

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 8

Representatives Celeste, Garland

Cosponsors: Representatives Okey, Harris, Dyer, Foley, Lundy, Harwood, Koziura, Stebelton, Hagan, Skindell, Stewart, Heard, Mallory, DeBose, Patten, Pryor, Yuko, Pillich, Newcomb, Murray, Phillips, Winburn, Letson, Bolon, Luckie, Williams, B., Slesnick

A BILL

To amend section 1739.05 and to enact sections 1751.68 and 3923.84 of the Revised Code to prohibit health insurers from excluding coverage for specified services for individuals diagnosed with an autism spectrum disorder.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1739.05 be amended and sections 1751.68 and 3923.84 of the Revised Code be enacted to read as follows:

Sec. 1739.05. (A) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A)(1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.63, 3923.80, 3923.84, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees, or are eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

Sec. 1751.68. (A) Notwithstanding section 3901.71 of the Revised Code, no health insuring corporation policy, contract, or agreement that provides basic health care services that is delivered, issued for delivery, or renewed in this state shall exclude coverage for any of the following services when those services are medically necessary and are prescribed, provided, or ordered for an individual diagnosed with an autism spectrum disorder by a health care professional licensed or certified under the laws of this state to prescribe, provide, or order such services:

(1) Habilitative or rehabilitative care;

(2) Pharmacy care;

(3) Psychiatric care;

(4) Psychological care;

(5) Therapeutic care;

(6) Counseling services;

(7) Any additional treatments or therapies adopted by the director of health pursuant to division (H)(4) of section 3923.84 of the Revised Code.

(B) Coverage provided under this section shall not be subject to any limits on the number or duration of visits an individual may make to any autism service provider.

(C) Coverage provided under this section may be subject to any copayment, deductible, and coinsurance provisions of the policy, contract, or agreement to the extent that other medical services covered by the health benefit plan are subject to those provisions.

(D) Not more than once every twelve months, a health insuring corporation may request a review of any treatment provided under this section except inpatient services unless the insured's licensed physician or licensed psychologist agrees that more frequent review is necessary. The health insuring corporation shall pay for any review requested under this division.

(E) This section shall not be construed as limiting benefits otherwise available under an individual's policy, contract, or agreement.

(F) This section shall not be construed as affecting any obligation to provide services to an individual under an individualized family service plan developed under 20 U.S.C. 1436 or individualized service plan developed under section 5126.31 of the Revised Code, or affecting the duty of a public school to provide a child with a disability with a free appropriate public education under the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1400 et seq., as amended, and Chapter 3323. of the Revised Code.

(G) As used in this section:

(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, but not limited to, the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(2) "Autism services provider" means any person that provides treatment of autism spectrum disorders.

(3) "Autism spectrum disorder" means any of the pervasive developmental disorders as defined by the most recent edition of the diagnostic and statistical manual of mental disorders, published by the American psychiatric association, or if that manual is no longer published, a similar diagnostic manual. Autism spectrum disorders includes, but is not limited to, autistic disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, and pervasive developmental disorder.

(4) "Diagnosis of autism spectrum disorders" means medically necessary assessments, evaluations, or tests, including but not limited to genetic and psychological tests to determine whether an individual has an autism spectrum disorder.

(5) "Habilitative or rehabilitative care" means professional, counseling, and guidance services and treatment programs, including applied behavior analysis, that are necessary to develop, maintain, or restore the functioning of an individual to the maximum extent practicable.

(6) "Medically necessary" means the service is based upon evidence; is prescribed, provided, or ordered by a health care professional licensed or certified under the laws of this state to prescribe, provide, or order autism-related services in accordance with accepted standards of practice; and will or is reasonably expected to do any of the following:

(a) Prevent the onset of an illness, condition, injury, or disability;

(b) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury, or disability;

(c) Assist in achieving or maintaining maximum functional capacity for performing daily activities, taking into account both the functional capacity of the individual and the appropriate functional capacities of individuals of the same age.

(7) "Pharmacy care" means prescribed medications and any medically necessary health-related services used to determine the need or effectiveness of the medications.

(8) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices psychiatry.

(9) "Psychological care" means direct or consultative services provided by a

psychologist licensed in the state in which the psychologist practices psychology.

(10) "Therapeutic care" means services or communication devices provided by a licensed speech-language pathologist, licensed occupational therapist, or licensed physical therapist.

