

HOUSE BILL No. 2759

By Committee on Appropriations

3-12

1 AN ACT concerning autism; providing insurance coverage for autism
2 spectrum disorder; amending K.S.A. 2013 Supp. 40-2,103 and 40-
3 19c09 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) (1) (A) Subject to the provisions of subparagraph
7 (B), any individual or group health insurance policy, medical service plan,
8 contract, hospital service corporation contract, hospital and medical
9 service corporation contract, fraternal benefit society or health
10 maintenance organization which provides coverage for accident and health
11 services and which is delivered, issued for delivery, amended or renewed
12 on or after January 1, 2015, shall provide coverage for the diagnosis and
13 treatment of autism spectrum disorder in any covered individual whose
14 age is less than 19 years.

15 (B) Nothing in this section shall apply to any health benefit plan in
16 the individual market and the small group markets which is not a
17 grandfathered health benefit plan.

18 (2) Such coverage shall be provided in a manner determined in
19 consultation with the autism services provider and the patient. Services
20 provided by an autism services provider under this section shall include
21 applied behavioral analysis when required by a licensed physician,
22 licensed psychologist or licensed specialist clinical social worker, but
23 otherwise shall be limited to those services prescribed or ordered by a
24 licensed physician, licensed psychologist or licensed specialist clinical
25 social worker. Services provided pursuant to this paragraph shall be those
26 services which are or have been recognized by peer reviewed literature as
27 providing medical benefit to the patient based upon the patient's particular
28 autism spectrum disorder.

29 (3) Such coverage may be subject to appropriate annual deductibles
30 and coinsurance provisions as are consistent with those established for
31 other physical illness benefits under the health insurance policy.

32 (4) Coverage for benefits for any covered person diagnosed with
33 autism spectrum disorder and whose age is between birth and less than
34 seven years shall not exceed \$36,000 per year.

35 (5) Coverage for benefits for any covered person diagnosed with
36 autism spectrum disorder and whose age is at least seven years and less

1 than 19 years shall not exceed \$27,000 per year.

2 (6) Coverages required under paragraphs (3) and (4) shall be subject
3 to the same copays, deductibles and dollar limits as benefits for physical
4 illness; and such other utilization or benefit limits under the health
5 insurance policy.

6 (7) Reimbursement shall be allowed only for services provided by a
7 provider licensed, trained and qualified to provide such services or by an
8 autism specialist or an intensive individual service provider as such terms
9 are defined by the department for aging and disability services Kansas
10 autism waiver as it exists on July 1, 2014.

11 (8) Any insurer or other entity which administers claims for services
12 provided for the treatment of autism spectrum disorder under this section,
13 and amendments thereto, shall have the right and obligation to:

14 (A) Review utilization of such services; and

15 (B) deny any claim for services based upon medical necessity or a
16 determination that the covered individual has reached the maximum
17 medical improvement for the covered individual's autism spectrum
18 disorder.

19 (b) For the purposes of this section:

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

25 (2) "Autism spectrum disorder" means any of the pervasive
26 developmental disorders or autism spectrum disorders as defined in the
27 diagnostic and statistical manual of mental disorders, fifth edition, (DSM-
28 V), of the American psychiatric association, as published in May, 2013, or
29 later versions as established in rules and regulations adopted by the
30 behavioral sciences regulatory board pursuant to K.S.A. 74-7507, and
31 amendments thereto.

32 (3) "Diagnosis of autism spectrum disorder" means any medically
33 necessary assessment, evaluation or test to determine whether an
34 individual has an autism spectrum disorder.

35 (4) "Grandfathered health benefit plan" shall have the meaning
36 ascribed to such term in 42 U.S.C. § 18011. The term "grandfathered
37 health benefit plan" includes both small employer group health benefit
38 plans that are grandfathered and individual health benefit plans that are
39 grandfathered.

40 (5) "Health benefit plan" shall have the meaning ascribed to such
41 term in K.S.A. 40-4602, and amendments thereto.

42 (6) "Large group" means a group health benefit plan that covers
43 employees of an employer who employed an average of at least 51

1 employees during the preceding calendar year.

2 (7) "Small employer" means, in connection with a group health
3 benefit plan with respect to a calendar year and a plan year, an employer
4 who employed an average of at least one, but not more than 50, employees
5 on business days during the preceding calendar year and who employs at
6 least one employee on the first day of the plan year.

7 (c) The provisions of K.S.A. 40-2249a, and amendments thereto,
8 shall not apply to the provisions of this section.

