

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1434

Introduced by

Representatives Beadle, Kasper, B. Koppelman, Maragos, Steiner

Senators Burckhard, Dever, Heckaman

1 A BILL ~~for an Act to create and enact a new section to chapter 26.1-36 of the North Dakota~~
 2 ~~Century Code, relating to health insurance coverage for autism-related services; and to provide~~
 3 ~~for a report to the legislative management.~~ for an Act to create and enact a new section to
 4 chapter 54-52.1 of the North Dakota Century Code, relating to public employees retirement
 5 system uniform group insurance coverage of autism services; to require a report regarding
 6 coverage of autism services; and to provide an expiration date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 ~~SECTION 1. A new section to chapter 26.1-36 of the North Dakota Century Code is created~~
 9 ~~and enacted as follows:~~

10 ~~Autism coverage -- Report to legislative management.~~

11 ~~1. As used in this section:~~

12 ~~a. "Applied behavior analysis" has the same meaning as "practice of applied~~
 13 ~~behavior analysis" as defined under section 43-32-01.~~

14 ~~b. "Autism spectrum disorder" means any of the pervasive developmental disorders~~
 15 ~~or autism spectrum disorders as defined by the "Diagnostic and Statistical~~
 16 ~~Manual of Mental Disorders," American psychiatric association, fifth edition~~
 17 ~~(2013) or a more recent version as identified by the insurance commissioner or~~
 18 ~~as defined by the edition in effect at the time of diagnosis.~~

19 ~~c. "Diagnosis of autism spectrum disorder" means any medically necessary~~
 20 ~~assessment, evaluation, or test to diagnose whether an individual has an autism~~
 21 ~~spectrum disorder.~~

22 ~~d. "Behavioral health treatment" means a counseling or treatment program,~~
 23 ~~including applied behavior analysis, that is:~~

- 1 ~~———— (1) Necessary to develop, maintain, or restore, to the maximum extent~~
2 ~~practicable, the functioning of an individual; and~~
- 3 ~~———— (2) Provided or supervised by a licensed behavior analyst or psychologist.~~
- 4 ~~———— e. "Health insurance policy" means a health insurance plan as defined under~~
5 ~~section 26.1-36.3-01, whether offered on a group or individual basis. The term~~
6 ~~does not include a short-term medical policy offered in the individual market.~~
- 7 ~~———— f. "Pharmacy care" means a medication prescribed by an individual authorized to~~
8 ~~prescribe such a medication and any health-related service deemed medically~~
9 ~~necessary to determine the need or effectiveness of the medication.~~
- 10 ~~———— g. "Psychiatric care" means a direct or consultative service provided by a~~
11 ~~psychiatrist licensed in the state in which the psychiatrist practices.~~
- 12 ~~———— h. "Psychological care" means a direct or consultative service provided by a~~
13 ~~psychologist licensed in the state in which the psychologist practices.~~
- 14 ~~———— i. "Therapeutic care" means any service provided by a licensed speech language~~
15 ~~pathologist, occupational therapist, or physical therapist.~~
- 16 ~~———— j. "Treatment for autism spectrum disorder" means evidence-based care and~~
17 ~~related equipment prescribed or ordered for an individual diagnosed with an~~
18 ~~autism spectrum disorder by a licensed physician or a licensed psychologist who~~
19 ~~determines the care is medically necessary, including behavioral health~~
20 ~~treatment, pharmacy care, psychiatric care, psychological care, and therapeutic~~
21 ~~care.~~
- 22 ~~———— 2. A health insurance policy must provide coverage for the screening for, diagnosis of,~~
23 ~~and treatment for autism spectrum disorder in insureds under nineteen years of age.~~
24 ~~To the extent the screening for, diagnosis of, and treatment for autism spectrum~~
25 ~~disorder are not covered by a health insurance policy, coverage under this section~~
26 ~~must be included in health insurance policies that are delivered, executed, issued,~~
27 ~~amended, adjusted, or renewed in this state. An insurer may not terminate coverage of~~
28 ~~an insured or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an~~
29 ~~individual solely because the insured or individual is diagnosed with or has received~~
30 ~~treatment for an autism spectrum disorder.~~

