

1 HB345
2 136777-1
3 By Representatives McCutcheon, Weaver, Greer, Tuggle, Hall,
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5 McAdory, Sanderford, Ball, Gaston, Fincher, Williams (J),
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7 and Galliher
8 RFD: Health
9 First Read: 16-FEB-12

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8 SYNOPSIS: This bill would require a health benefit
9 plan to include coverage for treatment of Autism
10 Spectrum Disorder for a child age 18 or under.
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12 A BILL
13 TO BE ENTITLED
14 AN ACT
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16 To require health benefit plans to include certain
17 coverage for treatment of Autism Spectrum Disorder for certain
18 children; and to amend Sections 10A-20-6.16 and 27-21A-23,
19 Code of Alabama 1975, relating to health care service plans
20 and health maintenance organizations.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. (a) As used in this section, the
23 following words have the following meanings:

24 (1) APPLIED BEHAVIOR ANALYSIS. The design,
25 implementation, and evaluation of environmental modifications,
26 using behavioral stimuli and consequences, to produce socially
27 significant improvement in human behavior, including the use

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

3 (2) AUTISM SPECTRUM DISORDER. Any of the pervasive
4 developmental disorders as defined by the most recent edition
5 of the Diagnostic and Statistical Manual of Mental Disorders
6 (DSM), including Autistic Disorder, Asperger's Disorder, and
7 Pervasive Developmental Disorder Not Otherwise Specified.

8 (3) BEHAVIORAL HEALTH TREATMENT. Counseling and
9 treatment programs, including applied behavior analysis that
10 are both of the following:

11 a. Necessary to develop, maintain, or restore, to
12 the maximum extent practicable, the functioning of an
13 individual.

14 b. Provided or supervised by a Board Certified
15 Behavior Analyst or a licensed psychologist so long as the
16 services performed are commensurate with the psychologist's
17 formal university training and supervised experience.

18 (4) DIAGNOSIS OF AUTISM SPECTRUM DISORDER. Medically
19 necessary assessment, evaluations, or tests to diagnose
20 whether an individual has an autism spectrum disorder.

21 (5) HEALTH BENEFIT PLAN. Any group insurance plan,
22 policy, or contract for health care services that covers
23 hospital, medical, or surgical expenses, health maintenance
24 organizations, preferred provider organizations, medical
25 service organizations, physician-hospital organizations, or
26 any other person, firm, corporation, joint venture, or other
27 similar business entity that pays for, purchases, or furnishes

1 group health care services to patients, insureds, or
2 beneficiaries in this state. For the purposes of this section,
3 a health benefit plan located or domiciled outside of the
4 State of Alabama is deemed to be subject to this section if it
5 receives, processes, adjudicates, pays, or denies claims for
6 health care services submitted by or on behalf of patients,
7 insureds, or beneficiaries who reside in the State of Alabama
8 or who receive health care services in the State of Alabama.
9 The term includes, but is not limited to, entities created
10 pursuant to Article 6, Chapter 20, Title 10A, Code of Alabama
11 1975. The term does not include the Alabama Health Insurance
12 Plan or the Alabama Small Employer Allocation Program provided
13 in Chapter 52 of Title 27, Code of Alabama 1975.

14 (6) PHARMACY CARE. Medications prescribed by a
15 licensed physician and any health related services deemed
16 medically necessary to determine the need or effectiveness of
17 the medications.

18 (7) PSYCHIATRIC CARE. Direct or consultative
19 services provided by a psychiatrist licensed in the state in
20 which the psychiatrist practices.

21 (8) PSYCHOLOGICAL CARE. Direct or consultative
22 services provided by a psychologist licensed in the state in
23 which the psychologist practices.

24 (9) THERAPEUTIC CARE. Services provided by licensed
25 or certified speech therapists, occupational therapists, or
26 physical therapists.

1 (10) TREATMENT FOR AUTISM SPECTRUM DISORDER.

2 Evidence-based care and related equipment prescribed or
3 ordered for an individual diagnosed with an autism spectrum
4 disorder by a licensed physician or a licensed psychologist
5 who determines the care to be medically necessary, including,
6 but not limited to, all of the following:

- 7 a. Behavioral health treatment.
- 8 b. Pharmacy care.
- 9 c. Psychiatric care.
- 10 d. Psychological care.
- 11 e. Therapeutic care.

