An act to amend Section 1374.73 of the Health and Safety Code, to amend Section 10144.51 of the Insurance Code, and to add Section 4648.32 to the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL’S DIGEST


The Lanterman Developmental Disabilities Services Act requires the State Department of Developmental Services to enter into contracts with private nonprofit corporations to operate regional centers for the provision of community services and supports for persons with developmental disabilities and their families. Regulations adopted under that act require a regional center to classify a vendor of services provided by the regional center as a behavior management consultant or behavior management assistant if the vendor designs or implements behavior management intervention services, possesses specified experience in designing or implementing those services, and meets other specified licensure and education requirements.

This bill would require that a regional center classify a vendor as a behavior management consultant or behavior management assistant if the vendor designs or implements behavioral health treatment, has a
specified amount of experience in designing or implementing that
treatment, and meets other licensure and education requirements.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975,
provides for the licensure and regulation of health care service plans
by the Department of Managed Health Care. Existing law also provides
for the regulation of health insurers by the Department of Insurance.
Existing law requires health care service plan contracts and health
insurance policies to provide coverage for behavioral health treatment
for pervasive developmental disorder or autism until January 1, 2017,
and defines behavioral health treatment to mean specified services
provided by, among others, a qualified autism service professional
supervised and employed by a qualified autism service provider. For
purposes of this provision, existing law defines a “qualified autism
service professional” to mean a person who, among other requirements,
is a behavior service provider approved as a vendor by a California
regional center to provide services as an associate behavior analyst,
behavior management assistant, behavior management consultant, or
behavior management program pursuant to specified regulations adopted
under the Lanterman Developmental Disabilities Services Act.

This bill would instead require that the behavior management assistant
or behavior management consultant be approved as a California regional
center vendor under the provisions described above.

State-mandated local program: no.

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

SECTION 1. 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 is 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 as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations or as a Behavior Management Assistant or Behavior Management Consultant pursuant to Section 4648.32 of the Welfare and Institutions 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.
(D) Has adequate education, training, and experience, as certified by a qualified autism service provider.

(d) This section shall not apply to the following:
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(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. 2. 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
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 approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations or as a Behavior Management Assistant or Behavior Management Consultant pursuant to Section 4648.32 of the Welfare and Institutions 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.
   (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.

SEC. 3. Section 4648.32 is added to the Welfare and Institutions Code, to read:

4648.32. (a) For purposes of this section, “behavioral health treatment” shall have the same meaning as provided in Article 5.6 (commencing with Section 1374.60) of Chapter 2.2 of Division 2 of the Health and Safety Code and Article 2.5 (commencing with Section 10140) of Chapter 1 of Part 2 of Division 2 of the Insurance Code.

(b) A regional center shall classify a vendor as a Behavior Management Assistant if the vendor does both of the following:

(1) Designs or implements behavioral health treatments under the direct supervision of a Behavior Management Consultant, classified as provided in subdivision (b) (c), or assesses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer’s behavior through skill acquisition and the reduction of behavior, under direct supervision of a Behavior Analyst, classified as provided in Section 54342 of Title 17 of the California Code of Regulations, or a Behavior
Management Consultant, classified as provided in subdivision (b) (c).

(2) Meets either of the following requirements:

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

(i) Twelve semester units of applied behavior analysis or behavioral health treatment and one year of experience in designing or implementing behavioral health treatment.

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

(B) Is either of the following:

(i) A registered psychological assistant or registered licensed psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(ii) An associate licensed clinical social worker registered with the Board of Behavioral Sciences pursuant to Section 4996.18 of the Business and Professions Code.

(3) For purposes of this section, a regional center shall only classify as a vendor a Behavior Management Assistant who designs or implements behavioral health treatments that are consistent with the vendor’s experience and education.

(c) A regional center shall classify a vendor as a Behavior Management Consultant if the vendor designs or implements behavioral health treatments and meets all of the following requirements:

(1) Has two years of experience designing and implementing behavioral health treatments.

(2) Is licensed as one of the following:

(A) A psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(B) A licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code.

(C) A licensed marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(D) Any other licensed professional under the laws of this state whose license permits the design or implementation of behavioral health treatments.
(3) For individuals vendored as a behavior management consultant prior to, or as of, December 31, 2006, have completed 12 semester units in applied behavior analysis by December 31, 2008.

(4) For individuals vendored as a behavior management consultant on or after January 1, 2007, completes 12 semester units of applied behavior analysis or behavioral health treatment.

(5) For purposes of this section, a regional center shall only classify as a vendor a Behavior Management Consultant who designs or implements behavioral health treatments that are consistent with the vendor’s experience and education.