ACT #2017-337

1 HB284

2 186943-4

3 By Representative Patterson

4 RFD: Insurance

5 First Read: 21-FEB-17

MAY 18 2017
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GOVERNOR'S OFFICE
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2 ENROLLED, An Act,

3 Relating to health benefit plans; to amend Sections
4 10A-20-6.16, 27-21A-23, and 27-54A-2, Code of Alabama 1975, to
5 require health benefit plans to cover the treatment of Autism
6 Spectrum Disorder under certain health insurance plans and
7 contracts.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 10A-20-6.16, 27-21A-23, and
10 27-54A-2, Code of Alabama 1975, are amended to read as
11 follows:

12 "§10A-20-6.16.

13 "(a) No statute of this state applying to insurance
14 companies shall be applicable to any corporation organized
15 under this article and amendments thereto or to any contract
16 made by the corporation; except the corporation shall be
17 subject to all of the following:

18 "(1) The provisions regarding annual premium tax to
19 be paid by insurers on insurance premiums.

20 "(2) Chapter 55 of Title 27, regarding the
21 prohibition of unfair discriminatory acts by insurers on the
22 basis of an applicant's or insured's abuse status.

23 "(3) The Medicare Supplement Minimum Standards set
24 forth in Article 2 of Chapter 19 of Title 27, and Long-Term

Care Insurance Policy Minimum Standards set forth in Article 3 of Chapter 19 of Title 27.

"(4) Section 27-1-17, requiring insurers and health plans to pay health care providers in a timely manner.

"(5) Chapter 56 of Title 27, regarding the Access to Eye Care Act.

"(6) Rules promulgated by the Commissioner of Insurance pursuant to Sections 27-7-43 and 27-7-44.

"(7) Chapter 54 of Title 27.

"(8) Chapter 57 of Title 27, requiring coverage to be offered for the payment of colorectal cancer examinations for covered persons who are 50 years of age or older, or for covered persons who are less than 50 years of age and at high risk for colorectal cancer according to current American Cancer Society colorectal cancer screening guidelines.

"(9) Chapter 58 of Title 27, requiring that policies and contracts including coverage for prostate cancer early detection be offered, together with identification of associated costs.

"(10) Chapter 59 of Title 27, requiring that policies and contracts including coverage for chiropractic be offered, together with identification of associated costs.

"(11) Chapter 54A of Title 27, requiring that policies and contracts ~~to offer coverage for~~ cover certain

1 treatment for Autism Spectrum Disorder under certain
2 conditions.
3 "(12) Chapter 12A of Title 27.
4 "(13) Chapter 2B of Title 27.
5 "(b) The provisions in subsection (a) that require
6 specific types of coverage to be offered or provided shall not
7 apply when the corporation is administering a self-funded
8 benefit plan or similar plan, fund, or program that it does
9 not insure.
10 "§27-21A-23.
11 "(a) Except as otherwise provided in this chapter,
12 provisions of the insurance law and provisions of health care
13 service plan laws shall not be applicable to any health
14 maintenance organization granted a certificate of authority
15 under this chapter. This provision shall not apply to an
16 insurer or health care service plan licensed and regulated
17 pursuant to the insurance law or the health care service plan
18 laws of this state except with respect to its health
19 maintenance organization activities authorized and regulated
20 pursuant to this chapter.
21 "(b) Solicitation of enrollees by a health
22 maintenance organization granted a certificate of authority
23 shall not be construed to violate any provision of law
24 relating to solicitation or advertising by health
25 professionals.