- 1 ~~3. Coverage under this section is not subject to any limits on the number of visits an~~
2 ~~insured may make for treatment for autism spectrum disorder.~~
- 3 ~~4. Except as allowed under subsection 6, coverage under this section is not subject to~~
4 ~~dollar limits, deductibles, or coinsurance provisions that are less favorable to an~~
5 ~~insured than the dollar limits, deductibles, or coinsurance provisions that apply to~~
6 ~~substantially all medical and surgical benefits under the health insurance policy.~~
- 7 ~~5. This section does not limit benefits that are otherwise available to an insured under a~~
8 ~~health insurance policy.~~
- 9 ~~6. Coverage for applied behavioral analysis under this section must provide an annual~~
10 ~~maximum benefit that may not be less than:~~
 - 11 ~~a. Thirty-six thousand dollars for individuals under the age of seven;~~
 - 12 ~~b. Twenty-five thousand dollars for individuals between the ages of seven and not~~
13 ~~yet fourteen; and~~
 - 14 ~~c. Twelve thousand five hundred dollars for individuals between the ages of~~
15 ~~fourteen and not yet nineteen.~~
- 16 ~~7. Coverage for applied behavior analysis must include the services of the personnel~~
17 ~~who work under the supervision of the licensed behavior analyst or psychologist~~
18 ~~overseeing the program.~~
- 19 ~~8. Except for inpatient services, if an insured is receiving treatment for an autism~~
20 ~~spectrum disorder, an insurer may review the treatment plan annually, unless the~~
21 ~~insurer and the insured's treating physician or psychologist agree a more frequent~~
22 ~~review is necessary. Any agreement regarding the right to review a treatment plan~~
23 ~~more frequently is limited in application to a particular insured being treated for an~~
24 ~~autism spectrum disorder. The cost of obtaining a review or treatment plan must be~~
25 ~~borne by the insurer.~~
- 26 ~~9. This section does not affect an obligation to provide services to an individual under an~~
27 ~~individualized family service plan, an individualized education program, or an~~
28 ~~individualized service plan.~~
- 29 ~~10. This section does not apply to nongrandfathered plans in the individual and small~~
30 ~~group markets which are required to include essential health benefits under the federal~~
31 ~~Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the~~

1 ~~federal Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] or to~~
2 ~~medicare supplement, accident only, specified disease, hospital indemnity, disability~~
3 ~~income, long term care, or other limited benefit hospital insurance policies.~~
4 ~~11. Before August first of each even-numbered year, the insurance commissioner shall~~
5 ~~submit a biennial report to the legislative management regarding the implementation of~~
6 ~~the coverage required under this section. The report must include the total number of~~
7 ~~insureds diagnosed with autism spectrum disorder; the total cost of all claims paid in~~
8 ~~the immediately preceding two calendar years for coverage required by this section;~~
9 ~~the cost of coverage per insured per month; and the average cost per insured for~~
10 ~~coverage of applied behavior analysis. Health carriers and health benefit plans subject~~
11 ~~to this section shall provide the insurance department with the data requested by the~~
12 ~~department for inclusion in the biennial report.~~

13 **SECTION 1.** A new section to chapter 54-52.1 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Coverage of autism services.**

16 1. As used in this section:

- 17 a. "Applied behavior analysis" has the same meaning as "practice of applied
18 behavior analysis" as defined under section 43-32-01.
- 19 b. "Autism spectrum disorder" means any of the pervasive developmental disorders
20 or autism spectrum disorders as defined by the "Diagnostic and Statistical
21 Manual of Mental Disorders," American psychiatric association, fifth edition
22 (2013) or a more recent version as identified by the board or as defined by the
23 edition in effect at the time of diagnosis.
- 24 c. "Behavioral health treatment" means a counseling or treatment program,
25 including applied behavior analysis, that is:
26 (1) Necessary to develop, maintain, or restore, to the maximum extent
27 practicable, the functioning of an individual; and
28 (2) Provided or supervised by a licensed behavior analyst or psychologist.
- 29 d. "Diagnosis of autism spectrum disorder" means any medically necessary
30 assessment, evaluation, or test to diagnose whether an individual has an autism
31 spectrum disorder.

