

# Arkansas Insurance Department

Mike Beebe  
Governor



Jay Bradford  
Commissioner

## NEWS RELEASE

### FOR IMMEDIATE RELEASE

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### **Consumer Alert: New Autism Coverage Requirements**

LITTLE ROCK, ARKANSAS (November 14, 2011) — State Insurance Commissioner Jay Bradford is advising Arkansas insurance consumers about a new law relating to coverage for the diagnosis and treatment of autism (autism spectrum disorders). Act 196 of 2011, passed by the Arkansas General Assembly, went into effect October 1, 2011, and requires certain health insurance policies to cover all medically necessary and evidence-based treatment including applied behavioral analysis (ABA), pharmacy care, psychiatric care, psychological care, therapeutic care, equipment determined necessary to provide evidence-based treatment, and any care for an individual with autism spectrum disorder determined by a licensed physician to be medically necessary and evidence-based.

This new autism coverage requirement applies to all fully insured group health insurance plans, including HMO group plans. Act 196, commonly referred to as the Autism Law, also applies to the Arkansas State Employees and Public School Employees Health Plans.

This new coverage does **not** apply to the following types of health plans or insurance policies:

1. Self-funded employer plans. Consumers are advised to check with their employer's human resources staff to determine if they are in a self-funded employer plan.
2. Individual major medical policies.
3. Workers' compensation policies, accident only policies, specified disease policies, hospital indemnity policies, Medicare supplemental policies, long-term care policies, disability income policies, or other limited benefit health insurance policies.

(More)

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Consumers with health insurance policies subject to the new autism coverage requirements need to be aware the new law caps annual coverage for applied behavioral analysis at \$50,000 per year and is limited to children under the age of eighteen. In addition, the law requires coverage for ABA when provided by or supervised by a Board Certified Behavior Analyst. To qualify for private insurance coverage for the ABA, consumers should check with their medical provider or primary care physician to ensure the person providing ABA is certified by the nationally accredited Behavior Analyst Certification Board which is a nationally accredited nongovernmental agency certifying individuals who have completed specific academic, examination, training, and supervision requirements. The Arkansas Department of Human Services, Division of Developmental Disability Services is currently in the process of creating its own licensing system for persons providing ABA.

Consumers should consult with their health insurer if they have questions about whether their policy is subject to the Autism Law or contact the Consumer Services Division of the Arkansas Insurance Department at 800-852-5494.

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1 State of Arkansas *As Engrossed: H2/16/11 H2/21/11 H2/23/11 S3/2/11*  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 1315

4  
5 By: Representatives Lindsey, Barnett, Cheatham, Hall, Lampkin, Leding, Lenderman, Murdock,  
6 Pennartz, T. Steele, T. Thompson, Tyler, Wardlaw, Webb, B. Wilkins, H. Wilkins, Williams, Wren,  
7 Wright, G. Smith, E. Elliott, J. Dickinson, Allen, T. Baker, Ratliff, J. Roebuck, Lovell, Carter, Catlett,  
8 Ingram, McCrary, Summers  
9 By: Senators Salmon, G. Jeffress, *Elliott, Luker, J. Jeffress, D. Johnson, S. Flowers, Madison, S.*  
10 *Harrelson, Teague*

## For An Act To Be Entitled

11  
12 AN ACT TO PROVIDE HEALTH INSURANCE COVERAGE FOR  
13 AUTISM SPECTRUM DISORDERS; AND FOR OTHER PURPOSES.  
14

### Subtitle

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16  
17 TO PROVIDE HEALTH INSURANCE COVERAGE FOR  
18 AUTISM SPECTRUM DISORDERS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code Title 23, Chapter 99, Subchapter 4 is amended  
25 to add an additional section to read as follows:

26 23-99-418. Coverage for autism spectrum disorders required --

#### Definitions.

27  
28 (a) As used in this section:

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

35 (2) "Autism services provider" means a person, entity, or group  
36 that provides diagnostic evaluations and treatment of autism spectrum



1 disorders, including licensed physicians, licensed psychiatrists, licensed  
2 speech therapists, licensed occupational therapists, licensed physical  
3 therapists, licensed psychologists, and board-certified behavior analysts;

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

7 (A) Autistic disorder;

8 (B) Asperger's disorder; and

9 (C) Pervasive developmental disorder not otherwise  
10 specified;

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

16 (5)(A) "Diagnosis" means medically necessary assessment,  
17 evaluations, or tests to diagnose whether or not an individual has an autism  
18 spectrum disorder.