9 (d) The provisions of this section shall not apply to any policy or
10 certificate which provides coverage for any specified disease, specified
11 accident or accident only coverage, credit, dental, disability income,
12 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
13 2227, and amendments thereto, vision care or any other limited
14 supplemental benefit nor to any medicare supplement policy of insurance
15 as defined by the commissioner of insurance by rules and regulations, any
16 coverage issued as a supplement to liability insurance, workers'
17 compensation or similar insurance, automobile medical-payment insurance
18 or any insurance under which benefits are payable with or without regard
19 to fault, whether written on a group, blanket or individual basis.

20 (e) This section shall not be construed as limiting benefits that are
21 otherwise available to an individual under any individual or group health
22 insurance policy, medical service plan, contract, hospital service
23 corporation contract, hospital and medical service corporation contract,
24 fraternal benefit society or health maintenance organization which
25 provides coverage for accident and health services.

26 (f) Notwithstanding the provisions of subsection (a), the provisions of
27 this section shall not be deemed to alter or amend the provisions of K.S.A.
28 2013 Supp. 75-6524, and amendments thereto, or the coverage provided
29 thereunder.

30 New Sec. 2. (a) (1) On January 1, 2016, and on January 1 of the year
31 following the year in which the rule and regulation required pursuant to
32 subsection (b) becomes effective, the commissioner of insurance shall
33 obtain from each health insurer who provided autism coverage in this state
34 pursuant to this act the total cost of that portion of all premiums paid in all
35 insurance policies or similar documents as specified in section 1, and
36 amendments thereto, which is attributable to coverage for autism spectrum
37 disorder as required by section 1, and amendments thereto, for the
38 preceding calendar year.

39 (2) From the data accumulated by the commissioner of insurance
40 there shall be calculated an autism spectrum disorder premium rate which
41 shall be equal to the average cost per person per month of the total
42 premium collected which is attributable to coverage for autism spectrum
43 disorder as required by section 1, and amendments thereto.

1 (3) If the autism spectrum disorder rate calculated pursuant to
2 paragraph (2) exceeds \$.31 per person per month, then the amount of
3 benefits specified in paragraphs (3) and (4) of section 1, and amendments
4 thereto, shall be reduced by the percentage which is equal to the ratio
5 which is determined by dividing the difference between the autism
6 spectrum disorder rate by \$.31, except that the amount of benefits
7 specified in paragraphs (3) and (4) of section 1, and amendments thereto,
8 shall not be reduced below zero.

9 (b) As soon as a new level of benefits has been calculated pursuant to
10 subsection (a), the commissioner of insurance shall adopt a rule and
11 regulation establishing the new benefit levels for paragraphs (3) and (4) of
12 section 1, and amendments thereto, for the next policy year commencing
13 after the rule and regulation required by this subsection becomes effective.
14 The benefit levels established by such rule and regulation shall remain in
15 effect until changed by a subsequent rule and regulation or by legislation.

16 (c) The commissioner of insurance is hereby authorized and directed
17 to adopt rules and regulations necessary to implement this section.

18 Sec. 3. K.S.A. 2013 Supp. 40-2,103 is hereby amended to read as
19 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
20 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,
21 inclusive, 40-2250, K.S.A. 2013 Supp. 40-2,105a, 40-2,105b , 40-2,184
22 ~~and 40-2,190, 40-2,190 and section 1~~, and amendments thereto, shall apply
23 to all insurance policies, subscriber contracts or certificates of insurance
24 delivered, renewed or issued for delivery within or outside of this state or
25 used within this state by or for an individual who resides or is employed in
26 this state.

27 Sec. 4. K.S.A. 2013 Supp. 40-19c09 is hereby amended to read as
28 follows: 40-19c09.(a) Corporations organized under the nonprofit medical
29 and hospital service corporation act shall be subject to the provisions of
30 the Kansas general corporation code, articles 60 to 74, inclusive, of
31 chapter 17 of the Kansas Statutes Annotated, and amendments thereto,
32 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,
33 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229,
34 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250,
35 40-251, 40-252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-
36 2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-
37 2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to
38 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b,
39 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-
40 2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2013 Supp. 40-
41 2,105a, 40-2,105b, 40-2,184 ~~and 40-2,190, 40-2,190 and section 1~~, and
42 amendments thereto, except as the context otherwise requires, and shall
43 not be subject to any other provisions of the insurance code except as

1 expressly provided in this act.

2 (b) No policy, agreement, contract or certificate issued by a
3 corporation to which this section applies shall contain a provision which
4 excludes, limits or otherwise restricts coverage because medicaid benefits
5 as permitted by title XIX of the social security act of 1965 are or may be
6 available for the same accident or illness.

7 (c) Violation of subsection (b) shall be subject to the penalties
8 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

9 Sec. 5. K.S.A. 2013 Supp. 40-2,103 and 40-19c09 are hereby
10 repealed.

11 Sec. 6. This act shall take effect and be in force from and after its
12 publication in the statute book.