An Act

ENROLLED HOUSE
BILL NO. 2962

By: Nelson, Denney, Kannady, Dunnington, Henke, Montgomery, Sherrer, McDaniel (Jeannie), Brown, Kouplen, Condit, Perryman, Cleveland, McBride, Casey, Roberts (Dustin), Kirby, Virgin, Rousselot, Cooksey, Lockhart, Cannaday, Stone, Murdock, Inman, Shelton, Griffith, Ownbey, Vaughan, Wallace, Fisher, Munson, Christian, Echols, Nollan, Wood, Loring, Bennett, Renegar, Lepak, Hoskin, Martin and Morrissette of the House

and

Griffin, Boggs, Thompson, Bass, David, Simpson, Crain, Matthews, Brooks, Fields, Bice, Floyd, Dossett and Pittman of the Senate

An Act relating to autism spectrum disorders; requiring certain coverage for certain treatments; specifying age and coverage limitations; prohibiting termination or refusal of coverage for certain reasons; stipulating limitations; providing certain construction; specifying maximum benefits under certain coverage; directing Oklahoma Insurance Commissioner to annually adjust certain limits; excluding certain payments from certain calculation; mandating inclusion of certain services; permitting insurers to review treatment plans; providing certain applications; requiring certain costs be borne by

insurer; providing certain exceptions; providing definitions; directing certain agencies to conduct certain examination; requiring certain report; directing Oklahoma Health Care Authority to submit certain documents under certain circumstances; providing limitations; providing definitions; amending 36 O.S. 2011, Section 6060.20, which relates to mandated coverage; deleting certain construction; providing exemptions under certain circumstances; specifying certain calculation; providing guidelines for issuance of exemptions; providing for codification; and providing an effective date.

SUBJECT: Autism spectrum disorders

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6060.21 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. For all plans issued or renewed on or after November 1, 2016, a health benefit plan and the Oklahoma Employees Health Insurance Plan shall provide coverage for the screening, diagnosis and treatment of autism spectrum disorder in individuals less than nine (9) years of age, or if an individual is not diagnosed or treated until after three (3) years of age, coverage shall be provided for at least six (6) years, provided that the individual continually and consistently shows sufficient progress and improvement as determined by the health care provider. No insurer shall terminate coverage, or refuse to deliver, execute, issue, amend, adjust or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for an autism spectrum disorder.

B. Except as provided in subsection E of this section, coverage under this section shall not be subject to any limits on the number of visits an individual may make for treatment of autism spectrum disorder.

C. Coverage under this section 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 substantially all medical and surgical benefits under the health benefit plan, except as otherwise provided in subsection E of this section.

D. This section shall not be construed as limiting benefits that are otherwise available to an individual under a health benefit plan.

E. Coverage for applied behavior analysis shall be subject to a maximum benefit of twenty-five (25) hours per week and no more than Twenty-five Thousand Dollars ($25,000.00) per year. Beginning January 1, 2018, the Oklahoma Insurance Commissioner shall, on an annual basis, adjust the maximum benefit for inflation by using the Medical Care Component of the United States Department of Labor Consumer Price Index for All Urban Consumers (CPI-U). The Commissioner shall submit the adjusted maximum benefit for publication annually before January 1, 2018, and before the first day of January of each calendar year thereafter, and the published adjusted maximum benefit shall be applicable in the following calendar year to the Oklahoma Employees Health Insurance Plan and health benefit plans subject to this section. Payments made by an insurer on behalf of a covered individual for treatment other than applied behavior analysis shall not be applied toward any maximum benefit established under this section.

F. Coverage for applied behavior analysis shall include the services of the board-certified behavior analyst or a licensed doctoral-level psychologist.

G. Except for inpatient services, if an insured is receiving treatment for an autism spectrum disorder, an insurer shall have the right to review the treatment plan annually, unless the insurer and the insured's treating physician or psychologist agree that a more frequent review is necessary. Any such agreement regarding the right to review a treatment plan more frequently shall apply only to a particular insured being treated for an autism spectrum disorder and shall 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.

H. This section shall not be construed as affecting any obligation to provide services to an individual under an

individualized family service plan, an individualized education program or an individualized service plan.

I. Nothing in this section shall apply to nongrandfathered plans in the individual and small group markets that are required to include essential health benefits under the federal Patient Protection and Affordable Care Act, Public Law 111-148, or to Medicare supplement, accident-only, specified disease, hospital indemnity, disability income, long-term care or other limited benefit hospital insurance policies.

