

D R A F T

SUMMARY

Establishes requirements for health insurance coverage of autism spectrum disorders.

A BILL FOR AN ACT

Relating to health insurance coverage of autism spectrum disorders; creating new provisions; and amending ORS 743A.190.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 and 3 of this 2012 Act are added to and made a part of the Insurance Code.

SECTION 2. As used in this section and section 3 of this 2012 Act:

(1) “Applied behavior analysis” means 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.

(2) “Autism line therapist” means an individual who:

(a) Has completed:

(A) A minimum of 12 semester hours, or the equivalent of 12 semester hours, of college coursework and is currently enrolled in a course of study leading to an associate’s or bachelor’s degree in psychology, education, social work, behavioral science, human development or related fields; or

(B) A minimum of 48 semester hours, or the equivalent of 48 se-

1 mester hours, of college coursework in any field;

2 (b) Has completed 40 hours of training by a board-certified behavior
3 analyst or licensed health care professional, that covers the following
4 topics:

5 (A) Introduction to autism spectrum disorder, applied behavior
6 analysis, intensive behavioral programs and typical child development;

7 (B) Principles and application of applied behavior analysis or other
8 intensive behavioral programs;

9 (C) Legal, ethical and safety issues in working with families and
10 vulnerable populations;

11 (D) Professional standards and ethics; and

12 (E) Additional topics as may be required by the Behavior Analyst
13 Certification Board, Incorporated;

14 (c) Has completed 40 hours of work in the field supervised by a
15 board-certified behavior analyst or licensed health care professional
16 during a period of 12 weeks or less;

17 (d) Has passed a criminal background check;

18 (e) Receives ongoing, scheduled oversight by a board-certified be-
19 havior analyst or licensed health care professional;

20 (f) Has been approved by the Department of Human Services pur-
21 suant to administrative rules adopted by the department or by enter-
22 ing into a provider agreement with the department; and

23 (g) Meets additional registration, supervision or credentialing re-
24 quirements as may be required by rules adopted by a board or agency
25 of this state.

26 (3) "Autism spectrum disorder" means a neurobiological condition
27 that includes autistic disorder and Asperger's disorder as defined in
28 the most recent edition of the Diagnostic and Statistical Manual of
29 Mental Disorders published by the American Psychiatric Association.

30 (4) "Behavioral health treatment" means counseling and treatment
31 programs or applied behavior analysis and other intensive behavioral

1 **programs that are necessary to develop, improve, maintain or restore**
2 **the functioning of an individual to the maximum extent possible and**
3 **are provided by:**

4 (a) **A licensed health care professional;**

5 (b) **A board-certified behavior analyst; or**

6 (c) **An autism line therapist supervised by a board-certified behavior**
7 **analyst or licensed health care professional.**

8 (5) **“Board-certified behavior analyst” means an individual who:**

9 (a) **Has been certified by the Behavior Analyst Certification Board,**
10 **Incorporated, as a “Board Certified Behavior Analyst” or a “Board**
11 **Certified Assistant Behavior Analyst”;**

12 (b) **Has passed a criminal background check;**

13 (c) **Has been approved by the Department of Human Services pur-**
14 **suant to administrative rules adopted by the department or by enter-**
15 **ing into a provider agreement with the department; and**

16 (d) **Meets additional registration, supervision or credentialing re-**
17 **quirements as may be required by rules adopted by a board or agency**
18 **of this state.**

19 (6) **“Coordination of care” means a service that:**

20 (a) **Facilitates linking patients with appropriate services and re-**
21 **sources in a coordinated effort to ensure that patient needs are met**
22 **and services are not duplicated by organizations involved in providing**
23 **care;**

24 (b) **Assists patients and families to more effectively navigate and**
25 **use the health care system; or**

26 (c) **Maximizes the value of services delivered to patients by facili-**
27 **tating beneficial, efficient, safe and high-quality patient experiences**
28 **and improved health care outcomes.**

29 (7) **“Diagnosis” means medically necessary assessment, evaluations**
30 **or tests.**

31 (8) **“Medical accommodations for usual care” means medical ac-**

1 **commodations and services that are medically necessary in order for**
2 **an individual with an autism spectrum disorder to receive the same**
3 **medical or dental care that an individual without an autism spectrum**
4 **disorder would receive, including but not limited to sedation.**

5 **(9) “Medically necessary” means:**

6 **(a) Reasonably expected to do the following:**

7 **(A) Prevent the onset of an illness, condition, injury or disability;**

8 **(B) Reduce or ameliorate the physical, mental or developmental**
9 **effects of an illness, condition, injury or disability; or**

10 **(C) Assist an individual in achieving or maintaining maximum**
11 **functional capacity to perform daily activities, taking into account**
12 **both the functional capacity of the individual and the functional ca-**
13 **pacities that are appropriate for individuals of the same age.**

14 **(b) As determined in accordance with:**

15 **(A) The best available evidence published in peer-reviewed aca-**
16 **demic, medical or other health professional literature generally re-**
17 **cognized by the relevant academic, medical and health professional**
18 **community;**

19 **(B) Governmental, physician and other relevant health professional**
20 **specialty society recommendations;**

21 **(C) The views of health care professionals who are knowledgeable**
22 **and experienced in treating individuals with autism spectrum disorder;**
23 **and**

24 **(D) Medical, clinical and other information relevant to making de-**
25 **cisions about the care of an individual patient.**

26 **(10) “Pharmacy care” means medications prescribed by a licensed**
27 **physician or other health care professional licensed to prescribe**
28 **medications, and any health-related services deemed medically neces-**
29 **sary to determine the need or effectiveness of the medications.**

