A BILL FOR AN ACT

CONCERNING HEALTH INSURANCE BENEFITS FOR THE TREATMENT OF AUTISM SPECTRUM DISORDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Directs that all individual and group sickness and accident insurance policies, health service or indemnity contracts, and managed care plans providing coverage in Colorado (policy or policies) that are issued or renewed on or after July 1, 2010, shall provide coverage for the assessment, diagnosis, and treatment of autism spectrum disorders (ASD). Defines what type of coverage is required for the treatment of ASD, including applied behavior analysis. States that nothing in the statute
shall be construed to require or permit a carrier to reduce benefits provided for ASD if a policy already provides coverage that exceeds the requirements of the statute and that nothing shall be construed to prevent an insurance carrier from increasing benefits provided for ASD. States that nothing in the statute shall be construed to limit coverage for physical or mental health benefits covered under a policy.

States that coverage for ASD is subject to the same copayment, deductible, and coinsurance provisions that are applicable under the policy for other medical services for physical injury or sickness covered by the policy. Directs that benefits provided by an insurance carrier for care or treatment of a health condition not diagnosed as ASD are not to be applied toward any ASD maximum benefit amount established under the policy.

Prohibits a carrier from denying or refusing to provide otherwise covered services, refusing to renew or reissue, or otherwise restricting or terminating coverage under a policy to an individual because the individual or his or her dependent is diagnosed with ASD or due to utilization of services for which coverage is mandated. Requires prescribed treatment to be continued during a treatment review or appeal of a decision regarding treatment.

Specifies that services for the treatment of ASD are the primary services for a child who is also eligible for early intervention services, and that early intervention services supplement, but do not replace, services provided under the required coverage for ASD.

Makes issuance or renewal of a policy that excludes coverage for the assessment, diagnosis, and treatment of ASD by an insurance carrier that is subject to the mandated coverage requirement for the treatment for ASD an unfair method of competition and unfair or deceptive act or practice in the business of insurance.

Repeals the statute that provides that treatment for autism was not mandated and, if covered by a policy, was not to be treated as a mental illness.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly acknowledges that when mandated coverages are added to private insurance plans that the services covered by the children's basic health plan are often adjusted and revised to include such mandated coverages. However, the general assembly hereby declares that due to the budgetary issues facing the state of Colorado during fiscal years 2008-09
and 2009-10, the general assembly cannot at this time fund an expansion
of the children's basic health plan to include comparable provisions.
It is the hope that such program may be able to include comparable
services for autism spectrum disorders in the future.

SECTION 2. 10-16-104 (1.3), Colorado Revised Statutes, is
amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-16-104. Mandatory coverage provisions - definitions.

(1.3) Early intervention services. (f) Early intervention services
shall be provided as specified in the eligible child's IFSP, and
such services shall not duplicate or replace treatment for
autism spectrum disorders provided in accordance with
subsection (1.4) of this section. Services for the treatment of
autism spectrum disorders provided in accordance with
subsection (1.4) of this section shall be considered the primary
service to an eligible child, and early intervention services
provided under this subsection (1.3) shall supplement, but not
replace, services provided under subsection (1.4) of this section.

SECTION 3. 10-16-104, Colorado Revised Statutes, is amended
BY THE ADDITION OF A NEW SUBSECTION to read:

10-16-104. Mandatory coverage provisions - definitions.

(1.4) Autism spectrum disorders. (a) As used in this subsection
(1.4), unless the context otherwise requires:

(I) "Applied behavior analysis" means the use of behavior
analytic methods and research findings to change socially
important behaviors in meaningful ways.

(II) "Autism services provider" means any person
who provides direct services to a person with autism spectrum
disorders.
DISORDER, IS LICENSED, CERTIFIED, OR REGISTERED BY THE APPLICABLE
STATE LICENSING BOARD OR BY A NATIONALLY RECOGNIZED
ORGANIZATION, AND WHO MEETS ONE OF THE FOLLOWING:

(A) HAS A DOCTORAL DEGREE WITH A SPECIALTY IN PSYCHIATRY,
MEDICINE, OR CLINICAL PSYCHOLOGY, IS ACTIVELY LICENSED BY THE
STATE BOARD OF MEDICAL EXAMINERS, AND HAS ONE YEAR OF DIRECT
EXPERIENCE IN BEHAVIORAL THERAPIES THAT ARE CONSISTENT WITH BEST
PRACTICE AND RESEARCH ON EFFECTIVENESS FOR PEOPLE WITH AUTISM
SPECTRUM DISORDERS;

