

SENATE BILL No. 24

By Committee on Financial Institutions and Insurance

1-11

1 AN ACT concerning insurance; relating to coverage for autism spectrum
2 disorder; changing the required number of employees contained in the
3 definitions of "large employer" and "small employer"; amending
4 K.S.A. 40-2,194 and repealing the existing section.

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

7 Section 1. K.S.A. 40-2,194 is hereby amended to read as follows: 40-
8 2,194. (a) (1) (A) Any large group health insurance policy, medical service
9 plan, contract, hospital service corporation contract, hospital and medical
10 service corporation contract, fraternal benefit society or health
11 maintenance organization which provides coverage for accident and health
12 services and which is delivered, issued for delivery, amended or renewed
13 on or after January 1, 2015, shall provide coverage for the diagnosis and
14 treatment of autism spectrum disorder in any covered individual whose
15 age is less than 12 years.

16 (B) Any grandfathered individual or group health insurance policy,
17 medical service plan, contract, hospital service corporation contract,
18 hospital and medical service corporation contract, fraternal benefit society
19 or health maintenance organization ~~which~~ *that* provides coverage for
20 accident and health services and ~~which~~ *that* is delivered, issued for
21 delivery, amended or renewed on or after January 1, 2016, shall provide
22 coverage for the diagnosis and treatment of autism spectrum disorder in
23 any covered individual whose age is less than 12 years.

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

32 (3) Coverage provided under this section for applied behavior
33 analysis shall be subject to a limitation of:

34 (A) 1,300 hours per calendar year for four years beginning on the
35 later of the date of diagnosis or January 1, 2015, for any covered
36 individual diagnosed with autism spectrum disorder between birth and five

1 years of age; and

2 (B) except as provided in subparagraph (A), 520 hours per calendar
3 year for any covered individual less than 12 years of age.

4 Upon prior approval by the health benefit plan, such maximum benefit
5 limit may be exceeded if the provision of applied behavior analysis
6 services beyond the maximum limit is medically necessary for such
7 individual. Any payment made by an insurer on behalf of a covered
8 individual for any care, treatment, intervention, service or item, the
9 provision of which was for the treatment of a health condition unrelated to
10 such covered individual's autism spectrum disorder, shall not be applied
11 toward any maximum benefit established under this paragraph. Except for
12 the coverage for applied behavior analysis, no coverage required under this
13 section shall be subject to the age and hour limitations described in this
14 paragraph.

15 (4) On or after January 1, 2015, through June 30, 2016,
16 reimbursement shall be allowed only for services provided by a provider
17 licensed, trained and qualified to provide such services or by an autism
18 specialist or an intensive individual service provider as such terms are
19 defined by the Kansas department for aging and disability services Kansas
20 autism waiver. On or after July 1, 2016, reimbursement shall be allowed
21 only for services provided by an autism service provider licensed or
22 exempt from licensure under the applied behavior analysis licensure act,
23 except that reimbursement shall be allowed for services provided by an
24 autism specialist, an intensive individual service provider or any other
25 individual qualified to provide services under the home and community
26 based services autism waiver administered by the Kansas department for
27 aging and disability services.

28 (5) Any insurer or other entity ~~which~~ that administers claims for
29 services provided for the treatment of autism spectrum disorder under this
30 section shall have the right and obligation to deny any claim for services
31 based upon medical necessity or a determination that the covered
32 individual has reached the maximum medical improvement for the covered
33 individual's autism spectrum disorder.

34 (6) Except for inpatient services, if an insured is receiving treatment
35 for autism spectrum disorder, such insurer shall have the right to review
36 the treatment plan not more than once in a period of six consecutive
37 months, unless the insurer and the insured's treating physician or
38 psychologist agree that a more frequent review is necessary. Any such
39 agreement regarding the right to review a treatment plan more frequently
40 shall apply only to a particular insured being treated for autism spectrum
41 disorder and shall not apply to all individuals being treated for autism
42 spectrum disorder by a physician or psychologist. The cost of obtaining
43 any review or treatment plan shall be borne by the insurer.

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

5 (b) ~~For the purposes of~~ *As used in this section:*

6 (1) "Applied behavior analysis" means the design, implementation
7 and evaluation of environmental modifications, using behavioral stimuli
8 and consequences, to produce socially significant improvement in human
9 behavior, including the use of direct observation, measurement and
10 functional analysis of the relationship between environment and behavior.

