

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

H

3

HOUSE BILL 498

Committee Substitute Favorable 5/14/13

Committee Substitute #2 Favorable 5/15/13

Short Title: Autism Health Insurance Coverage.

(Public)

Sponsors:

Referred to:

April 3, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE HEALTH BENEFIT PLANS, INCLUDING THE STATE HEALTH
3 PLAN FOR TEACHERS AND STATE EMPLOYEES, TO PROVIDE COVERAGE FOR
4 THE TREATMENT OF AUTISM SPECTRUM DISORDERS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 3 of Chapter 58 of the General Statutes is amended by adding
7 a new section to read as follows:

8 **"§ 58-3-192. Coverage for autism spectrum disorders.**

9 (a) As used in this section, the following definitions apply:

10 (1) Applied behavior analysis. – The design, implementation, and evaluation of
11 environmental modifications using behavioral stimuli and consequences to
12 produce socially significant improvement in human behavior, including the
13 use of direct observation, measurement, and functional analysis of the
14 relationship between environment and behavior.

15 (2) Autism spectrum disorder. – Any of the pervasive developmental disorders
16 or autism spectrum disorders as defined by the most recent edition of the
17 Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most
18 recent edition of the International Statistical Classification of Diseases and
19 Related Health Problems.

20 (3) Behavioral health treatment. – Counseling and treatment programs,
21 including applied behavior analysis, that are both of the following:

22 a. Necessary to (i) increase appropriate or adaptive behaviors, (ii)
23 decrease maladaptive behaviors, or (iii) develop, maintain, or restore,
24 to the maximum extent practicable, the functioning of an individual.

25 b. Provided or supervised by (i) a Board Certified Behavior Analyst or
26 (ii) a licensed psychologist or licensed psychological associate, so
27 long as the services performed are commensurate with the
28 psychologist's training and experience.

29 (4) Diagnosis of autism spectrum disorder. – Any medically necessary
30 assessments, evaluations, or tests to diagnose whether an individual has
31 autism spectrum disorder.

32 (5) Health benefit plan. – As defined in G.S. 58-3-167, and including the State
33 Health Plan for Teachers and State Employees established under Article 3B
34 of Chapter 135 of the General Statutes.



- 1 (6) Pharmacy care. – Medications prescribed by a licensed physician and any
2 health-related services deemed medically necessary to determine the need
3 for or effectiveness of the medications.
4 (7) Psychiatric care. – Direct or consultative services provided by a licensed
5 psychiatrist.
6 (8) Psychological care. – Direct or consultative services provided by a licensed
7 psychologist or licensed psychological associate.
8 (9) Therapeutic care. – Direct or consultative services provided by a licensed or
9 certified speech therapist, occupational therapist, physical therapist, or
10 licensed clinical social worker.
11 (10) Treatment for autism spectrum disorders. – Any of the following care or
12 related equipment ordered for an individual diagnosed with autism spectrum
13 disorder by a licensed physician, or a licensed psychologist who determines
14 the care to be medically necessary:
15 a. Behavioral health treatment.
16 b. Pharmacy care.
17 c. Psychiatric care.
18 d. Psychological care.
19 e. Therapeutic care.

20 (b) Every health benefit plan shall provide coverage for the screening, diagnosis, and
21 treatment of autism spectrum disorder for individuals 23 years of age or younger. No insurer
22 shall terminate coverage or refuse to issue, amend, or renew coverage to an individual solely
23 because the individual is diagnosed with autism spectrum disorder or has received treatment for
24 autism spectrum disorder. Individuals must have received a diagnosis of autism spectrum
25 disorder prior to the age of eight to qualify for required coverage under this section.

26 (c) Coverage under this section may not be subject to any limits on the number of visits
27 an individual may have for treatment of autism spectrum disorder.

28 (d) Coverage under this section may not be denied on the basis that the treatments are
29 habilitative or educational in nature.

30 (e) Coverage under this section may be subject to co-payment, deductible, and
31 coinsurance provisions of a health benefit plan that are not less favorable than the co-payment,
32 deductible, and coinsurance provisions that apply to substantially all other medical services
33 covered by the health benefit plan.

34 (f) This section shall not be construed as limiting benefits that are otherwise available
35 to an individual under a health benefit plan.

36 (g) Coverage for behavioral health treatment under this section may be subject to a
37 maximum benefit of up to thirty-six thousand dollars (\$36,000) per year. After December 31,
38 2014, the Commissioner of Insurance shall, on an annual basis, adjust the maximum benefit for
39 inflation by using the Medical Care Component of the United States Department of Labor
40 Consumer Price Index for All Urban Consumers (CPI-U). The Commissioner shall publish the
41 adjusted maximum benefit no later than March 1 of each year, and the published adjusted
42 maximum benefit shall apply to any health benefit plan year commencing on or after January 1
43 of the following year. Payments made by an insurer on behalf of a covered individual for any
44 care, treatment, intervention, service, or item other than behavioral health treatment shall not be
45 applied toward any maximum benefit established under this section.

