

SENATE BILL NO. 234

INTRODUCED BY K. GILLAN

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDERS; AMENDING SECTIONS 33-22-706, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Coverage of autism spectrum disorders.** (1) Each group disability policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state must provide coverage for diagnosis and treatment of autism spectrum disorders for a covered dependent child.

(2) Coverage under this section must be provided to an individual who is diagnosed with one of the following disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:

- (a) autistic disorder;
- (b) Asperger's disorder; or
- (c) pervasive developmental disorder not otherwise specified.

(3) (a) Coverage under this section must include:

- (i) habilitative or rehabilitative care that is prescribed, provided, or ordered by a licensed physician or licensed psychologist, including but not limited to professional, counseling, and guidance services and treatment programs that are necessary to develop, maintain, and restore, to the maximum extent practicable, the functioning of the covered dependent child;
- (ii) medications prescribed by a physician licensed under Title 37, chapter 3;
- (iii) psychiatric or psychological care; and
- (iv) therapeutic care that is provided by a dietitian registered in this state or by a speech-language pathologist, audiologist, nutritionist, occupational therapist, or physical therapist licensed in this state.

(b) (i) Habilitative and rehabilitative care includes applied behavior analysis that uses the design, implementation, and evaluation of environmental modifications through behavioral stimuli and consequences to

1 produce socially significant improvement in human behavior and that includes the use of direct observation,
2 measurement, and functional analysis of the relationship between the covered individual's environment and
3 behavior.

4 (ii) Applied behavior analysis covered under this section must be provided by an individual who has been
5 certified by the department of public health and human services as a qualified provider of applied behavior
6 analysis.

7 (4) Coverage for treatment of autism spectrum disorders under this section may be limited to a maximum
8 benefit of \$50,000 a year. Benefits provided under this section may not be construed as limiting physical health
9 benefits that are otherwise available to the covered dependent child.

10 (5) (a) Coverage under this section may be subject to deductibles, coinsurance, and copayment
11 provisions.

12 (b) Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to
13 other medical care covered under the plan may not be imposed on the coverage for autism spectrum disorders
14 provided for under this section.

15 (6) Upon request of the insurer, a provider who is treating a dependent child for an autism spectrum
16 disorder shall furnish medical records, clinical notes, or other data that substantiate that initial or continued
17 treatment is resulting in improved physical, mental, or developmental status or the maintenance of an improved
18 status. When treatment is expected to require continued services, the insurer may request a treatment plan
19 consisting of diagnosis, proposed treatment by type and frequency, the anticipated duration of treatment, the
20 anticipated outcomes stated as goals, and the frequency with which the treatment plan will be updated.

21 (7) This section applies to the state employee group insurance program, the university system employee
22 group insurance program, any employee group insurance program of a city, town, school district, or other political
23 subdivision of this state, and any self-funded multiple employer welfare arrangement that is not regulated by the
24 Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

25 (8) This section does not apply to disability income, hospital indemnity, medicare supplement,
26 accident-only, vision, dental, specific disease, or long-term care policies.

27

28 **Section 2.** Section 33-22-706, MCA, is amended to read:

29 **"33-22-706. (Temporary) Coverage for severe mental illness -- definition.** (1) Except as provided
30 in 33-22-262(3) and subject to 33-22-262(4), a policy or certificate of health insurance or disability insurance that

1 is delivered, issued for delivery, renewed, extended, or modified in this state must provide a level of benefits for
2 the necessary care and treatment of severe mental illness, as defined in subsection (6), that is no less favorable
3 than that level provided for other physical illness generally. Benefits for treatment of severe mental illness may
4 be subject to managed care provisions contained in the policy or certificate.

5 (2) Benefits provided pursuant to subsection (1) include but are not limited to:

6 (a) inpatient hospital services;

7 (b) outpatient services;

8 (c) rehabilitative services;

9 (d) medication;

10 (e) services rendered by a licensed physician, licensed advanced practice registered nurse with a
11 specialty in mental health, licensed social worker, licensed psychologist, or licensed professional counselor when
12 those services are part of a treatment plan recommended and authorized by a licensed physician; and

13 (f) services rendered by a licensed advanced practice registered nurse with prescriptive authority and
14 specializing in mental health.

