

By: Senator(s) Boyd

To: Insurance

SENATE BILL NO. 2646

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
4 DISABILITIES; TO PROVIDE FOR WHAT DISABILITIES MAY BE COVERED; AND
5 FOR RELATED PURPOSES.

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

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

9 83-9-26. (1) Except as otherwise provided herein, a health
10 insurance policy shall provide coverage for the screening,
11 diagnosis, and treatment of autism spectrum disorder and for the
12 diagnosis and treatment of developmental and physical
13 disabilities. To the extent that the screening, diagnosis, and
14 treatment of autism spectrum disorder are not already covered by a
15 health insurance policy, coverage under this section will be
16 included in health insurance policies that are delivered,
17 executed, issued, amended, adjusted, or renewed in this state, or
18 outside this state if insuring residents of this state, on or
19 after January 1, 2016. To the extend that the diagnosis and



20 treatment of developmental and physical disabilities are not
21 already covered by a health insurance policy, coverage under this
22 section will be included in health insurance policies that are
23 delivered, executed, issued, amended, adjusted or renewed in this
24 state, or outside this state if insuring residents of this state,
25 on or after January 1, 2024. No insurer can terminate coverage,
26 or refuse to deliver, execute, issue, amend, adjust, or renew
27 coverage to an individual solely because the individual is
28 diagnosed with or has received treatment for an autism spectrum
29 disorder.

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

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

39 (4) As used in this section:

40 (a) "Applied behavior analysis" means the
41 individualized design, implementation, and evaluation of
42 instructional and environmental modifications to produce socially
43 significant improvement in human behavior, including the use of



44 direct observation, measurement, and functional analysis of the
45 relationship between environment and behavior.

46 (b) "Autism spectrum disorder" means any of the
47 pervasive developmental disorders or autism spectrum disorders as
48 defined by the most recent edition of the Diagnostic and
49 Statistical Manual of Mental Disorders (DSM) or the edition that
50 was in effect at the time of diagnosis.

51 (c) "Behavioral health treatment" means behavior
52 modification and mental health counseling and treatment programs,
53 including applied behavior analysis, that are:

- 54 (i) Necessary to develop or restore, to the
55 maximum extent practicable, the functioning of an individual; and
56 (ii) Provided or supervised by a licensed behavior
57 mental health professional, so long as the services performed are
58 commensurate with the licensed mental health professional's
59 competency area, training and supervised experience.

60 (d) "Diagnosis of autism spectrum disorder" or a
61 "developmental or physical disability" means medically necessary
62 assessment, evaluations, or tests to diagnose whether an
63 individual has an autism spectrum disorder or a development or
64 physical disability, as performed by a licensed psychologist or
65 licensed physician.

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



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

79 (g) "Pharmacy care" means medications approved by the
80 United States Food and Drug Administration and prescribed by a
81 licensed physician, and any health-related services deemed
82 medically necessary to determine the need or effectiveness of the
83 medications.

84 (h) "Psychiatric care" means direct or consultative
85 services provided by a psychiatrist licensed to practice in the
86 State of Mississippi or as provided under the applicable health
87 insurance policy.

88 (i) "Psychological care" means direct or consultative
89 services provided by a psychologist licensed to practice in the
90 State of Mississippi or as provided under the applicable health
91 insurance policy.



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

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

- 101 (i) Behavioral health treatment;
- 102 (ii) Pharmacy care;
- 103 (iii) Psychiatric care;
- 104 (iv) Psychological care; and
- 105 (v) Therapeutic care.

106 (l) "Treatment plan" means a written, comprehensive,
107 and individualized intervention plan that incorporates specific
108 treatment goals, individualized with objectives, data collection
109 and analysis plan, and goal change procedures if goals are not
110 met.

111 (m) "Developmental or physical disability" means a
112 severe chronic disability that manifests before the individual
113 reaches age nineteen (19) and is likely to continue indefinitely.

114 (5) Coverage under this section for applied behavior
115 analysis shall be limited to twenty-five (25) hours per week, and
116 shall not be required beyond the age of eight (8) years. No more



117 than ten (10) hours per week shall be for the services of a
118 licensed behavior analyst; however, all services must be provided
119 under the supervision or direction of a licensed behavior analyst
120 or licensed psychologist. Coverage for applied behavior analysis
121 pursuant to an ongoing treatment plan may be extended beyond the
122 limits provided in this subsection if medical necessity for the
123 extension is determined to exist, or in the event of disagreement,
124 the appeal rights under the applicable health insurance policy
125 shall govern.

126 (6) Except for inpatient services, if an insured is
127 receiving treatment for an autism spectrum disorder or a
128 developmental or physical disability, an insurer shall have the
129 right to review the treatment plan every six (6) months, unless
130 the insurer and the insured's treating physician or psychologist
131 agree that a more frequent review is necessary. The cost of
132 obtaining any review of the treatment plan shall be borne by the
133 insurer.

134 (7) This section shall not be construed to require an
135 insurer to provide coverage for any services to an individual
136 under an individualized family service plan, an individualized
137 education program, or an individualized service plan, required by
138 federal or state law to be performed by public schools, including,
139 but not limited to, individualized education programs, special
140 education services, Individuals with Disabilities Education



141 Improvement Act programs, attention deficit-hyperactivity disorder
142 classrooms, or autism spectrum disorder classrooms.

143 (8) Nothing in this section shall apply to nongrandfathered
144 plans in the individual and small group markets that are required
145 to include essential health benefits under the Patient Protection
146 and Affordable Care Act or to Medicare supplement, accident-only,
147 specified disease, hospital indemnity, disability income,
148 long-term care, or other limited benefit hospital insurance
149 policies.

150 (9) A small employer with one hundred (100) or fewer
151 eligible employees that provides or offers a health insurance
152 policy to its employees will offer coverage for the screening,
153 diagnosis and treatment of autism spectrum disorder or a
154 developmental or physical disability as provided in this section.
155 The small employer may charge the plan participant with the cost
156 of obtaining the additional coverage.

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

162 **SECTION 2.** This act shall take effect and be in force from
163 and after July 1, 2023.

