

1 AN ACT relating to insurance coverage for autism benefits.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 304.17A-142 is amended to read as follows:

4 (1) *As used in this section unless the context requires otherwise:*

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

10 *(b) "Autism services provider" means any licensed person, entity, or group that*  
11 *provides treatment of autism spectrum disorders;*

12 *(c) "Autism spectrum disorder" means any of the autism spectrum disorders or*  
13 *pervasive developmental disorders as defined by the most recent edition of*  
14 *the Diagnostic and Statistical Manual of Mental Disorders ("DSM")*  
15 *published by the American Psychiatric Association;*

16 *(d) "Diagnosis of autism spectrum disorders" means medically necessary*  
17 *assessments, evaluations, or tests to diagnose whether an individual has any*  
18 *of the autism spectrum disorders, including testing tools which shall be*  
19 *appropriate to the presenting characteristics and age of the individual and*  
20 *be empirically validated for autism spectrum disorders to provide evidence*  
21 *that meets the criteria for autism spectrum disorder in the most recent DSM*  
22 *published by the American Psychiatric Association; and*

23 *(e) "Treatment for autism spectrum disorders" includes the following care for*  
24 *an individual diagnosed with an autism spectrum disorder:*

25 *1. Medical care services provided by a licensed physician, an advanced*  
26 *registered nurse practitioner, or other licensed health care provider;*

27 *2. Habilitative or rehabilitative care, including professional counseling*

1 and guidance services, therapy, and treatment programs, including  
 2 applied behavior analysis, that are necessary to develop, maintain, and  
 3 restore, to the maximum extent practicable, the functioning of an  
 4 individual;

5 3. Pharmacy care, if covered by the plan, including medically necessary  
 6 medications prescribed by a licensed physician or other health-care  
 7 practitioner with prescribing authority and any medically necessary  
 8 health-related services to determine the need or effectiveness of the  
 9 medications;

10 4. Psychiatric care, including direct or consultative services, provided by  
 11 a psychiatrist licensed in the state in which the psychiatrist practices;

12 5. Psychological care, including direct or consultative services, provided  
 13 by an individual licensed by the Kentucky Board of Examiners of  
 14 Psychology or by the appropriate licensing agency in the state in  
 15 which the individual practices;

16 6. Therapeutic care services provided by licensed speech therapists,  
 17 occupational therapists, or physical therapists; and

18 7. Applied behavior analysis prescribed or ordered by a licensed health  
 19 or allied health professional.

20 (2) All health benefit plans issued or renewed on or after the effective date of this

21 Act~~[A large group health benefit plan]~~ shall provide coverage~~[of an individual~~  
 22 ~~between the ages of one (1) through twenty one (21) years of age, as required by~~  
 23 ~~subsection (2) of this section,]~~ for the diagnosis and treatment of autism spectrum  
 24 disorders. ~~[To the extent that the diagnosis and treatment of autism spectrum~~  
 25 ~~disorders are not already covered by a health insurance policy, coverage under this~~  
 26 ~~section shall be included in health benefit plans that are delivered, executed, issued,~~  
 27 ~~amended, adjusted, or renewed within the state on or after thirty (30) days after~~

1       ~~January 1, 2011.~~ An insurer shall not terminate coverage, or refuse to deliver,  
2       execute, issue, amend, adjust, or renew coverage, to an individual solely because the  
3       individual is diagnosed with or has received treatment for any of the autism  
4       spectrum disorders.

5       ~~[(2) Coverage under this section shall be subject to a maximum annual benefit per  
6       covered individual as follows:~~

7       ~~(a) For individuals between the ages of one (1) through their seventh birthday, the  
8       maximum annual benefit shall be fifty thousand dollars (\$50,000) per  
9       individual;~~

10       ~~(b) For individuals between the ages of seven (7) through twenty one (21), the  
11       maximum benefit shall be one thousand dollars (\$1,000), per month per  
12       individual; and~~

13       ~~(c) These limits shall not apply to other health conditions of the individual and  
14       services for the individual not related to the treatment of an autism spectrum  
15       disorder.]~~

16       (3) Coverage under this section shall not be subject to any **maximum annual benefit**  
17       **limit, including any** limits on the number of visits an individual may make to an  
18       autism services provider.

19       (4) Coverage under this section may be subject to copayment, deductible, and  
20       coinsurance provisions of a health benefit plan that are no less favorable than those  
21       that apply to other medical services covered by the health benefit plan.

22       (5) This section shall not be construed as limiting benefits that are otherwise available  
23       to an individual under a health benefit plan.

24       (6) Except for inpatient services, if an individual is receiving treatment for autism  
25       spectrum disorders:

26       (a) An insurer shall have the right to request a utilization review of that treatment  
27       not more than once every twelve (12) months, unless the insurer and the

1 individual's licensed physician, licensed psychologist, or licensed  
 2 psychological practitioner agree that a more frequent review is necessary. The  
 3 cost of obtaining any review shall be borne by the insurer;

4 (b) Upon request of the reimbursing insurer, an autism services provider shall  
 5 furnish medical records, clinical notes, or other necessary data that  
 6 substantiate that initial or continued treatment or services that are medically  
 7 necessary and are resulting in improved clinical status;

8 (c) When treatment is anticipated to require continued services to achieve  
 9 demonstrable progress, the insurer may request a treatment plan consisting of  
 10 diagnosis, proposed treatment by type, frequency, anticipated duration of  
 11 treatment, anticipated outcomes stated as goals, and the frequency by which  
 12 the treatment plan will be updated; and

13 (d) The treatment plan shall contain specific cognitive, social, communicative,  
 14 self-care, or behavioral goals that are clearly defined, directly observed, and  
 15 continually measured and that address the characteristics of the autism  
 16 spectrum disorder.

17 (7) ~~{This section shall not be construed as requiring coverage for treatment of autism~~  
 18 ~~spectrum disorders for individuals covered under an individual or small group~~  
 19 ~~health benefit plan, except as provided by KRS 304.17A-143.~~

20 ~~(8)~~ (a) Nothing in this section~~[and KRS 304.17A-141 and 304.17A-143]~~ shall be  
 21 construed as:

22 1. Limiting, replacing, or otherwise affecting any obligation to provide  
 23 services to an individual under an individualized service plan or other  
 24 publicly funded program; or~~[.]~~

25 2. ~~{Nothing in this section and KRS 304.17A-141 and 304.17A-143 shall~~  
 26 ~~be construed as }~~Requiring a health benefit plan to provide benefits for  
 27 services that are included in an individualized family service plan, an

1 individualized education program, an individualized service plan, or  
2 other publicly funded programs.

3 **(b)** The coverage mandated in this section ~~and KRS 304.17A-141 and 304.17A-~~  
4 ~~143~~ shall be in addition to any services which an individual is entitled to  
5 receive under any such publicly funded programs.

6 **(8)**~~(9)~~ No reimbursement is required under this section for services, supplies, or  
7 equipment:

- 8 (a) For which the insured has no legal obligation to pay in the absence of this or  
9 like coverage;
- 10 (b) Provided to the insured by a publicly funded program;
- 11 (c) Performed by a relative of an insured for which, in the absence of any health  
12 benefits coverage, no charge would be made; and
- 13 (d) For services provided by persons who are not licensed as required by law.

14 ➔Section 2. The following KRS sections are repealed:

15 304.17A-141 Definitions for KRS 304.17A-141, 304.17A-142, and 304.17A-143.

16 304.17A-143 Coverage for treatment of autism in the individual and small group market  
17 -- Limitation -- Definitions.

18 ➔Section 3. This Act takes effect January 1, 2019.