

By: Representative Reynolds

To: Insurance;
Appropriations

HOUSE BILL NO. 380

1 AN ACT TO AMEND SECTION 83-9-26, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE HEALTH INSURANCE POLICIES TO PROVIDE COVERAGE FOR THE
3 DIAGNOSIS AND TREATMENT OF DEVELOPMENTAL AND PHYSICAL DISABILITIES
4 SIMILAR TO THE REQUIREMENT FOR AUTISM SPECTRUM DISORDER; TO
5 PROVIDE THE MAXIMUM AMOUNT OF COVERAGE PER YEAR FOR APPLIED
6 BEHAVIORAL ANALYSIS FOR AUTISM SPECTRUM DISORDER OR DEVELOPMENTAL
7 OR PHYSICAL DISABILITIES; TO PROVIDE FOR THE MAXIMUM AGE FOR
8 COVERAGE FOR APPLIED BEHAVIORAL ANALYSIS FOR AUTISM SPECTRUM
9 DISORDER OR DEVELOPMENTAL OR PHYSICAL DISABILITIES; AND FOR
10 RELATED PURPOSES.

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

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

14 83-9-26. (1) Except as otherwise provided herein, a health
15 insurance policy shall provide coverage for the screening,
16 diagnosis, and treatment of autism spectrum disorder and for the
17 diagnosis and treatment of developmental and physical
18 disabilities. To the extent that the screening, diagnosis, and
19 treatment of autism spectrum disorder are not already covered by a
20 health insurance policy, coverage under this section will be
21 included in health insurance policies that are delivered,
22 executed, issued, amended, adjusted, or renewed in this state, or



23 outside this state if insuring residents of this state, on or
24 after January 1, 2016. To the extent that the diagnosis and
25 treatment of developmental and physical disabilities are not
26 already covered by a health insurance policy, coverage under this
27 section will be included in health insurance policies that are
28 delivered, executed, issued, amended, adjusted, or renewed in this
29 state, or outside this state if insuring residents of this state,
30 on or after January 1, 2023. No insurer can terminate coverage,
31 or refuse to deliver, execute, issue, amend, adjust, or renew
32 coverage to an individual solely because the individual is
33 diagnosed with or has received treatment for an autism spectrum
34 disorder or developmental or physical disabilities.

35 (2) Coverage under this section must not be subject to
36 dollar limits, deductibles, or coinsurance provisions that are
37 less favorable to an insured than the dollar limits, deductibles,
38 or coinsurance provisions that apply to substantially all medical
39 and surgical benefits under the health insurance policy, except as
40 otherwise provided in subsection (5) of this section.

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

44 (4) As used in this section:

45 (a) "Applied behavior analysis" means the
46 individualized design, implementation, and evaluation of
47 instructional and environmental modifications to produce socially



48 significant improvement in human behavior, including the use of
49 direct observation, measurement, and functional analysis of the
50 relationship between environment and behavior.

51 (b) "Autism spectrum disorder" means any of the
52 pervasive developmental disorders or autism spectrum disorders as
53 defined by the most recent edition of the Diagnostic and
54 Statistical Manual of Mental Disorders (DSM) or the edition that
55 was in effect at the time of diagnosis.

56 (c) "Behavioral health treatment" means behavior
57 modification and mental health counseling and treatment programs,
58 including applied behavior analysis, that are:

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

61 (ii) Provided or supervised by a licensed behavior
62 mental health professional, so long as the services performed are
63 commensurate with the licensed mental health professional's
64 competency area, training and supervised experience.

65 (d) "Diagnosis of autism spectrum disorder or a
66 developmental or physical disability" means medically necessary
67 assessment, evaluations, or tests to diagnose whether an
68 individual has an autism spectrum disorder or a developmental or
69 physical disability, as performed by a licensed psychologist or
70 licensed physician.



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

74 (f) "Health insurance policy" includes all individual
75 and group health insurance policies providing coverage on an
76 expense-incurred basis, individual and group service or indemnity
77 type contracts issued by a nonprofit corporation, individual and
78 group service contracts issued by a health maintenance
79 organization or preferred provider organization, all self-insured
80 group arrangements to the extent not preempted by federal law, all
81 plans for state and political subdivisions and all managed health
82 care delivery entities of any type or description providing
83 coverage to any resident of this state.

