

FIRST REGULAR SESSION

HOUSE BILL NO. 950

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHARNHORST.

2107L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 376.1224, RSMo, and to enact in lieu thereof one new section relating to insurance coverage for autism spectrum disorders.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 376.1224, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.1224, to read as follows:

376.1224. 1. For purposes of this section, the following terms shall mean:

(1) "Applied behavior analysis", 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 relationships between environment and behavior;

(2) "Autism service provider":

(a) Any person, entity, or group that provides diagnostic or treatment services for autism spectrum disorders who is licensed or certified by the state of Missouri; or

(b) Any person who is licensed under chapter 337 as a board-certified behavior analyst by the behavior analyst certification board or licensed under chapter 337 as an assistant board-certified behavior analyst;

(3) "Autism spectrum disorders", a neurobiological disorder, an illness of the nervous system, which includes Autistic Disorder, Asperger's Disorder, Pervasive Developmental Disorder Not Otherwise Specified, Rett's Disorder, and Childhood Disintegrative Disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (4) "Diagnosis of autism spectrum disorders", medically necessary assessments,
18 evaluations, or tests in order to diagnose whether an individual has an autism spectrum disorder;

19 (5) "Habilitative or rehabilitative care", professional, counseling, and guidance services
20 and treatment programs, including applied behavior analysis, that are necessary to develop the
21 functioning of an individual;

22 (6) "Health benefit plan", shall have the same meaning ascribed to it as in section
23 376.1350;

24 (7) "Health carrier", shall have the same meaning ascribed to it as in section 376.1350;

25 (8) "Line therapist", an individual who provides supervision of an individual diagnosed
26 with an autism diagnosis and other neurodevelopmental disorders pursuant to the prescribed
27 treatment plan, and implements specific behavioral interventions as outlined in the behavior plan
28 under the direct supervision of a licensed behavior analyst **or licensed psychologist**;

29 (9) "Pharmacy care", medications used to address symptoms of an autism spectrum
30 disorder prescribed by a licensed physician, and any health-related services deemed medically
31 necessary to determine the need or effectiveness of the medications only to the extent that such
32 medications are included in the insured's health benefit plan;

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

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

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

39 (13) "Treatment for autism spectrum disorders", care prescribed or ordered for an
40 individual diagnosed with an autism spectrum disorder by a licensed physician or licensed
41 psychologist, including equipment medically necessary for such care, pursuant to the powers
42 granted under such licensed physician's or licensed psychologist's license, including, but not
43 limited to:

44 (a) Psychiatric care;

45 (b) Psychological care;

46 (c) Habilitative or rehabilitative care, including applied behavior analysis therapy;

47 (d) Therapeutic care;

48 (e) Pharmacy care.

49 2. All group health benefit plans that are delivered, issued for delivery, continued, or
50 renewed on or after January 1, 2011, if written inside the state of Missouri, or written outside the
51 state of Missouri but insuring Missouri residents, shall provide coverage for the diagnosis and

52 treatment of autism spectrum disorders to the extent that such diagnosis and treatment is not
53 already covered by the health benefit plan.

54 3. With regards to a health benefit plan, a health carrier shall not deny or refuse to issue
55 coverage on, refuse to contract with, or refuse to renew or refuse to reissue or otherwise
56 terminate or restrict coverage on an individual or their dependent because the individual is
57 diagnosed with autism spectrum disorder.

58 4. (1) Coverage provided under this section is limited to medically necessary treatment
59 that is ordered by the insured's treating licensed physician or licensed psychologist, pursuant to
60 the powers granted under such licensed physician's or licensed psychologist's license, in
61 accordance with a treatment plan.

62 (2) The treatment plan, upon request by the health benefit plan or health carrier, shall
63 include all elements necessary for the health benefit plan or health carrier to pay claims. Such
64 elements include, but are not limited to, a diagnosis, proposed treatment by type, frequency and
65 duration of treatment, and goals.

66 (3) Except for inpatient services, if an individual is receiving treatment for an autism
67 spectrum disorder, a health carrier shall have the right to review the treatment plan not more than
68 once every six months unless the health carrier and the individual's treating physician or
69 psychologist agree that a more frequent review is necessary. Any such agreement regarding the
70 right to review a treatment plan more frequently shall only apply to a particular individual being
71 treated for an autism spectrum disorder and shall not apply to all individuals being treated for
72 autism spectrum disorders by a physician or psychologist. The cost of obtaining any review or
73 treatment plan shall be borne by the health benefit plan or health carrier, as applicable.

74 5. Coverage provided under this section for applied behavior analysis shall be subject
75 to a maximum benefit of forty thousand dollars per calendar year for individuals through
76 eighteen years of age. Such maximum benefit limit may be exceeded, upon prior approval by
77 the health benefit plan, if the provision of applied behavior analysis services beyond the
78 maximum limit is medically necessary for such individual. Payments made by a health carrier
79 on behalf of a covered individual for any care, treatment, intervention, service or item, the
80 provision of which was for the treatment of a health condition unrelated to the covered
81 individual's autism spectrum disorder, shall not be applied toward any maximum benefit
82 established under this subsection. Any coverage required under this section, other than the
83 coverage for applied behavior analysis, shall not be subject to the age and dollar limitations
84 described in this subsection.

