

SENATE BILL No. 303

By Committee on Ways and Means

5-4

1 AN ACT concerning insurance; relating to coverage for autism spectrum
2 disorder; amending K.S.A. 2014 Supp. 40-2,194 and repealing the
3 existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 40-2,194 is hereby amended to read as
7 follows: 40-2,194. (a) (1) (A) Any large group health insurance policy,
8 medical service plan, contract, hospital service corporation contract,
9 hospital and medical service corporation contract, fraternal benefit society
10 or health maintenance organization which provides coverage for accident
11 and health services and which is delivered, issued for delivery, amended or
12 renewed on or after January 1, 2015, shall provide coverage for the
13 diagnosis and treatment of autism spectrum disorder in any covered
14 individual whose age is less than 12 years. ~~However, coverage for autism~~
15 ~~spectrum disorder shall not be required of a qualified health plan, as that~~
16 ~~term is defined in 42 U.S.C. § 18021, as in effect on July 1, 2015.~~

17 (B) Any **individual or small group** ~~grandfathered individual or group~~
18 health insurance policy, medical service plan, contract, hospital service
19 corporation contract, hospital and medical service corporation contract,
20 fraternal benefit society or health maintenance organization which
21 provides coverage for accident and health services and which is delivered,
22 issued for delivery, amended or renewed on or after January 1, 2016, shall
23 provide coverage for the diagnosis and treatment of autism spectrum
24 disorder in any covered individual whose age is less than 12 years.

25 (2) Such coverage shall be provided in a manner determined in
26 consultation with the autism services provider and the patient. Services
27 provided by autism services providers under this section shall include
28 applied behavior analysis when required by a licensed physician, licensed
29 psychologist or licensed specialist clinical social worker but otherwise
30 shall be limited to the care, services and related equipment prescribed or
31 ordered by a licensed physician, licensed psychologist or licensed
32 specialist clinical social worker.

33 (3) Coverage provided under this section for applied behavior
34 analysis shall be subject to a limitation of:

35 (A) 1,300 hours per calendar year for four years beginning on the
36 later of the date of diagnosis or January 1, 2015, for any covered

1 individual diagnosed with autism spectrum disorder between birth and five
2 years of age; and

3 (B) except as provided in subparagraph (A), 520 hours per calendar
4 year for any covered individual less than 12 years of age.

5 Upon prior approval by the health benefit plan, such maximum benefit
6 limit may be exceeded if the provision of applied behavior analysis
7 services beyond the maximum limit is medically necessary for such
8 individual. Any payment made by an insurer on behalf of a covered
9 individual for any care, treatment, intervention, service or item, the
10 provision of which was for the treatment of a health condition unrelated to
11 such covered individual's autism spectrum disorder, shall not be applied
12 toward any maximum benefit established under this paragraph. Except for
13 the coverage for applied behavior analysis, no coverage required under this
14 section shall be subject to the age and hour limitations described in this
15 paragraph.

16 (4) On or after January 1, 2015, through June 30, 2016,
17 reimbursement shall be allowed only for services provided by a provider
18 licensed, trained and qualified to provide such services or by an autism
19 specialist or an intensive individual service provider as such terms are
20 defined by the Kansas department for aging and disability services Kansas
21 autism waiver. On or after July 1, 2016, reimbursement shall be allowed
22 only for services provided by an autism service provider licensed or
23 exempt from licensure under the applied behavior analysis licensure act,
24 except that reimbursement shall be allowed for services provided by an
25 autism specialist, an intensive individual service provider or any other
26 individual qualified to provide services under the home and community
27 based services autism waiver administered by the Kansas department for
28 aging and disability services.

29 (5) Any insurer or other entity which administers claims for services
30 provided for the treatment of autism spectrum disorder under this section
31 shall have the right and obligation to deny any claim for services based
32 upon medical necessity or a determination that the covered individual has
33 reached the maximum medical improvement for the covered individual's
34 autism spectrum disorder.

