

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 2962, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Griffin

Griffin-AM-FS-Req#3341
4/13/2016 11:23 AM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

FLOOR SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2962

By: Nelson, Denney, Kannady,
Dunnington, Henke,
Montgomery, Sherrer,
McDaniel (Jeannie), Brown,
Kouplen, Condit, Perryman,
Cleveland, McBride, Casey,
Roberts (Dustin), Kirby,
Virgin, Rousselot, Cooksey,
Lockhart, Cannaday, Stone,
Murdock, Inman, Hall,
Shelton, Griffith, Ownbey,
Vaughan, Wallace, Fisher,
Munson, Christian, Echols,
Nollan, Wood, Loring,
Bennett, Renegar, Lepak,
Hoskin and Martin of the
House

and

Griffin, Boggs, Thompson,
Bass, David, Simpson,
Crain, Matthews, Brooks,
Fields, Bice, Floyd and
Dossett of the Senate

FLOOR SUBSTITUTE

[insurance - requiring coverage for autistic
disorders under certain circumstances - codification
- effective date]

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

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

4 A. For all plans issued or renewed on or after November 1,
5 2016, a health benefit plan and the Oklahoma Employees Health
6 Insurance Plan shall provide coverage for the screening, diagnosis
7 and treatment of autism spectrum disorder in individuals less than
8 nine (9) years of age, or if an individual is not diagnosed or
9 treated until after three (3) years of age, coverage shall be
10 provided for at least six (6) years, provided that the individual
11 continually and consistently shows sufficient progress and
12 improvement as determined by the health care provider. No insurer
13 shall terminate coverage, or refuse to deliver, execute, issue,
14 amend, adjust or renew coverage to an individual solely because the
15 individual is diagnosed with or has received treatment for an autism
16 spectrum disorder.

17 B. Except as provided in subsection E of this section, coverage
18 under this section shall not be subject to any limits on the number
19 of visits an individual may make for treatment of autism spectrum
20 disorder.

21 C. Coverage under this section shall not be subject to dollar
22 limits, deductibles or coinsurance provisions that are less
23 favorable to an insured than the dollar limits, deductibles or
24 coinsurance provisions that apply to substantially all medical and

1 surgical benefits under the health benefit plan, except as otherwise
2 provided in subsection E of this section.

3 D. This section shall not be construed as limiting benefits
4 that are otherwise available to an individual under a health benefit
5 plan.

6 E. Coverage for applied behavior analysis shall be subject to a
7 maximum benefit of twenty-five (25) hours per week and no more than
8 Twenty-five Thousand Dollars (\$25,000.00) per year. Beginning
9 January 1, 2018, the Oklahoma Insurance Commissioner shall, on an
10 annual basis, adjust the maximum benefit for inflation by using the
11 Medical Care Component of the United States Department of Labor
12 Consumer Price Index for All Urban Consumers (CPI-U). The
13 Commissioner shall submit the adjusted maximum benefit for
14 publication annually before January 1, 2018, and before the first
15 day of January of each calendar year thereafter, and the published
16 adjusted maximum benefit shall be applicable in the following
17 calendar year to the Oklahoma Employees Health Insurance Plan and
18 health benefit plans subject to this section. Payments made by an
19 insurer on behalf of a covered individual for treatment other than
20 applied behavior analysis shall not be applied toward any maximum
21 benefit established under this section.

22 F. Coverage for applied behavior analysis shall include the
23 services of the board-certified behavior analyst or a licensed
24 doctoral-level psychologist.

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

12 H. This section shall not be construed as affecting any
13 obligation to provide services to an individual under an
14 individualized family service plan, an individualized education
15 program or an individualized service plan.

16 I. Nothing in this section shall apply to nongrandfathered
17 plans in the individual and small group markets that are required to
18 include essential health benefits under the federal Patient
19 Protection and Affordable Care Act, Public Law 111-148, or to
20 Medicare supplement, accident-only, specified disease, hospital
21 indemnity, disability income, long-term care or other limited
22 benefit hospital insurance policies.

