

Senate Bill 397

By: Senators Golden of the 8th, Unterman of the 45th, Shafer of the 48th, Chance of the 16th, Miller of the 49th and others

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-24-59.10 of the Official Code of Georgia Annotated, relating to
2 insurance coverage for autism, so as to provide for certain insurance coverage of autism
3 spectrum disorders; to provide for definitions; to provide for limitations; to provide for
4 premium cap and other conditions; to provide for applicability; to provide for related matters;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 33-24-59.10 of the Official Code of Georgia Annotated, relating to insurance
9 coverage for autism, is amended as follows:

10 "33-24-59.10.

11 (a) As used in this Code section, the term:

12 (1) 'Accident and sickness contract, policy, or benefit plan' shall have the same meaning
13 as found in Code Section 33-24-59.1. Accident and sickness contract, policy, or benefit
14 plan shall also include without limitation any health benefit plan established pursuant to
15 Article 1 of Chapter 18 of Title 45. Accident and sickness contract, policy, or benefit
16 plan' shall not include limited benefit insurance policies designed, advertised, and
17 marketed to supplement major medical insurance such as accident only, CHAMPUS
18 supplement, dental, disability income, fixed indemnity, long-term care, medicare
19 supplement, specified disease, vision, and any other type of accident and sickness
20 insurance other than basic hospital expense, basic medical-surgical expense, or major
21 medical insurance.

22 (2) ~~'Autism' means a developmental neurological disorder, usually appearing in the first~~
23 ~~three years of life, which affects normal brain functions and is manifested by compulsive,~~
24 ~~ritualistic behavior and severely impaired social interaction and communication skills~~
25 'Applied behavior analysis' means the design, implementation, and evaluation of
26 environmental modifications using behavioral stimuli and consequences to produce

27 socially significant improvement in human behavior, including the use of direct
 28 observation, measurement, and functional analysis of the relationship between
 29 environment and behavior.

30 (3) 'Autism spectrum disorder' means any of the pervasive developmental disorders or
 31 autism spectrum disorders as defined by the most recent edition of the Diagnostic and
 32 Statistical Manual of Mental Disorders, including autistic disorder, Asperger's disorder,
 33 and pervasive developmental disorder not otherwise specified.

34 (4) 'Treatment of autism spectrum disorder' includes the following types of care
 35 prescribed, provided, or ordered for an individual diagnosed with an autism spectrum
 36 disorder:

37 (A) Habilitative or rehabilitative services, including applied behavior analysis or other
 38 professional or counseling services necessary to develop, maintain, and restore the
 39 functioning of an individual to the extent possible. To be eligible for coverage, applied
 40 behavior analysis shall be provided by a person professionally certified by a national
 41 board of behavior analysts or performed under the supervision of a person
 42 professionally certified by a national board of behavior analysts;

43 (B) Counseling services provided by a licensed psychiatrist, psychologist, clinical
 44 professional counselor, or clinical social worker; and

45 (C) Therapy services provided by a licensed or certified speech therapist, occupational
 46 therapist, or physical therapist.

47 ~~(b) An insurer that provides benefits for neurological disorders, whether under a group or~~
 48 ~~individual accident and sickness contract, policy, or benefit plan, shall not deny providing~~
 49 ~~benefits in accordance with the conditions, schedule of benefits, limitations as to type and~~
 50 ~~scope of treatment authorized for neurological disorders, exclusions, cost-sharing~~
 51 ~~arrangements, or copayment requirements which exist in such contract, policy, or benefit~~
 52 ~~plan for neurological disorders because of a diagnosis of autism. The provisions of this~~
 53 ~~subsection shall not expand the type or scope of treatment beyond that authorized for any~~
 54 ~~other diagnosed neurological disorder. Accident and sickness contracts, policies, or benefit~~
 55 ~~plans shall provide coverage for autism spectrum disorders for an individual covered under~~
 56 ~~a policy or contract who is six years of age or under in accordance with the following:~~

57 (1) The policy or contract shall provide coverage for any assessments, evaluations, or
 58 tests by a licensed physician or licensed psychologist to diagnose whether an individual
 59 has an autism spectrum disorder;

60 (2) The policy or contract shall provide coverage for the treatment of autism spectrum
 61 disorders when it is determined by a licensed physician or licensed psychologist that the
 62 treatment is medically necessary health care. A licensed physician or licensed