11 (2) "Autism spectrum disorder" means a neurobiological disorder, an
12 illness of the nervous system, ~~which~~ *that* includes:

13 (A) "Autistic disorder," which is:

14 (i) Six or more items from (a), (b) and (c) of this subparagraph, with
15 at least two items from (a) of this subparagraph, and one item each from
16 (b) and (c) of this subparagraph:

17 (a) Qualitative impairment in social interaction, as manifested by at
18 least two of the following:

19 (1) Marked impairment in the use of multiple nonverbal behaviors
20 such as eye-to-eye gaze, facial expression, body postures and gestures to
21 regulate social interaction;

22 (2) failure to develop peer relationships appropriate to developmental
23 level;

24 (3) a lack of spontaneous seeking to share enjoyment, interests or
25 achievements with other people; or

26 (4) lack of social or emotional reciprocity;

27 (b) qualitative impairments in communication as manifested by at
28 least one of the following:

29 (1) Delay in, or total lack of, the development of spoken language;

30 (2) in individuals with adequate speech, marked impairment in the
31 ability to initiate or sustain a conversation with others;

32 (3) stereotyped and repetitive use of language or idiosyncratic
33 language; or

34 (4) lack of varied, spontaneous make-believe play or social imitative
35 play appropriate to developmental level;

36 (c) restricted repetitive and stereotyped patterns of behavior, interests
37 and activities, as manifested by at least one of the following:

38 (1) Encompassing preoccupation with one or more stereotyped and
39 restricted patterns of interest that is abnormal either in intensity or focus;

40 (2) apparently inflexible adherence to specific, nonfunctional routines
41 or rituals;

42 (3) stereotyped and repetitive motor mannerisms; or

43 (4) persistent preoccupation with parts of objects;

- 1 (ii) delays or abnormal functioning in at least one of the following
2 areas, with onset prior to age three years, including social interaction,
3 language as used in social communication or symbolic or imaginative
4 play; and
- 5 (iii) the disturbance is not better accounted for by Rett's disorder or
6 childhood disintegrative disorder;
- 7 (B) "Asperger's disorder," which is:
- 8 (i) A qualitative impairment in social interaction, as manifested by at
9 least two of the following:
- 10 (a) Marked impairment in the use of multiple nonverbal behaviors
11 such as eye-to-eye gaze, facial expression, body postures and gestures to
12 regulate social interaction;
- 13 (b) failure to develop peer relationships appropriate to developmental
14 level;
- 15 (c) lack of spontaneous seeking to share enjoyment, interests or
16 achievements with other people; or
- 17 (d) lack of social or emotional reciprocity;
- 18 (ii) restricted repetitive and stereotyped patterns of behavior, interests
19 and activities, as manifested by at least one of the following:
- 20 (a) Encompassing preoccupation with one or more stereotyped and
21 restricted patterns of interest that is abnormal either in intensity or focus;
- 22 (b) apparently inflexible adherence to specific, nonfunctional routines
23 or rituals;
- 24 (c) stereotyped and repetitive motor mannerisms; or
- 25 (d) persistent preoccupation with parts of objects;
- 26 (iii) the disturbance causes clinically significant impairment in social,
27 occupational or other important areas of functioning;
- 28 (iv) there is no clinically significant general delay in language;
- 29 (v) there is no clinically significant delay in cognitive development or
30 in the development of age-appropriate self-help skills, adaptive behavior
31 (other than in social interaction), and curiosity about the environment in
32 childhood; and
- 33 (vi) criteria are not met for another specific pervasive developmental
34 disorder or schizophrenia;
- 35 (C) "pervasive developmental disorder not otherwise specified," is a
36 severe and pervasive impairment in the development of reciprocal social
37 interaction associated with impairment in either verbal or nonverbal
38 communication skills or with the presence of stereotyped behavior,
39 interests and activities, but the criteria are not met for a specific pervasive
40 developmental disorder, schizophrenia, schizotypal personality disorder, or
41 avoidant personality disorder;
- 42 (D) "Rett's disorder," includes:
- 43 (i) All of the following:

