

HOUSE BILL No. 2395

By Committee on Appropriations

3-8

1 AN ACT concerning insurance; providing coverage for autism spectrum
2 disorder; amending K.S.A. 2012 Supp. 40-2,103 and 40-19c09 and
3 repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) (1) Any individual or group health insurance
7 policy, medical service plan, contract, hospital service corporation
8 contract, hospital and medical service corporation contract, fraternal
9 benefit society or health maintenance organization which provides
10 coverage for accident and health services and which is delivered, issued
11 for delivery, amended or renewed on or after July 1, 2013, shall provide
12 coverage for the diagnosis and treatment of autism spectrum disorder in
13 any covered individual whose age is less than 19 years.

14 (2) Such coverage shall be provided in a manner determined in
15 consultation with the autism services provider and the patient. Services
16 provided by autism services providers under this section shall include
17 applied behavior analysis when required by a licensed physician, licensed
18 psychologist or licensed specialist clinical social worker, but otherwise
19 shall be limited to those services prescribed or ordered by a licensed
20 physician, licensed psychologist or licensed specialist clinical social
21 worker. Services provided pursuant to this paragraph shall be those
22 services which are or have been recognized by peer reviewed literature as
23 providing medical benefit to patients with autism spectrum disorder.

24 (3) Coverage for benefits for any covered person diagnosed with
25 autism spectrum disorder and whose age is between birth and less than
26 seven years shall not exceed \$36,000 per year.

27 (4) Coverage for benefits for any covered person diagnosed with
28 autism spectrum disorder and whose age is at least seven years and less
29 than 19 years shall not exceed \$27,000 per year.

30 (5) Reimbursement shall be allowed only for services provided by a
31 provider licensed, trained and qualified to provide such services or by an
32 autism specialist or an intensive individual service provider as such terms
33 are defined by the Kansas department for aging and disability services
34 Kansas autism waiver. Reimbursement for services provided by an autism
35 specialist shall include services provided via telehealth methods.

36 (6) Any insurer or other entity which administers claims for services

1 provided for the treatment of autism spectrum disorder under this section,
2 and amendments thereto, shall have the right and obligation to deny any
3 claim for services based upon medical necessity or a determination that the
4 covered individual has reached the maximum medical improvement for the
5 covered individual's autism spectrum disorder.

6 (7) Except for inpatient services, if an insured is receiving treatment
7 for autism spectrum disorder, such insurer shall have the right to review
8 the treatment plan annually, unless the insurer and the insured's treating
9 physician or psychologist agree that a more frequent review is necessary.
10 Any such agreement regarding the right to review a treatment plan more
11 frequently shall apply only to a particular insured being treated for autism
12 spectrum disorder and shall not apply to all individuals being treated for
13 autism spectrum disorder by a physician or psychologist. The cost of
14 obtaining any review or treatment plan shall be borne by the insurer.

15 (8) No insurer can terminate coverage, or refuse to deliver, execute,
16 issue, amend, adjust, or renew coverage to an individual solely because the
17 individual is diagnosed with or has received treatment for autism spectrum
18 disorder.

19 (b) For the purposes of this section:

20 (1) "Applied behavior analysis" means the design, implementation
21 and evaluation of environmental modifications, using behavioral stimuli
22 and consequences, to produce socially significant improvement in human
23 behavior, including the use of direct observation, measurement and
24 functional analysis of the relationship between environment and behavior.

25 (2) "Autism spectrum disorder" means any of the pervasive
26 developmental disorders or autism spectrum disorders as defined by the
27 diagnostic and statistical manual of mental disorders volume 5 (DSM 5)
28 of the American psychiatric association, as published in May 2013, or later
29 editions as established in rules and regulations adopted by the behavioral
30 sciences regulatory board pursuant to K.S.A. 74-7507, and amendments
31 thereto, except that if a person was diagnosed with either a pervasive
32 developmental disorder or an autism spectrum disorder while a previous
33 edition of the diagnostic and statistical manual of mental disorders was in
34 existence at the time of diagnosis, then that edition of the diagnostic and
35 statistical manual of mental disorders shall control.

36 (3) "Diagnosis of autism spectrum disorder" means any medically
37 necessary assessment, evaluation or test to determine whether an
38 individual has autism spectrum disorder.

39 (c) If an individual has been diagnosed as having autism spectrum
40 disorder meeting the diagnostic criteria described in the edition of the
41 diagnostic and statistical manual of mental disorders available at the time
42 of diagnosis, then that individual shall not be required to undergo any
43 additional or repeated evaluation based upon the adoption of a subsequent

1 edition of the diagnostic and statistical manual of mental disorders adopted
2 by rules and regulations of the behavioral sciences regulatory board in
3 order to remain eligible for coverage under this section.

