

**As Reported by the House Healthcare Access and Affordability
Committee**

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Sub. H. B. No. 8

Representatives Celeste, Garland

**Cosponsors: Representatives Okey, Harris, Dyer, Foley, Lundy, Harwood,
Koziura, Stebelton, Hagan, Skindell, Stewart, Heard, Mallory, DeBose, Patten,
Pryor, Yuko, Pillich, Newcomb, Murray, Phillips, Winburn, Letson, Bolon,
Luckie, Williams, B., Slesnick, Moran**

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A B I L L

To amend section 1739.05 and to enact sections 1
1751.68 and 3923.84 of the Revised Code to 2
prohibit health insurers from excluding coverage 3
for specified services for individuals diagnosed 4
with an autism spectrum disorder. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1739.05 be amended and sections 6
1751.68 and 3923.84 of the Revised Code be enacted to read as 7
follows: 8

Sec. 1739.05. (A) A multiple employer welfare arrangement 9
that is created pursuant to sections 1739.01 to 1739.22 of the 10
Revised Code and that operates a group self-insurance program may 11
be established only if any of the following applies: 12

(1) The arrangement has and maintains a minimum enrollment of 13
three hundred employees of two or more employers. 14

(2) The arrangement has and maintains a minimum enrollment of 15
three hundred self-employed individuals. 16

(3) The arrangement has and maintains a minimum enrollment of 17
three hundred employees or self-employed individuals in any 18
combination of divisions (A)(1) and (2) of this section. 19

(B) A multiple employer welfare arrangement that is created 20
pursuant to sections 1739.01 to 1739.22 of the Revised Code and 21
that operates a group self-insurance program shall comply with all 22
laws applicable to self-funded programs in this state, including 23
sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 24
to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 25
3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.63, 3923.80, 26
3923.84, 3924.031, 3924.032, and 3924.27 of the Revised Code. 27

(C) A multiple employer welfare arrangement created pursuant 28
to sections 1739.01 to 1739.22 of the Revised Code shall solicit 29
enrollments only through agents or solicitors licensed pursuant to 30
Chapter 3905. of the Revised Code to sell or solicit sickness and 31
accident insurance. 32

(D) A multiple employer welfare arrangement created pursuant 33
to sections 1739.01 to 1739.22 of the Revised Code shall provide 34
benefits only to individuals who are members, employees of 35
members, or the dependents of members or employees, or are 36
eligible for continuation of coverage under section 1751.53 or 37
3923.38 of the Revised Code or under Title X of the "Consolidated 38
Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 39
U.S.C.A. 1161, as amended. 40

Sec. 1751.68. (A) Notwithstanding section 3901.71 of the 41
Revised Code, no health insuring corporation policy, contract, or 42
agreement that provides basic health care services that is 43
delivered, issued for delivery, or renewed in this state shall 44
exclude coverage for the screening and diagnosis of autism 45

spectrum disorders or for any of the following services when those 46
services are medically necessary and are prescribed, provided, or 47
ordered for an individual diagnosed with an autism spectrum 48
disorder by a health care professional licensed or certified under 49
the laws of this state to prescribe, provide, or order such 50
services: 51

(1) Habilitative or rehabilitative care; 52

(2) Pharmacy care if the policy, contract, or agreement 53
provides coverage for other prescription drug services; 54

(3) Psychiatric care; 55

(4) Psychological care; 56

(5) Therapeutic care; 57

(6) Counseling services; 58

(7) Any additional treatments or therapies adopted by the 59
director of mental retardation and developmental disabilities 60
pursuant to division (I)(4) of section 3923.84 of the Revised 61
Code. 62

(B) Coverage provided under this section shall not be subject 63
to any limits on the number or duration of visits an individual 64
may make to any autism service provider if the services are 65
medically necessary. 66

(C) Coverage provided under this section may be subject to 67
any copayment, deductible, and coinsurance provisions of the 68
policy, contract, or agreement to the extent that other medical 69
services covered by the policy, contract, or agreement are subject 70
to those provisions. 71

(D) Not more than once every twelve months, a health insuring 72
corporation may request a review of any treatment provided under 73
this section except inpatient services unless the insured's 74

licensed physician or licensed psychologist agrees that more 75
frequent review is necessary. The health insuring corporation 76
shall pay for any review requested under this division. 77

