

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2160**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for HB 2160, as amended, would enact new law and amend existing law to specify certain requirements for the coverage of services for the diagnosis and treatment of autism spectrum disorder (ASD) [State health care benefits program] and for the coverage for orally administered anti-cancer medications, on a basis no less favorable than intravenously or injected cancer medications that are covered as medical benefits [State health care benefits program; later application to all individual or group health insurance policies].

**Coverage Requirements—
Autism Spectrum Disorder**

The bill would enact new law and amend existing law to require the Kansas State Employees Health Care Commission (administers the State health care benefits program for state employees and other qualified entities) to provide for the coverage of services for the diagnosis and treatment of autism spectrum disorder (ASD) in any covered individual whose age is less than 19 years.

The bill would limit the coverage available under the State Employee Health Plan (SEHP) [the State health care benefits program] to the following terms and limitations:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Coverage must be provided in a manner determined in consultation with the autism services provider and the patient. The services provided by the autism services provider must include applied behavioral analysis when required by licensed physician, licensed psychologist, or licensed specialist clinical social worker, but otherwise are required to be limited to those services prescribed or ordered by the licensed physician, licensed psychologist or licensed specialist clinical social worker. The services provided are to be those services which are or have been recognized by peer-reviewed literature as providing medical benefit to the patient based upon the patient's particular autism spectrum disorder.
- Coverage may be subject to appropriate annual deductibles and coinsurance provisions as are consistent with those established for other physical illness benefits under the SEHP.
- Coverage for benefits for any covered person diagnosed with one or more autism spectrum disorders and whose age is between birth and less than age seven cannot exceed \$36,000 per year.
- Coverage for benefits for any covered person diagnosed with one or more autism spectrum disorders and whose age is at least seven and less than 19 cannot exceed \$27,000 per year.
 - Coverage for the covered individuals defined above is subject to the same co-pays, deductibles, and dollar limits as benefits for physical illness, and other utilization or benefit limits as the Health Care Commission may determine.
- Reimbursement would be allowed only for services provided by a provider licensed, trained, and qualified to provide such services or by an autism specialist or an intensive individual service provider, as those terms are defined by the Department of Social and Rehabilitation

Services for the Kansas Autism Waiver as the waiver exists on July 1, 2010.

- Any insurer or other entity which administers claims for services provided for the treatment of ASD is granted the right and obligation to review utilization of such services and to deny any claim for services based upon medical necessity or a determination that a covered individual has reached the maximum medical improvement for his or her ASD.

Definitions

The bill would establish three definitions for the coverage terms and limitations associated with the diagnosis and treatment of Autism Spectrum Disorder:

- **Applied behavior analysis** – the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.
- **Autism spectrum disorder** – the following disorders within the autism spectrum: Autistic Disorder, Asperger's Syndrome, and Pervasive Developmental Disorder Not Otherwise Specified, as such terms are specified in the *Diagnostic and Statistical Manual of Mental Disorders*, fourth edition, text revision (DSM-IV-TR) of the American Psychiatric Association, as published in May, 2000, or later versions as established in rules and regulations adopted by the Behavioral Sciences Regulatory Board pursuant to KSA 74-7507 and amendments thereto.
- **Diagnosis of autism spectrum disorder** – any medically necessary assessment, evaluation, or test to determine whether an individual has an autism spectrum disorder.

Legislative Review

The bill also would require the Health Care Commission, pursuant to the requirements of the Insurance Code regarding mandated health insurance benefits, to submit on or before March 1, 2012, a report to the Senate President and the Speaker of the House of Representatives. The report is to include information pertaining to the mandated ASD benefit coverage provided during the 2011 Plan Year. The information is to include:

- The impact that the mandated coverage has had on the State health care benefits program;
- Data on the utilization of coverage for autism spectrum disorder by covered individuals and the cost of providing such coverage; and,
- A recommendation on whether such mandated coverage should continue for the State health care benefits program.

The Legislature is permitted to consider (in the next session following the receipt of the report) whether or not to require the coverage for autism spectrum disorder to be included in any individual or group health insurance policy, medical service plan, HMO, or other contract which provides for accident and health services and which is delivered, issued for delivery, amended, or renewed on or after July 1, 2013.

