

1 S.262

2 Introduced by Senators Carris and Campbell

3 Referred to Committee on Finance

4 Date: Janaury 5, 2010

5 Subject: Health; health insurance; autism spectrum disorders

6 Statement of purpose: This bill proposes to require health insurers to cover  
7 diagnosis and treatment of autism spectrum disorders.

*An act relating to insurance coverage for autism diagnosis and treatment*

~~*An act relating to a study of coverage of appropriate services for children with  
autism spectrum disorders*~~

8 ~~An act relating to insurance coverage for autism diagnosis and treatment~~

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 ~~Sec. 1. 8 V.S.A. § 4088i is added to read:~~

11 ~~§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF AUTISM~~

12 ~~SPECTRUM DISORDERS~~

13 ~~(a) A health insurance plan shall provide coverage for the diagnosis and~~  
14 ~~treatment of autism spectrum disorders.~~

15 ~~(b) A health insurance plan shall not impose any annual or lifetime dollar~~  
16 ~~maximum on coverage for the diagnosis and treatment of autism spectrum~~  
17 ~~disorders that is less than the annual or lifetime dollar maximum that applies~~  
18 ~~generally to all terms and services covered under the plan.~~

1 ~~(c) A health insurance plan shall not deny coverage treatment of autism~~  
2 ~~spectrum disorders on the basis that the treatment is habilitative in nature.~~

3 ~~(d) A health insurance plan shall not limit in any way the number of visits~~  
4 ~~an individual diagnosed with one or more autism spectrum disorders may make~~  
5 ~~to an autism services provider.~~

6 ~~(e) As used in this section:~~

7 ~~(1) “Applied behavior analysis” means the design, implementation, and~~  
8 ~~evaluation of environmental modifications using behavioral stimuli and~~  
9 ~~consequences to produce socially significant improvement in human behavior.~~  
10 ~~The term includes the use of direct observation, measurement, and functional~~  
11 ~~analysis of the relationship between environment and behavior.~~

12 ~~(2) “Autism services provider” means any person providing treatment of~~  
13 ~~autism spectrum disorders.~~

14 ~~(3) “Autism spectrum disorders” means one or more pervasive~~  
15 ~~developmental disorders as defined in the most recent edition of the Diagnostic~~  
16 ~~and Statistical Manual of Mental Disorders, including autistic disorder and~~  
17 ~~Asperger’s disorder.~~

18 ~~(4) “Diagnosis of autism spectrum disorder” means medically necessary~~  
19 ~~assessments; evaluations, including neuropsychological evaluations; genetic~~  
20 ~~testing; or other testing to determine whether an individual has one or more~~  
21 ~~autism spectrum disorders.~~

1 ~~(5) "Habilitative care" or "rehabilitative care" means professional~~  
2 ~~counseling, guidance, services, and treatment programs, including applied~~  
3 ~~behavior analysis and other behavioral health treatments, that are necessary to~~  
4 ~~develop, maintain, and restore to the maximum possible extent an individual's~~  
5 ~~functioning.~~

6 (6) "Health insurance plan" means any health insurance policy or health  
7 benefit plan offered by a health insurer, as defined in section 9402 of Title 18,  
8 but does not include policies or plans providing coverage for specified disease  
9 or other limited benefit coverage.

10 (7) "Medically necessary" means any care, treatment, intervention,  
11 service, or item that is prescribed, provided, or ordered by a physician licensed  
12 pursuant to chapter 23 of Title 26 or by a psychologist licensed pursuant to  
13 chapter 55 of Title 26 if such treatment is consistent with the most recent  
14 relevant report or recommendations of the American Academy of Pediatrics,  
15 the American Academy of Child and Adolescent Psychiatry, or another  
16 professional group of similar standing.

17 (8) "Therapeutic care" means services provided by licensed or certified  
18 speech language pathologists, occupational therapists, physical therapists, or  
19 social workers.

