

Amendment No. 1 to SB0792

**Watson
Signature of Sponsor**

AMEND Senate Bill No. 792*

House Bill No. 1137

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

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

(a) As used in this section:

(1) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, 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 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 (DSM) or the edition that was in effect at the time of diagnosis;

(3) "Behavioral health treatment" means counseling and treatment programs, including applied behavior analysis, that are:

(A) Necessary to produce socially significant improvements in human behavior; and

(B) Provided or supervised by a licensed behavior analyst or by a licensed psychologist so long as the services performed are commensurate with the psychologist's university training and supervised experience;

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(4) "Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests to diagnose whether an individual has an autism spectrum disorder;

(5) "Health insurance policy" means an individual or group health insurance policy providing coverage on an expense-incurred basis, a policy or contract issued by a hospital or medical service corporation, an individual or group service contract issued by a health maintenance organization, or a self-insured group arrangement to the extent not preempted by federal law;

(6) "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;

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

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

(9) "Treatment of autism spectrum disorder" means evidence-based care prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or a licensed psychologist, including, but not limited to:

(A) Behavioral health treatment;

(B) Pharmacy care;

(C) Psychiatric care; and

(D) Psychological care.

(b) A health insurance policy must provide coverage for the screening, diagnosis, and treatment of autism spectrum disorder. To the extent that the screening, diagnosis, and treatment of autism spectrum disorder are not already covered by a health insurance policy, coverage under this section must be included in health insurance policies that are delivered, executed, issued, amended, adjusted, or renewed in this state, or outside this state if insuring residents of this state, on or after January 1, 2018. No insurer may terminate coverage, or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for an autism spectrum disorder.

(c) Coverage under this section shall not be subject to any limits on the number of visits an individual may make for behavioral health treatment of autism spectrum disorder.

(d) Coverage under this section shall not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles, or coinsurance provisions that apply to substantially all medical and surgical benefits under the health insurance policy.

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

(f) For cases in which the insured would not otherwise have access to an adequate network of licensed providers for autism spectrum disorder services, coverage for applied behavior analysis may include services for the personnel who work under the supervision of the licensed behavior analyst or the licensed psychologist overseeing the program.

(g) Except for inpatient services, if an insured is receiving treatment for an autism spectrum disorder, an insurer must have the right to review the treatment plan every three (3) months, unless the insurer and the insured's treating physician or psychologist agree that a more frequent review is necessary. Any agreement regarding the right to review a treatment plan more frequently applies only to a particular insured being treated for an autism spectrum disorder and does not apply to all individuals being treated for autism spectrum disorder by a physician or psychologist. The cost of obtaining any review or treatment plan is borne solely by the insurer.

(h) This section does not affect any obligation to provide services to an individual under an individualized family service plan, an individualized education program, or an individualized service plan.

(i) Nothing in this section applies to non-grandfathered plans in the individual and small group markets that are required to include essential health benefits under the Patient Protection and Affordable Care Act (42 U.S.C. § 18011 et seq.) or to medicare supplement, accident-only, specified disease, hospital indemnity, disability income, long-term care, or other limited benefit hospital insurance policies.

(j)

(1) By February 1, 2019, and every February 1 thereafter, the department of commerce and insurance shall submit a report to the general assembly regarding the implementation of the coverage required under this section. The report must include, but not be limited to, the following:

(A) The total number of insureds diagnosed with autism spectrum disorder;

(B) The total cost of all claims paid out in the immediately preceding calendar year for coverage required by this section;

(C) The cost of such coverage per insured per month; and

(D) The average cost per insured for coverage of applied behavior analysis.

(2) All health carriers and health benefit plans subject to this section shall provide the department with the data requested by the department for inclusion in the annual report. The department shall request the data from the health carriers and health benefit plans on an annual basis that is no later than ninety (90) days prior to the due date each year for the submission of the data.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. This act shall take effect January 1, 2018, the public welfare requiring it, and shall apply to policies entered into or renewed on or after that date.