An act to amend Section 1374.73 of the Health and Safety Code, and to amend Section 10144.51 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 796, as introduced, Nazarian. Health care coverage: autism and pervasive developmental disorders.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A violation of those provisions is a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance.

Existing law requires every health care service plan contract and health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism. Existing law requires every health care service plan and health insurance policy to maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Existing law defines “qualified autism service professional” and “qualified autism service paraprofessional” for this purpose to mean a person who meets specified educational and training requirements.

This bill would expand the eligibility for a person to be a qualified autism service professional to include a person who possesses a bachelor...
of arts or science degree and meets other specified requirements, a
registered psychological assistant, a registered psychologist, or an
associate clinical social worker. The bill would also expand the
eligibility for a person to be a qualified autism service paraprofessional
to include a person with a high school diploma or equivalent and, among
other things, 6 months experience working with persons with
developmental disabilities.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) Autism and other pervasive developmental disorders are
4 complex neurobehavioral disorders that include impairments in
5 social communication and social interaction combined with rigid,
6 repetitive behaviors, interests, and activities.
7 (b) Autism covers a large spectrum of symptoms and levels of
8 impairment ranging in severity from somewhat limiting to a severe
9 disability that may require institutional care.
10 (c) One in 68 children born today will be diagnosed with autism
11 or another pervasive developmental disorder.
12 (d) Research has demonstrated that children diagnosed with
13 autism can often be helped with early administration of behavioral
14 health treatment.
15 (e) There are several forms of evidence-based behavioral health
16 treatment, including, but not limited to, applied behavioral analysis.
17 (f) Children diagnosed with autism respond differently to
18 behavioral health treatment.
19 (g) It is critical that each child diagnosed with autism receives
20 the specific type of evidence-based behavioral health treatment
21 best suited to him or her, as prescribed by his or her physician or
22 developed by a psychologist.
23 (h) The Legislature intends that all forms of evidence-based
24 behavioral health treatment be covered by health care service plans,
25 pursuant to Section 1374.73 of the Health and Safety Code, and
26 health insurance policies, pursuant to Section 10144.51 of the
27 Insurance Code.
(i) The Legislature intends that health care service plan provider networks include qualified professionals practicing all forms of evidence-based behavioral health treatment other than just applied behavioral analysis.

SEC. 2. Section 1374.73 of the Health and Safety Code is amended to read:

1374.73. (a) (1) Every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 1374.72.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health plans will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Every health care service plan subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health care service plan from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definitions shall apply:
(1) “Behavioral health treatment” means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

   (i) A qualified autism service provider.

   (ii) A qualified autism service professional supervised and employed by the qualified autism service provider.

   (iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service provider.

(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

   (i) Describes the patient’s behavioral health impairments or developmental challenges that are to be treated.

   (ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan’s goal and objectives, and the frequency at which the patient’s progress is evaluated and reported.

   (iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism.

   (iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.
(D) The treatment plan is not used for purposes of providing or
for the reimbursement of respite, day care, or educational services
and is not used to reimburse a parent for participating in the
treatment program. The treatment plan shall be made available to
the health care service plan upon request.
(2) “Pervasive developmental disorder or autism” shall have
the same meaning and interpretation as used in Section 1374.72.
(3) “Qualified autism service provider” means either of the
following:
(A) A person, entity, or group that is certified by a national
entity, such as the Behavior Analyst Certification Board, that is
accredited by the National Commission for Certifying Agencies,
and who designs, supervises, or provides treatment for pervasive
developmental disorder or autism, provided the services are within
the experience and competence of the person, entity, or group that
is nationally certified.
(B) A person licensed as a physician and surgeon, physical
therapist, occupational therapist, psychologist, marriage and family
therapist, educational psychologist, clinical social worker,
professional clinical counselor, speech-language pathologist, or
audiologist pursuant to Division 2 (commencing with Section 500)
of the Business and Professions Code, who designs, supervises,
or provides treatment for pervasive developmental disorder or
autism, provided the services are within the experience and
competence of the licensee.
(4) “Qualified autism service professional” means an individual
who meets all of the following criteria:
(A) Provides behavioral health treatment.
(B) Is employed and supervised by a qualified autism service
provider.
(C) Provides treatment pursuant to a treatment plan developed
and approved by the qualified autism service provider.
(D) Is a behavioral service provider approved who meets one
of the following criteria:
(i) Is approved as a vendor by a California regional center to
provide services as an Associate Behavior Analyst, Behavior
Analyst, Behavior Management Assistant, Behavior Management
Consultant, or Behavior Management Program as defined in
Section 54342 of Title 17 of the California Code of Regulations.
(ii) Possesses a bachelor of arts or science degree and has either of the following:

(I) Twelve semester units from an accredited institute of higher learning in either applied behavioral analysis or clinical coursework in behavioral health and one year of experience in designing or implementing behavioral health treatment.

