

Introduced by Senator Rubio

February 21, 2013

An act to amend Section 1374.73 of the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 488, as introduced, Rubio. Health care coverage: pervasive developmental disorder or autism.

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 and makes a willful violation of the act a crime. Existing law requires health care service plan contracts and health insurance policies to provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism. These provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015.

This bill would make technical, nonsubstantive changes to those provisions.

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

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

1 SECTION 1. Section 1374.73 of the Health and Safety Code
2 is amended to read:
3 1374.73. (a) (1) Every health care service plan contract that
4 provides hospital, medical, or surgical coverage shall also provide
5 coverage for behavioral health treatment for pervasive
6 developmental disorder or autism no later than July 1, 2012. The

1 coverage shall be provided in the same manner and shall be subject
2 to the same requirements as provided in Section 1374.72.

3 (2) Notwithstanding paragraph (1), as of the date that proposed
4 final rulemaking for essential health benefits is issued, this section
5 does not require any benefits to be provided that exceed the
6 essential health benefits that all health plans will be required by
7 federal regulations to provide under Section 1302(b) of the federal
8 Patient Protection and Affordable Care Act (Public Law 111-148),
9 as amended by the federal Health Care and Education
10 Reconciliation Act of 2010 (Public Law 111-152).

11 (3) This section shall not affect services for which an individual
12 is eligible pursuant to Division 4.5 (commencing with Section
13 4500) of the Welfare and Institutions Code or Title 14
14 (commencing with Section 95000) of the Government Code.

15 (4) This section shall not affect or reduce any obligation to
16 provide services under an individualized education program, as
17 defined in Section 56032 of the Education Code, or an
18 ~~individualized~~ *individual* service plan, as described in Section
19 5600.4 of the Welfare and Institutions Code, or under the
20 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400,
21 et seq.) and its implementing regulations.

22 (b) Every health care service plan subject to this section shall
23 maintain an adequate network that includes qualified autism service
24 providers who supervise and employ qualified autism service
25 professionals or paraprofessionals who provide and administer
26 behavioral health treatment. Nothing shall prevent a health care
27 service plan from selectively contracting with providers within
28 these requirements.

29 (c) For the purposes of this section, the following definitions
30 shall apply:

31 (1) “Behavioral health treatment” means professional services
32 and treatment programs, including applied behavior analysis and
33 evidence-based behavior intervention programs, that develop or
34 restore, to the maximum extent practicable, the functioning of an
35 individual with pervasive developmental disorder or autism and
36 that meet all of the following criteria:

37 (A) The treatment is prescribed by a physician and surgeon
38 licensed pursuant to Chapter 5 (commencing with Section 2000)
39 of, or is developed by a psychologist licensed pursuant to Chapter

1 6.6 (commencing with Section 2900) of, Division 2 of the Business
2 and Professions Code.

3 (B) The treatment is provided under a treatment plan prescribed
4 by a qualified autism service provider and is administered by one
5 of the following:

6 (i) A qualified autism service provider.

7 (ii) A qualified autism service professional supervised and
8 employed by the qualified autism service provider.

9 (iii) A qualified autism service paraprofessional supervised and
10 employed by a qualified autism service provider.

11 (C) The treatment plan has measurable goals over a specific
12 timeline that is developed and approved by the qualified autism
13 service provider for the specific patient being treated. The treatment
14 plan shall be reviewed no less than once every six months by the
15 qualified autism service provider and modified whenever
16 appropriate, and shall be consistent with Section 4686.2 of the
17 Welfare and Institutions Code pursuant to which the qualified
18 autism service provider does all of the following:

19 (i) Describes the patient’s behavioral health impairments to be
20 treated.

21 (ii) Designs an intervention plan that includes the service type,
22 number of hours, and parent participation needed to achieve the
23 plan’s goal and objectives, and the frequency at which the patient’s
24 progress is evaluated and reported.

25 (iii) Provides intervention plans that utilize evidence-based
26 practices, with demonstrated clinical efficacy in treating pervasive
27 developmental disorder or autism.

28 (iv) Discontinues intensive behavioral intervention services
29 when the treatment goals and objectives are achieved or no longer
30 appropriate.

