

A bill for an act
relating to insurance; providing coverage for autism spectrum disorders;
proposing coding for new law in Minnesota Statutes, chapter 62A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[62A.3094] COVERAGE FOR AUTISM SPECTRUM DISORDERS.**

Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Autism spectrum disorder" means the following conditions as determined by criteria set forth in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

(1) autism or autistic disorder;

(2) Asperger's syndrome; or

(3) pervasive developmental disorder, not otherwise specified.

(c) "Board-certified behavior analyst" means an individual certified by the Behavior Analyst Certification Board as a board-certified behavior analyst.

(d) "Evidence-based," for purposes of this section only, is as described in subdivision 2, paragraph (c), clause (2).

(e) "Health plan" has the meaning given in section 62Q.01, subdivision 3.

(f) "Manualized approach" means a self-contained volume, text, or set of instructional media, which may include videos or compact discs, that codifies in reasonable detail the procedures for implementing treatment.

(g) "Medical necessity" or "medically necessary care" has the meaning given in section 62Q.53, subdivision 2.

(h) "Mental health professional" has the meaning given in section 245.4871, subdivision 27, clauses (1) to (6).

(i) "Qualified mental health behavioral aide" means a mental health behavioral aide as defined in section 256B.0943, subdivision 7.

(j) "Qualified mental health practitioner" means a mental health practitioner as defined in section 245.4871, subdivision 26.

(k) "Statistically superior outcomes" means a research study in which the probability that the results would be obtained under the null hypothesis is less than five percent.

Subd. 2. Coverage required. (a) For coverage requirements to apply, an individual must have a diagnosis of autism spectrum disorder made through an evaluation of the patient, completed within six months prior to the start of treatment, which includes all of the following:

(1) a complete medical and psychological evaluation performed by a licensed physician and psychologist using empirically validated tools or tests that incorporate measures for intellectual functioning, language development, adaptive skills, and behavioral problems, which must include:

(i) a developmental history of the child, focusing on developmental milestones and delays;

(ii) a family history, including whether there are other family members with an autism spectrum disorder, developmental disability, fragile X syndrome, or tuberous sclerosis;

(iii) a medical history, including signs of deterioration, seizure activity, brain injury, and head circumference;

(iv) a physical examination completed within the past 12 months;

(v) an evaluation for intellectual functioning;

(vi) a lead screening for those children with a developmental disability; and

(vii) other evaluations and testing as indicated by the medical evaluation, which may include neuropsychological testing, occupational therapy, physical therapy, family functioning, genetic testing, imaging laboratory tests, and electrophysiological testing;

(2) a communication assessment conducted by a speech pathologist; and

(3) a comprehensive hearing test conducted by an audiologist. An audiologist with experience in testing very young children must conduct the test if an audiologist with this experience is available.

(b) A health plan must provide coverage for the diagnosis, evaluation, assessment, and medically necessary care of autism spectrum disorders that is evidence-based, including but not limited to:

(1) neurodevelopmental and behavioral health treatments, instruction, and management;

(2) applied behavior analysis and intensive early intervention services, including service package models such as intensive early intervention behavior therapy services and Lovaas therapy;

(3) speech therapy;

(4) occupational therapy;

(5) physical therapy; and

(6) prescription medications.

(c) Coverage required under this section must include treatment that is in accordance with:

(1) an individualized treatment plan prescribed by the insured's treating physician or mental health professional as defined in this section; and

(2) medically and scientifically accepted evidence that meets the criteria of a peer-reviewed, published study that is one of the following:

(i) a randomized study with adequate statistical power, including a sample size of 30 or more for each group, that shows statistically superior outcomes to a pill placebo group, psychological placebo group, another treatment group, or a wait list control group, or that is equivalent to another evidence-based treatment that meets the above standard for the specified problem area;

(ii) a series of at least three single-case design experiments with clear specification of the subjects and with clear specification of the treatment approach that:

(A) use robust experimental designs;

(B) show statistically superior outcomes to pill placebo, psychological placebo, or another treatment group; and

(C) either use a manualized approach or are conducted by at least two independent investigators or teams.

Where evidence meeting the standards of this subdivision does not exist for the treatment of a diagnosed condition or for an individual matching the demographic characteristics for which the evidence is valid, coverage required under this section must include treatment that is in accordance with practice guidelines based on consensus of Minnesota health care professionals knowledgeable in the treatment of individuals with autism spectrum disorders.

(d) Early intensive behavior therapies that meet the criteria set forth in paragraphs (b) and (c) must also meet the following best practices standards:

(1) the services must be prescribed by a mental health professional as an appropriate treatment option for the individual child;

(2) regular reporting of services provided and the child's progress must be submitted to the prescribing mental health professional;

(3) care must include appropriate parent or legal guardian education and involvement;

(4) the medically prescribed treatment and frequency of services should be coordinated between the school and provider for all children up to age 21; and

(5) services must be provided by a mental health professional or, as appropriate, a board-certified behavior analyst, a qualified mental health practitioner, or a qualified mental health behavioral aide.

(e) Providers under this section must work with the commissioner in implementing evidence-based practices and, specifically for children under age 21, the Minnesota Evidence-Based Practice Database of research-informed practice elements and specific constituent practices.

(f) A health plan company may not refuse to renew or reissue, or otherwise terminate or restrict coverage of an individual solely because the individual is diagnosed with an autism spectrum disorder.

(g) A health plan company may request an updated treatment plan only once every six months, unless the health plan company and the treating physician or mental health professional agree that a more frequent review is necessary due to emerging circumstances.

Subd. 3. Supervision of certain practitioners, analysts, and aides. A mental health professional who uses the services of a qualified mental health practitioner, board-certified behavior analyst, or qualified mental health behavioral aide for the purpose of assisting in the provision of services to patients who have autism spectrum disorder is responsible for functions performed by these service providers. The qualified mental health professional must maintain clinical supervision of services the professional provides and accept full responsibility for his or her actions. The services provided must be medically necessary and identified in the child's individual treatment plan. Service providers must document their activities in written progress notes that reflect implementation of the individual treatment plan.

Subd. 4. State health care programs. This section does not affect benefits available under the medical assistance, MinnesotaCare, and general assistance medical care programs. These programs must maintain current levels of coverage, and section 256B.0644 shall continue to apply. The state employee group insurance plan is not subject to this section until January 1, 2014, but must fully comply with this section on and after

5.1 that date. The commissioner shall monitor these services and report to the chairs of the
5.2 house of representatives and senate standing committees that have jurisdiction over health
5.3 and human services by February 1, 2012, whether there are gaps in the level of service
5.4 provided by these programs and the state employee group insurance plan, and the level of
5.5 service provided by private health plans following enactment of this section.

5.6 Subd. 5. **No effect on other law.** Nothing in this section limits in any way the
5.7 coverage required under sections 62Q.47 and 62Q.53.

5.8 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to
5.9 coverage offered, issued, sold, renewed, or continued as defined in Minnesota Statutes,
5.10 section 60A.02, subdivision 2a, on or after that date.