

ASSEMBLY BILL

No. 171

Introduced by Assembly Member Beall

January 20, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

AB 171, as introduced, Beall. Autism spectrum disorder.

(1) Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for licensing and regulation of health insurers by the Insurance Commissioner. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including certain mental health conditions.

This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment of autism spectrum disorders. The bill would, however, provide that no benefits are required to be provided by a health benefit plan offered through the California Health Benefit Exchange that exceed the essential health benefits required under federal law. The bill would prohibit coverage from being denied for specified reasons. Because the bill would change the definition of a crime with respect to health care service plans, it would thereby impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1374.73 is added to the Health and Safety
2 Code, to read:

3 1374.73. (a) Every health care service plan contract issued,
4 amended, or renewed on or after January 1, 2012, that provides
5 hospital, medical, or surgical coverage shall provide coverage for
6 the screening, diagnosis, and treatment of autism spectrum
7 disorders. A health care service plan shall not terminate coverage,
8 or refuse to deliver, execute, issue, amend, adjust, or renew
9 coverage, to an enrollee solely because the individual is diagnosed
10 with, or has received treatment for, an autism spectrum disorder.

11 (b) Coverage required to be provided under this section shall
12 extend to all medically necessary services and shall not be subject
13 to any limits regarding age, number of visits, or dollar amounts.
14 Coverage required to be provided under this section shall not be
15 subject to provisions relating to lifetime maximums, deductibles,
16 copayments, or coinsurance or other terms and conditions that are
17 less favorable to an enrollee than lifetime maximums, deductibles,
18 copayments, or coinsurance or other terms and conditions that
19 apply to physical illness generally under the plan contract.

20 (c) Coverage required to be provided under this section is a
21 health care service and a covered health care benefit for purposes
22 of this chapter. Coverage shall not be denied on the basis that the
23 treatment is habilitative, nonrestorative, educational, academic, or
24 custodial in nature.

25 (d) A health care service plan may request, no more than once
26 annually, a review of treatment provided to an enrollee for autism
27 spectrum disorders. The cost of obtaining the review shall be borne
28 by the plan. This subdivision does not apply to inpatient services.

29 (e) A health care service plan shall establish and maintain an
30 adequate network of qualified autism service providers with
31 appropriate training and experience in autism spectrum disorders
32 to ensure that enrollees have a choice of providers, and have timely
33 access, continuity of care, and ready referral to all services required

1 to be provided by this section consistent with Sections 1367 and
2 1367.03 and the regulations adopted pursuant thereto.

3 (f) (1) This section shall not be construed as reducing any
4 obligation to provide services to an enrollee under an individualized
5 family service plan, an individualized program plan, a prevention
6 program plan, an individualized education program, or an
7 individualized service plan.

8 (2) This section shall not be construed as limiting benefits that
9 are otherwise available to an enrollee under a health care service
10 plan.

11 (3) This section shall not be construed as affecting litigation
12 that is pending on January 1, 2012.

13 (g) On and after January 1, 2014, to the extent that this section
14 requires health benefits to be provided that exceed the essential
15 health benefits required to be provided under Section 1302(b) of
16 the federal Patient Protection and Affordable Care Act (Public
17 Law 111-148), as amended by the federal Health Care and
18 Education Reconciliation Act of 2010 (Public Law 111-152) by
19 qualified health plans offering those benefits in the California
20 Health Benefit Exchange pursuant to Title 22 (commencing with
21 Section 100500) of the Government Code, the specific benefits
22 that exceed the federally required essential health benefits are not
23 required to be provided when offered by a health care service plan
24 contract through the Exchange. However, those specific benefits
25 are required to be provided if offered by a health care service plan
26 contract outside of the Exchange.

27 (h) As used in this section, the following terms shall have the
28 following meanings:

29 (1) “Autism spectrum disorder” means a neurobiological
30 condition that includes autistic disorder, Asperger’s disorder, Rett’s
31 disorder, childhood disintegrative disorder, and pervasive
32 developmental disorder not otherwise specified.