(B) HAS A DOCTORAL DEGREE IN ONE OF THE BEHAVIORAL OR
HEALTH SCIENCES AND HAS COMPLETED ONE YEAR OF EXPERIENCE IN
BEHAVIORAL THERAPIES THAT ARE CONSISTENT WITH BEST PRACTICE AND
RESEARCH ON EFFECTIVENESS FOR PEOPLE WITH AUTISM SPECTRUM
DISORDERS;

(C) HAS A MASTER’S DEGREE OR HIGHER IN BEHAVIORAL SCIENCES
AND IS NATIONALLY CERTIFIED AS A “BOARD CERTIFIED BEHAVIOR
ANALYST” OR CERTIFIED BY A SIMILAR NATIONALLY RECOGNIZED
ORGANIZATION;

(D) HAS A MASTER’S DEGREE OR HIGHER IN ONE OF THE BEHAVIOR
OR HEALTH SCIENCES, IS CREDENTIALED AS A RELATED SERVICES
PROVIDER, AND HAS COMPLETED ONE YEAR OF DIRECT SUPERVISED
EXPERIENCE IN BEHAVIORAL THERAPIES THAT ARE CONSISTENT WITH BEST
PRACTICE AND RESEARCH ON EFFECTIVENESS FOR PEOPLE WITH AUTISM
SPECTRUM DISORDERS. FOR THE PURPOSES OF THIS SUB-SUBPARAGRAPH
(D), ”RELATED SERVICES PROVIDER” MEANS A PHYSICAL THERAPIST,
OCCUPATIONAL THERAPIST, OR SPEECH THERAPIST,

(E) HAS A BACCALAUREATE DEGREE OR HIGHER IN BEHAVIORAL
SCIENCES AND IS NATIONALLY CERTIFIED AS A "BOARD CERTIFIED
ASSOCIATE BEHAVIOR ANALYST" OR CERTIFIED BY A SIMILAR NATIONALLY
RECOGNIZED ORGANIZATION.

(III) "AUTISM SPECTRUM DISORDERS" OR "ASD" INCLUDES THE
FOLLOWING NEUROBIOLOGICAL DISORDERS: AUTISTIC DISORDER,
ASPERGER’S DISORDER, AND ATYPICAL AUTISM AS A DIAGNOSIS WITHIN
PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED, AS
DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND
STATISTICAL MANUAL OF MENTAL DISORDERS, AT THE TIME OF THE
DIAGNOSIS.

(IV) "HEALTH BENEFIT PLAN" SHALL HAVE THE SAME MEANING AS
PROVIDED IN SECTION 10-16-102 (21). IN ADDITION, THE TERM "HEALTH
BENEFIT PLAN", AS USED IN THIS SUBSECTION (1.4), EXCLUDES
SHORT-TERM LIMITED DURATION HEALTH INSURANCE POLICIES AS DEFINED
IN SECTION 10-16-102 (21)(b). "HEALTH BENEFIT PLAN", AS USED IN THIS
SUBSECTION (1.4), DOES NOT INCLUDE INDIVIDUAL HEALTH BENEFIT
PLANS.

(V) "INDIVIDUALIZED EDUCATION PLAN" SHALL HAVE THE SAME
MEANING AS PROVIDED IN SECTION 22-20-103, C.R.S.

(VI) "INDIVIDUALIZED FAMILY SERVICE PLAN" SHALL HAVE THE
SAME MEANING AS PROVIDED IN SECTION 27-10.5-102, C.R.S.

(VII) "INDIVIDUALIZED PLAN" SHALL HAVE THE SAME MEANING AS
PROVIDED IN SECTION 27-10.5-102, C.R.S.

(VIII) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A
PHYSICIAN LICENSED BY THE STATE BOARD OF MEDICAL EXAMINERS
UNDER THE "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE
(IX) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHIATRIST LICENSED BY THE STATE BOARD OF MEDICAL EXAMINERS UNDER THE "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S.

(X) "PSYCHOLOGICAL CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHOLOGIST LICENSED BY THE STATE BOARD OF PSYCHOLOGIST EXAMINERS PURSUANT TO PART 3 OF ARTICLE 43 OF TITLE 12, C.R.S., OR A SOCIAL WORKER LICENSED BY THE STATE BOARD OF SOCIAL WORK EXAMINERS PURSUANT TO PART 4 OF ARTICLE 43 OF TITLE 12, C.R.S.

