

## HOUSE BILL No. 2531

By Representatives Rubin, Alford, Anthimides, Ballard, Barker, Becker, Bridges, Campbell, Carlin, Carmichael, Dierks, Ewy, Finch, Finney, Goico, Gonzalez, Henry, Houston, Hutton, Kiegerl, Kuether, Lusk, Menghini, Osterman, Perry, Phillips, Ryckman Jr., Sloan, Sloop, Thimesch, Tietze, Trimmer, Waymaster, Winn and Wolfe Moore

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1 AN ACT concerning insurance; providing coverage for autism spectrum  
2 disorder; amending K.S.A. 2013 Supp. 40-2,103 and 40-19c09 and  
3 repealing the existing sections.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) (1) (A) Subject to the provisions of subparagraph  
7 (B), any individual or group health insurance policy, medical service plan,  
8 contract, hospital service corporation contract, hospital and medical  
9 service corporation contract, fraternal benefit society or health  
10 maintenance organization which provides coverage for accident and health  
11 services and which is delivered, issued for delivery, amended or renewed  
12 on or after January 1, 2015, shall provide coverage for the diagnosis and  
13 treatment of autism spectrum disorder in any covered individual whose  
14 age is less than 19 years.

15 (B) The provisions of subparagraph (A) shall not apply to any:

- 16 (i) Small employer health benefit plan that is not grandfathered; or  
17 (ii) individual health benefit plan that is not grandfathered.

18 (2) Such coverage shall be provided in a manner determined in  
19 consultation with the autism services provider and the patient. Services  
20 provided by autism services providers under this section shall include  
21 applied behavior analysis when required by a licensed physician, licensed  
22 psychologist or licensed specialist clinical social worker but otherwise  
23 shall be limited to the care, services and related equipment prescribed or  
24 ordered by a licensed physician, licensed psychologist or licensed  
25 specialist clinical social worker.

26 (3) Coverage provided under this section for applied behavior  
27 analysis shall be subject to a limitation of 40 hours per week for any  
28 covered individual less than 19 years of age. Upon prior approval by the  
29 health benefit plan, such maximum benefit limit may be exceeded if the  
30 provision of applied behavior analysis services beyond the maximum limit  
31 is medically necessary for such individual. Any payment made by an  
32 insurer on behalf of a covered individual for any care, treatment,

1 intervention, service or item, the provision of which was for the treatment  
2 of a health condition unrelated to such covered individual's autism  
3 spectrum disorder, shall not be applied toward any maximum benefit  
4 established under this paragraph. Except for the coverage for applied  
5 behavior analysis, no coverage required under this section shall be subject  
6 to the age and hour limitations described in this paragraph.

7 (4) Reimbursement shall be allowed only for services provided by a  
8 provider licensed, trained and qualified to provide such services or by an  
9 autism specialist or an intensive individual service provider as such terms  
10 are defined by the Kansas department for aging and disability services  
11 Kansas autism waiver. Reimbursement for services provided by an autism  
12 specialist shall include services provided via telehealth methods.

13 (5) Any insurer or other entity which administers claims for services  
14 provided for the treatment of autism spectrum disorder under this section  
15 shall have the right and obligation to deny any claim for services based  
16 upon medical necessity or a determination that the covered individual has  
17 reached the maximum medical improvement for the covered individual's  
18 autism spectrum disorder.

19 (6) Except for inpatient services, if an insured is receiving treatment  
20 for autism spectrum disorder, such insurer shall have the right to review  
21 the treatment plan not more than once in a period of six consecutive  
22 months, unless the insurer and the insured's treating physician or  
23 psychologist agree that a more frequent review is necessary. Any such  
24 agreement regarding the right to review a treatment plan more frequently  
25 shall apply only to a particular insured being treated for autism spectrum  
26 disorder and shall not apply to all individuals being treated for autism  
27 spectrum disorder by a physician or psychologist. The cost of obtaining  
28 any review or treatment plan shall be borne by the insurer.

29 (7) No insurer can terminate coverage, or refuse to deliver, execute,  
30 issue, amend, adjust, or renew coverage to an individual solely because the  
31 individual is diagnosed with or has received treatment for autism spectrum  
32 disorder.

33 (b) For the purposes of this section:

34 (1) "Applied behavior analysis" means the design, implementation  
35 and evaluation of environmental modifications, using behavioral stimuli  
36 and consequences, to produce socially significant improvement in human  
37 behavior, including the use of direct observation, measurement and  
38 functional analysis of the relationship between environment and behavior.

39 (2) "Autism spectrum disorder" means any of the pervasive  
40 developmental disorders or autism spectrum disorders as defined by the  
41 diagnostic and statistical manual of mental disorders, volume 5 (DSM 5),  
42 of the American psychiatric association, as published in May 2013, or later  
43 editions as established in rules and regulations adopted by the behavioral

1 sciences regulatory board pursuant to K.S.A. 74-7507, and amendments  
2 thereto, except that if a person was diagnosed with either a pervasive  
3 developmental disorder or an autism spectrum disorder while a previous  
4 edition of the diagnostic and statistical manual of mental disorders was in  
5 existence at the time of diagnosis, then that edition of the diagnostic and  
6 statistical manual of mental disorders shall control.