J. As used in this section:

1. "Applied behavior analysis" means 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" means 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) or the edition that was in effect at the time of diagnosis;

3. "Behavioral health treatment" means counseling and treatment programs, including applied behavior analysis, that are:

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

b. provided by a board-certified behavior analyst or by a licensed doctoral-level psychologist so long as the services performed are commensurate with the psychologist's university training and experience;

4. "Diagnosis of autism spectrum disorder" means medically necessary assessment, evaluations or tests to diagnose whether an individual has an autism spectrum disorder;

5. "Health benefit plan" means any plan or arrangement as defined in subsection C of Section 6060.4 of Title 36 of the Oklahoma Statutes;

6. "Oklahoma Employees Health Insurance Plan" means "Health Insurance Plan" as defined in Section 1303 of Title 74 of the Oklahoma Statutes;

7. "Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications;

8. "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices;

9. "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices;

10. "Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists or physical therapists; and

11. "Treatment for autism spectrum disorder" means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or a licensed doctoral-level psychologist who determines the care to be medically necessary, including, but not limited to:

a. behavioral health treatment,

b. pharmacy care,

c. psychiatric care,

d. psychological care, and

e. therapeutic care.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011.12 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority, in conjunction with the Department of Mental Health and Substance Abuse Services, the State Department of Health and the State Department of Education shall examine the feasibility of a state plan amendment to the Oklahoma

Medicaid Program for applied behavior analysis treatment of autism spectrum disorders.

B. On or before December 31, 2016, the Authority and partnering agencies shall submit a report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor estimating the potential costs to the state, clinical findings, reviews of pilot projects and research from other states on the effects of applied behavioral analysis treatment on autism spectrum disorders.

C. Beginning July 1, 2017, and subject to the availability of funding, the Authority and partnering agencies shall draft a state plan amendment for applied behavior analysis treatment of autism spectrum disorders. The provisions of this subsection shall only apply if the report required by subsection B of this section demonstrates applied behavioral analysis treatment to be evidence-based and essential to qualifying participants in the Oklahoma Medicaid Program.

D. As used in this section:

1. "Applied behavior analysis" means 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" means 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) or the edition that was in effect at the time of diagnosis;

3. "Behavioral health treatment" means counseling and treatment programs, including applied behavior analysis, that are:

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

b. provided by a board-certified behavior analyst or by a licensed doctoral-level psychologist so long as the services performed are commensurate with the

psychologist's university training and supervised experience; and

4. "Treatment for autism spectrum disorder" means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or a licensed doctoral-level psychologist who determines the care to be medically necessary, including, but not limited to:

a. behavioral health treatment,

b. pharmacy care,

c. psychiatric care,

d. psychological care, and

e. therapeutic care.

SECTION 3. AMENDATORY 36 O.S. 2011, Section 6060.20, is amended to read as follows:

Section 6060.20 A. All individual and group health insurance policies that provide medical and surgical benefits shall provide the same coverage and benefits to any individual under the age of eighteen (18) years who has been diagnosed with an autistic disorder as it would provide coverage and benefits to an individual under the age of eighteen (18) years who has not been diagnosed with an autistic disorder.

B. As used in this section, "autistic disorder" means a neurological disorder that is marked by severe impairment in social interaction, communication, and imaginative ~~plan~~ play, with onset during the first three (3) years of life and is included in a group of disorders known as autism spectrum disorders.

~~C. Nothing in this section shall be construed to require an insurer to provide any benefits for the diagnosis or treatment of any autistic disorder.~~

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6060.22 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. A health benefit plan that, at the end of its base period, experiences a greater than one percent (1%) increase in premium costs pursuant to providing applied behavior analysis for treatment of autism spectrum disorders shall be exempt from the provisions of this act.

2. To calculate base-period-premium costs, the health benefit plan shall subtract from premium costs incurred during the base period, both the premium costs incurred during the period immediately preceding the base period and any premium cost increases attributable to factors unrelated to benefits for treatment of autism spectrum disorders.

3. a. To claim the exemption provided for in subsection A of this section a health benefit plan shall provide to the Insurance Commissioner a written request signed by an actuary stating the reasons and actuarial assumptions upon which the request is based.

b. The Commissioner shall verify the information provided and shall approve or disapprove the request within thirty (30) days of receipt.

c. If, upon investigation, the Commissioner finds that any statement of fact in the request is found to be knowingly false, the health benefit plan may be subject to suspension or loss of license or any other penalty as determined by the Commissioner, or the State Commissioner of Health with regard to health maintenance organizations.

SECTION 5. This act shall become effective November 1, 2016.

Passed the House of Representatives the 27th day of April, 2016.

Presiding Officer of the House of Representatives

Passed the Senate the 14th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 28th day of April, 2016, at 11:55 o'clock A M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 4th day of May, 2016, at 4:30 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 4th day of May, 2016, at 4:40 o'clock P. M.

By: Chris Benge