

AUTISM SERVICES AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian E. Shiozawa

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill amends the Insurance Code to provide health benefit plan coverage for the treatment of autism spectrum disorder.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a health benefit plan offered or renewed in the individual market or large group market, on or after January 1, 2016, to provide coverage for the treatment of autism spectrum disorder for children 2 to 9 years of age;
- ▶ describes minimum coverage limits for autism coverage;
- ▶ requires an assessment of treatment plan every six months;
- ▶ permits the commissioner to waive coverage under this section if the attorney general issues a legal opinion that the limits on autism coverage are unenforceable under federal law;
- ▶ clarifies that all other terms of the insurance plan related to deductibles, provider networks, and cost sharing apply to the autism coverage;
- ▶ provides a waiver for an insurer if premium costs increase by more than a certain percentage; and
- ▶ sunsets the autism coverage on January 1, 2019.

Money Appropriated in this Bill:

None

Other Special Clauses:

30 This bill provides an effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **63I-1-231 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 261
34 and 417

35 ENACTS:

36 **31A-22-642**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **31A-22-642** is enacted to read:

40 **31A-22-642. Insurance coverage for autism spectrum disorder.**

41 (1) As used in this section:

42 (a) "Applied behavior analysis" means the design, implementation, and evaluation of
43 environmental modifications, using behavioral stimuli and consequences, to produce socially
44 significant improvement in human behavior, including the use of direct observation,
45 measurement, and functional analysis of the relationship between environment and behavior.

46 (b) "Autism spectrum disorder" means pervasive developmental disorders as defined
47 by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders
48 (DSM).

49 (c) "Behavioral health treatment" means counseling and treatment programs, including
50 applied behavior analysis, that are:

51 (i) necessary to develop, maintain, or restore, to the maximum extent practicable, the
52 functioning of an individual; and

53 (ii) provided or supervised by a:

54 (A) board certified behavior analyst; or

55 (B) person licensed under Title 58, Chapter 1, Division of Occupational and
56 Professional Licensing Act, whose scope of practice includes mental health services.

57 (d) "Diagnosis of autism spectrum disorder" means medically necessary assessments,

58 evaluations, or tests:

59 (i) performed by a licensed physician who is board certified in neurology, psychiatry,
60 or pediatrics and has experience diagnosing autism spectrum disorder, or a licensed
61 psychologist with experience diagnosing autism spectrum disorder; and

62 (ii) necessary to diagnose whether an individual has an autism spectrum disorder.

63 (e) "Pharmacy care" means medications prescribed by a licensed physician and any
64 health-related services considered medically necessary to determine the need or effectiveness
65 of the medications.

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

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

70 (h) "Therapeutic care" means services provided by licensed or certified speech
71 therapists, occupational therapists, or physical therapists.

72 (i) "Treatment for autism spectrum disorder":

73 (i) means evidence-based care and related equipment prescribed or ordered for an
74 individual diagnosed with an autism spectrum disorder by a physician or a licensed
75 psychologist described in Subsection (1)(d) who determines the care to be medically necessary;
76 and

77 (ii) includes:

78 (A) behavioral health treatment, provided or supervised by a person described in
79 Subsection (1)(c)(ii);

80 (B) pharmacy care;

81 (C) psychiatric care;

82 (D) psychological care; and

83 (E) therapeutic care.

84 (2) Notwithstanding the provisions of Section [31A-22-618.5](#), a health benefit plan
85 offered in the individual market or the large group market and entered into or renewed on or

86 after January 1, 2016, shall provide coverage for the diagnosis and treatment of autism
87 spectrum disorder:

88 (a) for a child who is at least two years old, but younger than 10 years old; and

89 (b) in accordance with the requirements of this section and rules made by the
90 commissioner.

91 (3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah
92 Administrative Rulemaking Act, to set the minimum standards of coverage for the treatment of
93 autism spectrum disorder.