1 "(c) Any health maintenance organization authorized
2 under this chapter shall not be deemed to be practicing
3 medicine and shall be exempt from the provisions of Section
4 34-24-310, et seq., relating to the practice of medicine.
5 "(d) No person participating in the arrangements of
6 a health maintenance organization other than the actual
7 provider of health care services or supplies directly to
8 enrollees and their families shall be liable for negligence,
9 misfeasance, nonfeasance, or malpractice in connection with
10 the furnishing of such services and supplies.
11 "(e) Nothing in this chapter shall be construed in
12 any way to repeal or conflict with any provision of the
13 certificate of need law.
14 "(f) Notwithstanding the provisions of subsection
15 (a), a health maintenance organization shall be subject to all
16 of the following:
17 "(1) Section 27-1-17.
18 "(2) Chapter 56, regarding the Access to Eye Care
19 Act.
20 "(3) Chapter 54, regarding mental illness coverage.
21 "(4) Chapter 57, requiring coverage to be offered
22 for the payment of colorectal cancer examinations for covered
23 persons who are 50 years of age or older, or for covered
24 persons who are less than 50 years of age and at high risk for

colorectal cancer according to current American Cancer Society colorectal cancer screening guidelines.

"(5) Chapter 58, requiring that policies and contracts including coverage for prostate cancer early detection be offered, together with identification of associated costs.

"(6) Chapter 59, requiring that policies and contracts including coverage for chiropractic be offered, together with identification of associated costs.

"(7) Rules promulgated by the Commissioner of Insurance pursuant to Sections 27-7-43 and 27-7-44.

"(8) Chapter 12A.

"(9) Chapter 54A, requiring policies and contracts to ~~offer coverage for~~ cover certain treatment for Autism Spectrum Disorder under certain conditions.

"(10) Chapter 2B, regarding risk-based capital.

"(11) Chapter 29, regarding insurance holding company systems.

"§27-54A-2.

"(a) As used in this section, the following words have the following meanings:

"(1) APPLIED BEHAVIOR ANALYSIS. The design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use

of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"(2) AUTISM SPECTRUM DISORDER. Any of the pervasive developmental disorders or autism spectrum disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM)~~, including Autistic Disorder, Asperger's Disorder, and Pervasive Developmental Disorder Not Otherwise Specified~~ or the edition that was in effect at the time of diagnosis.

"(3) BEHAVIORAL HEALTH TREATMENT. Counseling and treatment programs, including applied behavior analysis that are both of the following:

"a. Necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.

"b. Provided or supervised, either in person or by telemedicine, by a Board Certified Behavior Analyst, licensed in the State of Alabama, or a psychologist, licensed in the State of Alabama, so long as the services performed are commensurate with the psychologist's formal university training and supervised experience.

"c. Behavioral health treatment does not include psychological testing, neuropsychology, psychotherapy, intellectual assessment, cognitive therapy, sex therapy,

psychoanalysis, hypotherapy, and long-term counseling as treatment modalities.

"(4) DIAGNOSIS OF AUTISM SPECTRUM DISORDER. Medically necessary assessment, evaluations, or tests to diagnose whether an individual has an autism spectrum disorder.

"(5) HEALTH BENEFIT PLAN. Any group insurance plan, policy, or contract for health care services that covers hospital, medical, or surgical expenses, health maintenance organizations, preferred provider organizations, medical service organizations, physician-hospital organizations, or any other person, firm, corporation, joint venture, or other similar business entity that pays for, purchases, or furnishes group health care services to patients, insureds, or beneficiaries in this state. For the purposes of this section, a health benefit plan located or domiciled outside of the State of Alabama is deemed to be subject to this section if the plan, policy, or contract is issued or delivered in the State of Alabama. The term includes, but is not limited to, entities created pursuant to Article 6, Chapter 20, Title 10A. <u>On and after December 31, 2018, the term includes health insurance plans administered or offered by the State Employees Insurance Board and the Public Education Employees Health Insurance Plan.</u> The term does not include the Alabama Health Insurance Plan or the Alabama Small Employer Allocation

