

1 **SENATE FLOOR VERSION**

2 March 30, 2016

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2962

6 By: Nelson, Denney, Kannady,
7 Dunnington, Henke,
8 Montgomery, Sherrer,
9 McDaniel (Jeannie), Brown,
10 Kouplen, Condit, Perryman,
11 Cleveland, McBride, Casey,
12 Roberts (Dustin), Kirby,
13 Virgin, Rousselot, Cooksey,
14 Lockhart, Cannaday, Stone,
15 Murdock, Inman, Hall,
16 Shelton, Griffith, Ownbey,
17 Vaughan, Wallace, Fisher,
18 Munson, Christian, Echols,
19 Nollan, Wood, Loring,
20 Bennett, Renegar, Lepak and
21 Hoskin of the House

22 and

23 Griffin, Boggs, Thompson,
24 Bass, David, Simpson,
Crain, Matthews, Brooks,
Fields, Bice and Floyd of
the Senate

25 [insurance - requiring coverage for autistic
26 disorders under certain circumstances - effective
27 date]

28 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

29 SECTION 1. NEW LAW A new section of law to be codified
30 in the Oklahoma Statutes as Section 6060.21 of Title 36, unless
31 there is created a duplication in numbering, reads as follows:

1 A. For all plans issued or renewed on or after November 1,
2 2016, a health benefit plan and the Oklahoma Employees Health
3 Insurance Plan shall provide coverage for the screening, diagnosis
4 and treatment of autism spectrum disorder in individuals less than
5 nine (9) years of age, or if an individual is not diagnosed or
6 treated until after three (3) years of age, coverage shall be
7 provided for at least six (6) years, provided that the individual
8 continually and consistently shows sufficient progress and
9 improvement as determined by the health care provider. No insurer
10 shall terminate coverage, or refuse to deliver, execute, issue,
11 amend, adjust or renew coverage to an individual solely because the
12 individual is diagnosed with or has received treatment for an autism
13 spectrum disorder.

14 B. Except as provided in subsection E of this section, coverage
15 under this section shall not be subject to any limits on the number
16 of visits an individual may make for treatment of autism spectrum
17 disorder.

18 C. Coverage under this section shall not be subject to dollar
19 limits, deductibles or coinsurance provisions that are less
20 favorable to an insured than the dollar limits, deductibles or
21 coinsurance provisions that apply to substantially all medical and
22 surgical benefits under the health benefit plan, except as otherwise
23 provided in subsection E of this section.

24

1 D. This section shall not be construed as limiting benefits
2 that are otherwise available to an individual under a health benefit
3 plan.

4 E. Coverage for applied behavior analysis shall be subject to a
5 maximum benefit of twenty-five (25) hours per week and no more than
6 Twenty-five Thousand Dollars (\$25,000.00) per year. Beginning
7 January 1, 2018, the Oklahoma Insurance Commissioner shall, on an
8 annual basis, adjust the maximum benefit for inflation by using the
9 Medical Care Component of the United States Department of Labor
10 Consumer Price Index for All Urban Consumers (CPI-U). The
11 Commissioner shall submit the adjusted maximum benefit for
12 publication annually before January 1, 2018, and before the first
13 day of January of each calendar year thereafter, and the published
14 adjusted maximum benefit shall be applicable in the following
15 calendar year to the Oklahoma Employees Health Insurance Plan and
16 health benefit plans subject to this section. Payments made by an
17 insurer on behalf of a covered individual for treatment other than
18 applied behavior analysis shall not be applied toward any maximum
19 benefit established under this section.

20 F. Coverage for applied behavior analysis shall include the
21 services of the board-certified behavior analyst or a licensed
22 doctoral-level psychologist.