Amendments to Current Law – State Health Care Benefits Program

The law requiring the Health Care Commission to develop and provide for the implementation and administration of a state health care benefits program is amended to require the program to provide the benefits and services for ASD specified in the bill.

**Coverage Requirements—
Orally Administered Anti-Cancer Medications**

The bill also would require all individual or group health insurance policies or contracts (including the municipal group-funded pool and the State Employee Health Plan) that provide coverage for prescription drugs, on and after July 1, 2011, to provide coverage for prescribed, orally administered anti-cancer medications used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits. Insurance policies, contracts, or other agreements would be permitted to apply the same deductibles, coinsurance and other limitations as apply to other covered services.

The bill would require that from and after the effective date of the act (publication in statute), the provisions for coverage of orally administered anti-cancer medications apply to the State Employees Health Care Benefits Program. The State Health Care Commission, pursuant to KSA 40-2249a (the law that requires a pilot project in the State Employee Health Plan, commonly referred to as a “test track,” for new mandated health insurance coverage for a specified health care benefit or provider of health care services), would be required to submit a report to the Senate President and the House Speaker that indicates the impact the provisions for orally administered anti-cancer medications has had on the State Health Care Benefits Program, including data on the utilization and costs of such coverage. The report also would be required to include a recommendation on whether such coverage should continue for the State Health Care Benefits Program or whether additional utilization and cost data is required. The report must be provided to the legislative representatives on or before March 1, 2011.

Background

The Senate Committee on Financial Institutions and Insurance recommended the introduction of a substitute bill.

The substitute bill incorporates the provisions of 2010 SB 554, as modified by the Senate Committee on Financial Institutions. SB 554 was modified by the Committee to make technical amendments and to modify and clarify language to specify what providers could require services (by prescription or order) to treat a covered patient's particular Autism Spectrum Disorder and the reimbursement of providers of services. The reimbursement of providers would include certain providers defined by the Autism Waiver.

The Senate Committee of the Whole recommended an amendment to the bill to include insurance coverage provisions for orally administered anti-cancer medications. Coverage requirements (parity of coverage for orally and intravenously administered anti-cancer medications) were included in 2009 SB 195. However, SB 195 had an earlier date for application in insurance policies (July 1, 2009) and did not have provisions for the "test track" in the State Health Care Benefits Plan and required report to the Legislature. The Senate Committee of the Whole amendment also is included in 2010 SB 390 (as amended by the Senate Committee of the Whole).

The original bill (HB 2160) contained provisions that would have enacted new law to require property insurers to transmit certain claims payments directly to their primary policyholders without requiring dual endorsement from the mortgage holder or lien holder. The original bill also amended the Kansas Consumer Protection Act to establish a deceptive act or practice under the Act.

2010 SB 554 was introduced by the Senate Committee on Ways and Means. A representative of Autism Speaks, who also is a parent of an autistic child, appeared in support of the bill. Representatives of Blue Cross and Blue Shield of Kansas and Kansas City and the Kansas Chapter of the National Association of Social Workers appeared as neutral parties to the bill. Both representatives offered amendments to the bill. The representative of BCBS also submitted proviso language (appropriations). The bill was opposed at the Senate

Committee on Financial Institutions and Insurance hearing by the Kansas Association of Health Plans.

The fiscal note prepared by the Division of the Budget on the introduced version of 2010 SB 554 states that the Kansas Health Policy Authority estimates an increase in the State Employee Health Plan expenditures of \$4,207,815 for FY 2011, \$4,607,557 for FY 2012, and \$5,045,275 for FY 2013. Actual costs could vary significantly from the estimate, the note continues, due to factors such as: improvements in the diagnosis of ASD; evolution of accepted treatments and technology; treatment plan breadth and depth; possible provider price increases in response to coverage availability; and actual prevalence that is different from the population-based estimate. Any fiscal effect associated with the bill is not reflected in *The FY 2011 Governor's Budget Report*. No fiscal note was available on the modified version of the bill that was incorporated into the substitute bill.