

S.223

Introduced by Senators Pollina, Baruth, Lyons, McCormack and Westman

Referred to Committee on Health and Welfare

Date: January 3, 2012

Subject: Health; health insurance; autism spectrum disorders

Statement of purpose: This bill proposes to require health insurers to cover the diagnosis and treatment of autism spectrum disorders in individuals six years of age and above.

~~An act relating to extending health insurance coverage for autism spectrum disorders~~ *An act relating to health insurance coverage for early childhood developmental disorders, including autism spectrum disorders*

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

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

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

~~(a)(1) A health insurance plan, Medicaid, the Vermont health access plan, and any other public health care assistance program 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 years of age or enters the first grade, whichever occurs first.~~

1 ~~(2) A health insurance plan shall provide coverage for the diagnosis and~~
2 ~~treatment of autism spectrum disorders in individuals six years of age and~~
3 ~~above.~~

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

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

11 (d) As used in this section:

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

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

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

1 ~~Asperger's disorder, and pervasive developmental disorder not otherwise~~
2 ~~specified (PDD-NOS).~~

3 (4) "Behavioral health treatment" means professional guidance services
4 and treatment programs, including applied behavior analysis provided or
5 supervised by a nationally board-certified behavior analyst, that are necessary
6 to develop, maintain, and restore to the maximum possible extent an
7 individual's functioning.

8 (5) "Diagnosis of autism spectrum disorders" means medically
9 necessary assessments; evaluations, including neuropsychological evaluations;
10 genetic testing; or other testing to determine whether an individual has ~~one or~~
11 ~~more~~ autism spectrum disorders.

12 ~~(5)(6)~~ "Habilitative care" ~~or "rehabilitative care"~~ means professional
13 counseling, guidance, services, and treatment programs, including applied
14 behavior analysis and other behavioral health treatments, in which the covered
15 individual makes clear, measurable progress, as determined by an autism
16 services provider, toward attaining goals the provider has identified.

17 ~~(6)(7)~~ "Health insurance plan" means ~~Medicaid, the Vermont health~~
18 ~~access plan, and any other public health care assistance program;~~ any
19 individual or group health insurance policy, any hospital or medical service
20 corporation or health maintenance organization subscriber contract, or any
21 other health benefit plan offered, issued, or renewed for any person in this state

1 ~~by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include~~
2 benefit plans providing coverage for specific diseases or other limited benefit
3 coverage.

4 ~~(7)(8)~~ “Medically necessary” means any care, treatment, intervention,
5 service, or item that is prescribed, provided, or ordered by a physician licensed
6 pursuant to ~~chapter 23 of Title 26 V.S.A. chapter 23~~ or by a psychologist
7 licensed pursuant to ~~chapter 55 of Title 26 V.S.A. chapter 55~~ if such treatment
8 is consistent with the most recent relevant report or recommendations of the
9 American Academy of Pediatrics, the American Academy of Child and
10 Adolescent Psychiatry, or another professional group of similar standing.

11 ~~(9)~~ “Nonrestorative care” means any speech, occupational,
12 psychological, or physical therapy, treatment, or service that is not intended to
13 restore a patient’s previously possessed function, skill, or ability.

14 ~~(8)(10)~~ “Therapeutic care” means services provided by licensed or
15 certified speech language pathologists, occupational therapists, physical
16 therapists, or social workers.

17 ~~(9)(11)~~ “Treatment of autism spectrum disorders” means the following
18 care, including equipment medically necessary for such care, that is prescribed,
19 provided, or ordered for an individual diagnosed with ~~one or more~~ autism
20 spectrum disorders by a physician licensed pursuant to ~~chapter 23 of Title~~
21 26 V.S.A. chapter 23 or a psychologist licensed pursuant to ~~chapter 55 of Title~~

1 ~~26 V.S.A. chapter 55 if such physician or psychologist determines the care to~~

2 be medically necessary:

3 (A) ~~habilitative or rehabilitative care~~ behavioral health treatment;

4 (B) pharmacy care;

5 (C) psychiatric care;

6 (D) psychological care; and

7 (E) therapeutic care.

8 (e) Coverage under this section shall not be denied on the basis that the
9 treatment is habilitative or nonrestorative in nature.

10 (f) Except for inpatient services, if an insured is receiving treatment for
11 autism spectrum disorders, the insurer may request a review of the insured's
12 treatment not more than once every 12 months unless the insurer and the
13 patient's treating physician or psychologist agree, on a case-by-case basis, that
14 a more frequent review is necessary. The insurer shall bear the cost of
15 obtaining a review requested pursuant to this subsection.

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

19 (h) Nothing in this section shall be construed to limit benefits otherwise
20 available to an insured under a health insurance plan.

