

Senate Bill 1568

Sponsored by Senators HASS, BATES; Senators ATKINSON, BOQUIST, BURDICK, COURTNEY, MONROE, PROZANSKI, ROSENBAUM, SHIELDS, STEINER HAYWARD, VERGER, Representatives DEMBROW, FREDERICK, KENY-GUYER, PARRISH, READ, SCHAUFLEER (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes requirements for health insurance coverage of autism spectrum disorders.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health insurance coverage of autism spectrum disorders; creating new provisions;
3 amending ORS 743A.190; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 3 of this 2012 Act are added to and made a part of the In-**
6 **urance Code.**

7 **SECTION 2. As used in this section and section 3 of this 2012 Act:**

8 (1) **“Applied behavior analysis” means the design, implementation and evaluation of en-**
9 **vironmental modifications, using behavioral stimuli and consequences, to produce socially**
10 **significant improvement in human behavior, including the use of direct observation, meas-**
11 **urement and functional analysis of the relationship between environment and behavior.**

12 (2) **“Autism line therapist” means an individual who:**

13 (a) **Has completed:**

14 (A) **A minimum of 12 semester hours, or the equivalent of 12 semester hours, of college**
15 **coursework and is currently enrolled in a course of study leading to an associate’s or**
16 **bachelor’s degree in psychology, education, social work, behavioral science, human develop-**
17 **ment or related fields; or**

18 (B) **A minimum of 48 semester hours, or the equivalent of 48 semester hours, of college**
19 **coursework in any field;**

20 (b) **Has completed 40 hours of training by a board-certified behavior analyst or licensed**
21 **health care professional, that covers the following topics:**

22 (A) **Introduction to autism spectrum disorder, applied behavior analysis, intensive be-**
23 **havioral programs and typical child development;**

24 (B) **Principles and application of applied behavior analysis or other intensive behavioral**
25 **programs;**

26 (C) **Legal, ethical and safety issues in working with families and vulnerable populations;**

27 (D) **Professional standards and ethics; and**

28 (E) **Additional topics as may be required under rules adopted by a board or agency of this**
29 **state;**

30 (c) **Has completed 40 hours of work in the field supervised by a board-certified behavior**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 analyst or licensed health care professional during a period of 12 weeks or less;

2 (d) Has passed a criminal background check;

3 (e) Receives ongoing, scheduled oversight by a board-certified behavior analyst or li-
4 censed health care professional;

5 (f) Has been approved by the Department of Human Services pursuant to administrative
6 rules adopted by the department or by entering into a provider agreement with the depart-
7 ment; and

8 (g) Meets additional registration, supervision or credentialing requirements as may be
9 required by rules adopted by a board or agency of this state.

10 (3) "Autism spectrum disorder" means a neurobiological condition that includes autistic
11 disorder, Asperger's disorder, childhood disintegrative disorder and pervasive developmental
12 disorder not otherwise specified, as defined in the most recent edition of the Diagnostic and
13 Statistical Manual of Mental Disorders published by the American Psychiatric Association.

14 (4) "Behavioral health treatment" means counseling and treatment programs or applied
15 behavior analysis and other intensive behavioral programs that are necessary to develop,
16 improve, maintain or restore the functioning of an individual to the maximum extent possible
17 and are provided by:

18 (a) A licensed health care professional;

19 (b) A board-certified behavior analyst; or

20 (c) An autism line therapist supervised by a board-certified behavior analyst or licensed
21 health care professional.

22 (5) "Board-certified behavior analyst" means an individual who:

23 (a) Has been certified by the Behavior Analyst Certification Board, Incorporated, as a
24 "Board Certified Behavior Analyst" or a "Board Certified Assistant Behavior Analyst";

25 (b) Has passed a criminal background check;

26 (c) Has been approved by the Department of Human Services pursuant to administrative
27 rules adopted by the department or by entering into a provider agreement with the depart-
28 ment; and

29 (d) Meets additional registration, supervision or credentialing requirements as may be
30 required by rules adopted by a board or agency of this state.

31 (6) "Coordination of care" means a service that:

32 (a) Facilitates linking patients with appropriate services and resources in a coordinated
33 effort to ensure that patient needs are met and services are not duplicated by organizations
34 involved in providing care;

35 (b) Assists patients and families to more effectively navigate and use the health care
36 system; or

37 (c) Maximizes the value of services delivered to patients by facilitating beneficial, effi-
38 cient, safe and high-quality patient experiences and improved health care outcomes.

39 (7) "Diagnosis" means medically necessary assessment, evaluations or tests.

40 (8) "Medical accommodations for usual care" means medical accommodations and ser-
41 vices that are medically necessary in order for an individual with an autism spectrum dis-
42 order to receive the same medical or dental care that an individual without an autism
43 spectrum disorder would receive, including but not limited to sedation.

44 (9) "Medically necessary" means in accordance with the definition of medical necessity
45 that is specified in the policy, certificate or contract for the health benefit plan and that

1 applies uniformly to all covered services under the plan.

2 (10) "Pharmacy care" means medications prescribed by a licensed physician or other
 3 health care professional licensed to prescribe medications, and any health-related services
 4 deemed medically necessary to determine the need or effectiveness of the medications.

5 (11) "Psychiatric care" means direct or consultative services provided by a licensed psy-
 6 chiatrist or psychiatric mental health nurse practitioner.

7 (12) "Psychological care" means direct or consultative services provided by a licensed
 8 psychologist, clinical social worker or professional counselor.