46 (h) Except for inpatient services, if an individual is receiving treatment for autism
47 spectrum disorder, an insurer shall have the right to request a review of that treatment not more
48 than once annually, unless the insurer and the individual's licensed physician or the individual's
49 licensed psychologist agree that a more frequent review is necessary. Any such agreement
50 regarding the right to review a treatment plan more frequently shall apply only to a particular
51 insured being treated for an autism spectrum disorder and shall not apply to all individuals

1 being treated for an autism spectrum disorder by a physician or psychologist. The cost of
2 obtaining any review shall be borne by the insurer.

3 (i) This section shall not apply to plans that are certified as qualified health plans, as
4 defined in 45 C.F.R. § 155.20, if the requirements of this section are determined by the federal
5 government to require the State to make payments for a state-required benefit that is in excess
6 of the essential health benefits, pursuant to 45 C.F.R. § 155.170(a)(3). Nothing in this
7 subsection shall nullify the application of this section to plans that are not certified as qualified
8 health plans.

9 (j) This section shall not be construed as affecting any obligation to provide services to
10 an individual under an individualized family service plan, an individualized education program,
11 or an individualized service plan.

12 (k) The Commissioner of Insurance shall grant a small employer carrier, as that term is
13 defined in G.S. 58-50-110(23), a waiver from the provisions of this section for a health benefit
14 plan if the small employer carrier demonstrates to the Commissioner, by actual claims
15 experience over any consecutive 12-month period, that compliance with this section has
16 increased the cost of the health benefit plan by an amount of two and one-half percent (2.5%)
17 or greater in premium rate charged to a small employer over the most recent calendar year.

18 (l) The Commissioner of Insurance shall grant a health benefit plan issuer a waiver
19 from the provisions of this section for a health benefit plan if the issuer demonstrates to the
20 Commissioner, by actual claims experience over any consecutive 12-month period, that
21 compliance with this section has increased the cost of the health benefit plan by an amount of
22 one percent (1%) or greater in the premium rate charged under the health benefit plan over the
23 most recent calendar year."

24 **SECTION 2.** G.S. 90-270.4 is amended by adding a new subsection to read as
25 follows:

26 "(f1) Nothing in this Article shall be construed to prevent a Board Certified Behavior
27 Analyst (BCBA) or a Board Certified Assistant Behavior Analyst (BCaBA) from offering
28 services within the scope of practice authorized by the Behavior Analyst Certification Board,
29 including behavior analysis and therapy, in accordance with professional standards of the
30 BCBA or BCaBA's certification, if both of the following are true:

- 31 (1) The BCBA or BCaBA is properly certified and in good standing with the
32 Behavior Analyst Certification Board.
33 (2) The BCBA or BCaBA does not hold himself or herself out to the public by
34 any title or description stating or implying that the BCBA or BCaBA is a
35 psychologist or is licensed, certified, or registered to practice psychology in
36 this State."

37 **SECTION 3.(a)** G.S. 135-48.51 reads as rewritten:

38 "**§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General
39 Statutes.**

40 The following provisions of Chapter 58 of the General Statutes apply to the State Health
41 Plan:

- 42 (1) G.S. 58-3-191, Managed care reporting and disclosure requirements.
43 (2) G.S. 58-3-192, Coverage for autism spectrum disorders.
44 (2)(3) G.S. 58-3-221, Access to nonformulary and restricted access prescription
45 drugs.
46 (3)(4) G.S. 58-3-223, Managed care access to specialist care.
47 (4)(5) G.S. 58-3-225, Prompt claim payments under health benefit plans.
48 (5)(6) G.S. 58-3-235, Selection of specialist as primary care provider.
49 (6)(7) G.S. 58-3-240, Direct access to pediatrician for minors.
50 (7)(8) G.S. 58-3-245, Provider directories.
51 (8)(9) G.S. 58-3-250, Payment obligations for covered services.

- 1 (9)(10) G.S. 58-3-265, Payment obligations for covered services.
2 (10)(11) G.S. 58-3-280, Coverage for the diagnosis and treatment of
3 lymphedema.
4 (11)(12) G.S. 58-3-285, Coverage for hearing aids.
5 (12)(13) G.S. 58-50-30, Right to choose services of optometrist, podiatrist,
6 licensed clinical social worker, certified substance abuse professional,
7 licensed professional counselor, dentist, physical therapist, chiropractor,
8 psychologist, pharmacist, certified fee-based practicing pastoral counselor,
9 advanced practice nurse, licensed marriage and family therapist, or physician
10 assistant.
11 (13)(14) G.S. 58-67-88, Continuity of care."

12 **SECTION 3.(b)** No later than March 1, 2015, and every March 1st thereafter, the
13 Department of the State Treasurer shall submit a report to the General Assembly regarding the
14 implementation of coverage under the State Health Plan for Teachers and State Employees
15 required under this section. The report shall include the following information:

- 16 (1) The total number of insureds diagnosed with autism spectrum disorder.
17 (2) The total costs of all claims paid out in the prior fiscal year for coverage
18 required by this section.
19 (3) The cost of coverage required under this section per insured per month.
20 (4) The average cost per insured for coverage of any treatment involving applied
21 behavior analysis.

22 **SECTION 4.** Section 1 of this act becomes effective October 1, 2013, and applies
23 to insurance contracts issued, renewed, or amended on or after that date. Section 3 of this act
24 becomes effective January 1, 2014. The remainder of this act is effective when it becomes law.