35 (6) Except for inpatient services, if an insured is receiving treatment
36 for autism spectrum disorder, such insurer shall have the right to review
37 the treatment plan not more than once in a period of six consecutive
38 months, unless the insurer and the insured's treating physician or
39 psychologist agree that a more frequent review is necessary. Any such
40 agreement regarding the right to review a treatment plan more frequently
41 shall apply only to a particular insured being treated for autism spectrum
42 disorder and shall not apply to all individuals being treated for autism
43 spectrum disorder by a physician or psychologist. The cost of obtaining

1 any review or treatment plan shall be borne by the insurer.

2 (7) No insurer can terminate coverage, or refuse to deliver, execute,
3 issue, amend, adjust or renew coverage to an individual solely because the
4 individual is diagnosed with or has received treatment for autism spectrum
5 disorder.

6 (b) For the purposes of this section:

7 (1) "Applied behavior analysis" means the design, implementation
8 and evaluation of environmental modifications, using behavioral stimuli
9 and consequences, to produce socially significant improvement in human
10 behavior, including the use of direct observation, measurement and
11 functional analysis of the relationship between environment and behavior.

12 (2) "Autism spectrum disorder" means a neurobiological disorder, an
13 illness of the nervous system, which includes:

14 (A) "Autistic disorder," which is:

15 (i) Six or more items from (a), (b) and (c) of this subparagraph, with
16 at least two items from (a) of this subparagraph, and one item each from
17 (b) and (c) of this subparagraph:

18 (a) Qualitative impairment in social interaction, as manifested by at
19 least two of the following:

20 (1) Marked impairment in the use of multiple nonverbal behaviors
21 such as eye-to-eye gaze, facial expression, body postures and gestures to
22 regulate social interaction;

23 (2) failure to develop peer relationships appropriate to developmental
24 level;

25 (3) a lack of spontaneous seeking to share enjoyment, interests or
26 achievements with other people; or

27 (4) lack of social or emotional reciprocity;

28 (b) qualitative impairments in communication as manifested by at
29 least one of the following:

30 (1) Delay in, or total lack of, the development of spoken language;

31 (2) in individuals with adequate speech, marked impairment in the
32 ability to initiate or sustain a conversation with others;

33 (3) stereotyped and repetitive use of language or idiosyncratic
34 language; or

35 (4) lack of varied, spontaneous make-believe play or social imitative
36 play appropriate to developmental level;

37 (c) restricted repetitive and stereotyped patterns of behavior, interests
38 and activities, as manifested by at least one of the following:

39 (1) Encompassing preoccupation with one or more stereotyped and
40 restricted patterns of interest that is abnormal either in intensity or focus;

41 (2) apparently inflexible adherence to specific, nonfunctional routines
42 or rituals;