(II) two years of experience in designing or implementing behavioral health treatment.

(iii) The person is a registered psychological assistant or registered psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(iv) The person is an associate clinical social worker registered with the Board of Behavioral Sciences pursuant to Section 4996.18 of the Business and Professions Code.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(5) “Qualified autism service paraprofessional” means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is employed and supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

(i) Possesses a high school diploma or equivalent.

(ii) Has six months experience working with persons with a developmental disability.

(iii) Has 30 hours of training in the specific form of evidence-based behavioral health treatment administered by a qualified autism provider or qualified autism service professional.

(iv) Has successfully passed a background check conducted by a state-approved agency.

(D) Has adequate education, training, and experience, as certified by a qualified autism service provider.
(d) This section shall not apply to the following:

1. A specialized health care service plan that does not deliver mental health or behavioral health services to enrollees.
2. A health care service plan contract in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).
3. A health care service plan contract in the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code).
4. A health care benefit plan or contract entered into with the Board of Administration of the Public Employees’ Retirement System pursuant to the Public Employees’ Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 1374.72.

(f) As provided in Section 1374.72 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 3. Section 10144.51 of the Insurance Code is amended to read:

10144.51. (a) (1) Every health insurance policy shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 10144.5.

(2) Notwithstanding paragraph (1), as of the date that proposed final rulemaking for essential health benefits is issued, this section does not require any benefits to be provided that exceed the essential health benefits that all health insurers will be required by federal regulations to provide under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).
(3) This section shall not affect services for which an individual is eligible pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(4) This section shall not affect or reduce any obligation to provide services under an individualized education program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Pursuant to Article 6 (commencing with Section 2240) of Title 10 of the California Code of Regulations, every health insurer subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health insurer from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definitions shall apply:

(1) “Behavioral health treatment” means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service provider.
(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

   (i) Describes the patient’s behavioral health impairments or developmental challenges that are to be treated.

   (ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan’s goal and objectives, and the frequency at which the patient’s progress is evaluated and reported.

   (iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism.

   (iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the insurer upon request.

(2) “Pervasive developmental disorder or autism” shall have the same meaning and interpretation as used in Section 10144.5.

(3) “Qualified autism service provider” means either of the following:

   (A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified.

   (B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or
audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee. 

(4) “Qualified autism service professional” means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment.

(B) Is employed and supervised by a qualified autism service provider.

(C) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider.

(D) Is a behavioral service provider who meets one of the following criteria:

(i) Is approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations.

(ii) Possesses a bachelor of arts or science degree and has either of the following:

(I) Twelve semester units from an accredited institute of higher learning in either applied behavioral analysis or clinical coursework in behavioral health and one year of experience in designing or implementing behavioral health treatment.

(II) Two years of experience in designing or implementing behavioral health treatment.

(iii) The person is a registered psychological assistant or registered psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(iv) The person is an associate clinical social worker registered with the Board of Behavioral Sciences pursuant to Section 4996.18 of the Business and Professions Code.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.
“Qualified autism service paraprofessional” means an unlicensed and uncertified individual who meets all of the following criteria:

(A) Is employed and supervised by a qualified autism service provider.

(B) Provides treatment and implements services pursuant to a treatment plan developed and approved by the qualified autism service provider.

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code or meets all of the following:

   (i) Possesses a high school diploma or equivalent.

   (ii) Has six months experience working with persons with a developmental disability.

   (iii) Has 30 hours of training in the specific form of evidence-based behavioral health treatment administered by a qualified autism provider or qualified autism service professional.

   (iv) Has successfully passed a background check conducted by a state-approved agency.

(D) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(d) This section shall not apply to the following:

(1) A specialized health insurance policy that does not cover mental health or behavioral health services or an accident only, specified disease, hospital indemnity, or Medicare supplement policy.

(2) A health insurance policy in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(3) A health insurance policy in the Healthy Families Program (Part 6.2 (commencing with Section 12693)).

(4) A health care benefit plan or policy entered into with the Board of Administration of the Public Employees’ Retirement System pursuant to the Public Employees’ Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 10144.5.

(f) As provided in Section 10144.5 and in paragraph (1) of subdivision (a), in the provision of benefits required by this section,
a health insurer may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

(g) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.