

Amendment No. 2 to SB1286

Johnson
Signature of Sponsor

AMEND Senate Bill No. 1286

House Bill No. 1265*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 56-7-2367, is amended by deleting the section and substituting instead the following:

(a) As used in this section:

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

(2) "Autism services provider" means a person, entity, or group that provides diagnostic evaluations and treatment of autism spectrum disorders, including licensed physicians, licensed psychiatrists, licensed speech therapists, licensed occupational therapists, licensed physical therapists, licensed psychologists, and board-certified behavior analysts;

(3) "Autism spectrum disorder" means any of the pervasive developmental disorders or autism spectrum disorders as defined by the most recent edition of the "Diagnostic and Statistical Manual of Mental Disorders", including:

(A) Autistic disorder;

(B) Asperger's disorder; and

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(C) Pervasive developmental disorder not otherwise specified;

(4) "Board-certified behavior analyst" means an individual certified by the nationally accredited Behavior Analyst Certification Board, a nationally accredited nongovernmental agency that certifies individuals who have completed academic, examination, training, and supervision requirements in applied behavior analysis;

(5) "Diagnosis" means medically necessary assessment, evaluations, or tests to diagnose whether or not an individual has an autism spectrum disorder; provided, diagnostic evaluations do not need to be completed concurrently to diagnosis autism spectrum disorder;

(6) "Evidence-based treatment" means treatment subject to research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to autism spectrum disorders;

(7) "Health benefit plan":

(A) Means any group or blanket plan, policy, or contract for health care services issued or delivered in this state by health care insurers, including indemnity and managed care plans; and

(B) Does not include TennCare, policies offered under title 8, chapter 27, part 2, accident only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policy;

(8) "Medically necessary" means reasonably expected to do the following:

(A) Prevent the onset of an illness, condition, injury, or disability;

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

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

(9) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications;

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

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

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

(13) "Treatment" includes:

(A) The following care prescribed, provided, or ordered for a specific individual diagnosed with an autism spectrum disorder by a licensed physician or a licensed psychologist who determines the care to be medically necessary and evidence-based including without limitation:

(i) Applied behavior analysis when provided by or supervised by a Board Certified Behavior Analyst;

(ii) Pharmacy care;

- (iii) Psychiatric care;
- (iv) Psychological care;
- (v) Therapeutic care; and
- (vi) Equipment determined necessary to provide evidence-

based treatment; and

(B) Any care for an individual with autism spectrum disorder that is determined by a licensed physician to be:

- (i) Medically necessary; and
- (ii) Evidence-based.

(b) To the extent that the diagnosis and treatment of autism spectrum disorders are not already covered by a health benefit plan, coverage under this section shall be included in a health benefit plan that is delivered, executed, issued, amended, adjusted, or renewed in this state on or after January 1, 2014.

(c) Applied behavior analysis services shall:

- (1) Have an annual limitation of fifty thousand dollars (\$50,000); and
- (2) Be limited to children under eighteen (18) years of age.

(d)

(1) The coverage required by this section is not subject to:

(A) Any limits on the number of visits an individual may make to an autism services provider; or

(B) Dollar limits, deductibles, or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles, or coinsurance provisions that apply to a physical illness generally under a health benefit plan.

(2) The coverage may be subject to other general exclusions and limitations of the health insurance plan, including without limitation coordination

of benefits, participating provider requirements, restrictions on services provided by family or household members, and utilization review of health care services including review of medical necessity, case management, and other managed care provisions.

(e) This section does not limit benefits that are otherwise available to an individual under a health benefit plan.

(f) Coverage for treatment under this section shall not be denied on the basis that the treatment is habilitative in nature.

(g)

(1) If an individual is receiving treatment for an autism spectrum disorder, an insurer shall not request a review of the medical necessity of the treatment for autism spectrum disorder to a greater extent than it does for other illnesses covered in the policy.

(2) The cost of obtaining the review shall be borne by the insurer.

(h) On or after January 1, 2014, to the extent that this section requires the state to make payments under § 1311(d)(3)(B)(ii) of the Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a qualified health plan as defined in the PPACA.

(i) Nothing in this section shall apply to TennCare, the insurance plans offered under title 8, chapter 27, or to accident-only, specified disease, hospital indemnity, medicare supplement, long-term care, or other limited benefit hospital insurance policies.

SECTION 2. This act shall take effect January 1, 2014, the public welfare requiring it.