19 (B) Diagnostic evaluations do not need to be completed  
20 concurrently to diagnosis autism spectrum disorder;

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

24 (7)(A) "Health benefit plan" means any group or blanket plan,  
25 policy, or contract for health care services issued or delivered in this  
26 state by health care insurers, including indemnity and managed care plans and  
27 the plans providing health benefits to state and public school employees  
28 under § 21-5-401 et seq., but excluding individual major medical plans, and  
29 plans providing health care services under Arkansas Constitution, Article 5,  
30 § 32, the Workers' Compensation Law, § 11-9-101 et seq., and the Public  
31 Employee Workers' Compensation Act, § 21-5-601 et seq.

32 (B) "Health benefit plan" does not include an accident  
33 only, specified disease, hospital indemnity, Medicare supplement, long-term  
34 care, disability income, or other limited benefit health insurance policy;

35 (8) "Health care insurer" means any insurance company, hospital  
36 and medical service corporation, or health maintenance organization issuing

1 or delivering health benefit plans in this state and subject to any of the  
2 following laws:

3 (A) The insurance laws of this state;

4 (B) Section 23-75-101 et seq., pertaining to hospital and  
5 medical service corporations; and

6 (C) Section 23-76-101 et seq., pertaining to health  
7 maintenance organizations;

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

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

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

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

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

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

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

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

29 (14) "Treatment" includes:

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

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

36 (ii) Pharmacy care;

1 (iii) Psychiatric care;  
2 (iv) Psychological care;  
3 (v) Therapeutic care; and  
4 (vi) Equipment determined necessary to provide  
5 evidence-based treatment; and

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

8 (i) Medically necessary; and

9 (ii) Evidence-based.

10 (b) To the extent that the diagnosis and treatment of autism spectrum  
11 disorders are not already covered by a health benefit plan, coverage under  
12 this section shall be included in a health benefit plan that is delivered,  
13 executed, issued, amended, adjusted, or renewed in this state on or after  
14 October 1, 2011.

15 (c) Applied behavior analysis services shall:

16 (1) Have an annual limitation of fifty thousand dollars  
17 (\$50,000); and

18 (2) Be limited to children under eighteen (18) years of age.

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

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

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

26 (2) The coverage may be subject to other general exclusions and  
27 limitations of the health insurance plan, including without limitation  
28 coordination of benefits, participating provider requirements, restrictions  
29 on services provided by family or household members, and utilization review  
30 of health care services including review of medical necessity, case  
31 management, and other managed care provisions.

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

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

36 (g)(1) If an individual is receiving treatment for an autism spectrum

1 disorder, an insurer shall not request a review of the medical necessity of  
2 the treatment for autism spectrum disorder to a greater extent than it does  
3 for other illnesses covered in the policy.

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

6 (h)(1) This section shall not be construed as affecting any obligation  
7 to provide services to an individual under an individualized family service  
8 plan, an individualized education program under the Individuals with  
9 Disabilities Education Act, or an individualized service plan.

10 (2) In accordance with the Individuals with Disabilities Education Act,  
11 nothing in this section relieves an insurer from an otherwise valid  
12 obligation to provide or to pay for services provided to an individual with a  
13 disability.

14 (i) On and after January 1, 2014:

15 (1) To the extent that this section requires benefits that  
16 exceed the essential health benefits specified under section 1302(b) of the  
17 Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended,  
18 the specific benefits that exceed the specified essential health benefits  
19 shall not be required of a health benefit plan when the plan is offered by a  
20 health care insurer in this state through the state medical exchange; and

21 (2) This section continues to apply to plans offered outside the  
22 state medical exchange.

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24 SECTION 2. Effective date.

25 This act is effective on and after October 1, 2011.

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27 /s/Lindsey

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30 APPROVED: 03/04/2011

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