

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2962

By: Nelson, Denney, Kannady,
Dunnington, Henke,
Montgomery, Sherrer,
McDaniel (Jeannie), Brown
and Kouplen of the House

and

Griffin of the Senate

AS INTRODUCED

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; requiring the Oklahoma Insurance Department to submit annual report; defining terms; amending 36 O.S. 2011, Section 6060.20, which relates to equal health coverage for autistic minors; removing specification that certain coverage requirements shall not include certain diagnostic and treatment coverage; providing for codification; and providing an effective date.

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

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

5 A. A health benefit plan shall provide coverage for the
6 screening, diagnosis and treatment of autism spectrum disorder in
7 individuals less than eighteen (18) years of age, provided that the
8 individual continually and consistently shows sufficient progress
9 and improvement as determined by the health care provider. To the
10 extent that the screening, diagnosis and treatment of autism
11 spectrum disorder are not already covered by a health benefit plan,
12 coverage under this section shall be included in health benefit
13 plans that are delivered, executed, issued, amended, adjusted or
14 renewed in this state, or outside this state if insuring residents
15 of this state, on or after November 1, 2016. No insurer shall
16 terminate coverage, or refuse to deliver, execute, issue, amend,
17 adjust or renew coverage to an individual solely because the
18 individual is diagnosed with or has received treatment for an autism
19 spectrum disorder.

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

23 C. Coverage under this section shall not be subject to dollar
24 limits, deductibles or coinsurance provisions that are less

1 favorable to an insured than the dollar limits, deductibles or
2 coinsurance provisions that apply to substantially all medical and
3 surgical benefits under the health benefit plan, except as otherwise
4 provided in subsection E of this section.

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

8 E. Coverage for applied behavior analysis shall be subject to a
9 maximum benefit of Thirty-six Thousand Dollars (\$36,000.00) per
10 year. Beginning January 1, 2018, the Oklahoma Insurance
11 Commissioner shall, on an annual basis, adjust the maximum benefit
12 for inflation by using the Medical Care Component of the United
13 States Department of Labor Consumer Price Index for all urban
14 consumers (CPI-U). The Commissioner shall submit the adjusted
15 maximum benefit for publication annually before January 1, 2018, and
16 before the first day of January of each calendar year thereafter,
17 and the published adjusted maximum benefit shall be applicable in
18 the following calendar year to health benefit plans subject to this
19 section. Payments made by an insurer on behalf of a covered
20 individual for treatment other than applied behavior analysis shall
21 not be applied toward any maximum benefit established under this
22 section.

23 F. Coverage for applied behavior analysis shall include the
24 services of the personnel who work under the supervision of the

1 Board Certified Behavior Analyst or the licensed psychologist
2 overseeing the program.

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

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

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

1 J. 1. Beginning February 1, 2018, and every first day of
2 February thereafter, the Oklahoma Insurance Department shall submit
3 a report to the Speaker of the Oklahoma House of Representatives,
4 the President Pro Tempore of the Oklahoma State Senate and the
5 minority leaders of the Oklahoma House of Representatives and the
6 Oklahoma State Senate regarding the implementation of the coverage
7 required under this section. The report shall include, but shall
8 not be limited to, the following:

9 a. the total number of insureds diagnosed with autism
10 spectrum disorder,

11 b. the total cost of all claims paid out in the
12 immediately preceding calendar year for coverage
13 required by this section,

14 c. the cost of such coverage per insured per month, and

15 d. the average cost per insured for coverage of applied
16 behavior analysis.

17 2. All health carriers and health benefit plans subject to the
18 provisions of this section shall provide the Department with the
19 data requested by the Department for inclusion in the annual report.

20 K. As used in this section:

21 1. "Applied behavior analysis" means the design, implementation
22 and evaluation of environmental modifications, using behavioral
23 stimuli and consequences, to produce socially significant
24 improvement in human behavior, including the use of direct

1 observation, measurement and functional analysis of the relationship
2 between environment and behavior;

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

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

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

- 13 a. necessary to develop, maintain or restore, to the
14 maximum extent practicable, the functioning of an
15 individual, and
- 16 b. provided or supervised by a Board-Certified Behavior
17 Analyst or by a licensed psychologist so long as the
18 services performed are commensurate with the
19 psychologist's university training and supervised
20 experience;

21 5. "Health benefit plan" means any plan or arrangement as
22 defined in subsection C of Section 6060.4 of Title 36 of the
23 Oklahoma State Statutes;

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

4 7. "Psychiatric care" means direct or consultative services
5 provided by a psychiatrist licensed in the state in which the
6 psychiatrist practices;

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

10 9. "Therapeutic care" means services provided by licensed or
11 certified speech therapists, occupational therapists or physical
12 therapists; and

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

- 18 a. behavioral health treatment,
- 19 b. pharmacy care,
- 20 c. psychiatric care,
- 21 d. psychological care, and
- 22 e. therapeutic care.

23 SECTION 2. AMENDATORY 36 O.S. 2011, Section 6060.20, is
24 amended to read as follows:

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

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

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

16 SECTION 3. This act shall become effective November 1, 2016.

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