(E) This section shall not be construed as limiting benefits 78
otherwise available under an individual's policy, contract, or 79
agreement. 80

(F) This section shall not be construed as affecting any 81
obligation to provide services to an individual under an 82
individualized family service plan developed under 20 U.S.C. 1436 83
or individualized service plan developed under section 5126.31 of 84
the Revised Code, or affecting the duty of a public school to 85
provide a child with a disability with a free appropriate public 86
education under the "Individuals with Disabilities Education 87
Improvement Act of 2004," 20 U.S.C. 1400 et seq., as amended, and 88
Chapter 3323. of the Revised Code. 89

(G) A health insuring corporation that offers coverage for 90
basic health care services is not required to offer the coverage 91
required under division (A) of this section in combination with 92
the offer of coverage for basic health care services if all of the 93
following apply: 94

(1) The health insuring corporation submits documentation 95
certified by an independent member of the American academy of 96
actuaries to the superintendent of insurance showing that incurred 97
claims for the coverage required under division (A) of this 98
section for a period of at least six months independently caused 99
the health insuring corporation's costs for claims and 100
administrative expenses for the coverage of all covered services 101
to increase by more than one per cent per year. 102

(2) The health insuring corporation submits a signed letter 103
from an independent member of the American academy of actuaries to 104
the superintendent of insurance opining that the increase in costs 105

described in division (D)(1) of this section could reasonably 106
justify an increase of more than one per cent in the annual 107
premiums or rates charged by the health insuring corporation for 108
the coverage of basic health care services. 109

(3) The superintendent of insurance makes the following 110
determinations from the documentation and opinion submitted 111
pursuant to divisions (D)(1) and (2) of this section: 112

(a) Incurred claims for the coverage required under division 113
(A) of this section for a period of at least six months 114
independently caused the health insuring corporation's costs for 115
claims and administrative expenses for the coverage of all covered 116
services to increase by more than one per cent per year. 117

(b) The increase in costs reasonably justifies an increase of 118
more than one per cent in the annual premiums or rates charged by 119
the health insuring corporation for the coverage of basic health 120
care services. 121

Any determination made by the superintendent under this 122
division is subject to Chapter 119. of the Revised Code. 123

(H) As used in this section: 124

(1) "Applied behavior analysis" means the design, 125
implementation, and evaluation of environmental modifications 126
using behavioral stimuli and consequences to produce socially 127
significant improvement in human behavior, including, but not 128
limited to, the use of direct observation, measurement, and 129
functional analysis of the relationship between environment and 130
behavior. 131

(2) "Autism services provider" means any person whose 132
professional scope of practice allows treatment of autism spectrum 133
disorders. 134

(3) "Autism spectrum disorder" means any of the pervasive 135

developmental disorders as defined by the most recent edition of 136
the diagnostic and statistical manual of mental disorders, 137
published by the American psychiatric association, or if that 138
manual is no longer published, a similar diagnostic manual. Autism 139
spectrum disorders includes, but is not limited to, autistic 140
disorder, Asperger's disorder, Rett's disorder, childhood 141
disintegrative disorder, and pervasive developmental disorder. 142

(4) "Diagnosis of autism spectrum disorders" means medically 143
necessary assessments, evaluations, or tests, including but not 144
limited to genetic and psychological tests to determine whether an 145
individual has an autism spectrum disorder. 146

(5) "Habilitative or rehabilitative care" means professional, 147
counseling, and guidance services and treatment programs, 148
including applied behavior analysis, that are necessary to 149
develop, maintain, or restore the functioning of an individual to 150
the maximum extent practicable. 151

(6) "Medically necessary" means the service is based upon 152
evidence; is prescribed, provided, or ordered by a health care 153
professional licensed or certified under the laws of this state to 154
prescribe, provide, or order autism-related services in accordance 155
with accepted standards of practice; and will or is reasonably 156
expected to do any of the following: 157

(a) Prevent the onset of an illness, condition, injury, or 158
disability; 159

(b) Reduce or ameliorate the physical, mental or 160
developmental effects of an illness, condition, injury, or 161
disability; 162

(c) Assist in achieving or maintaining maximum functional 163
capacity for performing daily activities, taking into account both 164
the functional capacity of the individual and the appropriate 165
functional capacities of individuals of the same age. 166