1 Program provided in Chapter 52 of this title. The term also
2 includes the terms health insurance policy and health
3 insurance plan. The term does not include non-grandfathered
4 plans in the individual and small group markets that were
5 required to provide essential health benefits under the
6 Patient Protection and Affordable Care Act as of January 1,
7 2017, or accident-only, specified disease, individual hospital
8 indemnity, credit, dental-only, Medicare-supplement, long-term
9 care, or disability income insurance, other limited benefit
10 health insurance policies, coverage issued as a supplemental
11 to liability insurance, workers' compensation or similar
12 insurance, or automobile medical-payment insurance.
13 "(6) PHARMACY CARE. Medications prescribed by a
14 licensed physician and any health related services deemed
15 medically necessary to determine the need or effectiveness of
16 the medications.
17 "(7) PSYCHIATRIC CARE. Direct or consultative
18 services provided by a psychiatrist licensed in the State of
19 Alabama.
20 "(8) PSYCHOLOGICAL CARE. Direct or consultative
21 services provided by a psychologist licensed in the State of
22 Alabama.
23 "(9) THERAPEUTIC CARE. Services provided by licensed
24 and certified speech therapists, occupational therapists, or
25 physical therapists.

"(10) TREATMENT FOR AUTISM SPECTRUM DISORDER. Evidence-based care prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or a licensed psychologist who determines the care to be medically necessary, including, but not limited to, all of the following:

"a. Behavioral health treatment.

"b. Pharmacy care.

"c. Psychiatric care.

"d. Psychological care.

"e. Therapeutic care.

"(b)(1) A health benefit plan shall ~~offer coverage for~~ cover the screening, diagnosis, and treatment of Autism Spectrum Disorder for an insured ~~nine years of age or under nine~~ 18 years of age or under in policies and contracts issued or delivered in the State of Alabama to employers with at least 51 employees for at least 50 percent of its working days during the preceding calendar year. Coverage provided under this section is limited to treatment that is prescribed by the insured's treating licensed physician or licensed psychologist in accordance with a treatment plan.

"(2) To the extent that the screening, diagnosis, and treatment of autism spectrum disorder are not already covered by a health insurance policy, a health benefit plan shall include coverage under this section ~~shall be offered for~~

~~inclusion in health insurance~~ in policies and contracts that are delivered, executed, issued, amended, adjusted, or renewed in the State of Alabama ~~at the date of the annual renewal for coverage~~ on or after October 1, 2017.

"(3) A health benefit plan may not deny or refuse to issue coverage on, refuse to contract with, or refuse to renew or refuse to reissue or otherwise terminate or restrict coverage on an individual solely because the individual is diagnosed with Autism Spectrum Disorder.

"(c)(1) ~~The~~ Except as provided in subsection (g), the coverage required pursuant to this section ~~may~~ shall not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles, or coinsurance provisions that apply to ~~physical illness generally~~ substantially all medical and surgical benefits under the health insurance plan~~, except as otherwise provided for in subsection (e)~~.

"(2) The coverage required pursuant to subsection (b) may be subject to other general exclusions and limitations of the health benefit plan, including, but not limited to, coordination of benefits, participating provider requirements, restrictions on services provided by family or household members, utilization review of health care services including review of medical necessity, case management, and other managed care provisions.

1 "(d) Coverage under this section shall not be
2 subject to any limits on the number of visits an individual
3 may make for treatment of autism spectrum disorder.
4 "(e) This section may not be construed as limiting
5 benefits that are otherwise available to an individual under a
6 health insurance policy.
7 "(f) Coverage for applied behavior analysis shall
8 include the services of the personnel who work under the
9 supervision of the board certified behavior analyst or the
10 licensed psychologist overseeing the program.
11 "(g)(1) Except as provided in subdivision (2),
12 coverage provided under this section for applied behavior
13 analysis shall be subject to a maximum benefit as follows:
14 "a. Forty thousand dollars ($40,000) per year for an
15 insured individual between zero and nine years of age.
16 "b. Thirty thousand dollars ($30,000) per year for
17 an insured individual between 10 and 13 years of age.
18 "c. Twenty thousand dollars ($20,000) per year for
19 an insured individual between 14 and 18 years of age.
20 ~~"d. Ten thousand dollars ($10,000) per year for an~~
21 ~~insured individual 19 years of age or older.~~
22 "(2) The maximum benefit limit may be exceeded, upon
23 prior approval by the insurer administering a health benefit
24 plan, if the provision of applied behavior analysis services
25 beyond the maximum limit is medically necessary for the