94 (4) Subject to Subsection (5), the rules described in Subsection (3) shall establish
95 durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of
96 autism spectrum disorder that are similar to, or identical to, the coverage provided for other
97 illnesses or diseases.

98 (5) (a) Coverage for behavioral health treatment for a person with an autism spectrum
99 disorder shall cover at least 600 hours a year. Other terms and conditions in the health benefit
100 plan that apply to other benefits covered by the health benefit plan apply to coverage required
101 by this section.

102 (b) Notwithstanding Subsection [31A-22-617\(6\)](#), a health benefit plan providing
103 treatment under Subsection (5)(a) shall include in the plan's provider network both board
104 certified behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).

105 (6) A health care provider shall submit a treatment plan for autism spectrum disorder to
106 the insurer within 14 business days of starting treatment for an individual. If an individual is
107 receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a
108 review of that treatment not more than once every six months. A review of treatment under
109 this Subsection (6) may include a review of treatment goals and progress toward the treatment
110 goals. If an insurer makes a determination to stop treatment as a result of the review of the
111 treatment plan under this subsection, the determination of the insurer may be reviewed under
112 Section [31A-22-629](#).

113 (7) (a) In accordance with Subsection (7)(b), the commissioner shall waive the

114 requirements of this section for all insurers in the individual market or the large group market,
115 if an insurer demonstrates to the commissioner that the insurer's entire pool of business in the
116 individual market or the large group market has incurred claims for the autism coverage
117 required by this section in a 12 consecutive month period that will cause a premium increase
118 for the insurer's entire pool of business in the individual market or the large group market in
119 excess of 1% over the insurer's premiums in the previous 12 consecutive month period.

120 (b) The commissioner shall waive the requirements of this section if:

121 (i) after a public hearing in accordance with Title 63G, Chapter 4, Administrative
122 Procedures Act, the commissioner finds that the insurer has demonstrated to the commissioner
123 based on generally accepted actuarial principles and methodologies that the insurer's entire pool
124 of business in the individual market or the large group market will experience a premium
125 increase of 1% or greater as a result of the claims for autism services as described in this
126 section; or

127 (ii) the attorney general issues a legal opinion that the limits under Subsection (5)(a)
128 cannot be implemented by an insurer in a manner that complies with federal law.

129 (8) If a waiver is granted under Subsection (7), the insurer may:

130 (a) continue to offer autism coverage under the existing plan until the next renewal
131 period for the plan, at which time the insurer:

132 (i) may delete the autism coverage from the plan without having to re-apply for the
133 waiver under Subsection (7); and

134 (ii) file the plan with the commissioner in accordance with guidelines issued by the
135 commissioner;

136 (b) discontinue offering plans subject to Subsection (2), no earlier than the next
137 calendar quarter following the date the waiver is granted, subject to filing guidelines issued by
138 the commissioner; or

139 (c) nonrenew existing plans that are subject to Subsection (2), in compliance with
140 Subsection [31A-30-107\(3\)\(d\)](#).

141 (9) This section sunsets in accordance with Section [63I-1-231](#).

142 Section 2. Section **63I-1-231 (Effective 07/01/14)** is amended to read:

143 **63I-1-231 (Effective 07/01/14). Repeal dates, Title 31A.**

144 (1) Section [31A-2-208.5](#), Comparison tables, is repealed July 1, 2015.

145 (2) Section [31A-2-217](#), Coordination with other states, is repealed July 1, 2023.

146 (3) Section [31A-22-619.6](#), Coordination of benefits with workers' compensation
147 claim--Health insurer's duty to pay, is repealed on July 1, 2018.

148 (4) Section [31A-22-642](#), Insurance coverage for autism spectrum disorder, is repealed
149 on January 1, 2019.

150 Section 3. **Effective date.**

151 (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

152 (2) The amendments to Section [63I-1-231](#) (Effective 07/01/14) take effect on July 1,
153 2014.