

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2764

By Committee on Federal and State Affairs

2-21

1 AN ACT concerning insurance; providing coverage for autism spectrum  
2 disorder; amending K.S.A. 2011 Supp. 40-2,103 and 40-19c09 and  
3 repealing the existing sections.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 **New Section 1. (a) The secretary of the department of social and**  
7 **rehabilitation services, or any successor agency, is hereby authorized**  
8 **and directed to study and identify the number of individuals in**  
9 **Kansas who need this coverage and the cost of providing treatment for**  
10 **autism to people in the state of Kansas. Such study shall include a**  
11 **determination of the actual cost of providing coverage for the**  
12 **treatment and diagnosis of autism spectrum disorders in any**  
13 **individual in the state of Kansas whose age is less than 19 years. The**  
14 **coverage and level of service for the treatment and diagnosis of autism**  
15 **spectrum disorders required by this subsection shall be the same as**  
16 **the coverage and level of service required by section 2, and**  
17 **amendments thereto.**

18 **(b) The secretary of the department of social and rehabilitation**  
19 **services, or any successor agency, shall prepare and submit a report**  
20 **containing the secretary's findings and recommendations. This report**  
21 **shall be submitted to the president of the senate, the speaker of the**  
22 **house of representatives, the senate committee on ways and means and**  
23 **the house of representatives committee on appropriations on or before**  
24 **January 20, 2013.**

25 ~~New Section 1.~~ **New. Sec. 2. (a) (1) Any individual or group health**  
26 **insurance policy, medical service plan, contract, hospital service**  
27 **corporation contract, hospital and medical service corporation contract,**  
28 **fraternal benefit society or health maintenance organization which**  
29 **provides coverage for accident and health services and which is delivered,**  
30 **issued for delivery, amended or renewed on or after July 1, 2012, shall**  
31 **provide coverage for the treatment and diagnosis of autism spectrum**  
32 **disorders in any covered individual whose age is less than 19 years.**

33 **(2) Such coverage shall be provided in a manner determined in**  
34 **consultation with the autism services provider and the patient. Services**  
35 **provided by an autism services provider under this section shall include**  
36 **applied behavior analysis when required by a licensed physician, licensed**

1 psychologist or licensed specialist clinical social worker but otherwise  
2 shall be limited to those services prescribed or ordered by a licensed  
3 physician, licensed psychologist or licensed specialist clinical social  
4 worker. Services provided pursuant to this paragraph shall be those  
5 services which are or have been recognized by peer reviewed literature as  
6 providing medical benefit to the patient based upon the patient's particular  
7 autism spectrum disorder.

8 (3) Coverage for benefits for any covered person diagnosed with one  
9 or more autism spectrum disorders and whose age is between birth and  
10 less than seven years shall not exceed \$36,000 per year.

11 (4) Coverage for benefits for any covered person diagnosed with one  
12 or more autism spectrum disorders and whose age is at least seven years  
13 and less than 19 years shall not exceed \$27,000 per year.

14 (5) Reimbursement shall be allowed only for services provided by a  
15 provider licensed, trained and qualified to provide such services or by an  
16 autism specialist or an intensive individual service provider as such terms  
17 are defined by the department of social and rehabilitation services Kansas  
18 autism waiver.

19 (6) Any insurer or other entity which administers claims for services  
20 provided for the treatment of autism spectrum disorder under this section,  
21 and amendments thereto, shall have the right and obligation to deny any  
22 claim for services based upon medical necessity or a determination that the  
23 covered individual has reached the maximum medical improvement for the  
24 covered individual's autism spectrum disorder.

25 (7) Except for inpatient services, if an insured is receiving treatment  
26 for an autism spectrum disorder, such insurer shall have the right to review  
27 the treatment plan annually, unless the insurer and the insured's treating  
28 physician or psychologist agree that a more frequent review is necessary.  
29 Any such agreement regarding the right to review a treatment plan more  
30 frequently shall apply only to a particular insured being treated for an  
31 autism spectrum disorder and shall not apply to all individuals being  
32 treated for autism spectrum disorder by a physician or psychologist. The  
33 cost of obtaining any review or treatment plan shall be borne by the  
34 insurer.

35 (8) No insurer can terminate coverage, or refuse to deliver, execute,  
36 issue, amend, adjust, or renew coverage to an individual solely because the  
37 individual is diagnosed with or has received treatment for an autism  
38 spectrum disorder.

39 (b) For the purposes of this section:

40 (1) "Applied behavior analysis" means the design, implementation  
41 and evaluation of environmental modifications, using behavioral stimuli  
42 and consequences, to produce socially significant improvement in human  
43 behavior, including the use of direct observation, measurement and

1 functional analysis of the relationship between environment and behavior.