12 (b) (1) A health benefit plan shall provide coverage
13 for the screening, diagnosis, and treatment of Autism Spectrum
14 Disorder for an insured 18 years of age or under. Coverage
15 provided under this section is limited to treatment that is
16 prescribed by the insured's treating licensed physician or
17 licensed psychologist in accordance with a treatment plan.

18 (2) To the extent that the screening, diagnosis, and
19 treatment of autism spectrum disorder are not already covered
20 by a health insurance policy, coverage under this section
21 shall be included in health insurance policies that are
22 delivered, executed, issued, amended, adjusted, or renewed in
23 this state, or outside this state if insuring residents of
24 this state, on or after October 1, 2012.

25 (3) A health benefit plan may not deny or refuse to
26 issue coverage on, refuse to contract with, or refuse to renew
27 or refuse to reissue or otherwise terminate or restrict

1 coverage on an individual solely because the individual is
2 diagnosed with Autism Spectrum Disorder.

3 (c) (1) The coverage required pursuant this section
4 may not be subject to dollar limits, deductibles, or
5 coinsurance provisions that are less favorable to an insured
6 than the dollar limits, deductibles, or coinsurance provisions
7 that apply to physical illness generally under the health
8 insurance plan, except as otherwise provided for in subsection
9 (e).

10 (2) Coverage pursuant to this section may not be
11 subject to any limits on the number of visits an individual
12 may make for the treatment of autism.

13 (3) The coverage required pursuant to subsection (b)
14 may be subject to other general exclusions and limitations of
15 the health benefit plan, including, but not limited to,
16 coordination of benefits, participating provider requirements,
17 restrictions on services provided by family or household
18 members, utilization review of health care services including
19 review of medical necessity, case management, and other
20 managed care provisions.

21 (d) The treatment plan required pursuant to
22 subsection (b) shall include all elements necessary for the
23 health insurance plan to appropriately pay claims. These
24 elements include, but are not limited to, a diagnosis,
25 proposed treatment by type, frequency, and duration of
26 treatment, the anticipated outcomes stated as goals, the
27 frequency by which the treatment plan will be updated, and the

1 treating licensed physician's or licensed psychologist's
2 signature. The health insurance plan may only request an
3 updated treatment plan once every six months from the treating
4 licensed physician or licensed psychologist to review medical
5 necessity, unless the health insurance plan and the treating
6 licensed physician or licensed psychologist agree that a more
7 frequent review is necessary for a particular patient.

8 (e) The benefits and coverage provided pursuant to
9 this section shall be provided to any eligible person 18 years
10 of age or under. Coverage for behavioral therapy is subject to
11 a fifty thousand dollar (\$50,000) maximum benefit per year.
12 Beginning one year after the effective date of this act, this
13 maximum benefit shall be adjusted annually on January 1 of
14 each calendar year to reflect any change from the previous
15 year in the current Medical Care Component of Consumer Price
16 Index, All Urban Consumers, as published by the United States
17 Department of Labor's Bureau of Labor Statistics.

18 Section 2. Sections 10A-20-6.16 and 27-21A-23, Code
19 of Alabama 1975, are amended to read as follows:

20 "§10A-20-6.16.

21 "(a) No statute of this state applying to insurance
22 companies shall be applicable to any corporation organized
23 under this article and amendments thereto or to any contract
24 made by the corporation unless expressly mentioned in this
25 article and made applicable; except as follows:

1 "(1) The corporation shall be subject to the
2 provisions regarding annual premium tax to be paid by insurers
3 on insurance premiums.

4 "(2) The corporation shall be subject to the
5 provisions of Chapter 55, Title 27, regarding the prohibition
6 of unfair discriminatory acts by insurers on the basis of an
7 applicant's or insured's abuse status.

8 "(3) The corporation shall be subject to the
9 provisions regarding Medicare Supplement Minimum Standards set
10 forth in Article 2 of Chapter 19 of Title 27, and Long-Term
11 Care Insurance Policy Minimum Standards set forth in Article 3
12 of Chapter 19 of Title 27.

13 "(4) The corporation shall be subject to Section
14 27-1-17, requiring insurers and health plans to pay health
15 care providers in a timely manner.

16 "(5) The corporation shall be subject to the
17 provisions of Chapter 56 of Title 27, regarding the Access to
18 Eye Care Act.

19 "(6) The corporation shall be subject to the
20 regulations promulgated by the Commissioner of Insurance
21 pursuant to Sections 27-7-43 and 27-7-44.