63 psychologist may be required to demonstrate ongoing medical necessity for coverage
64 provided under this Code section at least annually;

65 (3) The policy or contract shall not include any limits on the number of visits;

66 (4) The policy or contract may limit coverage for applied behavior analysis to
67 \$35,000.00 per year. An insurer shall not apply payments for coverage unrelated to
68 autism spectrum disorders to any maximum benefit established under this paragraph; and

69 (5) This subsection shall not be construed to require coverage for prescription drugs if
70 prescription drug coverage is not provided by the policy or contract. Coverage for
71 prescription drugs for the treatment of autism spectrum disorders shall be determined in
72 the same manner as coverage for prescription drugs for the treatment of any other illness
73 or condition is determined under the policy or contract.

74 (c) Except as otherwise provided in this Code section, any policy or contract that provides
75 coverage for services under this Code section may contain provisions for maximum
76 benefits and coinsurance and reasonable limitations, deductibles, and exclusions to the
77 extent that these provisions are not inconsistent with the requirements of this Code section.

78 (d) This Code section shall not be construed to affect any obligation to provide services
79 to an individual with an autism spectrum disorder under an individualized family service
80 plan, an individualized education plan as required by the federal Individuals with
81 Disabilities Education Act, or an individualized service plan. This Code section also shall
82 not be construed to limit benefits that are otherwise available to an individual under an
83 accident and sickness contract, policy, or benefit plan.

84 (e)(1) An insurer, corporation, or health maintenance organization, or a governmental
85 entity providing coverage for such treatment pursuant to this Code section, is exempt
86 from providing coverage for behavioral health treatment required under this Code section
87 and not covered by the insurer, corporation, health maintenance organization, or
88 governmental entity providing coverage for such treatment pursuant to this Code section
89 as of December 31, 2015, if:

90 (A) An actuary, affiliated with the insurer, corporation, or health maintenance
91 organization, who is a member of the American Academy of Actuaries and meets the
92 American Academy of Actuaries' professional qualification standards for rendering an
93 actuarial opinion related to health insurance rate making, certifies in writing to the
94 Commissioner that:

95 (i) Based on an analysis to be completed no more frequently than one time per year
96 by each insurer, corporation, or health maintenance organization, or such
97 governmental entity, for the most recent experience period of at least one year's
98 duration, the costs associated with coverage of behavioral health treatment required
99 under this Code section, and not covered as of December 31, 2015, exceeded 1

100 percent of the premiums charged over the experience period by the insurer,
 101 corporation, or health maintenance organization; and
 102 (ii) Those costs solely would lead to an insurance in average premiums charged of
 103 more than 1 percent for all insurance policies, subscription contracts, or health care
 104 plans commencing on inception or the next renewal date, based on the premium rating
 105 methodology and practices the insurer, corporation, or health maintenance
 106 organization, or such governmental entity, employs; and
 107 (B) The Commissioner approves the certification of the actuary.
 108 (2) An exemption allowed under paragraph (1) of this subsection shall apply for a
 109 one-year coverage period following inception or next renewal date of all insurance
 110 policies, subscription contracts, or health care plans issued or renewed during the
 111 one-year period following the date of the exemption, after which the insurer, corporation,
 112 or health maintenance organization, or such governmental entity, shall again provide
 113 coverage for behavioral health treatment required under this subsection.
 114 (3) An insurer, corporation, or health maintenance organization, or such governmental
 115 entity, may claim an exemption for a subsequent year, but only if the conditions specified
 116 in this subsection again are met.
 117 (4) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an
 118 insurer, corporation, or health maintenance organization, or such governmental entity,
 119 may elect to continue to provide coverage for behavioral health treatment required under
 120 this subsection.
 121 (f) Beginning January 1, 2015, to the extent that this Code section requires benefits that
 122 exceed the essential health benefits required under Section 1302(b) of the federal Patient
 123 Protection and Affordable Care Act, P. L. 111-148, the specific benefits that exceed the
 124 required essential health benefits shall not be required of a 'qualified health plan' as defined
 125 in such act when the qualified health plan is offered in this state through the exchange.
 126 Nothing in this subsection shall nullify the application of this Code section to plans offered
 127 outside the state's exchange.
 128 (g) This Code section shall not apply to any accident and sickness contract, policy, or
 129 benefit plan offered by any employer with ten or fewer employees."

130 **SECTION 2.**

131 All laws and parts of laws in conflict with this Act are repealed.