

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1545

5 By: Representatives M. Davis, L. Johnson, Maddox, Vaught
6 By: Senator K. Ingram
7

For An Act To Be Entitled

9 AN ACT TO UPDATE THE ARKANSAS CODE REGARDING LANGUAGE
10 ASSOCIATED WITH AUTISM SPECTRUM DISORDERS; AND FOR
11 OTHER PURPOSES.
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Subtitle

14 TO UPDATE THE ARKANSAS CODE REGARDING
15 LANGUAGE ASSOCIATED WITH AUTISM SPECTRUM
16 DISORDERS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 20-77-124 is amended to read as follows:
23 20-77-124. Medicaid waiver for autism spectrum disorder – Definitions.
24 (a) As used in this section:

25 (1) “Autism spectrum disorder” means a ~~neurobiological~~ condition
26 that ~~causes significant communication, social, and behavioral challenges that~~
27 ~~is diagnosed by a team of professionals, including without limitation a~~
28 ~~licensed physician, licensed psychologist, and a licensed speech language~~
29 ~~pathologist~~ diagnosed by at least two (2) qualified professionals who both
30 conclude that a child fully meets the diagnostic criteria under the most
31 recent edition of the American Psychiatric Association’s Diagnostic and
32 Statistical Manual of Mental Disorders;

33 (2) “Evidence-based ~~strategies~~ treatment” means ~~treatments that~~
34 ~~have been proven effective with children diagnosed with autism spectrum~~
35 ~~disorder as established~~ treatment subject to research that applies rigorous,
36 systematic, and objective procedures to obtain valid knowledge of



1 effectiveness relative to autism spectrum disorder as published by the
 2 National Standards Report by the National Autism Center; ~~and~~

3 (3) "Intensive early intervention treatment" means
 4 individualized treatment utilizing evidence-based ~~strategies based on~~
 5 treatment determined appropriate following a detailed assessment of the child
 6 that occurs:

7 (A) In the home of the child or a natural community
 8 setting; and

9 (B) In the presence of the parent or legal guardian of the
 10 child; and

11 ~~(C) For a maximum period of twenty-five (25) hours per~~
 12 ~~week.~~

13 (4)(A) "Qualified professional" means a professional who is
 14 educated and licensed in fields related to physical health, mental health,
 15 and child and adolescent physical and psychological development.

16 (B) A "qualified professional" only includes a licensed
 17 physician, licensed psychologist, or licensed speech-language pathologist.

18 (b)(1) The Department of Human Services shall ~~seek~~ maintain a Medicaid
 19 waiver from the Centers for Medicare & Medicaid Services to provide intensive
 20 early intervention treatment to any eligible child who has ~~been diagnosed~~
 21 with a primary diagnosis of an autism spectrum disorder.

22 (2)(A) The waiver shall ~~be~~ provide services for young children
 23 ~~eighteen (18) months of age through seven (7) years of age~~ consistent with
 24 the terms specified in the waiver application approved by the Centers for
 25 Medicare and Medicaid Services.

26 ~~(B) A child shall not participate in the Medicaid waiver~~
 27 ~~under this section for more than three (3) years.~~

28 ~~(C) The Medicaid waiver under this section shall not pay~~
 29 ~~more than fifty thousand dollars (\$50,000) annually per child.~~

30 (3) The waiver shall seek to develop skills of children in the
 31 areas of cognition, behavior, communication, and social interaction.

32 (c)(1) ~~The department shall apply for the Medicaid waiver under this~~
 33 ~~section only as funding becomes available for that purpose.~~

34 (2) ~~No later than January 1, 2016,~~ To the extent funding becomes
 35 appropriated and available, the department shall apply to add ~~an~~ additional
 36 ~~fifty (50) eligibility slots to the Medicaid waiver for autism, to the extent~~

1 ~~that appropriation and funding are available~~ spectrum disorder.

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 3 SECTION 2. Arkansas Code § 23-99-418(a), concerning the definitions
 4 for coverage of autism spectrum disorders, is amended to read as follows:

5 (a) As used in this section:

6 (1) "Applied behavior analysis" means the design,
 7 implementation, and evaluation of environmental modifications by a board-
 8 certified behavior analyst using behavioral stimuli and consequences to
 9 produce socially significant improvement in human behavior, including the use
 10 of direct observation, measurement, and functional analysis of the
 11 relationship between environment and behavior;

12 (2) "Autism services provider" means a person, entity, or group
 13 that provides diagnostic evaluations and treatment of autism spectrum
 14 disorders, including licensed physicians, licensed psychiatrists, licensed
 15 ~~speech therapists~~ speech-language pathologists, licensed occupational
 16 therapists, licensed physical therapists, licensed psychologists, and board-
 17 certified behavior analysts;