22 "(7) The corporation shall be subject to the
23 provisions of Chapter 54 of Title 27.

24 "(8) The corporation shall be subject to the
25 provisions of Chapter 57 of Title 27, requiring coverage to be
26 offered for the payment of colorectal cancer examinations for
27 covered persons who are 50 years of age or older, or for

1 covered persons who are less than 50 years of age and at high
2 risk for colorectal cancer according to current American
3 Cancer Society colorectal cancer screening guidelines.

4 "(9) The corporation shall be subject to Chapter 58
5 of Title 27, requiring that policies and contracts including
6 coverage for prostate cancer early detection be offered,
7 together with identification of associated costs.

8 "(10) The corporation shall be subject to Chapter 59
9 of Title 27 requiring that policies and contracts including
10 coverage for chiropractic be offered, together with
11 identification of associated costs.

12 "(11) The corporation shall be subject to Section 1
13 of the act adding this subdivision requiring that policies and
14 contracts include coverage for certain treatment for Autism
15 Spectrum disorder under certain conditions.

16 "(b) The provisions in subsection (a) that require
17 specific types of coverage to be offered or provided shall not
18 apply when the corporation is administering a self-funded
19 benefit plan or similar plan, fund, or program that it does
20 not insure.

21 "§27-21A-23.

22 "(a) Except as otherwise provided in this chapter,
23 provisions of the insurance law and provisions of health care
24 service plan laws shall not be applicable to any health
25 maintenance organization granted a certificate of authority
26 under this chapter. This provision shall not apply to an
27 insurer or health care service plan licensed and regulated

1 pursuant to the insurance law or the health care service plan
2 laws of this state except with respect to its health
3 maintenance organization activities authorized and regulated
4 pursuant to this chapter.

5 "(b) Solicitation of enrollees by a health
6 maintenance organization granted a certificate of authority
7 shall not be construed to violate any provision of law
8 relating to solicitation or advertising by health
9 professionals.

10 "(c) Any health maintenance organization authorized
11 under this chapter shall not be deemed to be practicing
12 medicine and shall be exempt from the provisions of Section
13 34-24-310, et seq., relating to the practice of medicine.

14 "(d) No person participating in the arrangements of
15 a health maintenance organization other than the actual
16 provider of health care services or supplies directly to
17 enrollees and their families shall be liable for negligence,
18 misfeasance, nonfeasance, or malpractice in connection with
19 the furnishing of such services and supplies.

20 "(e) Nothing in this chapter shall be construed in
21 any way to repeal or conflict with any provision of the
22 certificate of need law.

23 "(f) Notwithstanding the provisions of subsection
24 (a), a health maintenance organization shall be subject to
25 Section 27-1-17.

26 "(g) Notwithstanding the provisions of subsection
27 (a), a health maintenance organization shall be subject to the

1 provisions of Chapter 56 of this title, regarding the Access
2 to Eye Care Act.

3 "(h) Notwithstanding the provisions of subsection
4 (a), a health maintenance organization shall be subject to the
5 provisions of Chapter 54 of this title.

6 "(i) Notwithstanding the provisions of subsection
7 (a), a health maintenance organization shall be subject to the
8 provisions of Chapter 57 of this title, requiring coverage to
9 be offered for the payment of colorectal cancer examinations
10 for covered persons who are 50 years of age or older, or for
11 covered persons who are less than 50 years of age and at high
12 risk for colorectal cancer according to current American
13 Cancer Society colorectal cancer screening guidelines.

14 "(j) Notwithstanding the provisions of subsection
15 (a), a health maintenance organization shall be subject to
16 Chapter 58 of Title 27, requiring that policies and contracts
17 including coverage for prostate cancer early detection be
18 offered, together with identification of associated costs.

19 "(k) Notwithstanding the provisions of subsection
20 (a), a health maintenance organization shall be subject to
21 Chapter 59 of this title, requiring that policies and
22 contracts including coverage for chiropractic be offered,
23 together with identification of associated costs.

24 "(l) Notwithstanding the provisions of subsection
25 (a), a health maintenance organization shall be subject to
26 Section 1 of the act adding this subsection requiring policies

1 and contracts include coverage for certain treatment for
2 Autism Spectrum Disorder under certain conditions."

3 Section 3. This act shall become effective on
4 October 1, 2012.