23 G. Except for inpatient services, if an insured is receiving
24 treatment for an autism spectrum disorder, an insurer shall have the

1 right to review the treatment plan annually, unless the insurer and
2 the insured's treating physician or psychologist agree that a more
3 frequent review is necessary. Any such agreement regarding the
4 right to review a treatment plan more frequently shall apply only to
5 a particular insured being treated for an autism spectrum disorder
6 and shall not apply to all individuals being treated for autism
7 spectrum disorder by a physician or psychologist. The cost of
8 obtaining any review or treatment plan shall be borne by the
9 insurer.

10 H. This section shall not be construed as affecting any
11 obligation to provide services to an individual under an
12 individualized family service plan, an individualized education
13 program or an individualized service plan.

14 I. Nothing in this section shall apply to nongrandfathered
15 plans in the individual and small group markets that are required to
16 include essential health benefits under the federal Patient
17 Protection and Affordable Care Act, Public Law 111-148, or to
18 Medicare supplement, accident-only, specified disease, hospital
19 indemnity, disability income, long-term care or other limited
20 benefit hospital insurance policies.

21 **J. On or before January 31st of each year, the Insurance**
22 **Commissioner shall submit to the Speaker of the House, the Pro**
23 **Tempore of the Senate and the Governor a report describing any**
24 **premium increase to the consumer as a direct result of this section.**

1 If the Insurance Commissioner deems that the aggregate premium
2 increase to the consumer exceeds one percent (1%) since the
3 effective date of this act, the coverage mandated by this act shall
4 no longer be required after April 30th of that year.

5 K. On or before January 31st of each year, the Office of
6 Management Enterprise Services shall submit to the Speaker of the
7 House, the Pro Tempore of the Senate and the Governor a report
8 describing any premium increase to the consumer as a direct result
9 of this section. If the Insurance Commissioner deems that the
10 aggregate premium increase to the consumer exceeds one percent (1%)
11 since the effective date of this act, the coverage mandated by this
12 act shall no longer be required after April 30th of that year.

13 L. As used in this section:

14 1. "Applied behavior analysis" means the design, implementation
15 and evaluation of environmental modifications, using behavioral
16 stimuli and consequences, to produce socially significant
17 improvement in human behavior, including the use of direct
18 observation, measurement and functional analysis of the relationship
19 between environment and behavior;

20 2. "Autism spectrum disorder" means any of the pervasive
21 developmental disorders or autism spectrum disorders as defined by
22 the most recent edition of the Diagnostic and Statistical Manual of
23 Mental Disorders (DSM) or the edition that was in effect at the time
24 of diagnosis;

1 3. "Behavioral health treatment" means counseling and treatment
2 programs, including applied behavior analysis, that are:

3 a. necessary to develop, maintain or restore, to the
4 maximum extent practicable, the functioning of an
5 individual, and

6 b. provided by a board-certified behavior analyst or by a
7 licensed doctoral-level psychologist so long as the
8 services performed are commensurate with the
9 psychologist's university training and experience;

10 4. "Diagnosis of autism spectrum disorder" means medically
11 necessary assessment, evaluations or tests to diagnose whether an
12 individual has an autism spectrum disorder;

13 5. "Health benefit plan" means any plan or arrangement as
14 defined in subsection C of Section 6060.4 of Title 36 of the
15 Oklahoma Statutes;

16 6. "Oklahoma Employees Health Insurance Plan" means "Health
17 Insurance Plan" as defined in Section 1303 of Title 74 of the
18 Oklahoma Statutes;

19 7. "Pharmacy care" means medications prescribed by a licensed
20 physician and any health-related services deemed medically necessary
21 to determine the need or effectiveness of the medications;

22 8. "Psychiatric care" means direct or consultative services
23 provided by a psychiatrist licensed in the state in which the
24 psychiatrist practices;

1 9. "Psychological care" means direct or consultative services
2 provided by a psychologist licensed in the state in which the
3 psychologist practices;

4 10. "Therapeutic care" means services provided by licensed or
5 certified speech therapists, occupational therapists or physical
6 therapists; and