7 (3) "Diagnosis of autism spectrum disorder" means any medically  
8 necessary assessment, evaluation or test performed by a licensed  
9 physician, licensed psychologist or licensed specialist clinical social  
10 worker to determine whether an individual has autism spectrum disorder.

11 (4) "Grandfathered health benefit plan" shall have the meaning  
12 ascribed to such term in 42 U.S.C. § 18011. The term "grandfathered  
13 health benefit plan" includes both small employer group health benefit  
14 plans that are grandfathered and individual health benefit plans that are  
15 grandfathered.

16 (5) "Health benefit plan" shall have the meaning ascribed to such  
17 term in K.S.A. 40-4602, and amendments thereto.

18 (6) "Large employer" means, in connection with a group health  
19 benefit plan with respect to a calendar year and a plan year, an employer  
20 who employed an average of at least 51 employees on business days  
21 during the preceding calendar year and who employs at least one employee  
22 on the first day of the plan year.

23 (7) "Small employer" means, in connection with a group health  
24 benefit plan with respect to a calendar year and a plan year, an employer  
25 who employed an average of at least one but not more than 50 employees  
26 on business days during the preceding calendar year and who employs at  
27 least one employee on the first day of the plan year.

28 (c) If an individual has been diagnosed as having autism spectrum  
29 disorder meeting the diagnostic criteria described in the edition of the  
30 diagnostic and statistical manual of mental disorders available at the time  
31 of diagnosis, then that individual shall not be required to undergo any  
32 additional or repeated evaluation based upon the adoption of a subsequent  
33 edition of the diagnostic and statistical manual of mental disorders adopted  
34 by rules and regulations of the behavioral sciences regulatory board in  
35 order to remain eligible for coverage under this section.

36 (d) Except as otherwise provided in subsection (a), no individual or  
37 group health insurance policy, medical service plan, contract, hospital  
38 service corporation contract, hospital and medical service corporation  
39 contract, fraternal benefit society or health maintenance organization  
40 which provides coverage for accident and health services and which  
41 provides coverage with respect to autism spectrum disorder shall:

42 (1) Impose on the coverage required by this section any dollar limits,  
43 deductibles or coinsurance provisions that are less favorable to an insured

1 than the dollar limits, deductibles or coinsurance provisions that apply to  
2 physical illness generally under the accident and sickness insurance policy;  
3 or

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

7 (e) The provisions of this section shall not apply to any policy or  
8 certificate which provides coverage for any specified disease, specified  
9 accident or accident-only coverage, credit, dental, disability income,  
10 hospital indemnity, long-term care insurance as defined by K.S.A. 40-  
11 2227, and amendments thereto, vision care or any other limited  
12 supplemental benefit nor to any medicare supplement policy of insurance  
13 as defined by the commissioner of insurance by rules and regulations, any  
14 coverage issued as a supplement to liability insurance, workers'  
15 compensation or similar insurance, automobile medical-payment insurance  
16 or any insurance under which benefits are payable with or without regard  
17 to fault, whether written on a group, blanket or individual basis.

18 (f) This section shall not be construed as limiting benefits that are  
19 otherwise available to an individual under any individual or group health  
20 insurance policy, medical service plan, contract, hospital service  
21 corporation contract, hospital and medical service corporation contract,  
22 fraternal benefit society or health maintenance organization which  
23 provides coverage for accident and health services.

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

26 (h) The commissioner of the department of insurance shall grant a  
27 small employer with a group health benefit plan a waiver from the  
28 provisions of this section if the small employer demonstrates to the  
29 commissioner by actual claims experience over any consecutive twelve-  
30 month period that compliance with this section has increased the cost of  
31 the health insurance policy by an amount of two and a half percent or  
32 greater over the period of a calendar year in premium costs to the small  
33 employer.

34 Sec. 2. K.S.A. 2013 Supp. 40-2,103 is hereby amended to read as  
35 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-  
36 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,  
37 inclusive, 40-2250, K.S.A. 2013 Supp. 40-2,105a, 40-2,105b , 40-2,184  
38 ~~and~~, 40-2,190 ~~and section 1~~, and amendments thereto, shall apply to all  
39 insurance policies, subscriber contracts or certificates of insurance  
40 delivered, renewed or issued for delivery within or outside of this state or  
41 used within this state by or for an individual who resides or is employed in  
42 this state.

43 Sec. 3. K.S.A. 2013 Supp. 40-19c09 is hereby amended to read as

1 follows: 40-19c09.(a) Corporations organized under the nonprofit medical  
2 and hospital service corporation act shall be subject to the provisions of  
3 the Kansas general corporation code, articles 60 to 74, inclusive, of  
4 chapter 17 of the Kansas Statutes Annotated, and amendments thereto,  
5 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,  
6 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229,  
7 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250,  
8 40-251, 40-252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-  
9 2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-  
10 2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to  
11 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b,  
12 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-  
13 2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2013 Supp. 40-  
14 2,105a, 40-2,105b, 40-2,184~~and~~, 40-2,190 *and section 1*, and amendments  
15 thereto, except as the context otherwise requires, and shall not be subject  
16 to any other provisions of the insurance code except as expressly provided  
17 in this act.

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

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

25 Sec. 4. K.S.A. 2013 Supp. 40-2,103 and 40-19c09 are hereby  
26 repealed.

27 Sec. 5. This act shall take effect and be in force from and after its  
28 publication in the statute book.