

State of Arkansas

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88th General Assembly

A Bill

Regular Session, 2011

HOUSE BILL 1315

By: Representatives Lindsey, Barnett, Cheatham, Hall, Lampkin, Leding, Lenderman, Murdock,
Pennartz, T. Steele, T. Thompson, Tyler, Wardlaw, Webb, B. Wilkins, H. Wilkins, Williams, Wren,
Wright, *G. Smith, E. Elliott, J. Dickinson, Allen, T. Baker, Ratliff, J. Roebuck, Lovell*
By: Senators Salmon, *G. Jeffress*

For An Act To Be Entitled

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

Subtitle

TO PROVIDE HEALTH INSURANCE COVERAGE FOR
AUTISM SPECTRUM DISORDERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 99, Subchapter 4 is amended
to add an additional section to read as follows:

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

(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



1 therapists, licensed psychologists, and board-certified behavior analysts;

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

5 (A) Autistic disorder;

6 (B) Asperger's disorder; and

7 (C) Pervasive developmental disorder not otherwise
8 specified;

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

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

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

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

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

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

34 (8) "Health care insurer" means any insurance company, hospital
35 and medical service corporation, or health maintenance organization issuing
36 or delivering health benefit plans in this state and subject to any of the

1 following laws:

2 (A) The insurance laws of this state;

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

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

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

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

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

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

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

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

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

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

28 (14) "Treatment" includes:

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

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

35 (ii) Pharmacy care;

36 (iii) Psychiatric care;

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

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

7 (i) Medically necessary; or

8 (ii) Evidence-based.

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

14 (c) Applied behavior analysis services shall have an annual limitation
15 of fifty thousand dollars (\$50,000).

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

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

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

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

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

31 (f)(1) Coverage for treatment under this section shall not be denied
32 on the basis that the treatment is habilitative or educational in nature
33 unless the treatments are being provided to the covered portion pursuant to
34 an individualized education plan under § 6-41-217.

35 (2) The provisions of services pursuant to an individualized
36 family service plan under § 20-14-504 or an individualized education plan

1 under § 6-41-217 shall not affect coverage under the policy for services
2 provided on a supplement basis outside of an educational setting if the
3 services are deemed medically necessary.

4 (g)(1)(A) Except for inpatient services, if an individual is receiving
5 treatment for an autism spectrum disorder, an insurer may request a review of
6 the treatment no more than one (1) time every six (6) months within a
7 calendar year unless the insurer and the individual's licensed physician
8 agree that a more frequent review is necessary. Any agreement regarding the
9 right to a review of the treatment for an autism spectrum disorder more
10 frequently shall apply to the particular treatment of the insured for an
11 autism spectrum disorder and shall not apply to all individuals being treated
12 for autism spectrum disorders by a physician or psychologist.

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

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

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

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

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

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

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

36

SECTION 2. Effective date.

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

/s/Lindsey