
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 709 Session of
2017

INTRODUCED BY MURT, HEFFLEY, McNEILL, ROZZI, SCHLOSSBERG AND
SCHWEYER, MARCH 3, 2017

REFERRED TO COMMITTEE ON INSURANCE, MARCH 3, 2017

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, providing for autism spectrum disorders coverage.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Title 40 of the Pennsylvania Consolidated
6 Statutes is amended by adding a part to read:

7 PART V

8 SPECIAL PROVISIONS RELATING TO

9 PARTICULAR CLASSES OF RISK

10 Chapter

11 81. Autism Spectrum Disorders Coverage

12 CHAPTER 81

13 AUTISM SPECTRUM DISORDERS COVERAGE

14 Sec.

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11 § 8101. Scope of chapter.

12 This chapter relates to insurance coverage for autism
13 spectrum disorders.

14 § 8102. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Applied behavioral analysis." The design, implementation
19 and evaluation of environmental modifications, using behavioral
20 stimuli and consequences, to produce socially significant
21 improvement in human behavior or to prevent loss of attained
22 skill or function, including the use of direct observation,
23 measurement and functional analysis of the relations between
24 environment and behavior.

25 "Autism service provider." Any of the following:

- 26 (1) A person, entity or group providing treatment of
27 autism spectrum disorders, pursuant to a treatment plan, that
28 is licensed or certified in this Commonwealth, including an
29 individual holding a valid temporary graduate behavior
30 specialist license.

1 (2) Any person, entity or group providing treatment of
2 autism spectrum disorders, pursuant to a treatment plan, that
3 is enrolled in the Commonwealth's medical assistance program
4 on or before the effective date of this section.

5 "Autism spectrum disorders." Any of the pervasive
6 developmental disorders defined by the most recent edition of
7 the Diagnostic and Statistical Manual of Mental Disorders (DSM),
8 or its successor, including autistic disorder, Asperger's
9 syndrome and pervasive developmental disorder not otherwise
10 specified.

11 "Behavior specialist." An individual who designs, implements
12 or evaluates a behavior modification intervention component of a
13 treatment plan, including those based on applied behavioral
14 analysis, to produce socially significant improvements in human
15 behavior or to prevent loss of attained skill or function,
16 through skill acquisition and the reduction of problematic
17 behavior.

18 "Board." The State Board of Medicine.

19 "Diagnostic assessment of autism spectrum disorders."
20 Medically necessary assessments, evaluations or tests performed
21 by a licensed physician, licensed physician assistant, licensed
22 psychologist or certified registered nurse practitioner to
23 diagnose whether an individual has an autism spectrum disorder.

24 "Government program." Any of the following:

25 (1) The Commonwealth's medical assistance program
26 established under the act of June 13, 1967 (P.L.31, No.21),
27 known as the Human Services Code.

28 (2) The adult basic coverage insurance program
29 established under Chapter 13 of the act of June 26, 2001
30 (P.L.755, No.77), known as the Tobacco Settlement Act.

1 (3) The children's health insurance program under
2 Article XXIII-A of the act of May 17, 1921 (P.L.682, No.284),
3 known as The Insurance Company Law of 1921.

4 "Health insurance policy." Any individual or group health,
5 sickness or accident policy, or subscriber contract or
6 certificate offered, issued or renewed by an entity subject to
7 one of the following:

8 (1) The act of May 17, 1921 (P.L.682, No.284), known as
9 The Insurance Company Law of 1921.

10 (2) The act of December 29, 1972 (P.L.1701, No.364),
11 known as the Health Maintenance Organization Act.

12 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
13 corporations) or 63 (relating to professional health services
14 plan corporations).

15 "Insurer." Any entity offering a health insurance policy.

16 "Pharmacy care." Medications prescribed by a licensed
17 physician, licensed physician assistant or certified registered
18 nurse practitioner and any assessment, evaluation or test
19 prescribed or ordered by a licensed physician, licensed
20 physician assistant or certified registered nurse practitioner
21 to determine the need or effectiveness of the medications.

22 "Psychiatric care." Direct or consultative services provided
23 by a physician who specializes in psychiatry.

24 "Psychological care." Direct or consultative services
25 provided by a psychologist.