33 (2) “Behavioral health treatment” means professional services
34 and treatment programs, including behavioral intervention therapy,
35 applied behavioral analysis, and other intensive behavioral
36 programs, that have demonstrated efficacy to develop, maintain,
37 or restore, to the maximum extent practicable, the functioning or
38 quality of life of an individual and that have been demonstrated
39 to treat the core symptoms associated with autism spectrum
40 disorder.

1 (3) “Behavioral intervention therapy” means the design,
2 implementation, and evaluation of environmental modifications,
3 using behavioral stimuli and consequences, to produce socially
4 significant improvement in behaviors, including the use of direct
5 observation, measurement, and functional analyses of the
6 relationship between environment and behavior.

7 (4) “Diagnosis of autism spectrum disorders” means medically
8 necessary assessment, evaluations, or tests to diagnose whether
9 an individual has one of the autism spectrum disorders.

10 (5) “Evidence-based research” means research that applies
11 rigorous, systematic, and objective procedures to obtain valid
12 knowledge relevant to autism spectrum disorders.

13 (6) “Pharmacy care” means medications prescribed by a licensed
14 physician and surgeon or other appropriately licensed or certified
15 provider and any health-related services deemed medically
16 necessary to determine the need or effectiveness of the medications.

17 (7) “Psychiatric care” means direct or consultative psychiatric
18 services provided by a psychiatrist or any other appropriately
19 licensed or certified provider.

20 (8) “Psychological care” means direct or consultative
21 psychological services provided by a psychologist or any other
22 appropriately licensed or certified provider.

23 (9) “Therapeutic care” means services provided by licensed or
24 certified speech therapists, occupational therapists, or physical
25 therapists or any other appropriately licensed or certified provider.

26 (10) “Treatment for autism spectrum disorders” means all of
27 the following care, including necessary equipment, prescribed or
28 ordered for an individual diagnosed with one of the autism
29 spectrum disorders by a licensed physician and surgeon or a
30 licensed psychologist or any other appropriately licensed or
31 certified provider who determines the care to be medically
32 necessary:

33 (A) Behavioral health treatment.

34 (B) Pharmacy care.

35 (C) Psychiatric care.

36 (D) Psychological care.

37 (E) Therapeutic care.

38 (F) Any care for individuals with autism spectrum disorders
39 that is demonstrated, based upon best practices or evidence-based
40 research, to be medically necessary.

1 SEC. 2. Section 10144.51 is added to the Insurance Code, to
2 read:

3 10144.51. (a) Every health insurance policy issued, amended,
4 or renewed on or after January 1, 2012, that provides hospital,
5 medical, or surgical coverage shall provide coverage for the
6 screening, diagnosis, and treatment of autism spectrum disorders.
7 A health insurer shall not terminate coverage, or refuse to deliver,
8 execute, issue, amend, adjust, or renew coverage, to an insured
9 solely because the individual is diagnosed with, or has received
10 treatment for, an autism spectrum disorder.

11 (b) Coverage required to be provided under this section shall
12 extend to all medically necessary services and shall not be subject
13 to any limits regarding age, number of visits, or dollar amounts.
14 Coverage required to be provided under this section shall not be
15 subject to provisions relating to lifetime maximums, deductibles,
16 copayments, or coinsurance or other terms and conditions that are
17 less favorable to an insured than lifetime maximums, deductibles,
18 copayments, or coinsurance or other terms and conditions that
19 apply to physical illness generally under the policy.

20 (c) Coverage required to be provided under this section is a
21 health care service and a covered health care benefit for purposes
22 of this part. Coverage shall not be denied on the basis that the
23 treatment is habilitative, nonrestorative, educational, academic, or
24 custodial in nature.

25 (d) A health insurer may request, no more than once annually,
26 a review of treatment provided to an insured for autism spectrum
27 disorders. The cost of obtaining the review shall be borne by the
28 insurer. This subdivision does not apply to inpatient services.

