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SENATE BILL 5203

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State of Washington

61st Legislature

2009 Regular Session

By Senators Hobbs, Pflug, Fairley, Haugen, Swecker, Rockefeller, Tom, Marr, Pridemore, King, Delvin, Murray, Kohl-Welles, Regala, McAuliffe, McDermott, Kastama, Becker, Kline, Jarrett, Oemig, Brown, Kauffman, and Fraser

Read first time 01/16/09. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to insurance coverage for autism spectrum  
2 disorders; adding a new section to chapter 41.05 RCW; and adding a new  
3 section to chapter 48.43 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05 RCW  
6 to read as follows:

7 (1) As used in this section:

8 (a) "Applied behavior analysis" means the design, implementation,  
9 and evaluation of environmental modifications, using behavioral stimuli  
10 and consequences, to produce socially significant improvement in human  
11 behavior, including the use of direct observation, measurement, and  
12 functional analysis of the relationship between environment and  
13 behavior.

14 (b) "Autism services provider" means a person, entity, or group  
15 providing treatment for autism spectrum disorders pursuant to a  
16 treatment plan.

17 (c) "Autism spectrum disorders" means any of the pervasive  
18 developmental disorders as defined by the most recent edition of the

1 diagnostic and statistical manual of mental disorders, including  
2 autistic disorder, Asperger's disorder, and pervasive developmental  
3 disorder not otherwise specified.

4 (d) "Diagnosis of autism spectrum disorders" means medically  
5 necessary assessments, evaluations, or tests to diagnose whether an  
6 individual has one of the autism spectrum disorders.

7 (e) "Medically necessary" means any care, treatment, intervention,  
8 service, or item that is prescribed, provided, or ordered by a licensed  
9 physician or a licensed psychologist that will, or is reasonably  
10 expected to, do any of the following:

11 (i) Prevent the onset of an illness, condition, injury, or  
12 disability;

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

15 (iii) Assist to achieve or maintain maximum functional capacity in  
16 performing daily activities, taking into account both the functional  
17 capacity of the individual and the functional capacities that are  
18 appropriate for individuals of the same age.

19 (f) "Pharmacy care" means medications prescribed by a licensed  
20 physician and any health-related services deemed medically necessary to  
21 determine the need or effectiveness of the medications.

22 (g) "Psychiatric care" means direct or consultative services  
23 provided by a psychiatrist licensed in the state in which the  
24 psychiatrist practices.

25 (h) "Psychological care" means direct or consultative services  
26 provided by a psychologist licensed in the state in which the  
27 psychologist practices.

28 (i) "Therapeutic care" means direct or consultative services  
29 provided by a speech therapist, occupational therapist, or physical  
30 therapist licensed or certified in the state in which the therapist  
31 practices.

32 (j) "Treatment of autism spectrum disorders" includes the following  
33 care prescribed, ordered, or provided by a licensed physician or  
34 licensed psychologist who determines the care to be medically  
35 necessary:

36 (i) Applied behavior analysis and other structured behavior  
37 programs;

38 (ii) Pharmacy care;

- 1 (iii) Psychiatric care;
- 2 (iv) Psychological care;
- 3 (v) Therapeutic care;

4 (vi) Any care for individuals with autism spectrum disorders that  
5 is determined by the state health department, based upon its review of  
6 best practices or evidence-based research, may be medically necessary  
7 and that is published in the Washington State Register. Any such care,  
8 treatment, intervention, service, or item that was not previously  
9 covered will be included in any health insurance policy delivered,  
10 executed, issued, amended, adjusted, or renewed on or after sixty days  
11 following the date of its publication in the Washington State Register.

12 (k) "Treatment plan" means a plan for the treatment of autism  
13 spectrum disorders developed by a licensed physician or licensed  
14 psychologist pursuant to a comprehensive evaluation or reevaluation  
15 performed in a manner consistent with the most recent clinical report  
16 or recommendations of the American academy of pediatrics.