4 (d) Except as otherwise provided in subsection (a), no individual or
5 group health insurance policy, medical service plan, contract, hospital
6 service corporation contract, hospital and medical service corporation
7 contract, fraternal benefit society or health maintenance organization
8 which provides coverage for accident and health services and which
9 provides coverage with respect to autism spectrum disorder shall:

10 (1) Impose on the coverage required by this section any dollar limits,
11 deductibles or coinsurance provisions that are less favorable to an insured
12 than the dollar limits, deductibles or coinsurance provisions that apply to
13 physical illness generally under the accident and sickness insurance policy;
14 or

15 (2) impose on the coverage required by this section any limit upon the
16 number of visits that a covered individual may make for treatment of
17 autism spectrum disorder.

18 (e) As of January 1, 2014, to the extent that this section requires
19 benefits that exceed the essential health benefits required under section
20 1302(b) of the federal patient protection and affordable care act (PPACA),
21 public law 111-148, the specific benefits that exceed the required essential
22 health benefits shall not be required of a "qualified health plan" as defined
23 in PPACA when the qualified health plan is offered in this state through
24 the exchange by a health carrier. Nothing in this subsection shall nullify
25 the application of this section to plans offered outside the state's exchange.

26 (f) The provisions of this section shall not apply to any policy or
27 certificate which provides coverage for any specified disease, specified
28 accident or accident-only coverage, credit, dental, disability income,
29 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
30 2227, and amendments thereto, vision care or any other limited
31 supplemental benefit nor to any medicare supplement policy of insurance
32 as defined by the commissioner of insurance by rules and regulations, any
33 coverage issued as a supplement to liability insurance, workers'
34 compensation or similar insurance, automobile medical-payment insurance
35 or any insurance under which benefits are payable with or without regard
36 to fault, whether written on a group, blanket or individual basis.

37 (g) This section shall not be construed as limiting benefits that are
38 otherwise available to an individual under any individual or group health
39 insurance policy, medical service plan, contract, hospital service
40 corporation contract, hospital and medical service corporation contract,
41 fraternal benefit society or health maintenance organization which
42 provides coverage for accident and health services.

43 (h) The provisions of this section shall be applicable to the Kansas

1 state employees health care benefits program and municipal funded pools.

2 (i) The provisions of K.S.A. 40-2249a, and amendments thereto,
3 shall not apply to the provisions of this section.

4 Sec. 2. K.S.A. 2012 Supp. 40-2,103 is hereby amended to read as
5 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
6 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,
7 inclusive, 40-2250, K.S.A. 2012 Supp. 40-2,105a, 40-2,105b, 40-2,184
8 ~~and 40-2,190, 40-2,190 and section 1~~, and amendments thereto, shall apply
9 to all insurance policies, subscriber contracts or certificates of insurance
10 delivered, renewed or issued for delivery within or outside of this state or
11 used within this state by or for an individual who resides or is employed in
12 this state.

13 Sec. 3. K.S.A. 2012 Supp. 40-19c09 is hereby amended to read as
14 follows: 40-19c09. (a) Corporations organized under the nonprofit medical
15 and hospital service corporation act shall be subject to the provisions of
16 the Kansas general corporation code, articles 60 to 74, inclusive, of
17 chapter 17 of the Kansas Statutes Annotated, and amendments thereto,
18 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,
19 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226,
20 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249,
21 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103,
22 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-
23 2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to
24 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b,
25 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-
26 2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2012 Supp. 40-
27 2,105a, 40-2,105b, 40-2,184 ~~and 40-2,190, 40-2,190 and section 1~~, and
28 amendments thereto, except as the context otherwise requires, and shall
29 not be subject to any other provisions of the insurance code except as
30 expressly provided in this act.

31 (b) No policy, agreement, contract or certificate issued by a
32 corporation to which this section applies shall contain a provision which
33 excludes, limits or otherwise restricts coverage because medicaid benefits
34 as permitted by title XIX of the social security act of 1965 are or may be
35 available for the same accident or illness.

36 (c) Violation of subsection (b) shall be subject to the penalties
37 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

38 Sec. 4. K.S.A. 2012 Supp. 40-2,103 and 40-19c09 are hereby
39 repealed.

40 Sec. 5. This act shall take effect and be in force from and after its
41 publication in the Kansas register.