

1 **AUTISM INSURANCE COVERAGE SUNSET AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Paul Ray**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **Committee Note:**

9 The Health and Human Services Interim Committee recommended this bill.

10 **General Description:**

11 This bill removes the repeal date of statutory provisions for insurance coverage of
12 autism spectrum disorder.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ removes the repeal date of statutory provisions for insurance coverage of autism
16 spectrum disorder.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **31A-22-642**, as last amended by Laws of Utah 2017, Chapter 292

24 **63I-1-231**, as last amended by Laws of Utah 2017, Chapters 53 and 181

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

27 Section 1. Section **31A-22-642** is amended to read:



28 **31A-22-642. Insurance coverage for autism spectrum disorder.**

29 (1) As used in this section:

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

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

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

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

41 (ii) provided or supervised by a:

42 (A) board certified behavior analyst; or

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

45 (d) "Diagnosis of autism spectrum disorder" means medically necessary assessments,
46 evaluations, or tests:

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

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

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

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

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

58 (h) "Therapeutic care" means services provided by licensed or certified speech

59 therapists, occupational therapists, or physical therapists.

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

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

65 (ii) includes:

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

68 (B) pharmacy care;

69 (C) psychiatric care;

70 (D) psychological care; and

71 (E) therapeutic care.

72 (2) Notwithstanding the provisions of Section [31A-22-618.5](#), a health benefit plan
73 offered in the individual market or the large group market and entered into or renewed on or
74 after January 1, 2016, shall provide coverage for the diagnosis and treatment of autism
75 spectrum disorder:

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

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

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

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

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

90 (b) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment
91 under Subsection (5)(a) shall include in the plan's provider network both board certified
92 behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).

93 (6) A health care provider shall submit a treatment plan for autism spectrum disorder to
94 the insurer within 14 business days of starting treatment for an individual. If an individual is
95 receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a
96 review of that treatment not more than once every six months. A review of treatment under
97 this Subsection (6) may include a review of treatment goals and progress toward the treatment
98 goals. If an insurer makes a determination to stop treatment as a result of the review of the
99 treatment plan under this subsection, the determination of the insurer may be reviewed under
100 Section 31A-22-629.

101 (7) (a) In accordance with Subsection (7)(b), the commissioner shall waive the
102 requirements of this section for all insurers in the individual market or the large group market,
103 if an insurer demonstrates to the commissioner that the insurer's entire pool of business in the
104 individual market or the large group market has incurred claims for the autism coverage
105 required by this section in a 12 consecutive month period that will cause a premium increase
106 for the insurer's entire pool of business in the individual market or the large group market in
107 excess of 1% over the insurer's premiums in the previous 12 consecutive month period.

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

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

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

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

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

120 (i) may delete the autism coverage from the plan without having to re-apply for the

121 waiver under Subsection (7); and
122 (ii) file the plan with the commissioner in accordance with guidelines issued by the
123 commissioner;
124 (b) discontinue offering plans subject to Subsection (2), no earlier than the next
125 calendar quarter following the date the waiver is granted, subject to filing guidelines issued by
126 the commissioner; or
127 (c) nonrenew existing plans that are subject to Subsection (2), in compliance with
128 Subsection 31A-22-618.6(5) or Subsection 31A-22-618.7(3).
129 [~~(9) This section sunsets in accordance with Section 63I-1-231.~~]
130 Section 2. Section 63I-1-231 is amended to read:
131 **63I-1-231. Repeal dates, Title 31A.**
132 (1) Section 31A-2-217, Coordination with other states, is repealed July 1, 2023.
133 (2) Section 31A-22-615.5 is repealed July 1, 2022.
134 (3) Section 31A-22-619.6, Coordination of benefits with workers' compensation
135 claim--Health insurer's duty to pay, is repealed on July 1, 2018.
136 [~~(4) Section 31A-22-642, Insurance coverage for autism spectrum disorder, is repealed~~
137 ~~on January 1, 2019.~~]

Legislative Review Note
Office of Legislative Research and General Counsel