23 J. As used in this section:
24

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

7 2. "Autism spectrum disorder" means any of the pervasive
8 developmental disorders or autism spectrum disorders as defined by
9 the most recent edition of the Diagnostic and Statistical Manual of
10 Mental Disorders (DSM) or the edition that was in effect at the time
11 of diagnosis;

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

- 14 a. necessary to develop, maintain or restore, to the
15 maximum extent practicable, the functioning of an
16 individual, and
- 17 b. provided by a board-certified behavior analyst or by a
18 licensed doctoral-level psychologist so long as the
19 services performed are commensurate with the
20 psychologist's university training and experience;

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

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

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

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

10 8. "Psychiatric care" means direct or consultative services
11 provided by a psychiatrist licensed in the state in which the
12 psychiatrist practices;

13 9. "Psychological care" means direct or consultative services
14 provided by a psychologist licensed in the state in which the
15 psychologist practices;

16 10. "Therapeutic care" means services provided by licensed or
17 certified speech therapists, occupational therapists or physical
18 therapists; and

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

24 a. behavioral health treatment,

- b. pharmacy care,
- c. psychiatric care,
- d. psychological care, and
- e. therapeutic care.

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

A. The Oklahoma Health Care Authority, in conjunction with the Department of Mental Health and Substance Abuse Service, the State Department of Health and the State Department of Education shall examine the feasibility of a state plan amendment to the Oklahoma Medicaid Program for applied behavior analysis treatment of autism spectrum disorders.

B. On or before December 31, 2016, the Authority and partnering agencies shall submit a report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor estimating the potential costs to the state, clinical findings, reviews of pilot projects and research from other states on the effects of applied behavioral analysis treatment on autism spectrum disorders.

C. Beginning July 1, 2017, and subject to the availability of funding, the Authority and partnering agencies shall draft a state plan amendment for applied behavior analysis treatment of autism spectrum disorders. The provisions of this subsection shall only

1 apply if the report required by subsection B of this section
2 demonstrates applied behavioral analysis treatment to be evidence-
3 based and essential to qualifying participants in the Oklahoma
4 Medicaid Program.

5 D. 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

psychologist's university training and supervised
experience; and

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

- a. behavioral health treatment,
- b. pharmacy care,
- c. psychiatric care,
- d. psychological care, and
- e. therapeutic care.

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

Section 6060.20 A. All individual and group health insurance policies that provide medical and surgical benefits shall provide the same coverage and benefits to any individual under the age of eighteen (18) years who has been diagnosed with an autistic disorder as it would provide coverage and benefits to an individual under the age of eighteen (18) years who has not been diagnosed with an autistic disorder.

B. As used in this section, "autistic disorder" means a neurological disorder that is marked by severe impairment in social interaction, communication, and imaginative ~~plan~~ play, with onset

1 during the first three (3) years of life and is included in a group
2 of disorders known as autism spectrum disorders.

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

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6060.21 of Title 36, unless
8 there is created a duplication in numbering, reads as follows:

9 A. 1. A health benefit plan that, at the end of its base
10 period, experiences a greater than one percent (1%) increase in
11 premium costs pursuant to providing applied behavior analysis for
12 treatment of autism spectrum disorders shall be exempt from the
13 provisions of this act.

14 2. To calculate base-period-premium costs, the health benefit
15 plan shall subtract from premium costs incurred during the base
16 period, both the premium costs incurred during the period
17 immediately preceding the base period and any premium cost increases
18 attributable to factors unrelated to benefits for treatment of
19 autism spectrum disorders.

20 3. a. To claim the exemption provided for in subsection A of
21 this section a health benefit plan shall provide to
22 the Insurance Commissioner a written request signed by
23 an actuary stating the reasons and actuarial
24 assumptions upon which the request is based.

1 b. The Commissioner shall verify the information provided
2 and shall approve or disapprove the request within
3 thirty (30) days of receipt.

4 c. If, upon investigation, the Commissioner finds that
5 any statement of fact in the request is found to be
6 knowingly false, the health benefit plan may be
7 subject to suspension or loss of license or any other
8 penalty as determined by the Commissioner, or the
9 State Commissioner of Health with regard to health
10 maintenance organizations.

11 SECTION 5. This act shall become effective November 1, 2016.

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