1 e. "Pharmacy care" means a medication prescribed by an individual authorized to
2 prescribe such a medication and any health-related service deemed medically
3 necessary to determine the need or effectiveness of the medication.

4 f. "Psychiatric care" means a direct or consultative service provided by a
5 psychiatrist licensed in the state in which the psychiatrist practices.

6 g. "Psychological care" means a direct or consultative service provided by a
7 psychologist licensed in the state in which the psychologist practices.

8 h. "Therapeutic care" means any service provided by a licensed speech language
9 pathologist, occupational therapist, or physical therapist.

10 i. "Treatment for autism spectrum disorder" means evidence-based care and
11 related equipment prescribed or ordered for an individual diagnosed with an
12 autism spectrum disorder by a licensed physician or a licensed psychologist who
13 determines the care is medically necessary, including behavioral health
14 treatment, pharmacy care, psychiatric care, psychological care, and therapeutic
15 care.

16 2. For all policies that become effective after June 30, 2017, and which do not extend
17 past June 30, 2019, the board shall provide health benefits coverage for the screening
18 for, diagnosis of, and treatment for autism spectrum disorder in covered individuals
19 under nineteen years of age.

20 a. Coverage under this section is not subject to limitations on the number of visits a
21 covered individual may make for treatment for autism spectrum disorder.

22 b. Except as allowed under subdivision c, coverage under this section is not subject
23 to dollar limits, deductibles, or coinsurance provisions less favorable to a covered
24 individual than the dollar limits, deductibles, or coinsurance provisions that apply
25 to substantially all medical and surgical benefits under the health benefits
26 coverage.

27 c. Coverage for applied behavioral analysis under this section must provide an
28 annual maximum benefit of:

29 (1) Thirty-six thousand dollars for individuals under the age of seven;

30 (2) Twenty-five thousand dollars for individuals between the ages of seven and
31 not yet fourteen; and

1 (3) Twelve thousand five hundred dollars for individuals between the ages of
2 fourteen and not yet nineteen.

3 d. The coverage for applied behavior analysis must include the services of the
4 personnel who work under the supervision of the licensed behavior analyst or
5 psychologist overseeing the program.

6 e. Except for inpatient services, if a covered individual is receiving treatment for an
7 autism spectrum disorder, the coverage may allow for annual review of the
8 treatment plan, unless a more frequent review is necessary. An agreement
9 regarding the right to review a treatment plan more frequently than annually is
10 limited in application to a particular covered individual being treated for an autism
11 spectrum disorder. The cost of obtaining a review or treatment plan must be
12 borne by the policy.

13 3. This section does not limit benefits otherwise available to a covered individual under
14 the uniform group insurance program. This section does not affect an obligation to
15 provide services to a covered individual under an individualized family service plan, an
16 individualized education program, or an individualized service plan.

17 **SECTION 2. PUBLIC EMPLOYEES RETIREMENT SYSTEM - COVERAGE OF AUTISM**
18 **SERVICES.**

19 1. Pursuant to section 54-03-28, the public employees retirement system shall prepare
20 and submit for introduction a bill to the sixty-sixth legislative assembly to repeal the
21 expiration date for section 1 of this Act and to extend the coverage of autism services
22 to apply to all group and individual health insurance policies. The public employees
23 retirement system shall append to the bill a report regarding the effect of the autism
24 services coverage requirement on the system's health insurance programs,
25 information on the utilization and costs relating to the coverage under this Act, a
26 comparison of the system's coverage of autism services under this Act and the
27 coverage of autism services by North Dakota insurers, and a recommendation
28 regarding whether the coverage under this Act should continue as provided in this Act
29 or should continue with amendments.

30 2. Quarterly during the 2017-18 interim, the insurance commissioner shall survey health
31 insurance carriers in the state to collect data regarding policy coverage and utilization

1 of autism services. The commissioner shall provide this data to the public employees
2 retirement system for inclusion in the report prepared under subsection 1.

3 **SECTION 3. EXPIRATION DATE.** Section 1 of this Act is effective through July 31, 2019,
4 and after that date is ineffective.