17 (2) Each health plan offered to public employees and their covered  
18 dependents under this chapter which is not subject to the provisions of  
19 Title 48 RCW must include coverage for the diagnosis of autism spectrum  
20 disorders and treatment of autism spectrum disorders in individuals  
21 less than twenty-one years of age. To the extent that the diagnosis of  
22 autism spectrum disorders and the treatment of autism spectrum  
23 disorders are not already covered by a health insurance policy,  
24 coverage under this section will be included in health insurance  
25 policies that are delivered, executed, issued, amended, adjusted, or  
26 renewed on or after the effective date of this section. No insurer can  
27 terminate coverage, or refuse to deliver, execute, issue, amend,  
28 adjust, or renew coverage to an individual solely because the  
29 individual is diagnosed with one of the autism spectrum disorders or  
30 has received treatment for autism spectrum disorders.

31 (3) Coverage under this section will not be subject to any limits  
32 on the number of visits an individual may make to an autism services  
33 provider.

34 (4) Coverage under this section may be subject to copayment,  
35 deductible, and coinsurance provisions of a health insurance policy to  
36 the extent that other medical services covered by the health insurance  
37 policy are subject to these provisions.

1 (5) This section will not be construed as limiting benefits that  
2 are otherwise available to an individual under a health insurance  
3 policy, including benefits available under RCW 48.44.341, 48.21.241,  
4 and 48.46.291.

5 (6) Coverage under this section will be subject to a maximum  
6 benefit of fifty thousand dollars per year. After July 31, 2010, the  
7 insurance commissioner will, on an annual basis, adjust the maximum  
8 benefit for inflation by using the medical care component of the United  
9 States department of labor consumer price index for all urban  
10 consumers. The commissioner will submit the adjusted maximum benefit  
11 for publication annually no later than October of each calendar year,  
12 and the published adjusted maximum benefit will be applicable in the  
13 following calendar year to health insurance policies subject to this  
14 section. Payments made by an insurer on behalf of a covered individual  
15 for any care, treatment, intervention, service, or item unrelated to  
16 autism spectrum disorders will not be applied towards any maximum  
17 benefit established under this section.

18 (7) Except for inpatient services, if an individual is receiving  
19 treatment for autism spectrum disorders, an insurer will have the right  
20 to request a review of that treatment not more than once every six  
21 months unless the insurer and the individual's licensed physician or  
22 licensed psychologist agrees that a more frequent review is necessary.  
23 The cost of obtaining any review will be borne by the insurer.

24 (8) The department of health will adopt rules establishing  
25 standards for qualified autism services providers. Once the rules are  
26 adopted, payment for the treatment of autism spectrum disorders covered  
27 under this section will be made only to autism service providers who  
28 meet the standards.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW  
30 to read as follows:

31 (1) As used in this section:

32 (a) "Applied behavior analysis" means the design, implementation,  
33 and evaluation of environmental modifications, using behavioral stimuli  
34 and consequences, to produce socially significant improvement in human  
35 behavior, including the use of direct observation, measurement, and  
36 functional analysis of the relationship between environment and  
37 behavior.

1 (b) "Autism services provider" means a person, entity, or group  
2 providing treatment for autism spectrum disorders pursuant to a  
3 treatment plan.

4 (c) "Autism spectrum disorders" means any of the pervasive  
5 developmental disorders as defined by the most recent edition of the  
6 diagnostic and statistical manual of mental disorders, including  
7 autistic disorder, Asperger's disorder, and pervasive developmental  
8 disorder not otherwise specified.

9 (d) "Diagnosis of autism spectrum disorders" means medically  
10 necessary assessments, evaluations, or tests to diagnose whether an  
11 individual has one of the autism spectrum disorders.

12 (e) "Medically necessary" means any care, treatment, intervention,  
13 service, or item that is prescribed, provided, or ordered by a licensed  
14 physician or a licensed psychologist that will, or is reasonably  
15 expected to, do any of the following:

16 (i) Prevent the onset of an illness, condition, injury, or  
17 disability;

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

20 (iii) Assist to achieve or maintain maximum functional capacity in  
21 performing daily activities, taking into account both the functional  
22 capacity of the individual and the functional capacities that are  
23 appropriate for individuals of the same age.

24 (f) "Pharmacy care" means medications prescribed by a licensed  
25 physician and any health-related services deemed medically necessary to  
26 determine the need or effectiveness of the medications.

27 (g) "Psychiatric care" means direct or consultative services  
28 provided by a psychiatrist licensed in the state in which the  
29 psychiatrist practices.

