's or licensed

44 psychologist's license, that will, or is reasonably expected to, do any of
45 the following:

46 (a) Prevent the onset of an illness, condition, injury, or
47 disability;

48 (b) Reduce or ameliorate the physical, mental, or developmental
49 effects of an illness, condition, injury, or disability; or

50 (c) Assist to achieve or maintain functional capacity in
51 performing daily activities, taking into account both the functional
52 capacity of the individual and the functional capacities that are
53 appropriate for individuals of the same age;

54 (9) "Pharmacy care", medications used to address symptoms of an
55 autism spectrum disorder prescribed by a licensed physician, and any
56 health-related services deemed medically necessary to determine the
57 need or effectiveness of the medications or nutritional supplements;

58 (10) "Psychiatric care", direct or consultative services provided
59 by a psychiatrist licensed in the state in which the psychiatrist
60 practices;

61 (11) "Psychological care", direct or consultative services
62 provided by a psychologist licensed in the state in which the
63 psychologist practices;

64 (12) "Therapeutic care", services provided by licensed speech
65 therapists, occupational therapists, or physical therapists;

66 (13) "Treatment for autism spectrum disorders", care prescribed
67 and provided or ordered and provided for an individual diagnosed with
68 an autism spectrum disorder by a licensed physician or licensed
69 psychologist, pursuant to the powers granted under such licensed
70 physician's or licensed psychologist's license, if the care is determined
71 to be medically necessary, including, but not limited to:

72 (a) Psychiatric care;

73 (b) Psychological care;

74 (c) Habilitative or rehabilitative care, including applied behavior
75 analysis therapy;

76 (d) Therapeutic care;

77 (e) Pharmacy care.

78 2. All health benefit plans that are delivered, issued for delivery,
79 continued, or renewed on or after January 1, 2010, shall provide
80 individuals less than twenty-one years of age coverage for the diagnosis

81 and treatment of autism spectrum disorders. To the extent that the
82 diagnosis and treatment of autism spectrum disorders are not already
83 covered by a health benefit plan, the coverage required under this
84 section shall be included in health benefit plans that are delivered,
85 executed, issued, amended, adjusted, or renewed on or after January
86 1, 2010.

87 3. With regards to a health benefit plan, a health carrier shall
88 not deny or refuse to issue coverage on, refuse to contract with, or
89 refuse to renew or refuse to reissue or otherwise terminate or restrict
90 coverage on an individual or their dependent solely because the
91 individual is diagnosed with autism spectrum disorder.

92 4. (1) Coverage provided under this section is limited to
93 treatment that is ordered by the insured's treating licensed physician
94 or licensed psychologist, pursuant to the powers granted under such
95 licensed physician's or licensed psychologist's license, in accordance
96 with a treatment plan;

97 (2) The treatment plan upon request by the health benefit plan
98 or health carrier shall include all elements necessary for the health
99 benefit plan or health carrier to appropriately pay claims. Such
100 elements include, but are not limited to, a diagnosis, proposed
101 treatment by type, frequency and duration of treatment and goals;

102 (3) Except for inpatient services, if an individual is receiving
103 treatment for an autism spectrum disorder, a health benefit plan shall
104 provide coverage for treatment not more than once every six months
105 unless the health carrier and the individual's treating physician or
106 psychologist agree that a more frequent review is necessary. The cost
107 of obtaining any review shall be borne by the health benefit plan or
108 health carrier, as applicable;

109 (4) The coverage for the diagnosis and treatment of autism
110 spectrum disorders under this section is limited to treatment and
111 diagnosis provided within Missouri.

112 5. Coverage provided under this section for applied behavior
113 analysis shall be subject to a maximum benefit of seventy-two thousand
114 dollars per year for individuals under the age of six, thirty-six
115 thousand dollars per year for individuals who are at least six years of
116 age but less than fourteen years of age, and eighteen thousand dollars
117 per year for individuals who are at least fourteen years of age but less

118 than twenty-one years of age. Notwithstanding the foregoing, the
119 annual maximum benefits for applied behavior analysis shall not be
120 subject to any limits on the numbers of visits by an individual to an
121 autism service provider for applied behavior analysis. Coverage
122 provided under this section for services other than applied behavior
123 analysis shall not be subject to any limits on the number of visits an
124 individual may make to an autism service provider. After December 31,
125 2010, the director of the department of insurance, financial and
126 professional registration shall, on an annual basis, adjust the maximum
127 benefit (for applied behavioral analysis) for inflation using the Medical
128 Care Component of the United States Department of Labor Consumer
129 Price Index for All Urban Consumers. Payments made by a health
130 carrier on behalf of a covered individual for any care, treatment,
131 intervention, service or item, the provision of which was for the
132 treatment of a health condition unrelated to the covered individual's
133 autism spectrum disorder, shall not be applied toward any maximum
134 benefit established under this subsection.

135 6. This section shall not be construed as limiting benefits which
136 are otherwise available to an individual under a health benefit
137 plan. The health care services required by this section shall not be
138 subject to any greater deductible, coinsurance, or co-payment than
139 other physical health care services provided by a health benefit plan.

140 7. To the extent any payments or reimbursements are being made
141 for applied behavior analysis, such payments or reimbursements shall
142 be made to either:

143 (1) Any autism provider;

144 (2) The person who is supervising an autism service provider,
145 who is also certified as a board certified behavior analyst by the
146 Behavior Analyst Certification Board; or

147 (3) The entity or group for whom such supervising person, who
148 is certified as a board certified behavior analyst by the Behavior
149 Analyst Certification Board, works or is associated.

150 8. If a request for qualifications is made of a person who is not
151 licensed as an autism service provider by a health carrier, such person
152 shall provide documented evidence of education and professional
153 training, if any, in applied behavioral analysis.

154 9. The provisions of this section shall apply to any health care

155 **plans issued to employees and their dependents under the Missouri**
156 **consolidated health care plan established pursuant to chapter 103,**
157 **RSMo, that are delivered, issued for delivery, continued, or renewed in**
158 **this state on or after January 1, 2010. The terms "employees" and**
159 **"health care plans" shall have the same meaning ascribed to them in**
160 **section 103.003, RSMo.**

161 **10. The provisions of this section shall also apply to the following**
162 **types of plans that are established, extended, modified, or renewed on**
163 **or after January 1, 2010:**

164 **(1) All self-insured governmental plans, as that term is defined**
165 **in 29 U.S.C. Section 1002(32);**

166 **(2) All self-insured group arrangements, to the extent not**
167 **preempted by federal law;**

168 **(3) All plans provided through a multiple employer welfare**
169 **arrangement, or plans provided through another benefit arrangement,**
170 **to the extent permitted by the Employee Retirement Income Security**
171 **Act of 1974, or any waiver or exception to that act provided under**
172 **federal law or regulation; and**

173 **(4) All self-insured school district health plans.**

174 **11. The provisions of this section shall not apply to a**
175 **supplemental insurance policy, including a life care contract, accident-**
176 **only policy, specified disease policy, hospital policy providing a fixed**
177 **daily benefit only, Medicare supplement policy, long-term care policy,**
178 **short-term major medical policy of six months or less duration, or any**
179 **other supplemental policy.**

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