26 "Rehabilitative care." Professional services and treatment
27 programs, including applied behavioral analysis, provided by an
28 autism service provider to produce socially significant
29 improvements in human behavior or to prevent loss of attained
30 skill or function.

1 "Therapeutic care." Services provided by speech language
2 pathologists, occupational therapists or physical therapists.

3 "Treatment of autism spectrum disorders." Includes medically
4 necessary pharmacy care, psychiatric care, psychological care,
5 rehabilitative care and therapeutic care that is identified in a
6 treatment plan and:

7 (1) Prescribed, ordered or provided by a licensed
8 physician, licensed physician assistant, licensed
9 psychologist, licensed clinical social worker or certified
10 registered nurse practitioner.

11 (2) Provided by an autism service provider.

12 (3) Provided by a person, entity or group that works
13 under the direction of an autism service provider.

14 "Treatment plan." A plan for the treatment of autism
15 spectrum disorders developed by a licensed physician or licensed
16 psychologist pursuant to a comprehensive evaluation or
17 reevaluation performed in a manner consistent with the most
18 recent clinical report or recommendations of the American
19 Academy of Pediatrics.

20 § 8103. Coverage for diagnostic assessment and treatment.

21 A health insurance policy or government program covered under
22 this chapter shall provide to covered individuals or recipients
23 under 21 years of age coverage for the diagnostic assessment of
24 autism spectrum disorders and for the treatment of autism
25 spectrum disorders.

26 § 8104. Maximum benefit.

27 (a) Amount.--Coverage provided under this chapter by an
28 insurer shall be subject to a maximum benefit of \$36,000 per
29 year but shall not be subject to any limits on the number of
30 visits to an autism service provider for treatment of autism

1 spectrum disorders.

2 (b) Adjustment.--

3 (1) After December 30, 2011, the Insurance Commissioner
4 shall, on or before April 1 of each calendar year, publish in
5 the Pennsylvania Bulletin an adjustment to the maximum
6 benefit equal to the change in the United States Department
7 of Labor Consumer Price Index for All Urban Consumers (CPI-U)
8 in the preceding year. The published adjusted maximum benefit
9 shall be applicable to the following calendar years to health
10 insurance policies issued or renewed in those calendar years.

11 (2) Payments made by an insurer on behalf of a covered
12 individual for treatment of a health condition unrelated to
13 or distinguishable from the individual's autism spectrum
14 disorder shall not be applied toward any maximum benefit
15 established under this section.

16 § 8105. Exclusions or limitations.

17 Coverage under this chapter shall be subject to copayment,
18 deductible and coinsurance provisions and any other general
19 exclusions or limitations of a health insurance policy or
20 government program to the same extent as other medical services
21 covered by the policy or program are subject to these
22 provisions.

23 § 8106. General construction of chapter.

24 This chapter shall not be construed as limiting benefits
25 which are otherwise available to an individual under a health
26 insurance policy or government program.

27 § 8107. Individualized education program.

28 This chapter shall not be construed as requiring coverage by
29 insurers of any service based solely on its inclusion in an
30 individualized education program. Consistent with Federal or

1 State law and upon consent of the parent or guardian of the
2 covered individual, the treatment of autism spectrum disorders
3 may be coordinated with any service included in an
4 individualized education program. Coverage for the treatment of
5 autism spectrum disorders shall not be contingent upon a
6 coordination of services with an individualized education
7 program.

8 § 8108. Applicability.

9 (a) General rule.--Subject to subsection (b), this chapter
10 shall apply to any health insurance policy offered, issued or
11 renewed on or after July 1, 2009, in this Commonwealth to groups
12 of 51 or more employees.

13 (b) Exception.--This chapter shall not include the following
14 policies:

15 (1) Accident only.

16 (2) Fixed indemnity.

17 (3) Limited benefit.

18 (4) Credit.

19 (5) Dental.

20 (6) Vision.

21 (7) Specified disease.

22 (8) Medicare supplement.

23 (9) CHAMPUS (Civilian Health and Medical Program of the
24 Uniformed Services) supplement.

25 (10) Long-term care or disability income.

26 (11) Workers' compensation.

27 (12) Automobile medical payment.