(XI) "THERAPEUTIC CARE" MEANS SERVICES PROVIDED BY A SPEECH THERAPIST, AN OCCUPATIONAL THERAPIST REGISTERED TO PRACTICE OCCUPATIONAL THERAPY PURSUANT TO ARTICLE 40.5 OF TITLE 12, C.R.S., A PHYSICAL THERAPIST LICENSED TO PRACTICE PHYSICAL THERAPY PURSUANT TO ARTICLE 41 OF TITLE 12, C.R.S., OR AN AUTISM SERVICES PROVIDER. "THERAPEUTIC CARE" INCLUDES, BUT IS NOT LIMITED TO, SPEECH, OCCUPATIONAL, AND APPLIED BEHAVIOR ANALYTIC AND PHYSICAL THERAPIES.

(XII) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL BE FOR TREATMENTS THAT ARE MEDICALLY NECESSARY, APPROPRIATE, EFFECTIVE, OR EFFICIENT. THE TREATMENTS LISTED IN THIS SUBPARAGRAPH (XII) ARE NOT CONSIDERED EXPERIMENTAL OR INVESTIGATIONAL AND ARE CONSIDERED APPROPRIATE, EFFECTIVE, OR EFFICIENT FOR THE TREATMENT OF AUTISM. "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL INCLUDE THE FOLLOWING:

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(A) Evaluation and Assessment Services;
(B) Behavior training and behavior management and Applied Behavior Analysis, including but not limited to Consultations, direct care, supervision, or treatment, or any combination thereof, for Autism Spectrum Disorders provided by Autism Services Providers.
(C) Habilitative or rehabilitative care, including, but not limited to, occupational therapy, physical therapy, or speech therapy, or any combination of those therapies. For a person who is also covered under subsection (1.7) of this section, the level of benefits for occupational therapy, physical therapy, or speech therapy shall exceed the limit of twenty visits for each therapy if such therapy is medically necessary to treat Autism Spectrum Disorders under this subsection (1.4).
(D) Pharmacy care and medication, if covered by the health benefit plan;
(E) Psychiatric care;
(F) Psychological care, including family counseling; and
(G) Therapeutic care.
(XIII) "Treatment plan" means a plan developed for an individual by an Autism Services Provider and prescribed by a licensed physician or a licensed psychologist pursuant to a comprehensive evaluation or reevaluation for an individual consisting of the individual's diagnosis; proposed treatment by type, frequency, and anticipated treatment; the anticipated outcomes stated as goals; and the frequency by which the treatment plan will be updated. The treatment plan...
SHALL BE DEVELOPED IN ACCORDANCE WITH THE PATIENT-CENTERED MEDICAL HOME AS DEFINED IN SECTION 25.5-1-103 (5.5), C.R.S.

(b) (I) On or after July 1, 2010, all health benefit plans issued or renewed in this state shall provide coverage for the assessment, diagnosis, and treatment of autism spectrum disorders for a child pursuant to this subsection (1.4). For a child from birth through eight years of age up to, but not including, nine years of age, the annual maximum benefit for applied behavior analysis for autism spectrum disorders required by this subsection (1.4) shall be in an amount not to exceed thirty-four thousand dollars and for a child nine years of age or older and under nineteen years of age, the annual maximum benefit for applied behavior analysis for autism spectrum disorders required by this subsection (1.4) shall be in an amount not to exceed twelve thousand dollars.

(II) Nothing in this subsection (1.4) shall be construed to:

(A) Require or permit a carrier to reduce benefits provided for autism spectrum disorders if a health benefit plan already provides coverage that exceeds the requirements of this subsection (1.4);

(B) Prevent a carrier from increasing benefits provided for autism spectrum disorders; or

(C) Limit coverage for physical or mental health benefits covered under a health benefit plan.

(c) Treatment for autism spectrum disorders shall be prescribed or ordered by a licensed physician or licensed psychologist.
(d) A health benefit plan offered to residents of this state providing basic health care services that is delivered, issued for delivery, or renewed in this state shall not exclude autism spectrum disorders or impose additional requirements for authorization of services that operate to exclude coverage for the assessment, diagnosis, and treatment of autism spectrum disorders.