2 (2) "Autism spectrum disorder" means the following disorders within  
3 the autism spectrum: Autistic disorder, Asperger's syndrome and pervasive  
4 developmental disorder not otherwise specified, as such terms are  
5 specified in the diagnostic and statistical manual of mental disorders,  
6 fourth edition, text revision (DSM-IV-TR), of the American psychiatric  
7 association, as published in May, 2000, or later versions as established in  
8 rules and regulations adopted by the behavioral sciences regulatory board  
9 pursuant to K.S.A. 74-7507, and amendments thereto.

10 (3) "Diagnosis of autism spectrum disorder" means any medically  
11 necessary assessment, evaluation or test to determine whether an  
12 individual has an autism spectrum disorder.

13 (c) Except as otherwise provided in subsection (a), no individual or  
14 group health insurance policy, medical service plan, contract, hospital  
15 service corporation contract, hospital and medical service corporation  
16 contract, fraternal benefit society or health maintenance organization  
17 which provides coverage for accident and health services and which  
18 provides coverage with respect to an autism spectrum disorder shall:

19 (1) Impose on the coverage required by this section any dollar limits,  
20 deductibles or coinsurance provisions that are less favorable to an insured  
21 than the dollar limits, deductibles or coinsurance provisions that apply to  
22 physical illness generally under the accident and sickness insurance policy;  
23 or

24 (2) impose on the coverage required by this section any limit upon the  
25 number of visits that a covered individual may make for treatment of  
26 autism spectrum disorder.

27 (d) The provisions of this section shall not apply to any policy or  
28 certificate which provides coverage for any specified disease, specified  
29 accident or accident only coverage, credit, dental, disability income,  
30 hospital indemnity, long-term care insurance as defined by K.S.A. 40-  
31 2227, and amendments thereto, vision care or any other limited  
32 supplemental benefit nor to any medicare supplement policy of insurance  
33 as defined by the commissioner of insurance by rules and regulations, any  
34 coverage issued as a supplement to liability insurance, workers'  
35 compensation or similar insurance, automobile medical-payment insurance  
36 or any insurance under which benefits are payable with or without regard  
37 to fault, whether written on a group, blanket or individual basis.

38 (e) This section shall not be construed as limiting benefits that are  
39 otherwise available to an individual under any individual or group health  
40 insurance policy, medical service plan, contract, hospital service  
41 corporation contract, hospital and medical service corporation contract,  
42 fraternal benefit society or health maintenance organization which  
43 provides coverage for accident and health services.

1 (f) The provisions of this section shall be applicable to the Kansas  
2 state employees health care benefits program and municipal funded pools.

3 (g) The provisions of K.S.A. 40-2249a, and amendments thereto,  
4 shall not apply to the provisions of this section.

5 ~~Sec. 2.~~ **Sec. 3.** K.S.A. 2011 Supp. 40-2,103 is hereby amended to read  
6 as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-  
7 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,  
8 inclusive, 40-2250, K.S.A. 2011 Supp. 40-2,105a, 40-2,105b, 40-2,184  
9 ~~and~~, 40-2,190 ~~and section 42~~, and amendments thereto, shall apply to all  
10 insurance policies, subscriber contracts or certificates of insurance  
11 delivered, renewed or issued for delivery within or outside of this state or  
12 used within this state by or for an individual who resides or is employed in  
13 this state.

14 ~~Sec. 3.~~ **4.** K.S.A. 2011 Supp. 40-19c09 is hereby amended to read as  
15 follows: 40-19c09. (a) Corporations organized under the nonprofit medical  
16 and hospital service corporation act shall be subject to the provisions of  
17 the Kansas general corporation code, articles 60 to 74, inclusive, of  
18 chapter 17 of the Kansas Statutes Annotated, and amendments thereto,  
19 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,  
20 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226,  
21 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249,  
22 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103,  
23 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-  
24 2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 *et seq.*, 40-2111 to  
25 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b,  
26 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-  
27 2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2011 Supp. 40-  
28 2,105a, 40-2,105b, 40-2,184 ~~and~~, 40-2,190 ~~and section 42~~, and  
29 amendments thereto, except as the context otherwise requires, and shall  
30 not be subject to any other provisions of the insurance code except as  
31 expressly provided in this act.

32 (b) No policy, agreement, contract or certificate issued by a  
33 corporation to which this section applies shall contain a provision which  
34 excludes, limits or otherwise restricts coverage because medicaid benefits  
35 as permitted by title XIX of the social security act of 1965 are or may be  
36 available for the same accident or illness.

37 (c) Violation of subsection (b) shall be subject to the penalties  
38 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

39 ~~Sec. 4.~~ **5.** K.S.A. 2011 Supp. 40-2,103 and 40-19c09 are hereby  
40 repealed.

41 ~~Sec. 5.~~ **6.** This act shall take effect and be in force from and after its  
42 publication in the statute book.