43 (3) stereotyped and repetitive motor mannerisms; or

- 1 (4) persistent preoccupation with parts of objects;
- 2 (ii) delays or abnormal functioning in at least one of the following
- 3 areas, with onset prior to age three years, including social interaction,
- 4 language as used in social communication or symbolic or imaginative
- 5 play; and
- 6 (iii) the disturbance is not better accounted for by Rett's disorder or
- 7 childhood disintegrative disorder;
- 8 (B) "Asperger's disorder," which is:
- 9 (i) a qualitative impairment in social interaction, as manifested by at
- 10 least two of the following:
- 11 (a) Marked impairment in the use of multiple nonverbal behaviors
- 12 such as eye-to-eye gaze, facial expression, body postures and gestures to
- 13 regulate social interaction;
- 14 (b) failure to develop peer relationships appropriate to developmental
- 15 level;
- 16 (c) lack of spontaneous seeking to share enjoyment, interests or
- 17 achievements with other people; or
- 18 (d) lack of social or emotional reciprocity;
- 19 (ii) restricted repetitive and stereotyped patterns of behavior, interests
- 20 and activities, as manifested by at least one of the following:
- 21 (a) Encompassing preoccupation with one or more stereotyped and
- 22 restricted patterns of interest that is abnormal either in intensity or focus;
- 23 (b) apparently inflexible adherence to specific, nonfunctional routines
- 24 or rituals;
- 25 (c) stereotyped and repetitive motor mannerisms; or
- 26 (d) persistent preoccupation with parts of objects;
- 27 (iii) the disturbance causes clinically significant impairment in social,
- 28 occupational or other important areas of functioning;
- 29 (iv) there is no clinically significant general delay in language;
- 30 (v) there is no clinically significant delay in cognitive development or
- 31 in the development of age-appropriate self-help skills, adaptive behavior
- 32 (other than in social interaction), and curiosity about the environment in
- 33 childhood; and
- 34 (vi) criteria are not met for another specific pervasive developmental
- 35 disorder or schizophrenia;
- 36 (C) "pervasive developmental disorder not otherwise specified," is a
- 37 severe and pervasive impairment in the development of reciprocal social
- 38 interaction associated with impairment in either verbal or nonverbal
- 39 communication skills or with the presence of stereotyped behavior,
- 40 interests and activities, but the criteria are not met for a specific pervasive
- 41 developmental disorder, schizophrenia, schizotypal personality disorder, or
- 42 avoidant personality disorder;
- 43 (D) "Rett's disorder," includes:

- 1 (i) All of the following:
- 2 (a) Apparently normal prenatal and perinatal development;
- 3 (b) apparently normal psychomotor development through the first
- 4 five months after birth; and
- 5 (c) normal head circumference at birth;
- 6 (ii) onset of all of the following after the period of normal
- 7 development:
- 8 (a) Deceleration of head growth between ages five and 48 months;
- 9 (b) loss of previously acquired purposeful hand skills between ages
- 10 five and 30 months with the subsequent development of stereotyped hand
- 11 movements;
- 12 (c) loss of social engagement early in the course of development;
- 13 (d) appearance of poorly coordinated gait or trunk movements; and
- 14 (e) severely impaired expressive and receptive language development
- 15 with severe psychomotor retardation;
- 16 (E) "childhood disintegrative disorder," is:
- 17 (i) Apparently normal development for at least the first two years
- 18 after birth as manifested by the presence of age-appropriate verbal and
- 19 nonverbal communication, social relationships, play and adaptive
- 20 behavior;
- 21 (ii) clinically significant loss of previously acquired skills in at least
- 22 two of the following areas: Expressive or receptive language, social skills
- 23 or adaptive behavior, bowel or bladder control or play and motor skills;
- 24 (iii) abnormalities of functioning in at least two of the following
- 25 areas: Qualitative impairment in social interaction; qualitative impairments
- 26 in communication; restricted, repetitive and stereotyped patterns of
- 27 behavior, interests and activities, including motor stereotypies and
- 28 mannerisms; and
- 29 (iv) the disturbance is not better accounted for by another specific
- 30 pervasive developmental disorder or by schizophrenia.
- 31 (3) "Diagnosis of autism spectrum disorder" means any medically
- 32 necessary assessment, evaluation or test performed by a licensed
- 33 physician, licensed psychologist or licensed specialist clinical social
- 34 worker to determine whether an individual has autism spectrum disorder.
- 35 (4) "Grandfathered health benefit plan" shall have the meaning
- 36 ascribed to such term in 42 U.S.C. § 18011. The term "grandfathered
- 37 health benefit plan" includes both small employer group health benefit
- 38 plans that are grandfathered and individual health benefit plans that are
- 39 grandfathered.
- 40 (5) "Health benefit plan" shall have the meaning ascribed to such
- 41 term in K.S.A. 40-4602, and amendments thereto.
- 42 (6) "Large employer" means, in connection with a group health
- 43 benefit plan with respect to a calendar year and a plan year, an employer

1 who employed an average of at least ~~51~~ **101** employees on business days
2 during the preceding calendar year and who employs at least one employee
3 on the first day of the plan year.