7 11. "Treatment for autism spectrum disorder" means evidence-
8 based care and related equipment prescribed or ordered for an
9 individual diagnosed with an autism spectrum disorder by a licensed
10 physician or a licensed doctoral-level psychologist who determines
11 the care to be medically necessary, including, but not limited to:

- 12 a. behavioral health treatment,
- 13 b. pharmacy care,
- 14 c. psychiatric care,
- 15 d. psychological care, and
- 16 e. therapeutic care.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1011.12 of Title 56, unless
19 there is created a duplication in numbering, reads as follows:

20 A. The Oklahoma Health Care Authority shall extend health care
21 benefits for the screening, diagnosis and treatment of autism
22 spectrum disorder for members less than nine (9) years of age, or if
23 a member is not diagnosed or treated until after three (3) years of
24 age, benefits shall be provided for at least six (6) years, provided

1 that the individual continually and consistently shows sufficient
2 progress and improvement as determined by the health care provider.

3 B. Except as provided in subsection C of this section, coverage
4 for benefits under this section shall not be subject to any limits
5 on the number of visits a member may make for treatment of autism
6 spectrum disorder.

7 C. Coverage for applied behavior analysis shall be subject to a
8 maximum benefit of twenty-five (25) hours per week and no more than
9 Twenty-five Thousand Dollars (\$25,000.00) per year. Beginning
10 January 1, 2018, the Oklahoma Health Care Authority shall, on an
11 annual basis, adjust the maximum benefit for inflation by using the
12 Medical Care Component of the United States Department of Labor
13 Consumer Price Index for All Urban Consumers (CPI-U). The Oklahoma
14 Health Care Authority shall submit the adjusted maximum benefit for
15 publication annually before January 1, 2018, and before the first
16 day of January of each calendar year thereafter, and the published
17 adjusted maximum benefit shall be applicable in the following
18 calendar year to coverage subject to this section. Payments made by
19 the Oklahoma Health Care Authority on behalf of a member for
20 treatment other than applied behavior analysis shall not be applied
21 toward any maximum benefit established under this section.

22 D. Coverage for applied behavior analysis shall include the
23 services of the board-certified behavior analyst or a licensed
24 doctoral-level psychologist.

1 E. Except for inpatient services, if a member is receiving
2 treatment for an autism spectrum disorder, the Oklahoma Health Care
3 Authority shall have the right to review the treatment plan
4 annually, unless the Oklahoma Health Care Authority and the member's
5 treating physician or psychologist agree that a more frequent review
6 is necessary. Any such agreement regarding the right to review a
7 treatment plan more frequently shall apply only to a particular
8 member being treated for an autism spectrum disorder and shall not
9 apply to all members being treated for autism spectrum disorder by a
10 physician or psychologist. The cost of obtaining any review or
11 treatment plan shall be borne by the Oklahoma Health Care Authority.

12 **F. On or before January 31st of each year, the Office of**
13 **Management Enterprise Services shall submit to the Speaker of the**
14 **House, the Pro Tempore of the Senate and the Governor a report**
15 **describing any premium increase to the consumer as a direct result**
16 **of this section. If the Insurance Commissioner deems that the**
17 **aggregate premium increase to the consumer exceeds one percent (1%)**
18 **since the effective date of this act, the coverage mandated by this**
19 **act shall no longer be required after April 30th of that year.**

20 G. As used in this section:

21 1. "Applied behavior analysis" means the design, implementation
22 and evaluation of environmental modifications, using behavioral
23 stimuli and consequences, to produce socially significant
24 improvement in human behavior, including the use of direct

1 observation, measurement and functional analysis of the relationship
2 between environment and behavior;

3 2. "Autism spectrum disorder" means any of the pervasive
4 developmental disorders or autism spectrum disorders as defined by
5 the most recent edition of the Diagnostic and Statistical Manual of
6 Mental Disorders (DSM) or the edition that was in effect at the time
7 of diagnosis;