1 ~~Sec. 2. EFFECTIVE DATE~~

2 ~~This act shall take effect on October 1, 2012 and shall apply to health~~
3 ~~insurance plans on and after October 1, 2012, on such date as a health insurer~~
4 ~~issues, offers, or renews the health insurance plan, but in no event later than~~
5 ~~July 1, 2013.~~

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

~~§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM EARLY CHILDHOOD DEVELOPMENTAL DISORDERS~~

~~(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of autism spectrum disorders early childhood developmental 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 21.~~

~~(2) Coverage provided pursuant to this section by Medicaid, the Vermont health access plan, or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.~~

~~(3) Any benefits required by this section that exceed the essential health benefits specified under Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended, shall not be required in a health insurance plan offered in the individual, small group, and large group markets on and after January 1, 2014.~~

~~(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. The amount, frequency, and duration of treatment described in this section shall be based on medical necessity and may be subject to a prior authorization requirement under the health insurance plan.~~

~~(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 early childhood developmental disorders than apply to the diagnosis and treatment of any other physical or mental health condition under the plan.~~

~~(d)(1) A health insurance plan shall provide coverage for applied behavior analysis when the services are provided or supervised by a licensed provider who is working within the scope of his or her license or who is a nationally board-certified behavior analyst.~~

~~(2) A health insurance plan shall provide coverage for services under this section delivered in the natural environment when the services are furnished by a provider working within the scope of his or her license or under the direct supervision of a licensed provider or, for applied behavior analysis, by or under the supervision of a nationally board-certified behavior analyst.~~

~~(e) Except for inpatient services, if an individual is receiving treatment for an early developmental delay, a health insurance plan may review the treatment plan for children under the age of eight no more frequently than once every six months. After the child reaches the age of eight, the health insurance plan may require treatment plan reviews based on the needs of the individual beneficiary, consistent with reviews for other diagnostic areas and with rules established by the department of banking, insurance, securities, and health care administration.~~

~~(f) 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, pervasive developmental disorder not otherwise specified, and Asperger's disorder.~~

~~(3) "Behavioral health treatment" means evidence-based counseling and treatment programs, including applied behavior analysis, that are:~~

~~(A) necessary to develop skills and abilities for the maximum reduction of physical or mental disability and for restoration of an individual to his or her best functional level, or to ensure that an individual under the age of 21 achieves proper growth and development;~~

~~(B) provided or supervised by a nationally board-certified behavior analyst or by a licensed provider, so long as the services performed are within the provider's scope of practice and certifications.~~

~~(4) “Diagnosis of autism spectrum disorder early childhood developmental disorders” means medically necessary assessments, evaluations, including neuropsychological evaluations; genetic testing; or other testing or tests to determine whether an individual has one or more an early childhood developmental delay, including an autism spectrum disorders disorder.~~

~~(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. “Early childhood developmental disorder” means a childhood mental or physical impairment or combination of mental and physical impairments that results in functional limitations in major life activities, accompanied by a diagnosis defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Disease (ICD). The term includes autism spectrum disorders, but does not include a learning disability.~~

~~(6) “Evidence-based” means the same as in 18 V.S.A. § 4621.~~

~~(7) “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)(8) “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 describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual’s diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.~~

~~(9) "Natural environment" means a home or child care setting.~~

~~(10) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need for or effectiveness of a medication.~~

~~(11) "Psychiatric care" means direct or consultative services provided by a licensed physician certified in psychiatry by the American Board of Medical Specialties.~~

~~(12) "Psychological care" means direct or consultative services provided by a psychologist licensed pursuant to 26 V.S.A. chapter 55.~~

~~(8)(13) "Therapeutic care" means services provided by licensed or certified speech language pathologists, therapists, occupational therapists, or physical therapists, or social workers.~~

~~(9)(14) "Treatment of disorders for early developmental disorders" means the following evidence-based care and related equipment prescribed, provided, or ordered for an individual diagnosed with one or more autism spectrum disorders by a licensed physician licensed pursuant to chapter 23 of Title 26 or a licensed psychologist licensed pursuant to chapter 55 of Title 26 if such physician or psychologist who determines the care to be medically necessary, including:~~

- ~~(A) habilitative or rehabilitative care behavioral health treatment;~~
- ~~(B) pharmacy care;~~
- ~~(C) psychiatric care;~~
- ~~(D) psychological care; and~~
- ~~(E) therapeutic care.~~

~~(e)(g) 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. A health insurance plan shall not reimburse services provided under 16 V.S.A. § 2959a.~~

~~Sec. 2. REPORT~~

~~It is the intent of the general assembly to accept the offer of Autism Speaks to submit a report, in consultation with the agency of human services and health insurers, to the senate committee on health and welfare and the house committee on health care on or before January 15, 2014 regarding the implementation of this act, including an assessment of whether eligible individuals are receiving evidence-based services, how such services may be improved, and the fiscal impact of these services.~~

~~Sec. 3. EFFECTIVE DATES~~

~~(a) This act shall take effect on July 1, 2012 and shall apply to Medicaid, the Vermont health access plan, and any other public health care assistance program on or after July 1, 2012.~~

