

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2962

7 By: Nelson, Denney, Kannady,
8 Dunnington, Henke,
9 Montgomery, Sherrer,
10 McDaniel (Jeannie), Brown,
11 Kouplen, Condit, Perryman,
12 Cleveland, McBride, Casey,
13 Roberts (Dustin), Kirby,
14 Virgin, Rousselot, Cooksey,
15 Lockhart, Cannaday, Stone,
16 Murdock, Inman, Hall,
17 Shelton, Griffith, Ownbey,
18 Vaughan and Wallace of the
19 House

20 and

21 Griffin, Boggs, Thompson
22 and Bass of the Senate

23 COMMITTEE SUBSTITUTE

24 An Act relating to insurance; requiring coverage for
autistic disorders under certain circumstances;
providing no coverage limitations for treatment
visits; requiring coverage be equal to other certain
health benefit plans; specifying that certain
benefits shall not be limited; capping coverage for
applied behavior analysis; directing the Insurance
Commissioner to annually adjust the maximum benefit;
requiring coverage for applied behavior analysis
include certain services; authorizing insurer to
review treatment plan; specifying that any obligation
to provide certain services shall not be affected;
specifying applicability of certain nongrandfathered
plans; defining terms; directing the Oklahoma Health

1 Care Authority to apply for waiver to cover autistic
2 disorders; amending 36 O.S. 2011, Section 6060.20,
3 which relates to equal health coverage for autistic
4 minors; removing specification that certain coverage
5 requirements shall not include certain diagnostic and
6 treatment coverage; providing for codification; and
7 providing an effective date.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6060.21 of Title 36, unless
11 there is created a duplication in numbering, reads as follows:

12 A. For all plans issued or renewed on or after November 1,
13 2016, a health benefit plan and the Oklahoma Employees Health
14 Insurance plan shall provide coverage for the screening, diagnosis
15 and treatment of autism spectrum disorder in individuals less than
16 nine (9) years of age, or if an individual is not diagnosed or
17 treated until after three (3) years of age, coverage shall be
18 provided for at least six (6) years, provided that the individual
19 continually and consistently shows sufficient progress and
20 improvement as determined by the health care provider. No insurer
21 shall terminate coverage, or refuse to deliver, execute, issue,
22 amend, adjust or renew coverage to an individual solely because the
23 individual is diagnosed with or has received treatment for an autism
24 spectrum disorder.

1 B. Coverage under this section shall not be subject to any
2 limits on the number of visits an individual may make for treatment
3 of autism spectrum disorder.

4 C. Coverage under this section shall not be subject to dollar
5 limits, deductibles or coinsurance provisions that are less
6 favorable to an insured than the dollar limits, deductibles or
7 coinsurance provisions that apply to substantially all medical and
8 surgical benefits under the health benefit plan, except as otherwise
9 provided in subsection E of this section.

10 D. This section shall not be construed as limiting benefits
11 that are otherwise available to an individual under a health benefit
12 plan.

13 E. Coverage for applied behavior analysis shall be subject to a
14 maximum benefit of twenty-five (25) hours per week and no more than
15 Twenty-five Thousand Dollars (\$25,000.00) per year. Beginning
16 January 1, 2018, the Oklahoma Insurance Commissioner shall, on an
17 annual basis, adjust the maximum benefit for inflation by using the
18 Medical Care Component of the United States Department of Labor
19 Consumer Price Index for All Urban Consumers (CPI-U). The
20 Commissioner shall submit the adjusted maximum benefit for
21 publication annually before January 1, 2018, and before the first
22 day of January of each calendar year thereafter, and the published
23 adjusted maximum benefit shall be applicable in the following
24 calendar year to health benefit plans subject to this section.

1 Payments made by an insurer on behalf of a covered individual for
2 treatment other than applied behavior analysis shall not be applied
3 toward any maximum benefit established under this section.

4 F. Coverage for applied behavior analysis shall include the
5 services of the board-certified behavior analyst or a licensed
6 doctoral-level psychologist.

7 G. Except for inpatient services, if an insured is receiving
8 treatment for an autism spectrum disorder, an insurer shall have the
9 right to review the treatment plan annually, unless the insurer and
10 the insured's treating physician or psychologist agree that a more
11 frequent review is necessary. Any such agreement regarding the
12 right to review a treatment plan more frequently shall apply only to
13 a particular insured being treated for an autism spectrum disorder
14 and shall not apply to all individuals being treated for autism
15 spectrum disorder by a physician or psychologist. The cost of
16 obtaining any review or treatment plan shall be borne by the
17 insurer.