(7) "Pharmacy care" means prescribed medications and any medically necessary health-related services used to determine the need or effectiveness of the medications. 167
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(8) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices psychiatry. 170
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(9) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices psychology. 173
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(10) "Therapeutic care" means services, communication devices, or other adaptive devices or equipment provided by a licensed speech-language pathologist, licensed occupational therapist, or licensed physical therapist. 176
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Sec. 3923.84. (A) Notwithstanding section 3901.71 of the Revised Code, no individual or group policy of sickness and accident insurance that is delivered, issued for delivery, or renewed in this state or public employee benefit plan established or modified in this state shall exclude coverage for the screening and diagnosis of autism spectrum disorders or for any of the following services when those services are medically necessary and are prescribed, provided, or ordered for an individual diagnosed with an autism spectrum disorder by a health care professional licensed or certified under the laws of this state to prescribe, provide, or order such services: 180
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(1) Habilitative or rehabilitative care; 191

(2) Pharmacy care if the policy, contract, or agreement provides coverage for other prescription drug services; 192
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(3) Psychiatric care; 194

(4) Psychological care; 195

(5) Therapeutic care; 196

<u>(6) Counseling services;</u>	197
<u>(7) Any additional treatments or therapies adopted by the</u>	198
<u>director of mental retardation and developmental disabilities</u>	199
<u>pursuant to division (I)(4) of this section.</u>	200
<u>(B) Coverage provided under this section shall not be subject</u>	201
<u>to any limits on the number or duration of visits an individual</u>	202
<u>may make to any autism services provider if the services are</u>	203
<u>medically necessary.</u>	204
<u>(C) Coverage provided under this section may be subject to</u>	205
<u>any copayment, deductible, and coinsurance provisions of the</u>	206
<u>policy or plan to the extent that other medical services covered</u>	207
<u>by the policy or plan are subject to those provisions.</u>	208
<u>(D) Not more than once every twelve months, an insurer may</u>	209
<u>request a review of any treatment provided under this section</u>	210
<u>except inpatient services unless the insured's licensed physician</u>	211
<u>or licensed psychologist agrees that more frequent review is</u>	212
<u>necessary. The insurer shall pay for any review requested under</u>	213
<u>this division.</u>	214
<u>(E) This section shall not be construed as limiting benefits</u>	215
<u>otherwise available under an individual's policy or plan.</u>	216
<u>(F) This section shall not be construed as affecting any</u>	217
<u>obligation to provide services to an individual under an</u>	218
<u>individualized family service plan developed under 20 U.S.C. 1436</u>	219
<u>or individualized service plan developed under section 5126.31 of</u>	220
<u>the Revised Code, or affecting the duty of a public school to</u>	221
<u>provide a child with a disability with a free appropriate public</u>	222
<u>education under the "Individuals with Disabilities Education</u>	223
<u>Improvement Act of 2004," 20 U.S.C. 1400 et seq., as amended, and</u>	224
<u>Chapter 3323. of the Revised Code.</u>	225
<u>(G) This section does not apply to the offer or renewal of</u>	226
<u>any individual or group policy of sickness and accident insurance</u>	227

that provides coverage for specific diseases or accidents only, or 228
to any hospital indemnity, medicare supplement, medicare, tricare, 229
long-term care, disability income, one-time limited duration 230
policy of not longer than six months, or other policy that offers 231
only supplemental benefits. 232

(H) A public employee benefit plan or insurer that offers a 233
policy of sickness and accident insurance is not required to offer 234
the coverage required under division (A) of this section if all of 235
the following apply: 236

(1) The insurer or public employee benefit plan submits 237
documentation certified by an independent member of the American 238
academy of actuaries to the superintendent of insurance showing 239
that incurred claims for the coverage required under division (A) 240
of this section for a period of at least six months independently 241
caused the costs for claims and administrative expenses for the 242
coverage of all covered services to increase by more than one per 243
cent per year. 244

(2) The insurer or public employee benefit plan submits a 245
signed letter from an independent member of the American academy 246
of actuaries to the superintendent of insurance opining that the 247
increase in costs described in division (D)(1) of this section 248
could reasonably justify an increase of more than one per cent in 249
the annual premiums or rates charged by the insurer or public 250
employee benefit plan for the coverage of all covered services. 251

