

SECOND REGULAR SESSION

# HOUSE BILL NO. 1311

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SCHARNHORST (Sponsor), GRISAMORE, WALTON GRAY, FUNDERBURK, COOPER, CASEY, HARRIS, ALLEN, NANCE, WALSH, GRILL, JONES (63), PACE, CARTER, RUCKER, ROORDA, DUSENBERG, McGHEE, FALLERT, NORR, ENGLUND AND SCHUPP (Co-sponsors).

3679L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to insurance coverage for diagnosis and treatment of autism spectrum disorders.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be  
2 known as section 376.1224, to read as follows:

**376.1224. 1. For purposes of this section, the following terms shall mean:**

2       **(1) "Applied behavior analysis", the design, implementation, and evaluation of**  
3 **environmental modifications, using behavioral stimuli and consequences, to produce**  
4 **socially significant improvement in human behavior, including the use of direct**  
5 **observation, measurement, and functional analysis of the relationships between**  
6 **environment and behavior;**

7       **(2) "Autism service provider":**

8       **(a) Any person, entity, or group that provides diagnostic or treatment services for**  
9 **autism spectrum disorders who is licensed or certified by the state of Missouri;**

10       **(b) Any person who is certified as a board certified behavior analyst by the**  
11 **behavior analyst certification board; or**

12       **(c) Any person, if not licensed or certified, who is supervised by a person who is**  
13 **certified as a board certified behavioral analyst by the Behavioral Analyst Certification**  
14 **Board, whether such board certified behavioral analyst supervises as an individual or as**  
15 **an employee of or in association with an entity or group; provided however, the definition**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 of autism service provider shall specifically exclude parents and siblings of autistic persons  
17 to the extent such parents or siblings are providing diagnostic or treatment services to their  
18 child or sibling;

19 (3) "Autism spectrum disorders", a neurobiological disorder, an illness of the  
20 nervous system, which includes Autistic Disorder, Asperger's Disorder, Pervasive  
21 Developmental Disorder Not Otherwise Specified, Rett's Disorder, and Childhood  
22 Disintegrative Disorder, as defined in the most recent edition of the Diagnostic and  
23 Statistical Manual of Mental Disorders of the American Psychiatric Association;

24 (4) "Diagnosis of autism spectrum disorders", medically necessary assessments,  
25 evaluations, or tests in order to diagnose whether an individual has an autism spectrum  
26 disorder;

27 (5) "Habilitative or rehabilitative care", professional, counseling, and guidance  
28 services and treatment programs, including applied behavior analysis, that are necessary  
29 to develop and restore the functioning of an individual;

30 (6) "Health benefit plan", shall have the same meaning ascribed to it as in section  
31 376.1350;

32 (7) "Health carrier", shall have the same meaning ascribed to it as in section  
33 376.1350;

34 (8) "Pharmacy care", medications or nutritional supplements used to address  
35 symptoms of an autism spectrum disorder prescribed by a licensed physician, and any  
36 health-related services deemed medically necessary to determine the need or effectiveness  
37 of the medications or nutritional supplements;

38 (9) "Psychiatric care", direct or consultative services provided by a psychiatrist  
39 licensed in the state in which the psychiatrist practices;

40 (10) "Psychological care", direct or consultative services provided by a psychologist  
41 licensed in the state in which the psychologist practices;

42 (11) "Therapeutic care", services provided by licensed speech therapists,  
43 occupational therapists, or physical therapists;

44 (12) "Treatment for autism spectrum disorders", care prescribed or ordered for  
45 an individual diagnosed with an autism spectrum disorder by a licensed physician or  
46 licensed psychologist, including, without limitation, equipment necessary for such care,  
47 pursuant to the powers granted under such licensed physician's or licensed psychologist's  
48 license, including, but not limited to:

49 (a) Psychiatric care;

50 (b) Psychological care;

51 (c) Habilitative or rehabilitative care, including applied behavior analysis therapy;

52 (d) Therapeutic care;

53 (e) Pharmacy care.

54 2. All health benefit plans that are delivered, issued for delivery, continued, or  
55 renewed on or after August 28, 2010, if written inside the state of Missouri, or written  
56 outside the state of Missouri but insuring Missouri residents, shall provide individuals  
57 coverage for the diagnosis and treatment of autism spectrum disorders.

58 3. With regards to a health benefit plan, a health carrier shall not deny or refuse  
59 to issue coverage on, refuse to contract with, or refuse to renew or refuse to reissue or  
60 otherwise terminate or restrict coverage on an individual or their dependent solely because  
61 the individual is diagnosed with autism spectrum disorder or because the individual  
62 receives coverage under this section.