20 (9) "Treatment of autism spectrum disorders" means the following care  
21 prescribed, provided, or ordered for an individual diagnosed with one or more

1 ~~autism spectrum disorders by a physician licensed pursuant to chapter 23 of~~  
2 ~~Title 26 or a psychologist licensed pursuant to chapter 55 of Title 26 if such~~  
3 ~~physician or psychologist determines the care to be medically necessary:~~

4 ~~(A) habilitative or rehabilitative care;~~

5 ~~(B) pharmacy care;~~

6 ~~(C) psychiatric care;~~

7 ~~(D) psychological care; and~~

8 ~~(E) therapeutic care.~~

9 ~~(f) Nothing in this section shall be construed to affect any obligation to~~  
10 ~~provide services to an individual under an individualized family service plan,~~  
11 ~~individualized education program, or individualized service plan.~~

12 Sec. 2. APPLICABILITY AND EFFECTIVE DATE

13 ~~This act shall take effect on October 1, 2010 and shall apply to all health~~  
14 ~~insurance plans on and after October 1, 2010 on such date as a health insurer~~  
15 ~~offers, issues, or renews the health insurance plan, but in no event later than~~  
16 ~~October 1, 2011.~~

*Sec. 1. FINDINGS*

*The general assembly finds that:*

*(1) Many individuals with an autism spectrum disorder require lifelong supports at an estimated cost of \$3.2 million per person.*

*(2) A national survey of parents in 2005–2006 found that:*

*(A) 31 percent of children with an autism spectrum disorder had unmet needs for specific health care services;*

*(B) 14 percent of children with an autism spectrum disorder had forgone care;*

~~(C) 31 percent of children with an autism spectrum disorder had difficulty receiving referrals;~~

~~(D) 38 percent of families of children with an autism spectrum disorder had financial problems caused by their child's health care;~~

~~(E) 35 percent of families of children with an autism spectrum disorder found that they needed additional income to cover their child's medical expenses;~~

~~(F) 57 percent of families of children with an autism spectrum disorder had a family member who needed to reduce or stop employment because of the child's condition;~~

~~(G) 27 percent of families of children with an autism spectrum disorder spent 10 or more hours per week providing or coordinating the child's care; and~~

~~(H) 31 percent of families of children with an autism spectrum disorder had paid at least \$1,000.00 for their child's medical care during the preceding year.~~

~~(3) Information gathered through a 2008 online survey indicates similar challenges for families of children with autism spectrum disorders in Vermont, including high rates of stress, depression, economic hardship, social isolation, marital difficulties, sibling issues, impacts on extended family relationships, and job loss.~~

~~(4) Two studies in other states have documented cost savings associated with early intensive behavioral intervention, predicting savings near or above \$200,000.00 per child over the course of the child's educational career.~~

~~(5) Special education information provided to the office of special education in the Vermont department of education in December 2009 included 94 early essential education students (ages three to five years) and 14 family, infant, and toddler children (ages birth to three years). Using the predicted savings from the studies in other states, the projected savings in Vermont if those 108 children received early intensive behavioral intervention would be over \$20 million.~~

~~(6) Special education directors currently report spending an average of \$42,500.00 per child per year for students with an autism spectrum disorder, which would total \$765,000.00 per child over 18 years of education.~~

~~(7) A 2008 report to the Vermont general assembly estimated that \$57 million was spent within the agency of human services and the department of education during fiscal year 2007, which the office of the Vermont state auditor found to be a fair estimate of state spending for autism services.~~

~~(8) Research strongly indicates that early detection, diagnosis, and treatment of children with autism spectrum disorders result in significant improvements in functioning for a substantial subset of young children, from birth to age eight, who receive intensive, early intervention and treatment. Examples from studies have found:~~

~~(A) For a group of children receiving 40 hours per week of intensive, early behavioral intervention for two or more years, 47 percent achieved successful first grade performance, only 40 percent were assigned to special classes, and only 10 percent required continued, ongoing support;~~

~~(B) When the children described in subdivision (A) of this subdivision (8) were followed up on at the age of 11 and one-half years, only one child who had been in the 47 percent successful group in the first grade required more support; others were indistinguishable from their peers; and~~

~~(C) For a group of children in a separate study who received an average of 38 hours per week of intensive, early behavioral intervention for two years, 48 percent succeeded in regular first and second grade classes, demonstrated generally average academic abilities, spoke fluently, and had peers with whom they played regularly.~~

~~Sec. 2. STUDY OF COVERAGE OF APPROPRIATE SERVICES FOR CHILDREN WITH AUTISM SPECTRUM DISORDERS~~

~~(a) The department of banking, insurance, securities, and health care administration shall convene a work group to consider insurance coverage and other treatment options for children diagnosed with an autism spectrum disorder. The work group shall comprise:~~

~~(1) the commissioner of banking, insurance, securities, and health care administration or designee;~~

~~(2) the commissioner of health or designee;~~

~~(3) the commissioner of education or designee;~~

~~(4) the commissioner of mental health or designee;~~

~~(5) the commissioner for children and families or designee;~~

~~(6) the commissioner of disabilities, aging, and independent living or designee;~~

~~(7) one member of the autism task force;~~

~~(8) three parents of children with autism spectrum disorders, to be appointed by groups representing families of children with autism spectrum disorders, including:~~

(A) one parent of a child under the age of six;

(B) one parent of a child between the ages of six and 21; and

(C) one parent of an adult child;

(9) one provider of services to individuals with autism spectrum disorders, to be appointed by the Vermont interagency autism spectrum disorders planning advisory committee; and

(10) one representative from each of the three largest health insurers doing business in Vermont.