18 H. This section shall not be construed as affecting any
19 obligation to provide services to an individual under an
20 individualized family service plan, an individualized education
21 program or an individualized service plan.

22 I. Nothing in this section shall apply to nongrandfathered
23 plans in the individual and small group markets that are required to
24 include essential health benefits under the federal Patient

1 Protection and Affordable Care Act, Public Law 111-148; or to
2 Medicare supplement, accident-only, specified disease, hospital
3 indemnity, disability income, long-term care or other limited
4 benefit hospital insurance policies.

5 J. As used in this section:

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

12 2. "Autism spectrum disorder" means any of the pervasive
13 developmental disorders or autism spectrum disorders as defined by
14 the most recent edition of the Diagnostic and Statistical Manual of
15 Mental Disorders (DSM) or the edition that was in effect at the time
16 of diagnosis;

17 3. "Behavioral health treatment" means counseling and treatment
18 programs, including applied behavior analysis, that are:

- 19 a. necessary to develop, maintain or restore, to the
20 maximum extent practicable, the functioning of an
21 individual, and
22 b. provided by a board-certified behavior analyst or by a
23 licensed doctoral-level psychologist so long as the
24 services performed are commensurate with the

1 psychologist's university training and supervised
2 experience;

3 4. "Diagnosis of autism spectrum disorder" means medically
4 necessary assessment, evaluations or tests to diagnose whether an
5 individual has an autism spectrum disorder;

6 5. "Health benefit plan" means any plan or arrangement as
7 defined in subsection C of Section 6060.4 of Title 36 of the
8 Oklahoma Statutes;

9 6. "Oklahoma Employees Health Insurance Plan" means "Health
10 Insurance Plan" as defined in Section 1303 of Title 74 of the
11 Oklahoma Statutes;

12 7. "Pharmacy care" means medications prescribed by a licensed
13 physician and any health-related services deemed medically necessary
14 to determine the need or effectiveness of the medications;

15 8. "Psychiatric care" means direct or consultative services
16 provided by a psychiatrist licensed in the state in which the
17 psychiatrist practices;

18 9. "Psychological care" means direct or consultative services
19 provided by a psychologist licensed in the state in which the
20 psychologist practices;

21 10. "Therapeutic care" means services provided by licensed or
22 certified speech therapists, occupational therapists or physical
23 therapists; and
24

1 11. "Treatment for autism spectrum disorder" means evidence-
2 based care and related equipment prescribed or ordered for an
3 individual diagnosed with an autism spectrum disorder by a licensed
4 physician or a licensed doctoral-level psychologist who determines
5 the care to be medically necessary, including, but not limited to:

- 6 a. behavioral health treatment,
- 7 b. pharmacy care,
- 8 c. psychiatric care,
- 9 d. psychological care, and
- 10 e. therapeutic care.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1011.12 of Title 56, unless
13 there is created a duplication in numbering, reads as follows:

14 The Oklahoma Health Care Authority shall apply for any necessary
15 waiver to extend health care benefits to individuals for the
16 screening, diagnosis and treatment of autism spectrum disorder.

17 SECTION 3. AMENDATORY 36 O.S. 2011, Section 6060.20, is
18 amended to read as follows:

19 Section 6060.20 A. All individual and group health insurance
20 policies that provide medical and surgical benefits shall provide
21 the same coverage and benefits to any individual under the age of
22 eighteen (18) years who has been diagnosed with an autistic disorder
23 as it would provide coverage and benefits to an individual under the
24

1 age of eighteen (18) years who has not been diagnosed with an
2 autistic disorder.

3 B. As used in this section, "autistic disorder" means a
4 neurological disorder that is marked by severe impairment in social
5 interaction, communication, and imaginative ~~plan~~ play, with onset
6 during the first three (3) years of life and is included in a group
7 of disorders known as autism spectrum disorders.

8 ~~C. Nothing in this section shall be construed to require an~~
9 ~~insurer to provide any benefits for the diagnosis or treatment of~~
10 ~~any autistic disorder.~~

11 SECTION 4. This act shall become effective November 1, 2016.

12
13 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/29/2016 - DO
14 PASS, As Amended and Coauthored.