84 (g) "Pharmacy care" means medications approved by the
85 United States Food and Drug Administration and prescribed by a
86 licensed physician, and any health-related services deemed
87 medically necessary to determine the need or effectiveness of the
88 medications.

89 (h) "Psychiatric care" means direct or consultative
90 services provided by a psychiatrist licensed to practice in the
91 State of Mississippi or as provided under the applicable health
92 insurance policy.

93 (i) "Psychological care" means direct or consultative
94 services provided by a psychologist licensed to practice in the



95 State of Mississippi or as provided under the applicable health
96 insurance policy.

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

100 (k) "Treatment for autism spectrum disorder or a
101 developmental or physical disability" means evidence-based care
102 prescribed or ordered for an individual diagnosed with an autism
103 spectrum disorder or a developmental or physical disability by a
104 licensed physician or a licensed psychologist who determines the
105 care to be medically necessary, including, but not limited to:

- 106 (i) Behavioral health treatment;
- 107 (ii) Pharmacy care;
- 108 (iii) Psychiatric care;
- 109 (iv) Psychological care; and
- 110 (v) Therapeutic care.

111 (l) "Treatment plan" means a written, comprehensive,
112 and individualized intervention plan that incorporates specific
113 treatment goals, individualized with objectives, data collection
114 and analysis plan, and goal change procedures if goals are not
115 met.

116 (m) "Developmental or physical disability" means a
117 severe chronic disability that:

- 118 (i) Is attributable to cerebral palsy, epilepsy,
119 or any other condition other than mental illness or autism



120 spectrum disorder which results in impairment of general
121 intellectual functioning or adaptive behavior and requires
122 treatment or services;

123 (ii) Manifests before the individual reaches age
124 nineteen (19);

125 (iii) Is likely to continue indefinitely; and

126 (iv) Results in substantial functional limitations
127 in three (3) or more of the following areas of major life
128 activities:

129 1. Self-care;

130 2. Understanding and use of language;

131 3. Learning;

132 4. Mobility;

133 5. Self-direction; or

134 6. Capacity for independent living.

135 (5) Coverage under this section for applied behavior
136 analysis shall be limited to * * * Forty Thousand Dollars
137 (\$40,000.00) per year, and shall not be required beyond the age
138 of * * * eighteen (18) years. No more than ten (10) hours per
139 week shall be for the services of a licensed behavior analyst;
140 however, all services must be provided under the supervision or
141 direction of a licensed behavior analyst or licensed psychologist.
142 Coverage for applied behavior analysis pursuant to an ongoing
143 treatment plan may be extended beyond the limits provided in this
144 subsection if medical necessity for the extension is determined to



145 exist, or in the event of disagreement, the appeal rights under
146 the applicable health insurance policy shall govern.

147 (6) Except for inpatient services, if an insured is
148 receiving treatment for an autism spectrum disorder or a
149 developmental or physical disability, an insurer shall have the
150 right to review the treatment plan every six (6) months, unless
151 the insurer and the insured's treating physician or psychologist
152 agree that a more frequent review is necessary. The cost of
153 obtaining any review of the treatment plan shall be borne by the
154 insurer.

155 (7) This section shall not be construed to require an
156 insurer to provide coverage for any services to an individual
157 under an individualized family service plan, an individualized
158 education program, or an individualized service plan, required by
159 federal or state law to be performed by public schools, including,
160 but not limited to, individualized education programs, special
161 education services, Individuals with Disabilities Education
162 Improvement Act programs, attention deficit-hyperactivity disorder
163 classrooms, or autism spectrum disorder classrooms.

164 (8) Nothing in this section shall apply to nongrandfathered
165 plans in the individual and small group markets that are required
166 to include essential health benefits under the Patient Protection
167 and Affordable Care Act or to Medicare supplement, accident-only,
168 specified disease, hospital indemnity, disability income,



169 long-term care, or other limited benefit hospital insurance
170 policies.

171 (9) A small employer with one hundred (100) or fewer
172 eligible employees that provides or offers a health insurance
173 policy to its employees will offer coverage for the screening,
174 diagnosis and treatment of autism spectrum disorder or a
175 developmental or physical disability as provided in this section.
176 The small employer may charge the plan participant with the cost
177 of obtaining the additional coverage.

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

183 **SECTION 2.** This act shall take effect and be in force from
184 and after July 1, 2022.

