

1 State of Arkansas *As Engrossed: H2/16/11 H2/21/11 H2/23/11 S3/2/11*

2 88th General Assembly

A Bill

3 Regular Session, 2011

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*

11

12

For An Act To Be Entitled

13

AN ACT TO PROVIDE HEALTH INSURANCE COVERAGE FOR

14

AUTISM SPECTRUM DISORDERS; AND FOR OTHER PURPOSES.

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16

17

Subtitle

18

TO PROVIDE HEALTH INSURANCE COVERAGE FOR

19

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:

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

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Definitions.

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(a) As used in this section:

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(1) "Applied behavior analysis" means the design,

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implementation, and evaluation of environmental modifications by a board-

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certified behavior analyst using behavioral stimuli and consequences to

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produce socially significant improvement in human behavior, including the use

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of direct observation, measurement, and functional analysis of the

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relationship between environment and behavior;

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(2) "Autism services provider" means a person, entity, or group

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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 *specfic 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**