30 **(11) “Psychiatric care” means direct or consultative services pro-**
31 **vided by a licensed psychiatrist or psychiatric mental health nurse**

1 **practitioner.**

2 (12) **“Psychological care” means direct or consultative services**
3 **provided by a licensed psychologist, clinical social worker or profes-**
4 **sional counselor.**

5 (13) **“Therapeutic care” means services provided by a licensed**
6 **speech-language pathologist, occupational therapist, physical thera-**
7 **pist, speech-language pathology assistant, occupational therapy as-**
8 **sistant or physical therapist assistant.**

9 (14) **“Treatment for autism spectrum disorders” includes, but is not**
10 **limited to, the following care prescribed, provided or ordered for an**
11 **individual diagnosed with one of the autism spectrum disorders by a**
12 **licensed physician or licensed psychologist who determines the care to**
13 **be medically necessary:**

14 (a) **Behavioral health treatment;**

15 (b) **Pharmacy care;**

16 (c) **Psychiatric care;**

17 (d) **Psychological care;**

18 (e) **Therapeutic care;**

19 (f) **Augmentative communication devices and other assistive tech-**
20 **nology devices;**

21 (g) **Medical accommodations for usual care;**

22 (h) **Coordination of care; and**

23 (i) **Any other medically necessary care.**

24 **SECTION 3. (1) A health benefit plan, as defined in ORS 743.730,**
25 **that provides coverage for hospital, surgical or medical care shall**
26 **provide coverage for the screening for, diagnosis of and treatment for**
27 **autism spectrum disorders. An insurer may not terminate coverage**
28 **or refuse to issue or renew coverage for an individual solely because**
29 **the individual is diagnosed with one of the autism spectrum disorders**
30 **or has received treatment for an autism spectrum disorder.**

31 (2) **Coverage under this section may not be subject to utilization**

1 **controls regarding the number or frequency of visits or the duration**
2 **of treatment.**

3 **(3) Coverage under this section may not be subject to dollar limits,**
4 **deductibles, copayments or coinsurance provisions that are less fa-**
5 **vorable to an insured than the dollar limits, deductibles, copayments**
6 **or coinsurance provisions that apply to physical illness generally under**
7 **the health benefit plan.**

8 **(4) This section does not limit coverage that is otherwise available**
9 **to an individual under a health benefit plan or reduce benefits required**
10 **under ORS 743A.168.**

11 **(5) A claim for services described in this section may not be denied**
12 **on the basis that the service is habilitative or rehabilitative and does**
13 **not fully restore function.**

14 **(6) Coverage required by this section includes medically necessary**
15 **treatment provided in the home and in the community, except that**
16 **health benefit plans may impose limits on coverage for services pro-**
17 **vided by family or household members and for specialized education**
18 **and related services provided by schools as required by federal or state**
19 **law.**

20 **(7) Except for inpatient services, if an individual is receiving treat-**
21 **ment for an autism spectrum disorder, an insurer may request a re-**
22 **view of the determination that the treatment is medically necessary**
23 **not more than once every six months in a manner consistent with the**
24 **insurer's review process. The insurer may require the treatment plan**
25 **to include the diagnosis, the proposed treatment by type and fre-**
26 **quency, the anticipated duration of treatment, the anticipated out-**
27 **comes stated as goals and the reasons the treatment is medically**
28 **necessary.**

29 **(8) Subsections (1) to (7) of this section apply to health benefit plans**
30 **and to self-insurance programs offered by the Public Employees' Ben-**
31 **efit Board and the Oregon Educators Benefit Board.**

1 **(9) ORS 743A.001 does not apply to this section.**

2 **(10) The Department of Consumer and Business Services, after no-**
3 **tice, hearing and consultation with a panel of experts with expertise**
4 **in diagnosing and treating autism spectrum disorders, may adopt rules**
5 **necessary to carry out the provisions of this section.**

6 **SECTION 4.** ORS 743A.190 is amended to read:

7 743A.190. (1) A health benefit plan, as defined in ORS 743.730, must cover
8 for a child enrolled in the plan who is under 18 years of age and who has
9 been diagnosed with a pervasive developmental disorder all medical services,
10 including rehabilitation services, that are medically necessary and are oth-
11 erwise covered under the plan.

12 (2) The coverage required under subsection (1) of this section, including
13 rehabilitation services, may be made subject to other provisions of the health
14 benefit plan that apply to covered services, including but not limited to:

15 (a) Deductibles, copayments or coinsurance;

16 (b) Prior authorization or utilization review requirements; or

17 (c) Treatment limitations regarding the number of visits or the duration
18 of treatment.

19 (3) As used in this section:

20 (a) “Medically necessary” means in accordance with the definition of
21 medical necessity that is specified in the policy, certificate or contract for
22 the health benefit plan and that applies uniformly to all covered services
23 under the health benefit plan.

24 (b)(A) “Pervasive developmental disorder” means a neurological condition
25 that includes [*Asperger’s syndrome, autism,*] developmental delay, develop-
26 mental disability or mental retardation.

27 **(B) “Pervasive developmental disorder” does not include autism**
28 **spectrum disorders as defined in section 2 of this 2012 Act.**

29 (c) “Rehabilitation services” means physical therapy, occupational ther-
30 apy or speech therapy services to restore or improve function.

31 (4) The provisions of ORS 743A.001 do not apply to this section.

1 (5) The definition of “pervasive developmental disorder” is not intended
2 to apply to coverage required under ORS 743A.168.

3 **SECTION 5. Sections 2 and 3 of this 2012 Act and the amendments**
4 **to ORS 743A.190 by section 4 of this 2012 Act apply to policies or cer-**
5 **tificates issued or renewed on or after the effective date of this 2012**
6 **Act.**

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