28 (c) Contracts.--This chapter shall apply to any contract
29 executed on or after July 1, 2009, by:

30 (1) the adult basic coverage insurance program

1 established under Chapter 13 of the act of June 26, 2001
2 (P.L.755, No.77), known as the Tobacco Settlement Act;

3 (2) the children's health insurance program under
4 Article XXIII-A of the act of May 17, 1921 (P.L.682, No.284),
5 known as The Insurance Company Law of 1921; or

6 (3) a successor program of either program under
7 paragraph (1) or (2).

8 (d) Report.--On January 1, 2011, insurers shall make a
9 report to the department, in a form and manner as determined by
10 the department, to evaluate the implementation of this chapter.

11 § 8109. Licensure or certification of behavior specialists.

12 (a) Regulations.--In consultation with the Department of
13 Human Services, the board shall promulgate regulations providing
14 for the licensure or certification of behavior specialists.

15 (b) Disciplinary provisions.--Behavior specialists licensed
16 or certified by the board shall be subject to all disciplinary
17 provisions applicable to medical doctors as set forth in the act
18 of December 20, 1985 (P.L.457, No.112), known as the Medical
19 Practice Act of 1985.

20 (c) Fees.--The board may charge reasonable fees as set by
21 board regulation for licensure or certificates or applications
22 permitted by the Medical Practice Act of 1985.

23 (d) Application.--An applicant applying for a license or
24 certificate as a behavior specialist shall submit a written
25 application on forms provided by the board evidencing and
26 insuring to the satisfaction of the board that the applicant:

27 (1) Is of good moral character.

28 (2) Has received a master's or higher degree from a
29 board-approved, accredited college or university, including a
30 major course of study in school, clinical or counseling

1 psychology, special education, social work, speech therapy,
2 occupational therapy or another related field.

3 (3) Has at least one year of experience involving
4 functional behavior assessments, including the development
5 and implementation of behavioral supports or treatment plans.

6 (4) Has completed at least 1,000 hours in direct
7 clinical experience with individuals with behavioral
8 challenges or at least 1,000 hours' experience in a related
9 field with individuals with autism spectrum disorders.

10 (5) Has completed relevant training programs, including
11 professional ethics, autism-specific training, assessments
12 training, instructional strategies and best practices, crisis
13 intervention, comorbidity and medications, family
14 collaboration and addressing specific skill deficits
15 training.

16 (e) Conviction.--

17 (1) The board shall not issue a license or certificate
18 to an applicant who has been convicted of a felony under the
19 act of April 14, 1972 (P.L.233, No.64), known as The
20 Controlled Substance, Drug, Device and Cosmetic Act, or if an
21 offense under the laws of another jurisdiction which, if
22 committed in this Commonwealth, would be a felony under The
23 Controlled Substance, Drug, Device and Cosmetic Act, unless:

24 (i) At least 10 years have elapsed from the date of
25 conviction.

26 (ii) The applicant satisfactorily demonstrates to
27 the board that he has made significant progress in
28 personal rehabilitation since the conviction such that
29 licensure of the applicant should not be expected to
30 create a substantial risk of harm to the health and

1 safety of his patients or the public or a substantial
2 risk of further criminal violations.

3 (iii) The applicant otherwise satisfies the
4 qualifications contained in or authorized by this
5 chapter.

6 (2) As used in this subsection, the term "convicted"
7 shall include a judgment, an admission of guilt or a plea of
8 nolo contendere.

9 (f) Temporary license.--Beginning on the effective date of
10 this subsection, the board shall issue a temporary graduate
11 behavior specialist license, valid for one year only, to an
12 applicant who meets all of the qualifications for licensure
13 under subsection (d) except for the experience and training
14 requirements of subsection (d) (3), (4) and (5). The following
15 apply:

16 (1) A temporary graduate behavior specialist license
17 shall allow the licensee to practice as a behavior specialist
18 only while under the supervision of a licensed physician,
19 licensed physician assistant, licensed psychologist, licensed
20 clinical social worker, certified registered nurse
21 practitioner or licensed behavior specialist. The physical
22 presence of the supervisor is not required provided the
23 supervisor is readily available for consultation.

24 (2) An applicant for a temporary graduate behavior
25 specialist license shall submit an application on a form
26 provided by the board and remit the required fee.

27 (3) A temporary graduate behavior specialist license
28 shall only be valid for up to one year from the date of
29 issuance.

30 § 8110. Participating provider.