63 4. (1) Coverage provided under this section is limited to treatment that is ordered  
64 by the insured's treating licensed physician or licensed psychologist, pursuant to the  
65 powers granted under such licensed physician's or licensed psychologist's license, in  
66 accordance with a treatment plan. Service exclusions contained in the insurance policy or  
67 health maintenance organization contract that are inconsistent with the treatment plan  
68 shall be considered invalid as to autism spectrum disorder;

69 (2) The treatment plan, upon request by the health benefit plan or health carrier,  
70 shall include all elements necessary for the health benefit plan or health carrier to review  
71 the treatment plan;

72 (3) Except for inpatient services, if an individual is receiving treatment for an  
73 autism spectrum disorder, a health carrier shall have the right to review the treatment plan  
74 not more than once every six months unless the health carrier and the individual's treating  
75 physician or psychologist agree that a more frequent review is necessary. The cost of  
76 obtaining any review shall be borne by the health benefit plan or health carrier, as  
77 applicable.

78 5. Coverage provided under this section for applied behavior analysis shall be  
79 subject to a maximum benefit of seventy-two thousand dollars per calendar year and such  
80 coverage shall only be afforded to individuals under the age of twenty-one. Any coverage  
81 required under this section, other than the coverage for applied behavior analysis, shall not  
82 be subject to the age limitation described in this subsection.

83 6. Subject to the provisions set forth in subdivision (3) of subsection 4 of this  
84 section, coverage provided under this section shall not be subject to any limits on the  
85 number of visits an individual may make to an autism service provider.

86 7. This section shall not be construed as limiting benefits which are otherwise  
87 available to an individual under a health benefit plan. Subject to the provisions of

88 subsection 5 of this section, the coverage required by this section shall not be subject to any  
89 greater deductible, coinsurance, co-payment, or utilization review of health care services,  
90 including review of medical necessity, than other physical health care services provided by  
91 a health benefit plan. Coverage for treatment under this section shall not be denied on the  
92 basis that it is educational or habilitative in nature.

93 8. To the extent any payments or reimbursements are being made for applied  
94 behavior analysis, such payments or reimbursements shall be made to either:

95 (1) The autism service provider;

96 (2) The person who is supervising an autism service provider, who is also certified  
97 as a board certified behavior analyst by the Behavior Analyst Certification Board; or

98 (3) The entity or group for whom such supervising person, who is certified as a  
99 board certified behavior analyst by the Behavior Analyst Certification Board, works or is  
100 associated.

101 9. If a request for qualifications is made of a person who is not an autism service  
102 provider, such person shall provide documented evidence of education and professional  
103 training, if any, of such person.

104 10. The provisions of this section shall apply to any health care plans issued to  
105 employees and their dependents under the Missouri consolidated health care plan  
106 established pursuant to chapter 103, that are delivered, issued for delivery, continued, or  
107 renewed in this state on or after August 28, 2010. The terms "employees" and "health care  
108 plans" shall have the same meaning ascribed to them in section 103.003.

109 11. The provisions of this section shall also apply to the following types of plans that  
110 are established, extended, modified, or renewed on or after August 28, 2010:

111 (1) All self-insured governmental plans, as that term is defined in 29 U.S.C. Section  
112 1002(32);

113 (2) All self-insured group arrangements, to the extent not preempted by federal  
114 law;

115 (3) All plans provided through a multiple employer welfare arrangement, or plans  
116 provided through another benefit arrangement, to the extent permitted by the Employee  
117 Retirement Income Security Act of 1974, or any waiver or exception to that act provided  
118 under federal law or regulation; and

119 (4) All self-insured school district health plans.

120 12. The provisions of this section shall not automatically apply to an individually  
121 underwritten health benefit plan, but shall be offered as an option to any such plan.

122 13. The provisions of this section shall not apply to a supplemental insurance  
123 policy, including a life care contract, accident-only policy, specified disease policy, hospital

124 policy providing a fixed daily benefit only, Medicare supplement policy, long-term care  
125 policy, short-term major medical policy of six months or less duration, or any other  
126 supplemental policy.

127 **14. Any health carrier or other entity subject to the provisions of this section shall**  
128 **not be required to provide reimbursement to a school district for treatment for autism**  
129 **spectrum disorders provided by the school district. This section shall not be construed as**  
130 **affecting any obligation to provide services to an individual under an individualized family**  
131 **service plan, an individualized education plan, or an individualized service plan.**

132 **15. The provisions of sections 376.1350 to 376.1399, 376.383, and 376.384 shall**  
133 **apply to this section.**

134 **16. The director of the department of insurance, financial institutions and**  
135 **professional registration shall grant a small employer with a group health plan, as that**  
136 **term is defined in section 379.930, a waiver from the provisions of this section if the small**  
137 **employer demonstrates to the director by actual experience over any consecutive twenty-**  
138 **four month period that compliance with this section has increased the cost of the health**  
139 **insurance policy by an amount that results in a five percent increase over the period of a**  
140 **calendar year, in premium costs to the small employer.**

141 **17. The provisions of this section shall not apply to the MO HealthNet program as**  
142 **described in section 208.001, nor shall the provisions of this section apply to any program**  
143 **administered or sponsored by the MO HealthNet division. Nothing in this section shall be**  
144 **construed as providing the coverage described in this section to MO HealthNet**  
145 **participants.**

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