15 (3) Benefits provided pursuant to this section must be included when determining maximum lifetime
16 benefits, copayments, and deductibles.

17 (4) (a) This section applies to health service benefits provided by:

18 (i) individual and group health and disability insurance;

19 (ii) individual and group hospital or medical expense insurance;

20 (iii) medical subscriber contracts;

21 (iv) membership contracts of a health service corporation;

22 (v) health maintenance organizations; and

23 (vi) the comprehensive health association created by 33-22-1503.

24 (b) This section does not apply to the following coverages:

25 (i) blanket;

26 (ii) short-term travel;

27 (iii) accident only;

28 (iv) limited or specific disease;

29 (v) Title XVIII of the Social Security Act (medicare); or

30 (vi) any other similar coverage under state or federal government plans.

1 (5) This section does not limit benefits for an illness or condition that does not constitute a severe mental
2 illness, as defined in subsection (6), but that does constitute a mental illness, as defined in 33-22-702.

3 (6) As used in this section, "severe mental illness" means the following disorders as defined by the
4 American psychiatric association:

- 5 (a) schizophrenia;
- 6 (b) schizoaffective disorder;
- 7 (c) bipolar disorder;
- 8 (d) major depression;
- 9 (e) panic disorder; and
- 10 (f) obsessive-compulsive disorder; ~~and~~

11 ~~—— (g) autism. (Terminates June 30, 2009--sec. 14, Ch. 325, L. 2003.)~~

12 **33-22-706. (Effective July 1, 2009) Coverage for severe mental illness -- definition.** (1) A policy or
13 certificate of health insurance or disability insurance that is delivered, issued for delivery, renewed, extended, or
14 modified in this state must provide a level of benefits for the necessary care and treatment of severe mental
15 illness, as defined in subsection (6), that is no less favorable than that level provided for other physical illness
16 generally. Benefits for treatment of severe mental illness may be subject to managed care provisions contained
17 in the policy or certificate.

18 (2) Benefits provided pursuant to subsection (1) include but are not limited to:

- 19 (a) inpatient hospital services;
- 20 (b) outpatient services;
- 21 (c) rehabilitative services;
- 22 (d) medication;
- 23 (e) services rendered by a licensed physician, licensed advanced practice registered nurse with a
24 specialty in mental health, licensed social worker, licensed psychologist, or licensed professional counselor when
25 those services are part of a treatment plan recommended and authorized by a licensed physician; and
- 26 (f) services rendered by a licensed advanced practice registered nurse with prescriptive authority and
27 specializing in mental health.

28 (3) Benefits provided pursuant to this section must be included when determining maximum lifetime
29 benefits, copayments, and deductibles.

30 (4) (a) This section applies to health service benefits provided by:

- 1 (i) individual and group health and disability insurance;
- 2 (ii) individual and group hospital or medical expense insurance;
- 3 (iii) medical subscriber contracts;
- 4 (iv) membership contracts of a health service corporation;
- 5 (v) health maintenance organizations; and
- 6 (vi) the comprehensive health association created by 33-22-1503.
- 7 (b) This section does not apply to the following coverages:
- 8 (i) blanket;
- 9 (ii) short-term travel;
- 10 (iii) accident only;
- 11 (iv) limited or specific disease;
- 12 (v) Title XVIII of the Social Security Act (medicare); or
- 13 (vi) any other similar coverage under state or federal government plans.
- 14 (5) This section does not limit benefits for an illness or condition that does not constitute a severe mental
- 15 illness, as defined in subsection (6), but that does constitute a mental illness, as defined in 33-22-702.
- 16 (6) As used in this section, "severe mental illness" means the following disorders as defined by the
- 17 American psychiatric association:
- 18 (a) schizophrenia;
- 19 (b) schizoaffective disorder;
- 20 (c) bipolar disorder;
- 21 (d) major depression;
- 22 (e) panic disorder; and
- 23 (f) obsessive-compulsive disorder; ~~and~~
- 24 ~~(g) autism."~~

25

26 **Section 3.** Section 33-31-111, MCA, is amended to read:

27 **"33-31-111. (Temporary) Statutory construction and relationship to other laws.** (1) Except as

28 otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health

29 maintenance organization authorized to transact business under this chapter. This provision does not apply to

30 an insurer or health service corporation licensed and regulated pursuant to the insurance or health service

1 corporation laws of this state except with respect to its health maintenance organization activities authorized and
2 regulated pursuant to this chapter.