(3) The superintendent of insurance makes the following 252
determinations from the documentation and opinion submitted 253
pursuant to divisions (D)(1) and (2) of this section: 254

(a) Incurred claims for the coverage required under division 255
(A) of this section for a period of at least six months 256
independently caused the costs for claims and administrative 257
expenses for the coverage of all covered services to increase by 258

more than one per cent per year. 259

(b) The increase in costs reasonably justifies an increase of 260
more than one per cent in the annual premiums or rates charged by 261
the insurer or public employee benefit plan for the coverage of 262
all covered services. 263

Any determination made by the superintendent under this 264
division is subject to Chapter 119. of the Revised Code. 265

(I)(1) The director of mental retardation and developmental 266
disabilities shall convene a committee on the coverage of autism 267
spectrum disorders to investigate and recommend treatments or 268
therapies for autism spectrum disorders that the committee 269
believes should be included in the services that health benefit 270
plans and public employee benefit plans are required to cover 271
under division (A) of this section. 272

(2) The committee shall consist of nine members appointed by 273
the director of mental retardation and developmental disabilities 274
including the director of mental retardation and developmental 275
disabilities, the director of health, at least one licensed 276
physician, licensed psychologist, and parent of an individual 277
diagnosed with an autism spectrum disorder. 278

(3) The committee shall serve at the pleasure of the 279
director. 280

(4) The committee shall submit its recommendations to the 281
director of mental retardation and developmental disabilities. The 282
director may adopt rules in accordance with Chapter 119. of the 283
Revised Code to include additional treatments or therapies for 284
autism spectrum disorders in the services that health benefit 285
plans and public employee benefit plans are required to cover 286
under division (A) of this section. 287

(J) As used in this section: 288

(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, but not limited to, the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior. 289
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(2) "Autism services provider" means any person whose professional scope of practice allows treatment of autism spectrum disorders. 296
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(3) "Autism spectrum disorder" means any of the pervasive developmental disorders as defined by the most recent edition of the diagnostic and statistical manual of mental disorders, published by the American psychiatric association, or if that manual is no longer published, a similar diagnostic manual. Autism spectrum disorders includes, but is not limited to, autistic disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, and pervasive developmental disorder. 299
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(4) "Diagnosis of autism spectrum disorders" means medically necessary assessments, evaluations, or tests, including but not limited to genetic and psychological tests to determine whether an individual has an autism spectrum disorder. 307
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(5) "Habilitative or rehabilitative care" means professional, counseling, and guidance services and treatment programs, including applied behavior analysis, that are necessary to develop, maintain, or restore the functioning of an individual to the maximum extent practicable. 311
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(6) "Health benefit plan" has the same meaning as in section 3924.01 of the Revised Code. 316
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(7) "Medically necessary" means the service is based upon evidence; is prescribed, provided, or ordered by a health care 318
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professional licensed or certified under the laws of this state to 320
prescribe, provide, or order autism-related services in accordance 321
with accepted standards of practice; and will or is reasonably 322
expected to do any of the following: 323

(a) Prevent the onset of an illness, condition, injury, or 324
disability; 325

(b) Reduce or ameliorate the physical, mental or 326
developmental effects of an illness, condition, injury, or 327
disability; 328

(c) Assist in achieving or maintaining maximum functional 329
capacity for performing daily activities, taking into account both 330
the functional capacity of the individual and the appropriate 331
functional capacities of individuals of the same age. 332

(8) "Pharmacy care" means prescribed medications and any 333
medically necessary health-related services used to determine the 334
need or effectiveness of the medications. 335

(9) "Psychiatric care" means direct or consultative services 336
provided by a psychiatrist licensed in the state in which the 337
psychiatrist practices psychiatry. 338

(10) "Psychological care" means direct or consultative 339
services provided by a psychologist licensed in the state in which 340
the psychologist practices psychology. 341

(11) "Therapeutic care" means services, communication 342
devices, or other adaptive devices or equipment provided by a 343
licensed speech-language pathologist, licensed occupational 344
therapist, or licensed physical therapist. 345

Section 2. That existing section 1739.05 of the Revised Code 346
is hereby repealed. 347