30 (h) "Psychological care" means direct or consultative services  
31 provided by a psychologist licensed in the state in which the  
32 psychologist practices.

33 (i) "Therapeutic care" means direct or consultative services  
34 provided by a speech therapist, occupational therapist, or physical  
35 therapist licensed or certified in the state in which the therapist  
36 practices.

37 (j) "Treatment of autism spectrum disorders" includes the following

1 care prescribed, ordered, or provided by a licensed physician or  
2 licensed psychologist who determines the care to be medically  
3 necessary:

4 (i) Applied behavior analysis and other structured behavior  
5 programs;

6 (ii) Pharmacy care;

7 (iii) Psychiatric care;

8 (iv) Psychological care;

9 (v) Therapeutic care;

10 (vi) Any care for individuals with autism spectrum disorders that  
11 is determined by the state health department, based upon its review of  
12 best practices or evidence-based research, may be medically necessary  
13 and that is published in the Washington State Register. Any such care,  
14 treatment, intervention, service, or item that was not previously  
15 covered will be included in any health insurance policy delivered,  
16 executed, issued, amended, adjusted, or renewed on or after sixty days  
17 following the date of its publication in the Washington State Register.

18 (k) "Treatment plan" means a plan for the treatment of autism  
19 spectrum disorders developed by a licensed physician or licensed  
20 psychologist pursuant to a comprehensive evaluation or reevaluation  
21 performed in a manner consistent with the most recent clinical report  
22 or recommendations of the American academy of pediatrics.

23 (2) Each health plan offered to the public under chapter 48.21,  
24 48.44, or 48.46 RCW must include coverage for the diagnosis of autism  
25 spectrum disorders and treatment of autism spectrum disorders in  
26 individuals less than twenty-one years of age. To the extent that the  
27 diagnosis of autism spectrum disorders and the treatment of autism  
28 spectrum disorders are not already covered by a health insurance  
29 policy, coverage under this section will be included in health  
30 insurance policies that are delivered, executed, issued, amended,  
31 adjusted, or renewed on or after the effective date of this section.  
32 No insurer can terminate coverage, or refuse to deliver, execute,  
33 issue, amend, adjust, or renew coverage to an individual solely because  
34 the individual is diagnosed with one of the autism spectrum disorders  
35 or has received treatment for autism spectrum disorders.

36 (3) Coverage under this section will not be subject to any limits  
37 on the number of visits an individual may make to an autism services  
38 provider.

1 (4) Coverage under this section may be subject to copayment,  
2 deductible, and coinsurance provisions of a health insurance policy to  
3 the extent that other medical services covered by the health insurance  
4 policy are subject to these provisions.

5 (5) This section will not be construed as limiting benefits that  
6 are otherwise available to an individual under a health insurance  
7 policy, including benefits available under RCW 48.44.341, 48.21.241,  
8 and 48.46.291.

9 (6) Coverage under this section will be subject to a maximum  
10 benefit of fifty thousand dollars per year. After July 31, 2010, the  
11 insurance commissioner will, on an annual basis, adjust the maximum  
12 benefit for inflation by using the medical care component of the United  
13 States department of labor consumer price index for all urban  
14 consumers. The commissioner will submit the adjusted maximum benefit  
15 for publication annually no later than October of each calendar year,  
16 and the published adjusted maximum benefit will be applicable in the  
17 following calendar year to health insurance policies subject to this  
18 section. Payments made by an insurer on behalf of a covered individual  
19 for any care, treatment, intervention, service, or item unrelated to  
20 autism spectrum disorders will not be applied towards any maximum  
21 benefit established under this section.

22 (7) Except for inpatient services, if an individual is receiving  
23 treatment for autism spectrum disorders, an insurer will have the right  
24 to request a review of that treatment not more than once every six  
25 months unless the insurer and the individual's licensed physician or  
26 licensed psychologist agrees that a more frequent review is necessary.  
27 The cost of obtaining any review will be borne by the insurer.

28 (8) The department of health will adopt rules establishing  
29 standards for qualified autism services providers. Once the rules are  
30 adopted, payment for the treatment of autism spectrum disorders covered  
31 under this section will be made only to autism service providers who  
32 meet the standards.

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