18 (3) "Autism spectrum disorder" means ~~any of the pervasive~~
 19 ~~developmental disorders as defined by the most recent edition of the~~
 20 ~~Diagnostic and Statistical Manual of Mental Disorders, including:~~

21 ~~(A) Autistic disorder;~~

22 ~~(B) Asperger's disorder; and~~

23 ~~(C) Pervasive developmental disorder not otherwise~~
 24 ~~specified;~~ a condition diagnosed according to the diagnostic criteria under
 25 the most recent edition of the American Psychiatric Association's Diagnostic
 26 and Statistical Manual of Mental Disorders;

27 (4) "Board-certified behavior analyst" means an individual
 28 certified by the ~~nationally accredited~~ Behavior Analyst Certification Board,
 29 a ~~nationally accredited~~ national nongovernmental agency that certifies
 30 individuals who have completed academic, examination, training, and
 31 supervision requirements in applied behavior analysis;

32 (5)(A) "Diagnosis" means medically necessary assessment,
 33 evaluations, or tests to diagnose whether or not an individual has an autism
 34 spectrum disorder.

35 (B) Diagnostic evaluations do not need to be completed
 36 concurrently to diagnose autism spectrum disorder;

1 (6) “Evidence-based treatment” means treatment subject to
2 research that applies rigorous, systematic, and objective procedures to
3 obtain valid knowledge of effectiveness relevant to autism spectrum disorders
4 as published in the National Standards Report of the National Autism Center;

5 (7)(A) “Health benefit plan” means any group or blanket plan,
6 policy, or contract for healthcare services issued or delivered in this state
7 by healthcare insurers, including indemnity and managed care plans and the
8 plans providing health benefits to state and public school employees under §
9 21-5-401 et seq., but excluding individual major medical plans and plans
10 providing healthcare services under Arkansas Constitution, Article 5, § 32,
11 the Workers’ Compensation Law, § 11-9-101 et seq., and the Public Employee
12 Workers’ Compensation Act, § 21-5-601 et seq.

13 (B) “Health benefit plan” does not include an accident-
14 only, specified disease, hospital indemnity, Medicare supplement, long-term
15 care, disability income, or other limited benefit health insurance policy;

16 (8) “Healthcare insurer” means any insurance company, hospital
17 and medical service corporation, or health maintenance organization issuing
18 or delivering health benefit plans in this state and subject to any of the
19 following laws:

20 (A) The insurance laws of this state;

21 (B) Section 23-75-101 et seq., pertaining to hospital and
22 medical service corporations; and

23 (C) Section 23-76-101 et seq., pertaining to health
24 maintenance organizations;

25 (9) “Medically necessary” means reasonably expected to do the
26 following:

27 (A) Prevent the onset of an illness, condition, injury, or
28 disability;

29 (B) Reduce or ameliorate the physical, mental, or
30 developmental effects of an illness, condition, injury, or disability; or

31 (C) Assist to achieve or maintain maximum functional
32 capacity in performing daily activities, taking into account both the
33 functional capacity of the individual and the functional capacities that are
34 appropriate for individuals of the same age;

35 (10) “Pharmacy care” means medications prescribed by a licensed
36 physician and any health-related services deemed medically necessary to

1 determine the need or effectiveness of the medications;

2 (11) "Psychiatric care" means direct or consultative services
 3 provided by a psychiatrist licensed in the state in which the psychiatrist
 4 practices;

5 (12) "Psychological care" means direct or consultative services
 6 provided by a psychologist licensed in the state in which the psychologist
 7 practices;

8 (13) "Therapeutic care" means services provided by licensed
 9 ~~speech therapists~~ speech-language pathologists, occupational therapists, or
 10 physical therapists; and

11 (14) "Treatment" includes:

12 (A) The following care prescribed, provided, or ordered
 13 for a specific individual diagnosed with an autism spectrum disorder ~~by a~~
 14 ~~licensed physician or a licensed psychologist who determines the care to be~~
 15 ~~medically necessary and evidence-based~~, including without limitation:

16 (i) Applied behavior analysis when provided by or
 17 supervised by a board-certified behavior analyst;

18 (ii) Pharmacy care;

19 (iii) Psychiatric care;

20 (iv) Psychological care;

21 (v) Therapeutic care; and

22 (vi) Equipment determined necessary to provide
 23 evidence-based treatment; and

24 (B) Any care for an individual with autism spectrum
 25 disorder that is determined by a licensed physician to be:

26 (i) Medically necessary; and

27 (ii) Evidence-based.

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 30 **APPROVED: 4/12/21**