31 (D) The treatment plan is not used for purposes of providing or
32 for the reimbursement of respite, day care, or educational services
33 and is not used to reimburse a parent for participating in the
34 treatment program. The treatment plan shall be made available to
35 the health care service plan upon request.

36 (2) “Pervasive developmental disorder or autism” shall have
37 the same meaning and interpretation as used in Section 1374.72.

38 (3) “Qualified autism service provider” means either of the
39 following:

1 (A) A person, entity, or group that is certified by a national
2 entity, such as the Behavior Analyst Certification Board, that is
3 accredited by the National Commission for Certifying Agencies,
4 and who designs, supervises, or provides treatment for pervasive
5 developmental disorder or autism, provided the services are within
6 the experience and competence of the person, entity, or group that
7 is nationally certified.

8 (B) A person licensed as a physician and surgeon, physical
9 therapist, occupational therapist, psychologist, marriage and family
10 therapist, educational psychologist, clinical social worker,
11 professional clinical counselor, speech-language pathologist, or
12 audiologist pursuant to Division 2 (commencing with Section 500)
13 of the Business and Professions Code, who designs, supervises,
14 or provides treatment for pervasive developmental disorder or
15 autism, provided the services are within the experience and
16 competence of the licensee.

17 (4) “Qualified autism service professional” means an individual
18 who meets all of the following criteria:

19 (A) Provides behavioral health treatment.

20 (B) Is employed and supervised by a qualified autism service
21 provider.

22 (C) Provides treatment pursuant to a treatment plan developed
23 and approved by the qualified autism service provider.

24 (D) Is a behavioral service provider approved as a vendor by a
25 California regional center to provide services as an Associate
26 Behavior Analyst, Behavior Analyst, Behavior Management
27 Assistant, Behavior Management Consultant, or Behavior
28 Management Program as defined in Section 54342 of Title 17 of
29 the California Code of Regulations.

30 (E) Has training and experience in providing services for
31 pervasive developmental disorder or autism pursuant to Division
32 4.5 (commencing with Section 4500) of the Welfare and
33 Institutions Code or Title 14 (commencing with Section 95000)
34 of the Government Code.

35 (5) “Qualified autism service paraprofessional” means an
36 ~~unlicensed and uncertified~~ *uncertified and unlicensed* individual
37 who meets all of the following criteria:

38 (A) Is employed and supervised by a qualified autism service
39 provider.

1 (B) Provides treatment and implements services pursuant to a
2 treatment plan developed and approved by the qualified autism
3 service provider.

4 (C) Meets the criteria set forth in the regulations adopted
5 pursuant to Section 4686.3 of the Welfare and Institutions Code.

6 (D) Has adequate education, training, and experience, as
7 certified by a qualified autism service provider.

8 (d) This section shall not apply to the following:

9 (1) A specialized health care service plan that does not deliver
10 mental health or behavioral health services to enrollees.

11 (2) A health care service plan contract in the Medi-Cal program
12 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
13 9 of the Welfare and Institutions Code).

14 (3) A health care service plan contract in the Healthy Families
15 Program (Part 6.2 (commencing with Section 12693) of Division
16 2 of the Insurance Code).

17 (4) A health care benefit plan or contract entered into with the
18 Board of Administration of the Public Employees' Retirement
19 System pursuant to the Public Employees' Medical and Hospital
20 Care Act (Part 5 (commencing with Section 22750) of Division 5
21 of Title 2 of the Government Code).

22 (e) Nothing in this section shall be construed to limit the
23 obligation to provide services under Section 1374.72.

24 (f) As provided in Section 1374.72 and in paragraph (1) of
25 subdivision (a), in the provision of benefits required by this section,
26 a health care service plan may utilize case management, network
27 providers, utilization review techniques, prior authorization,
28 copayments, or other cost sharing.

29 (g) This section shall become inoperative on July 1, 2014, and,
30 as of January 1, 2015, is repealed, unless a later enacted statute,
31 that becomes operative on or before January 1, 2015, deletes or
32 extends the dates on which it becomes inoperative and is repealed.