85 6. The maximum benefit limitation for applied behavior analysis described in subsection
86 5 of this section shall be adjusted by the health carrier at least triennially for inflation to reflect
87 the aggregate increase in the general price level as measured by the Consumer Price Index for

88 All Urban Consumers for the United States, or its successor index, as defined and officially
89 published by the United States Department of Labor, or its successor agency. Beginning January
90 1, 2012, and annually thereafter, the current value of the maximum benefit limitation for applied
91 behavior analysis coverage adjusted for inflation in accordance with this subsection shall be
92 calculated by the director of the department of insurance, financial institutions and professional
93 registration. The director shall furnish the calculated value to the secretary of state, who shall
94 publish such value in the Missouri Register as soon after each January first as practicable, but
95 it shall otherwise be exempt from the provisions of section 536.021.

96 7. Subject to the provisions set forth in subdivision (3) of subsection 4 of this section,
97 coverage provided under this section shall not be subject to any limits on the number of visits
98 an individual may make to an autism service provider, except that the maximum total benefit for
99 applied behavior analysis set forth in subsection 5 of this section shall apply to this subsection.

100 8. This section shall not be construed as limiting benefits which are otherwise available
101 to an individual under a health benefit plan. The health care coverage required by this section
102 shall not be subject to any greater deductible, coinsurance, or co-payment than other physical
103 health care services provided by a health benefit plan. Coverage of services may be subject to
104 other general exclusions and limitations of the contract or benefit plan, not in conflict with the
105 provisions of this section, such as coordination of benefits, exclusions for services provided by
106 family or household members, and utilization review of health care services, including review
107 of medical necessity and care management; however, coverage for treatment under this section
108 shall not be denied on the basis that it is educational or habilitative in nature.

109 9. To the extent any payments or reimbursements are being made for applied behavior
110 analysis, such payments or reimbursements shall be made to either:

111 (1) The autism service provider, as defined in this section; or

112 (2) The entity or group for whom such supervising person, who is certified as a
113 board-certified behavior analyst by the Behavior Analyst Certification Board **or who is a**
114 **licensed psychologist**, works or is associated. Such payments or reimbursements under this
115 subsection to an autism service provider or a board-certified behavior analyst shall include
116 payments or reimbursements for services provided by a line therapist under the supervision of
117 such provider or behavior analyst if such services provided by the line therapist are included in
118 the treatment plan and are deemed medically necessary.

119 10. Notwithstanding any other provision of law to the contrary, health carriers shall not
120 be held liable for the actions of line therapists in the performance of their duties.

121 11. The provisions of this section shall apply to any health care plans issued to
122 employees and their dependents under the Missouri consolidated health care plan established
123 pursuant to chapter 103 that are delivered, issued for delivery, continued, or renewed in this state

124 on or after January 1, 2011. The terms employees and health care plans shall have the same
125 meaning ascribed to them in section 103.003.

126 12. The provisions of this section shall also apply to the following types of plans that are
127 established, extended, modified, or renewed on or after January 1, 2011:

128 (1) All self-insured governmental plans, as that term is defined in 29 U.S.C. Section
129 1002(32);

130 (2) All self-insured group arrangements, to the extent not preempted by federal law;

131 (3) All plans provided through a multiple employer welfare arrangement, or plans
132 provided through another benefit arrangement, to the extent permitted by the Employee
133 Retirement Income Security Act of 1974, or any waiver or exception to that act provided under
134 federal law or regulation; and

135 (4) All self-insured school district health plans.

136 13. The provisions of this section shall not automatically apply to an individually
137 underwritten health benefit plan, but shall be offered as an option to any such plan.

138 14. The provisions of this section shall not apply to a supplemental insurance policy,
139 including a life care contract, accident-only policy, specified disease policy, hospital policy
140 providing a fixed daily benefit only, Medicare supplement policy, long-term care policy,
141 short-term major medical policy of six months or less duration, or any other supplemental policy.

142 15. Any health carrier or other entity subject to the provisions of this section shall not
143 be required to provide reimbursement for the applied behavior analysis delivered to a person
144 insured by such health carrier or other entity to the extent such health carrier or other entity is
145 billed for such services by any Part C early intervention program or any school district for
146 applied behavior analysis rendered to the person covered by such health carrier or other entity.
147 This section shall not be construed as affecting any obligation to provide services to an
148 individual under an individualized family service plan, an individualized education plan, or an
149 individualized service plan. This section shall not be construed as affecting any obligation to
150 provide reimbursement pursuant to section 376.1218.

151 16. The provisions of sections 376.383, 376.384, and 376.1350 to 376.1399 shall apply
152 to this section.

153 17. The director of the department of insurance, financial institutions and professional
154 registration shall grant a small employer with a group health plan, as that term is defined in
155 section 379.930, a waiver from the provisions of this section if the small employer demonstrates
156 to the director by actual claims experience over any consecutive twelve-month period that
157 compliance with this section has increased the cost of the health insurance policy by an amount
158 of two and a half percent or greater over the period of a calendar year in premium costs to the
159 small employer.

160 18. The provisions of this section shall not apply to the Mo HealthNet program as
161 described in chapter 208.

162 19. (1) By February 1, 2012, and every February first thereafter, the department of
163 insurance, financial institutions and professional registration shall submit a report to the general
164 assembly regarding the implementation of the coverage required under this section. The report
165 shall include, but shall not be limited to, the following:

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

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

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

170 (d) The average cost per insured for coverage of applied behavior analysis;

171 (2) All health carriers and health benefit plans subject to the provisions of this section
172 shall provide the department with the data requested by the department for inclusion in the
173 annual report.

T