(b) The work group shall propose options, using insurance coverage, other means, or a combination thereof, to ensure that children who are diagnosed with an autism spectrum disorder receive the services they need at the earliest appropriate age. The work group shall identify the pros and cons and a cost estimate for each option and shall provide its recommendation to the senate committees on finance, on health and welfare, and on education and the house committees on human services, on health care, and on education by January 15, 2011.

#### Sec. 1. FINDINGS

The general assembly finds that:

(1) Many individuals with an autism spectrum disorder require lifelong supports at an estimated cost of \$3.2 million per person.

(2) A 2008 report to the Vermont general assembly estimated that Vermont spent \$57 million on services for individuals with autism spectrum disorders during fiscal year 2007.

(3) Research strongly indicates that early detection, diagnosis, and treatment of children with autism spectrum disorders result in significant improvements in functioning for a substantial subset of young children from birth to age eight who receive intensive, early intervention and treatment. Examples from studies have found:

(A) For a group of children receiving 40 hours per week of intensive, early behavioral intervention for two or more years, 47 percent achieved successful first grade performance, only 40 percent were assigned to special classes, and only 10 percent required continued, ongoing support;

(B) When the children described in subdivision (A) of this subdivision (3) were followed up at the age of 11 and one-half years, only one child who had been in the 47 percent successful group in the first grade required more support; others were indistinguishable from their peers; and

(C) For a group of children in a separate study who received an average of 38 hours per week of intensive, early behavioral intervention for two years, 48 percent succeeded in regular first- and second-grade classes, demonstrated generally average academic abilities, spoke fluently, and had peers with whom they played regularly.

(4) A national survey of parents in 2005–2006 found that:

(A) 31 percent of children with an autism spectrum disorder had unmet needs for specific health care services;

(B) 14 percent of children with an autism spectrum disorder had forgone care;

(C) 31 percent of children with an autism spectrum disorder had difficulty receiving referrals;

(D) 38 percent of families of children with an autism spectrum disorder had financial problems caused by their child's health care;

(E) 35 percent of families of children with an autism spectrum disorder found that they needed additional income to cover their child's medical expenses;

(F) 57 percent of families of children with an autism spectrum disorder had a family member who needed to reduce or stop employment because of the child's condition;

(G) 27 percent of families of children with an autism spectrum disorder spent 10 or more hours per week providing or coordinating the child's care; and

(H) 31 percent of families of children with an autism spectrum disorder had paid at least \$1,000.00 for their child's medical care during the preceding year.

(5) Information gathered through a 2008 online survey indicates similar challenges for families of children with autism spectrum disorders in Vermont, including high rates of stress, depression, economic hardship, social isolation, marital difficulties, sibling issues, impacts on extended family relationships, and job loss.

(6) Two studies in other states have documented cost savings associated with early intensive behavioral intervention, predicting savings near or above \$200,000.00 per child over the course of the child's educational career.

(7) Special education information provided to the office of special education in the Vermont department of education in December 2009 included 94 early essential education students (ages three to five years) and 14 family,



infant, and toddler children (ages birth to three years) with autism spectrum disorders. Using the predicted savings from the studies in other states, the projected savings in Vermont if those 108 children received early intensive behavioral intervention would be over \$20 million.

(8) Special education directors currently report spending an average of \$42,500.00 per child per year for students with an autism spectrum disorder, which would total \$765,000.00 per child over 18 years of education.

Sec. 2. 8 V.S.A. § 4088i is added to read:

§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDERS

(a) A health insurance plan shall provide coverage for the diagnosis and treatment of autism spectrum disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children, beginning at 18 months of age and continuing until the child reaches age six or enters the first grade, whichever occurs first.

(b) A health insurance plan shall not limit in any way the number of visits an individual eligible for coverage under subsection (a) of this section may have with an autism services provider.

(c) A health insurance plan shall not impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of the diagnosis or treatment of autism spectrum disorders than apply to the diagnosis and treatment of any other physical or mental health condition under the plan.