(e) Except as otherwise provided in paragraph (b) of this subsection (1.4), the coverage required under this subsection (1.4) shall not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles, or coinsurance provisions that apply to physical illness generally under the health benefit plan. The benefits of this subsection (1.4) shall be in addition to any benefits provided for in subsection (1.3) and (1.7) of this section.

(f) Benefits provided by a carrier on behalf of a covered individual for any care, treatment, intervention, service, or item, the provision of which was for the treatment of a health condition not diagnosed as an autism spectrum disorder, shall not be applied toward any maximum benefit amount established under this subsection (1.4).

(g) A carrier may not deny or refuse to provide otherwise covered services, refuse to issue, renew, or reissue, or otherwise restrict or terminate coverage under a health benefit plan because the individual or his or her covered dependent is diagnosed with an autism spectrum disorder or due to the
INDIVIDUAL'S OR DEPENDENT'S UTILIZATION OF SERVICES FOR WHICH BENEFITS ARE MANDATED BY THIS SUBSECTION (1.4).

(h) ANY REVIEW OF A TREATMENT PLAN OR ANY APPEAL OF A DECISION REGARDING TREATMENT SHALL BE SUBJECT TO THE RULES OF THE COMMISSIONER ON PROMPT INVESTIGATION OF HEALTH PLAN CLAIMS INVOLVING UTILIZATION REVIEW AND DENIAL OF BENEFITS.

(i) NOTHING IN THIS SUBSECTION (1.4) SHALL BE CONSTRUED AS AFFECTING ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVIDUALIZED EDUCATION PROGRAM, OR AN INDIVIDUALIZED PLAN. THE SERVICES REQUIRED TO BE COVERED BY THIS SUBSECTION (1.4) SHALL BE IN ADDITION TO ANY SERVICES PROVIDED TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVIDUALIZED EDUCATION PROGRAM, OR AN INDIVIDUALIZED PLAN.

(j) COVERAGE UNDER THIS SUBSECTION (1.4) IS SUBJECT TO ALL TERMS, CONDITIONS, DEFINITIONS, RESTRICTIONS, EXCLUSIONS, LIMITATIONS, AND UTILIZATION REVIEW OF HEALTH CARE SERVICES THAT APPLY TO ANY OTHER COVERAGE UNDER THE HEALTH BENEFIT PLAN, INCLUDING THE TREATMENT UNDER THE HEALTH BENEFIT PLAN OF SERVICES PERFORMED BY PARTICIPATING AND NONPARTICIPATING PROVIDERS.

SECTION 4. 10-16-104.5, Colorado Revised Statutes, is amended to read:

10-16-104.5. Autism - treatment - not mental illness. (1) Any sickness and accident insurance policy providing indemnity for disability due to sickness issued by an entity subject to the provisions of part 2 of this article and any individual or group service or indemnity contracts...
POLICIES issued by an entity subject to the provisions of part 3 or 4 of this article which provide coverage for autism shall provide such coverage in the same manner as for any other accident or sickness, other than mental illness, otherwise covered under such policy.

(2) Nothing in this section shall mandate or be construed or interpreted to mandate that any INDIVIDUAL policy hospital service or indemnity contract, or evidence of coverage must provide coverage for autism.

(3) NOTHING IN THIS SECTION SHALL PROHIBIT OR PREVENT A PERSON WITH AN AUTISM SPECTRUM DISORDER FROM RECEIVING MENTAL HEALTH BENEFITS IN HIS OR HER HEALTH BENEFIT PLAN.

SECTION 5. 25.5-8-107 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25.5-8-107. Duties of the department - schedule of services - premiums - copayments - subsidies. (1) In addition to any other duties pursuant to this article, the department shall have the following duties:

(a) (IV) THE SCHEDULE OF HEALTH CARE SERVICES INCLUDED IN THE PLAN SHALL NOT INCLUDE COVERAGE PURSUANT TO THE MANDATORY COVERAGE PROVISIONS OF SECTION 10-16-104 (1.4), C.R.S.

SECTION 6. Act subject to petition - effective date - applicability. (1) This act shall take effect July 1, 2010.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state
constitution, then the act, item, section, or part, shall not take effect unless
approved by the people at a biennial regular general election and shall
take effect on the date specified in subsection (1) or on the date of the
official declaration of the vote thereon by proclamation of the governor,
whichever is later.

(3) The provisions of this act shall apply to health insurance
policies, health care service or indemnity contracts, or managed care
plans issued or renewed on or after the applicable effective date of this
act.