

By: Representatives Massengill, Aguirre,
Bain, Carpenter, Dortch, Evans (45th),
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To: Insurance

HOUSE BILL NO. 769

1 AN ACT TO AMEND SECTION 83-9-26, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE AGE LIMITATION ON THE REQUIREMENT THAT HEALTH INSURANCE
3 POLICIES PROVIDE COVERAGE FOR AUTISM-RELATED TREATMENT; AND FOR
4 RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 83-9-26, Mississippi Code of 1972, is
7 amended as follows:

8 83-9-26. (1) Except as otherwise provided herein, a health
9 insurance policy shall provide coverage for the screening,
10 diagnosis, and treatment of autism spectrum disorder. To the
11 extent that the screening, diagnosis, and treatment of autism
12 spectrum disorder are not already covered by a health insurance
13 policy, coverage under this section will be included in health
14 insurance policies that are delivered, executed, issued, amended,
15 adjusted, or renewed in this state, or outside this state if
16 insuring residents of this state, on or after January 1, 2016. No
17 insurer can terminate coverage, or refuse to deliver, execute,
18 issue, amend, adjust, or renew coverage to an individual solely



19 because the individual is diagnosed with or has received treatment
20 for an autism spectrum disorder.

21 (2) Coverage under this section must not be subject to
22 dollar limits, deductibles, or coinsurance provisions that are
23 less favorable to an insured than the dollar limits, deductibles,
24 or coinsurance provisions that apply to substantially all medical
25 and surgical benefits under the health insurance policy, except as
26 otherwise provided in subsection (5) of this section.

27 (3) This section shall not be construed as limiting benefits
28 that are otherwise available to an individual under a health
29 insurance policy.

30 (4) As used in this section:

31 (a) "Applied behavior analysis" means the
32 individualized design, implementation, and evaluation of
33 instructional and environmental modifications to produce socially
34 significant improvement in human behavior, including the use of
35 direct observation, measurement, and functional analysis of the
36 relationship between environment and behavior.

37 (b) "Autism spectrum disorder" means any of the
38 pervasive developmental disorders or autism spectrum disorders as
39 defined by the most recent edition of the Diagnostic and
40 Statistical Manual of Mental Disorders (DSM) or the edition that
41 was in effect at the time of diagnosis.



42 (c) "Behavioral health treatment" means behavior
43 modification and mental health counseling and treatment programs,
44 including applied behavior analysis, that are:

45 (i) Necessary to develop or restore, to the
46 maximum extent practicable, the functioning of an individual; and

47 (ii) Provided or supervised by a licensed behavior
48 mental health professional, so long as the services performed are
49 commensurate with the licensed mental health professional's
50 competency area, training and supervised experience.

51 (d) "Diagnosis of autism spectrum disorder" means
52 medically necessary assessment, evaluations, or tests to diagnose
53 whether an individual has an autism spectrum disorder, as
54 performed by a licensed psychologist or licensed physician.

55 (e) "Licensed behavior analyst" means a professional
56 licensed under Section 73-75-13(d) to practice applied behavior
57 analysis in the State of Mississippi.

58 (f) "Health insurance policy" includes all individual
59 and group health insurance policies providing coverage on an
60 expense-incurred basis, individual and group service or indemnity
61 type contracts issued by a nonprofit corporation, individual and
62 group service contracts issued by a health maintenance
63 organization or preferred provider organization, all self-insured
64 group arrangements to the extent not preempted by federal law, all
65 plans for state and political subdivisions and all managed health



66 care delivery entities of any type or description providing
67 coverage to any resident of this state.

68 (g) "Pharmacy care" means medications approved by the
69 United States Food and Drug Administration and prescribed by a
70 licensed physician, and any health-related services deemed
71 medically necessary to determine the need or effectiveness of the
72 medications.

73 (h) "Psychiatric care" means direct or consultative
74 services provided by a psychiatrist licensed to practice in the
75 State of Mississippi or as provided under the applicable health
76 insurance policy.

77 (i) "Psychological care" means direct or consultative
78 services provided by a psychologist licensed to practice in the
79 State of Mississippi or as provided under the applicable health
80 insurance policy.

81 (j) "Therapeutic care" means services provided by
82 licensed speech-language pathologists, occupational therapists, or
83 physical therapists as covered by the health insurance policy.

84 (k) "Treatment for autism spectrum disorder" means
85 evidence-based care prescribed or ordered for an individual
86 diagnosed with an autism spectrum disorder by a licensed physician
87 or a licensed psychologist who determines the care to be medically
88 necessary, including, but not limited to:

89 (i) Behavioral health treatment;

90 (ii) Pharmacy care;



- 91 (iii) Psychiatric care;
- 92 (iv) Psychological care; and
- 93 (v) Therapeutic care.

94 (1) "Treatment plan" means a written, comprehensive,
95 and individualized intervention plan that incorporates specific
96 treatment goals, individualized with objectives, data collection
97 and analysis plan, and goal change procedures if goals are not
98 met.

99 (5) Coverage under this section for applied behavior
100 analysis shall be limited to twenty-five (25) hours per
101 week * * *. No more than ten (10) hours per week shall be for the
102 services of a licensed behavior analyst; however, all services
103 must be provided under the supervision or direction of a licensed
104 behavior analyst or licensed psychologist. Coverage for applied
105 behavior analysis pursuant to an ongoing treatment plan may be
106 extended beyond the limits provided in this subsection if medical
107 necessity for the extension is determined to exist, or in the
108 event of disagreement, the appeal rights under the applicable
109 health insurance policy shall govern.

110 (6) Except for inpatient services, if an insured is
111 receiving treatment for an autism spectrum disorder, an insurer
112 shall have the right to review the treatment plan every six (6)
113 months, unless the insurer and the insured's treating physician or
114 psychologist agree that a more frequent review is necessary. The



115 cost of obtaining any review of the treatment plan shall be borne
116 by the insurer.

117 (7) This section shall not be construed to require an
118 insurer to provide coverage for any services to an individual
119 under an individualized family service plan, an individualized
120 education program, or an individualized service plan, required by
121 federal or state law to be performed by public schools, including,
122 but not limited to, individualized education programs, special
123 education services, Individuals with Disabilities Education
124 Improvement Act programs, attention deficit-hyperactivity disorder
125 classrooms, or autism spectrum disorder classrooms.

126 (8) Nothing in this section shall apply to nongrandfathered
127 plans in the individual and small group markets that are required
128 to include essential health benefits under the Patient Protection
129 and Affordable Care Act or to Medicare supplement, accident-only,
130 specified disease, hospital indemnity, disability income,
131 long-term care, or other limited benefit hospital insurance
132 policies.

133 (9) A small employer with one hundred (100) or fewer
134 eligible employees that provides or offers a health insurance
135 policy to its employees will offer coverage for the screening,
136 diagnosis and treatment of autism spectrum disorder as provided in
137 this section. The small employer may charge the plan participant
138 with the cost of obtaining the additional coverage.



139 (10) In the event that any part of this legislation is
140 rendered or declared invalid or unenforceable by a court of
141 competent jurisdiction, such invalidation shall not invalidate the
142 remaining portions thereof, and they shall remain in full force
143 and effect.

144 **SECTION 2.** This act shall take effect and be in force from
145 and after July 1, 2018.