1 insured individual. Payments made by a health benefit plan on
2 behalf of an individual for any care, treatment, intervention,
3 service, or item, the provision of which was for the treatment
4 of a health condition unrelated to the individual's autism
5 spectrum disorder, shall not be applied toward any maximum
6 benefit established under this subsection. Any coverage
7 required under this section, other than the coverage for
8 applied behavior analysis, shall not be subject to the dollar
9 limitations described in this subsection.
10 "~~(g)~~ (h) This section may not be construed as
11 affecting any obligation to provide services to an individual
12 under an individualized family service plan, an individualized
13 education program, or an individualized service plan.
14 "~~(d)~~ (i) The treatment plan required pursuant to
15 subsection (b) shall include all elements necessary for the
16 health insurance plan to appropriately pay claims. These
17 elements include, but are not limited to, a diagnosis,
18 proposed treatment by type, frequency, and duration of
19 treatment, the anticipated outcomes stated as goals, the
20 frequency by which the treatment plan will be updated, and the
21 treating licensed physician's or licensed psychologist's
22 signature. The health insurance plan may ~~only~~ request an
23 updated treatment plan only once every six months from the
24 treating licensed physician or licensed psychologist to review
25 medical necessity, unless the health insurance plan and the

treating licensed physician or licensed psychologist agree that a more frequent review is necessary for a particular patient. Any agreement regarding the right to review a treatment plan more frequently applies only to a particular insured being treated for an autism spectrum disorder and does not apply to all individuals being treated for autism spectrum disorder by a physician or psychologist. The cost of obtaining any review or treatment plan shall be borne by the insurer.

"~~(e)~~ (j) ~~The benefits and coverage provided pursuant to this section shall be provided to any eligible person nine years of age or under. Coverage for behavioral therapy is subject to a thirty-six thousand dollars ($36,000) maximum benefit per year. Beginning October 1, 2013, this maximum benefit shall be adjusted annually on January 1 of each calendar year to reflect any change from the previous year in the current Consumer Price Index, All Urban Consumers, as published by the United States Department of Labor's Bureau of Labor Statistics.~~"

Section 2. In the administration of and provision of benefits for the Alabama Medicaid program and the Children's Health Insurance Plan (ALL Kids), the Alabama Medicaid Agency and the Alabama Department of Public Health, on and after December 31, 2018, shall provide coverage and reimbursement for the treatment of Autism Spectrum Disorder in the same manner and same levels as health benefit plans.

1 Section 3. This act shall become effective October
2 1, 2017.

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Mac McCutcheon

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4 Speaker of the House of Representatives

5 Del Marsh

6 President and Presiding Officer of the Senate

7 House of Representatives

8 I hereby certify that the within Act originated in
9 and was passed by the House 20-APR-17, as amended.
10
11 Jeff Woodard
12 Clerk
13

14

15 Senate	16-MAY-17	Amended and Passed
16 House	18-MAY-17	Concurred in Senate Amendment

17

APPROVED May 19, 2017

TIME 10:30 a.m.

Kay Ivey

GOVERNOR

Alabama Secretary Of State

Act Num....: 2017-337
Bill Num...: H-284

Recv'd 05/19/17 11:19amKCW

F & T G

erson

ORS

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 284

YEAS 100 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

_____

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SENATE ACTION

DATE: 4-27 2017

RD 1 RFD F&TG

This Bill was referred to the Standing Committee of the Senate on F&TG and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) 2 w/sub ____ by a vote of yeas 14 nays 2 abstain ____ this 10th day of May 2017

_____, Chairperson

DATE: 5-11 2017

RF FAV AMD (2) RD 2 CAL

DATE: 20__

RE-REFERRED ☐ RE-COMMITTED ☐

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 284

YEAS 31 NAYS 0

PATRICK HARRIS, Secretary