3 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its
4 representatives is not a violation of any law relating to solicitation or advertising by health professionals.

5 (3) A health maintenance organization authorized under this chapter is not practicing medicine and is
6 exempt from Title 37, chapter 3, relating to the practice of medicine.

7 (4) This chapter does not exempt a health maintenance organization from the applicable certificate of
8 need requirements under Title 50, chapter 5, parts 1 and 3.

9 (5) This section does not exempt a health maintenance organization from the prohibition of pecuniary
10 interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704.
11 A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701
12 through 33-3-704.

13 (6) This section does not exempt a health maintenance organization from:

14 (a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

15 (b) the provisions of Title 33, chapter 22, part 19;

16 (c) the requirements of 33-22-134 and 33-22-135;

17 (d) network adequacy and quality assurance requirements provided under chapter 36, except as
18 provided in 33-22-262; or

19 (e) the requirements of Title 33, chapter 18, part 9.

20 (7) Except as provided in 33-22-262, the provisions of Title 33, chapter 1, parts 12 and 13, Title 33,
21 chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title
22 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-141, 33-22-142, 33-22-152, 33-22-244,
23 33-22-246, 33-22-247, 33-22-514, section 1, 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply
24 to health maintenance organizations. (Terminates June 30, 2009--sec. 14, Ch. 325, L. 2003.)

25 **33-31-111. (Effective July 1, 2009) Statutory construction and relationship to other laws.** (1) Except
26 as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health
27 maintenance organization authorized to transact business under this chapter. This provision does not apply to
28 an insurer or health service corporation licensed and regulated pursuant to the insurance or health service
29 corporation laws of this state except with respect to its health maintenance organization activities authorized and
30 regulated pursuant to this chapter.

1 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its
2 representatives is not a violation of any law relating to solicitation or advertising by health professionals.

3 (3) A health maintenance organization authorized under this chapter is not practicing medicine and is
4 exempt from Title 37, chapter 3, relating to the practice of medicine.

5 (4) This chapter does not exempt a health maintenance organization from the applicable certificate of
6 need requirements under Title 50, chapter 5, parts 1 and 3.

7 (5) This section does not exempt a health maintenance organization from the prohibition of pecuniary
8 interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704.
9 A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701
10 through 33-3-704.

11 (6) This section does not exempt a health maintenance organization from:

12 (a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

13 (b) the provisions of Title 33, chapter 22, part 19;

14 (c) the requirements of 33-22-134 and 33-22-135;

15 (d) network adequacy and quality assurance requirements provided under chapter 36; or

16 (e) the requirements of Title 33, chapter 18, part 9.

17 (7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212,
18 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131,
19 33-22-136, 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246, 33-22-247, 33-22-514, [section 1],
20 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations."

21

22 **Section 4.** Section 33-35-306, MCA, is amended to read:

23 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter,
24 self-funded multiple employer welfare arrangements are subject to the following provisions:

25 (a) 33-1-111;

26 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
27 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

28 (c) Title 33, chapter 1, part 7;

29 (d) 33-3-308;

30 (e) Title 33, chapter 18, except 33-18-242;

1 (f) Title 33, chapter 19;

2 (g) 33-22-107, 33-22-131, 33-22-134, 33-22-135, 33-22-141, 33-22-142, and 33-22-152; and

3 (h) 33-22-512, section 1, 33-22-525, and 33-22-526.

4 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple
5 employer welfare arrangement that has been issued a certificate of authority that has not been revoked."

6
7 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
8 integral part of Title 33, chapter 22, part 5, and the provisions of Title 33, chapter 22, apply to [section 1].

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10 **NEW SECTION. Section 6. Effective date.** [This act] is effective January 1, 2010.

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