8 3. "Behavioral health treatment" means counseling and treatment
9 programs, including applied behavior analysis, that are:

10 a. necessary to develop, maintain or restore, to the
11 maximum extent practicable, the functioning of an
12 individual, and

13 b. provided by a board-certified behavior analyst or by a
14 licensed doctoral-level psychologist so long as the
15 services performed are commensurate with the
16 psychologist's university training and supervised
17 experience;

18 4. "Diagnosis of autism spectrum disorder" means medically
19 necessary assessment, evaluations or tests to diagnose whether an
20 individual has an autism spectrum disorder;

21 5. "Member" means an eligible person who enrolls in the
22 Oklahoma Medicaid Healthcare Options System;

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1 6. "Pharmacy care" means medications prescribed by a licensed
2 physician and any health-related services deemed medically necessary
3 to determine the need or effectiveness of the medications;

4 7. "Psychiatric care" means direct or consultative services
5 provided by a psychiatrist licensed in the state in which the
6 psychiatrist practices;

7 8. "Psychological care" means direct or consultative services
8 provided by a psychologist licensed in the state in which the
9 psychologist practices;

10 9. "Therapeutic care" means services provided by licensed or
11 certified speech therapists, occupational therapists or physical
12 therapists; and

13 10. "Treatment for autism spectrum disorder" means evidence-
14 based care and related equipment prescribed or ordered for an
15 individual diagnosed with an autism spectrum disorder by a licensed
16 physician or a licensed doctoral-level psychologist who determines
17 the care to be medically necessary, including, but not limited to:

- 18 a. behavioral health treatment,
- 19 b. pharmacy care,
- 20 c. psychiatric care,
- 21 d. psychological care, and
- 22 e. therapeutic care.

23 SECTION 3. AMENDATORY 36 O.S. 2011, Section 6060.20, is
24 amended to read as follows:

1 Section 6060.20 A. All individual and group health insurance
2 policies that provide medical and surgical benefits shall provide
3 the same coverage and benefits to any individual under the age of
4 eighteen (18) years who has been diagnosed with an autistic disorder
5 as it would provide coverage and benefits to an individual under the
6 age of eighteen (18) years who has not been diagnosed with an
7 autistic disorder.

8 B. As used in this section, "autistic disorder" means a
9 neurological disorder that is marked by severe impairment in social
10 interaction, communication, and imaginative ~~play~~ play, with onset
11 during the first three (3) years of life and is included in a group
12 of disorders known as autism spectrum disorders.

13 ~~C. Nothing in this section shall be construed to require an~~
14 ~~insurer to provide any benefits for the diagnosis or treatment of~~
15 ~~any autistic disorder.~~

16 **SECTION 4. NEW LAW A new section of law to be codified**
17 **in the Oklahoma Statutes as Section 6060.22 of Title 36, unless**
18 **there is created a duplication in numbering, reads as follows:**

19 1. By February 1, 2018 and every February first thereafter, the
20 Insurance Commissioner shall publish a report on the Insurance
21 Department's website regarding the implementation of the coverage
22 required under Section 1 of this act. The report shall include, but
23 shall not be limited to, the following:

24

- 1 a. the total number of insureds diagnosed with autism
2 spectrum disorder,
3 b. the total cost of all claims paid out in the
4 immediately preceding calendar year for coverage
5 required by this Section 1 of this act,
6 c. the cost of such coverage per insured per month, and
7 d. the average cost per insured for coverage of applied
8 behavior analysis;

9 2. All health carriers and health benefit plans subject to the
10 provisions of Section 1 of this act shall provide the Insurance
11 Department with the data requested by the Department for inclusion
12 in the annual report.

13 SECTION 5. This act shall become effective November 1, 2016.

14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
15 March 30, 2016 - DO PASS AS AMENDED
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