Sec. 3923.84. (A) Notwithstanding section 3901.71 of the Revised Code, no individual or group policy of sickness and accident insurance that is delivered, issued for delivery, or renewed in this state or public employee benefit plan established or modified in this state shall exclude coverage for any of the following services when those services are medically necessary and are prescribed, provided, or ordered for an individual diagnosed with an autism spectrum disorder by a health care professional licensed or certified under the laws of this state to prescribe, provide, or order such services:

(1) Habilitative or rehabilitative care;

(2) Pharmacy care;

(3) Psychiatric care;

(4) Psychological care;

(5) Therapeutic care;

(6) Counseling services;

(7) Any additional treatments or therapies adopted by the director of health pursuant to division (G)(4) of this section.

(B) Coverage provided under this section shall not be subject to any limits on the number or duration of visits an individual may make to any autism service provider.

(C) Coverage provided under this section may be subject to any copayment, deductible, and coinsurance provisions of the health benefit plan to the extent that other medical services covered by the policy or plan are subject to those provisions.

(D) Not more than once every twelve months, an insurer may request a review of any treatment provided under this section except inpatient services unless the insured's licensed physician or licensed psychologist agrees that more frequent

review is necessary. The insurer shall pay for any review requested under this division.

(E) This section shall not be construed as limiting benefits otherwise available under an individual's health benefit plan.

(F) This section shall not be construed as affecting any obligation to provide services to an individual under an individualized family service plan developed under 20 U.S.C. 1436 or individualized service plan developed under section 5126.31 of the Revised Code, or affecting the duty of a public school to provide a child with a disability with a free appropriate public education under the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1400 et seq., as amended, and Chapter 3323. of the Revised Code.

(G) This section does not apply to the offer or renewal of any individual or group policy of sickness and accident insurance that provides coverage for specific diseases or accidents only, or to any hospital indemnity, medicare supplement, medicare, tricare, long-term care, disability income, one-time limited duration policy of not longer than six months, or other policy that offers only supplemental benefits.

(H)(1) The commission on autism spectrum disorders is hereby established as an independent commission in the department of health to investigate and recommend treatments or therapies for autism spectrum disorders that the commission believes should be included in the services that health benefit plans and public employee benefit plans are required to cover under division (A) of this section.

(2) The commission shall consist of 10 members appointed by the director of health including at least one licensed physician, licensed psychologist, and parent of an individual diagnosed with an autism spectrum disorder.

(3) The commission shall serve at the pleasure of the director.

(4) At the recommendation of the commission, the director may adopt rules to include additional treatments or therapies for autism spectrum disorders in the services that health benefit plans and public employee benefit plans are required to cover under division (A) of this section.

(I) As used in this section:

(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, but not limited to, the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(2) "Autism services provider" means any person that provides treatment of autism spectrum disorders.

(3) "Autism spectrum disorder" means any of the pervasive developmental disorders as defined by the most recent edition of the diagnostic and statistical manual of mental disorders, published by the American psychiatric association, or if that manual is no longer published, a similar diagnostic manual. Autism spectrum disorders includes, but is not limited to, autistic disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, and pervasive developmental disorder.

(4) "Diagnosis of autism spectrum disorders" means medically necessary assessments, evaluations, or tests, including but not limited to genetic and psychological tests to determine whether an individual has an autism spectrum disorder.

(5) "Habilitative or rehabilitative care" means professional, counseling, and guidance services and treatment programs, including applied behavior analysis, that are necessary to develop, maintain, or restore the functioning of an individual to the maximum extent practicable.

(6) "Health benefit plan" has the same meaning as in section 3924.01 of the Revised Code.

(7) "Medically necessary" means the service is based upon evidence; is prescribed, provided, or ordered by a health care professional licensed or certified under the laws of this state to prescribe, provide, or order autism-related services in accordance with accepted standards of practice; and will or is reasonably expected to do any of the following:

(a) Prevent the onset of an illness, condition, injury, or disability;

(b) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury, or disability;

(c) Assist in achieving or maintaining maximum functional capacity for performing daily activities, taking into account both the functional capacity of the individual

and the appropriate functional capacities of individuals of the same age.

(8) "Pharmacy care" means prescribed medications and any medically necessary health-related services used to determine the need or effectiveness of the medications.

(9) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices psychiatry.

(10) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices psychology.

(11) "Therapeutic care" means services or communication devices provided by a licensed speech-language pathologist, licensed occupational therapist, or licensed physical therapist.

Section 2. That existing section 1739.05 of the Revised Code is hereby repealed.