- 1 (a) Apparently normal prenatal and perinatal development;
- 2 (b) apparently normal psychomotor development through the first
3 five months after birth; and
- 4 (c) normal head circumference at birth;
- 5 (ii) onset of all of the following after the period of normal
6 development:
- 7 (a) Deceleration of head growth between ages five and 48 months;
- 8 (b) loss of previously acquired purposeful hand skills between ages
9 five and 30 months with the subsequent development of stereotyped hand
10 movements;
- 11 (c) loss of social engagement early in the course of development;
- 12 (d) appearance of poorly coordinated gait or trunk movements; and
- 13 (e) severely impaired expressive and receptive language development
14 with severe psychomotor retardation;
- 15 (E) "childhood disintegrative disorder," is:
- 16 (i) Apparently normal development for at least the first two years
17 after birth as manifested by the presence of age-appropriate verbal and
18 nonverbal communication, social relationships, play and adaptive
19 behavior;
- 20 (ii) clinically significant loss of previously acquired skills in at least
21 two of the following areas: Expressive or receptive language, social skills
22 or adaptive behavior, bowel or bladder control or play and motor skills;
- 23 (iii) abnormalities of functioning in at least two of the following
24 areas: Qualitative impairment in social interaction; qualitative impairments
25 in communication; restricted, repetitive and stereotyped patterns of
26 behavior, interests and activities, including motor stereotypies and
27 mannerisms; and
- 28 (iv) the disturbance is not better accounted for by another specific
29 pervasive developmental disorder or by schizophrenia.
- 30 (3) "Diagnosis of autism spectrum disorder" means any medically
31 necessary assessment, evaluation or test performed by a licensed
32 physician, licensed psychologist or licensed specialist clinical social
33 worker to determine whether an individual has autism spectrum disorder.
- 34 (4) "Grandfathered health benefit plan"—~~shall have the meaning~~
35 ~~ascribed to such term~~ *means the same as defined* in 42 U.S.C. § 18011.
36 The term "grandfathered health benefit plan" includes both small employer
37 group health benefit plans that are grandfathered and individual health
38 benefit plans that are grandfathered.
- 39 (5) "Health benefit plan"—~~shall have the meaning ascribed to such~~
40 ~~term~~ *means the same as defined* in K.S.A. 40-4602, and amendments
41 thereto.
- 42 (6) "Large employer" means, in connection with a group health
43 benefit plan with respect to a calendar year and a plan year, an employer

1 who employed an average of at least ~~101~~ 51 employees on business days
2 during the preceding calendar year and who employs at least one employee
3 on the first day of the plan year.

4 (7) "Small employer" means, in connection with a group health
5 benefit plan with respect to a calendar year and a plan year, an employer
6 who employed an average of at least ~~one~~ two but not more than ~~100~~ 50
7 employees on business days during the preceding calendar year and who
8 employs at least one employee on the first day of the plan year.

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

17 (d) Except as otherwise provided in subsection (a), no individual or
18 group health insurance policy, medical service plan, contract, hospital
19 service corporation contract, hospital and medical service corporation
20 contract, fraternal benefit society or health maintenance organization
21 ~~which that~~ provides coverage for accident and health services and ~~which~~
22 provides coverage with respect to autism spectrum disorder shall *impose*
23 *on the coverage required by this section:*

24 (1) ~~Impose on the coverage required by this section~~ Any dollar limits,
25 deductibles or coinsurance provisions that are less favorable to an insured
26 than the dollar limits, deductibles or coinsurance provisions that apply to
27 physical illness generally under the accident and sickness insurance policy;
28 or

29 (2) ~~impose on the coverage required by this section~~ Any limit upon
30 the number of visits that a covered individual may make for treatment of
31 autism spectrum disorder.

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

43 (f) This section shall not be construed as limiting benefits that are

1 otherwise available to an individual under any individual or group health
2 insurance policy, medical service plan, contract, hospital service
3 corporation contract, hospital and medical service corporation contract,
4 fraternal benefit society or health maintenance organization which
5 provides coverage for accident and health services.

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

8 (h) The commissioner of the department of insurance shall grant a
9 small employer with a group health benefit plan a waiver from the
10 provisions of this section, if the small employer demonstrates to the
11 commissioner by actual claims experience over any consecutive ~~twelve-~~
12 ~~month~~ *12-month* period that compliance with this section has increased the
13 cost of the health insurance policy by an amount of ~~two and a half percent~~
14 *2.5%* or greater over the period of a calendar year in premium costs to the
15 small employer.

16 (i) Nothing contained in this section shall require coverage for or
17 payment of full or partial day care or habilitation services, community
18 support services, services at intermediate care facilities, school-based
19 rehabilitative services or overnight, boarding and extended stay services at
20 facilities for autism patients. Only services actually rendered on an hourly
21 basis or fractional portion thereof by certified applied behavior analysis
22 (ABA) providers as herein defined shall be required to be covered under
23 this section. Nothing in this section shall require coverage or payment
24 hereunder for services that are otherwise provided, authorized or required
25 to be provided by public or private schools receiving any state or federal
26 funding for such services.

27 Sec. 2. K.S.A. 40-2,194 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.