29 (e) A health insurer shall establish and maintain an adequate
30 network of qualified autism service providers with appropriate
31 training and experience in autism spectrum disorders to ensure
32 that insureds have a choice of providers, and have timely access,
33 continuity of care, and ready referral to all services required to be
34 provided by this section consistent with Sections 10133.5 and
35 10133.55 and the regulations adopted pursuant thereto.

36 (f) (1) This section shall not be construed as reducing any
37 obligation to provide services to an insured under an individualized
38 family service plan, an individualized program plan, a prevention
39 program plan, an individualized education program, or an
40 individualized service plan.

1 (2) This section shall not be construed as limiting benefits that
2 are otherwise available to an enrollee under a health insurance
3 policy.

4 (3) This section shall not be construed as affecting litigation
5 that is pending on January 1, 2012.

6 (g) On and after January 1, 2014, to the extent that this section
7 requires health benefits to be provided that exceed the essential
8 health benefits required to be provided under Section 1302(b) of
9 the federal Patient Protection and Affordable Care Act (Public
10 Law 111-148), as amended by the federal Health Care and
11 Education Reconciliation Act of 2010 (Public Law 111-152) by
12 qualified health plans offering those benefits in the California
13 Health Benefit Exchange pursuant to Title 22 (commencing with
14 Section 100500) of the Government Code, the specific benefits
15 that exceed the federally required essential health benefits are not
16 required to be provided when offered by a health insurance policy
17 through the Exchange. However, those specific benefits are
18 required to be provided if offered by a health insurance policy
19 outside of the Exchange.

20 (h) As used in this section, the following terms shall have the
21 following meanings:

22 (1) “Autism spectrum disorder” means a neurobiological
23 condition that includes autistic disorder, Asperger’s disorder, Rett’s
24 disorder, childhood disintegrative disorder, and pervasive
25 developmental disorder not otherwise specified.

26 (2) “Behavioral health treatment” means professional services
27 and treatment programs, including behavioral intervention therapy,
28 applied behavioral analysis, and other intensive behavioral
29 programs, that have demonstrated efficacy to develop, maintain,
30 or restore, to the maximum extent practicable, the functioning or
31 quality of life of an individual and that have been demonstrated
32 to treat the core symptoms associated with autism spectrum
33 disorder.

34 (3) “Behavioral intervention therapy” means the design,
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36 using behavioral stimuli and consequences, to produce socially
37 significant improvement in behaviors, including the use of direct
38 observation, measurement, and functional analyses of the
39 relationship between environment and behavior.

1 (4) “Diagnosis of autism spectrum disorders” means medically
2 necessary assessment, evaluations, or tests to diagnose whether
3 an individual has one of the autism spectrum disorders.

4 (5) “Evidence-based research” means research that applies
5 rigorous, systematic, and objective procedures to obtain valid
6 knowledge relevant to autism spectrum disorders.

7 (6) “Pharmacy care” means medications prescribed by a licensed
8 physician and surgeon or other appropriately licensed or certified
9 provider and any health-related services deemed medically
10 necessary to determine the need or effectiveness of the medications.

11 (7) “Psychiatric care” means direct or consultative psychiatric
12 services provided by a psychiatrist or any other appropriately
13 licensed or certified provider.

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15 psychological services provided by a psychologist or any other
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20 (10) “Treatment for autism spectrum disorders” means all of
21 the following care, including necessary equipment, prescribed or
22 ordered for an individual diagnosed with one of the autism
23 spectrum disorders by a licensed physician and surgeon or a
24 licensed psychologist or any other appropriately licensed or
25 certified provider who determines the care to be medically
26 necessary:

27 (A) Behavioral health treatment.

28 (B) Pharmacy care.

29 (C) Psychiatric care.

30 (D) Psychological care.

31 (E) Therapeutic care.

32 (F) Any care for individuals with autism spectrum disorders
33 that is demonstrated, based upon best practices or evidence-based
34 research, to be medically necessary.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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