1 An insurer shall be required to contract with and to accept
2 as a participating provider any autism service provider within
3 its service area and enrolled in the Commonwealth's medical
4 assistance program who agrees to accept the payment levels,
5 terms and conditions applicable to the insurer's other
6 participating providers for the service.

7 § 8111. Review of treatment plan.

8 An insurer may review a treatment plan for treatment of
9 autism spectrum disorders once every six months, subject to its
10 utilization review requirements, including case management,
11 concurrent review and other managed care provisions. A more or
12 less frequent review can be agreed upon by the insurer and the
13 licensed physician or licensed psychologist developing the
14 treatment plan.

15 § 8112. Validity of assessment.

16 For purposes of this chapter, the results of a diagnostic
17 assessment of autism spectrum disorder shall be valid for a
18 period of not less than 12 months unless a licensed physician or
19 licensed psychologist determines an earlier assessment is
20 necessary.

21 § 8113. Review and appeal process.

22 (a) Review process.--Upon denial or partial denial by an
23 insurer of a claim for diagnostic assessment of autism spectrum
24 disorders or a claim for treatment of autism spectrum disorders,
25 a covered individual or an authorized representative shall be
26 entitled to an expedited internal review process pursuant to the
27 procedures set forth in Article XXI of the act of May 17, 1921
28 (P.L.682, No.284), known as The Insurance Company Law of 1921,
29 followed by an expedited independent external review process
30 established and administered by the department.

1 (b) Appeal.--An insurer or covered individual or an
2 authorized representative may appeal to a court of competent
3 jurisdiction an order of an expedited independent external
4 review disapproving a denial or partial denial. Pending a ruling
5 of such court, the insurer shall pay for those services, if any,
6 that have been authorized or ordered until the ruling.

7 (c) Rules and regulations.--The Insurance Commissioner may
8 promulgate rules and regulations as may be necessary or
9 appropriate to implement and administer this section.

10 § 8114. Autism service provider.

11 For purposes of this chapter, the term "autism service
12 provider" shall include any behavior specialist in this
13 Commonwealth providing treatment of autism spectrum disorders
14 pursuant to a treatment plan until one year from the time that
15 regulations under section 8109 (relating to licensure or
16 certification of behavior specialists) are promulgated or until
17 three years from the effective date of this chapter, whichever
18 is later.

19 Section 2. Repeals are as follows:

20 (1) The General Assembly declares that the repeal under
21 paragraph (2) is necessary to effectuate the addition of 40
22 Pa.C.S. Ch. 81.

23 (2) Section 635.2 of the act of May 17, 1921 (P.L.682,
24 No.284), known as The Insurance Company Law of 1921, is
25 repealed.

26 (3) All other acts or parts of acts are repealed insofar
27 as they are inconsistent with this act.

28 Section 3. The addition of 40 Pa.C.S. Ch. 81 is a
29 continuation of section 635.2 of the act of May 17, 1921
30 (P.L.682, No.284), known as The Insurance Company Law of 1921.

1 The following apply:

2 (1) Except as otherwise provided in 40 Pa.C.S. Ch. 81,
3 all activities initiated under section 635.2 of The Insurance
4 Company Law of 1921 shall continue and remain in full force
5 and effect and may be completed under 40 Pa.C.S. Ch. 81.
6 Orders, regulations, rules and decisions which were made
7 under section 635.2 of The Insurance Company Law of 1921 and
8 which are in effect on the effective date of 40 Pa.C.S. Ch.
9 81 shall remain in full force and effect until revoked,
10 vacated or modified under 40 Pa.C.S. Ch. 81. Contracts,
11 obligations and collective bargaining agreements entered into
12 under section 635.2 of The Insurance Company Law of 1921 are
13 not affected nor impaired by the repeal of section 635.2 of
14 The Insurance Company Law of 1921.

15 (2) Except as otherwise provided in 40 Pa.C.S. Ch. 81,
16 any difference in language between 40 Pa.C.S. Ch. 81 and
17 section 635.2 of The Insurance Company Law of 1921 is
18 intended only to conform to the style of the Pennsylvania
19 Consolidated Statutes and is not intended to change or affect
20 the legislative intent, judicial construction or
21 administration and implementation of section 635.2 of The
22 Insurance Company Law of 1921.

23 Section 4. This act shall take effect immediately.