(d) As used in this section:

(1) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior. The term includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(2) "Autism services provider" means any licensed or certified person providing treatment of autism spectrum disorders.

(3) "Autism spectrum disorders" means one or more pervasive developmental disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder and Asperger's disorder.

(4) "Diagnosis of autism spectrum disorder" means medically necessary assessments; evaluations, including neuropsychological

evaluations; genetic testing; or other testing to determine whether an individual has one or more autism spectrum disorders.

(5) “Habilitative care” or “rehabilitative care” means professional counseling, guidance, services, and treatment programs, including applied behavior analysis and other behavioral health treatments, in which the covered individual makes clear, measurable progress, as determined by an autism services provider, toward attaining goals the provider has identified.

(6) “Health insurance plan” means Medicaid, the Vermont health access plan, and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this state by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include benefit plans providing coverage for specific diseases or other limited benefit coverage.

(7) “Medically necessary” means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician licensed pursuant to chapter 23 of Title 26 or by a psychologist licensed pursuant to chapter 55 of Title 26 if such treatment is consistent with the most recent relevant report or recommendations of the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, or another professional group of similar standing.

(8) “Therapeutic care” means services provided by licensed or certified speech language pathologists, occupational therapists, physical therapists, or social workers.

(9) “Treatment of autism spectrum disorders” means the following care prescribed, provided, or ordered for an individual diagnosed with one or more autism spectrum disorders by a physician licensed pursuant to chapter 23 of Title 26 or a psychologist licensed pursuant to chapter 55 of Title 26 if such physician or psychologist determines the care to be medically necessary:

(A) habilitative or rehabilitative care;

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

(e) Nothing in this section shall be construed to affect any obligation to provide services to an individual under an individualized family service plan, individualized education program, or individualized service plan.

*Sec. 3. APPLICABILITY AND EFFECTIVE DATE*

(a) Sec. 2 of this act shall take effect on July 1, 2011, and shall apply to all health insurance plans on and after July 1, 2011, on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than July 1, 2012.

(b) This section and Secs. 1 and 4 of this act shall take effect upon passage.

*Sec. 4. EVALUATION OF COVERAGE FOR SCHOOL-AGE CHILDREN;  
IDENTIFICATION OF SAVINGS AND EFFICIENCIES*

(a) The agencies of administration and of human services and the department of education shall evaluate the feasibility and budget impacts of requiring health insurance plans, including Medicaid and the Vermont health access plan, to provide coverage of autism spectrum disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst for children under the age of 18 who have been diagnosed with an autism spectrum disorder. The agencies and department shall also assess the availability of providers of services across Vermont for individuals with autism spectrum disorders. No later than January 15, 2011, the agencies and department shall report their findings and recommendations regarding expanding coverage of treatment for autism spectrum disorders to school-age children and the availability of providers to the house committees on health care and on appropriations and the senate committees on health and welfare and on appropriations.

(b) In preparing their fiscal year 2012 budget proposals, the agencies of administration and of human services and the department of education shall collaborate to identify savings, reductions in spending trends, and avoided costs to be achieved by reducing duplications of effort and maximizing achievable efficiencies in the provision of services to children diagnosed with autism spectrum disorders. In addition, the agencies and the department shall estimate the amount of savings and avoided costs to be realized by the state over time as a result of the insurance coverage requirement in Sec. 2 of this act. The agencies and the department shall collaborate with the joint fiscal office and shall include in their fiscal year 2012 budget proposals all identified and projected savings, reductions in trend, and avoided costs that may be used to offset the state's share of expenditures resulting from the requirement that health insurance plans provide coverage for diagnosis and treatment of autism spectrum disorders.

(c) In order to permit the general assembly to assess the availability of sufficient funds to implement the coverage requirement established in Sec. 2 of this act in fiscal year 2012, no later than February 15, 2011, the agencies of administration and of human services and the department of education shall

report to the house committees on health care and on appropriations and the senate committees on health and welfare and on appropriations the amount of savings, reductions in spending trends, and avoided costs they have identified pursuant to subsection (b) of this section that will offset the state's share of expenditures related to the coverage requirement.

(d) If the report required by subsection (c) of this section or the findings of the committees of jurisdiction indicate that sufficient funds will not be available to offset the state's share of expenditures related to the coverage requirement established in Sec. 2 of this act in fiscal year 2012, it is the intent of the general assembly to consider whether to proceed with implementation of such coverage requirement.