9 (13) "Rehabilitative care" means services provided by a licensed speech-language
 10 pathologist, occupational therapist, physical therapist, speech-language pathology assistant,
 11 occupational therapy assistant or physical therapist assistant.

12 (14) "Treatment for autism spectrum disorders" includes, but is not limited to, the fol-
 13 lowing care prescribed, provided or ordered for an individual diagnosed with one of the
 14 autism spectrum disorders by a licensed physician or licensed psychologist who determines
 15 the care to be medically necessary:

16 (a) Behavioral health treatment;

17 (b) Pharmacy care to the same extent that pharmacy care is covered by the health ben-
 18 efit plan for other medical conditions;

19 (c) Psychiatric care;

20 (d) Psychological care;

21 (e) Rehabilitative care;

22 (f) Augmentative communication devices and other assistive technology devices to the
 23 same extent that medical devices are covered by the health benefit plan for other medical
 24 conditions;

25 (g) Medical accommodations for usual care;

26 (h) Coordination of care; and

27 (i) Any other medical services that are medically necessary and are otherwise covered
 28 by the health benefit plan.

29 **SECTION 3.** (1) A health benefit plan, as defined in ORS 743.730, that provides coverage
 30 for hospital, surgical or medical care shall provide coverage for the screening for, diagnosis
 31 of and treatment for autism spectrum disorders. An insurer may not terminate coverage or
 32 refuse to issue or renew coverage for an individual solely because the individual is diagnosed
 33 with one of the autism spectrum disorders or has received treatment for an autism spectrum
 34 disorder.

35 (2) Coverage under this section may be subject to utilization controls that are reasonable
 36 in the context of individual determinations of medical necessity.

37 (3) Coverage under this section may not be subject to dollar limits, deductibles,
 38 copayments or coinsurance provisions that are less favorable to an insured than the dollar
 39 limits, deductibles, copayments or coinsurance provisions that apply to physical illness gen-
 40 erally under the health benefit plan.

41 (4) This section does not limit coverage that is otherwise available to an individual under
 42 a health benefit plan or reduce benefits required under ORS 743A.168.

43 (5) A claim for services described in this section may not be denied on the basis that the
 44 service is habilitative or rehabilitative and does not fully restore function.

45 (6) Coverage required by this section includes medically necessary treatment provided in

1 the home and in the community, except that health benefit plans may impose limits on cov-
 2 erage for specialized education and related services provided by schools as required by fed-
 3 eral or state law.

4 (7) Except for inpatient services, if an individual is receiving treatment for an autism
 5 spectrum disorder, an insurer may request a review of the determination that the treatment
 6 is medically necessary in a manner consistent with the insurer's review process for other
 7 conditions, provided that the frequency of review is not unreasonably burdensome on the
 8 insured. The insurer may require the treatment plan to include the diagnosis, the proposed
 9 treatment by type and frequency, the anticipated duration of treatment, the anticipated
 10 outcomes stated as goals and the reasons the treatment is medically necessary.

11 (8) Subsections (1) to (7) of this section apply to health benefit plans and to self-insurance
 12 programs offered by the Public Employees' Benefit Board and the Oregon Educators Benefit
 13 Board.

14 (9) ORS 743A.001 does not apply to this section.

15 (10) The Department of Consumer and Business Services, after notice, hearing and con-
 16 sultation with a panel of experts with expertise in diagnosing and treating autism spectrum
 17 disorders, may adopt rules necessary to carry out the provisions of this section.

18 **SECTION 4.** ORS 743A.190 is amended to read:

19 743A.190. (1) A health benefit plan, as defined in ORS 743.730, must cover for a child enrolled
 20 in the plan who is under 18 years of age and who has been diagnosed with a pervasive develop-
 21 mental disorder all medical services, including rehabilitation services, that are medically necessary
 22 and are otherwise covered under the plan.

23 (2) The coverage required under subsection (1) of this section, including rehabilitation services,
 24 may be made subject to other provisions of the health benefit plan that apply to covered services,
 25 including but not limited to:

- 26 (a) Deductibles, copayments or coinsurance;
- 27 (b) Prior authorization or utilization review requirements; or
- 28 (c) Treatment limitations regarding the number of visits or the duration of treatment.

29 (3) As used in this section:

30 (a) "Medically necessary" means in accordance with the definition of medical necessity that is
 31 specified in the policy, certificate or contract for the health benefit plan and that applies uniformly
 32 to all covered services under the health benefit plan.

33 (b)(A) "Pervasive developmental disorder" means a neurological condition that includes
 34 [*Asperger's syndrome, autism,*] developmental delay, developmental disability or mental retardation.

35 (B) "Pervasive developmental disorder" does not include autism spectrum disorders as
 36 defined in section 2 of this 2012 Act.

37 (c) "Rehabilitation services" means physical therapy, occupational therapy or speech therapy
 38 services to restore or improve function.

39 (4) The provisions of ORS 743A.001 do not apply to this section.

40 (5) The definition of "pervasive developmental disorder" is not intended to apply to coverage
 41 required under ORS 743A.168.

42 **SECTION 5.** Sections 2 and 3 of this 2012 Act and the amendments to ORS 743A.190 by
 43 section 4 of this 2012 Act apply to policies or certificates issued or renewed on or after the
 44 effective date of this 2012 Act.

45 **SECTION 6.** This 2012 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
2 **on its passage.**

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