4 (7) "Small employer" means, in connection with a group health
5 benefit plan with respect to a calendar year and a plan year, an employer
6 who employed an average of at least one but not more than ~~50~~ **100**
7 employees on business days during the preceding calendar year and who
8 employs at least one employee on the first day of the plan year.

9 (c) If an individual has been diagnosed as having autism spectrum
10 disorder meeting the diagnostic criteria described in the edition of the
11 diagnostic and statistical manual of mental disorders available at the time
12 of diagnosis, then that individual shall not be required to undergo any
13 additional or repeated evaluation based upon the adoption of a subsequent
14 edition of the diagnostic and statistical manual of mental disorders adopted
15 by rules and regulations of the behavioral sciences regulatory board in
16 order to remain eligible for coverage under this section.

17 (d) Except as otherwise provided in subsection (a), no individual or
18 group health insurance policy, medical service plan, contract, hospital
19 service corporation contract, hospital and medical service corporation
20 contract, fraternal benefit society or health maintenance organization
21 which provides coverage for accident and health services and which
22 provides coverage with respect to autism spectrum disorder shall:

23 (1) Impose on the coverage required by this section any dollar limits,
24 deductibles or coinsurance provisions that are less favorable to an insured
25 than the dollar limits, deductibles or coinsurance provisions that apply to
26 physical illness generally under the accident and sickness insurance policy;
27 or

28 (2) impose on the coverage required by this section any limit upon the
29 number of visits that a covered individual may make for treatment of
30 autism spectrum disorder.

31 (e) The provisions of this section shall not apply to any policy or
32 certificate which provides coverage for any specified disease, specified
33 accident or accident-only coverage, credit, dental, disability income,
34 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
35 2227, and amendments thereto, vision care or any other limited
36 supplemental benefit nor to any medicare supplement policy of insurance
37 as defined by the commissioner of insurance by rules and regulations, any
38 coverage issued as a supplement to liability insurance, workers'
39 compensation or similar insurance, automobile medical-payment insurance
40 or any insurance under which benefits are payable with or without regard
41 to fault, whether written on a group, blanket or individual basis.

42 (f) This section shall not be construed as limiting benefits that are
43 otherwise available to an individual under any individual or group health

1 insurance policy, medical service plan, contract, hospital service
2 corporation contract, hospital and medical service corporation contract,
3 fraternal benefit society or health maintenance organization which
4 provides coverage for accident and health services.

5 (g) The provisions of K.S.A. 40-2249a, and amendments thereto,
6 shall not apply to the provisions of this section.

7 (h) The commissioner of the department of insurance shall grant a
8 small employer with a group health benefit plan a waiver from the
9 provisions of this section, if the small employer demonstrates to the
10 commissioner by actual claims experience over any consecutive twelve-
11 month period that compliance with this section has increased the cost of
12 the health insurance policy by an amount of two and a half percent or
13 greater over the period of a calendar year in premium costs to the small
14 employer.

15 (i) Nothing contained in this section shall require coverage for or
16 payment of full or partial day care or habilitation services, community
17 support services, services at intermediate care facilities, school-based
18 rehabilitative services or overnight, boarding and extended stay services at
19 facilities for autism patients. Only services actually rendered on an hourly
20 basis or fractional portion thereof by certified applied behavior analysis
21 (ABA) providers as herein defined shall be required to be covered under
22 this section. Nothing in this section shall require coverage or payment
23 hereunder for services that are otherwise provided, authorized or required
24 to be provided by public or private schools receiving any state or federal
25 funding for such services.

26 Sec. 2. K.S.A. 2014 Supp. 40-2,194 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after
28 ***January 1, 2016 and*** its publication in the statute book.