~~(b) The provisions of this act shall apply to all other health insurance plans on or after October 1, 2012, on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2013.~~

Sec. 1. 8 V.S.A. § 4088i is amended to read:

~~§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM EARLY CHILDHOOD DEVELOPMENTAL DISORDERS~~

~~(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of autism spectrum disorders early childhood developmental disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children, beginning at 18 months of age birth and continuing until the child reaches age six or enters the first grade, whichever occurs first 21.~~

~~(2) Coverage provided pursuant to this section by Medicaid, the Vermont health access plan, or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.~~

~~(3) Any benefits required by this section that exceed the essential health benefits specified under Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended, shall not be required in a health insurance plan offered in the individual, small group, and large group markets on and after January 1, 2014.~~

~~(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. The amount, frequency, and duration of treatment described in this section shall be based on medical necessity and may be subject to a prior authorization requirement under the health insurance plan.~~

~~(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 early childhood developmental disorders than apply to the diagnosis and treatment of any other physical or mental health condition under the plan.~~

~~(d)(1) A health insurance plan shall provide coverage for applied behavior analysis when the services are provided or supervised by a licensed provider~~

who is working within the scope of his or her license or who is a nationally board-certified behavior analyst.

(2) A health insurance plan shall provide coverage for services under this section delivered in the natural environment when the services are furnished by a provider working within the scope of his or her license or under the direct supervision of a licensed provider or, for applied behavior analysis, by or under the supervision of a nationally board-certified behavior analyst.

(e) Except for inpatient services, if an individual is receiving treatment for an early developmental delay, the health insurance plan may require treatment plan reviews based on the needs of the individual beneficiary, consistent with reviews for other diagnostic areas and with rules established by the department of financial regulation. A health insurance plan may review the treatment plan for children under the age of eight no more frequently than once every six months.

(f) 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, pervasive developmental disorder not otherwise specified, and Asperger's disorder.~~

(3) "Behavioral health treatment" means evidence-based counseling and treatment programs, including applied behavior analysis, that are:

(A) necessary to develop skills and abilities for the maximum reduction of physical or mental disability and for restoration of an individual to his or her best functional level, or to ensure that an individual under the age of 21 achieves proper growth and development;

(B) provided or supervised by a nationally board-certified behavior analyst or by a licensed provider, so long as the services performed are within the provider's scope of practice and certifications.

(4) "~~Diagnosis of autism spectrum disorder~~ early childhood developmental disorders" means medically necessary assessments;

~~evaluations, including neuropsychological evaluations; genetic testing; or other testing or tests to determine whether an individual has one or more an early childhood developmental delay, including an autism spectrum disorders disorder.~~

~~(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. “Early childhood developmental disorder” means a childhood mental or physical impairment or combination of mental and physical impairments that results in functional limitations in major life activities, accompanied by a diagnosis defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Disease (ICD). The term includes autism spectrum disorders, but does not include a learning disability.~~

~~(6) “Evidence-based” means the same as in 18 V.S.A. § 4621.~~

~~(7) “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)(8) “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 describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual’s diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.~~

~~(9) “Natural environment” means a home or child care setting.~~

(10) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need for or effectiveness of a medication.

(11) "Psychiatric care" means direct or consultative services provided by a licensed physician certified in psychiatry by the American Board of Medical Specialties.

(12) "Psychological care" means direct or consultative services provided by a psychologist licensed pursuant to 26 V.S.A. chapter 55.

~~(8)(13)~~ "Therapeutic care" means services provided by licensed or certified speech language pathologists, occupational therapists, or physical therapists, or social workers.

~~(9)(14)~~ "Treatment of disorders for early developmental disorders" means the following evidence-based care and related equipment 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 licensed health care provider or a licensed psychologist licensed pursuant to chapter 55 of Title 26 if such physician or psychologist who determines the care to be medically necessary, including:

- ~~(A) habilitative or rehabilitative care~~ behavioral health treatment;
- ~~(B) pharmacy care;~~
- ~~(C) psychiatric care;~~
- ~~(D) psychological care; and~~
- ~~(E) therapeutic care.~~

~~(e)(g)~~ 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. A health insurance plan shall not reimburse services provided under 16 V.S.A. § 2959a.

(h) It is the intent of the general assembly that the department of financial regulation facilitate and encourage health insurance plans to bundle co-payments accrued by beneficiaries receiving services under this section to the extent possible.

Sec. 2. REPORT

The agency of human services shall submit a report, in consultation with Autism Speaks and health insurers, to the senate committee on health and welfare and the house committee on health care on or before January 15, 2014 regarding the implementation of this act, including an assessment of whether

eligible individuals are receiving evidence-based services, how such services may be improved, and the fiscal impact of these services.

Sec. 3. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2012 and shall apply to Medicaid, the Vermont health access plan, and any other public health care assistance program on or after July 1, 2012.

(b) The provisions of this act shall apply to all other health insurance plans on or after October 1, 2012, on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2013.