

Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1434

Introduced by

Representatives Beadle, Kasper, B. Koppelman, Maragos, Steiner

Senators Burckhard, Dever, Heckaman

1 A BILL for an Act to create and enact a new section to chapter 26.1-36 and a new section to
2 chapter 54-52.1 of the North Dakota Century Code, relating to health insurance coverage for
3 autism-related services; to provide a statement of legislative intent; and to provide for a report to
4 the legislative management.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 26.1-36 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Autism coverage - Report to legislative management.**

9 **1. As used in this section:**

- 10 a. "Applied behavior analysis" has the same meaning as "practice of applied
11 behavior analysis" as defined under section 43-32-01.
- 12 b. "Autism spectrum disorder" means any of the pervasive developmental disorders
13 or autism spectrum disorders as defined by the "Diagnostic and Statistical
14 Manual of Mental Disorders," American psychiatric association, fifth edition
15 (2013) or a more recent version as identified by the insurance commissioner or
16 as defined by the edition in effect at the time of diagnosis.
- 17 c. "Diagnosis of autism spectrum disorder" means any medically necessary
18 assessment, evaluation, or test to diagnose whether an individual has an autism
19 spectrum disorder.
- 20 d. "Behavioral health treatment" means a counseling or treatment program,
21 including applied behavior analysis, that is:
- 22 (1) Necessary to develop, maintain, or restore, to the maximum extent
23 practicable, the functioning of an individual; and
- 24 (2) Provided or supervised by a licensed behavior analyst or psychologist.

- 1 e. "Health insurance policy" means a health insurance plan as defined under
2 section 26.1-36.3-01, whether offered on a group or individual basis. The term
3 does not include a short-term medical policy offered in the individual market.
4 f. "Pharmacy care" means a medication prescribed by an individual authorized to
5 prescribe such a medication and any health-related service deemed medically
6 necessary to determine the need or effectiveness of the medication.
7 g. "Psychiatric care" means a direct or consultative service provided by a
8 psychiatrist licensed in the state in which the psychiatrist practices.
9 h. "Psychological care" means a direct or consultative service provided by a
10 psychologist licensed in the state in which the psychologist practices.
11 i. "Therapeutic care" means any service provided by a licensed speech language
12 pathologist, occupational therapist, or physical therapist.
13 j. "Treatment for autism spectrum disorder" means evidence-based care and
14 related equipment prescribed or ordered for an individual diagnosed with an
15 autism spectrum disorder by a licensed physician or a licensed psychologist who
16 determines the care is medically necessary, including behavioral health
17 treatment, pharmacy care, psychiatric care, psychological care, and therapeutic
18 care.

- 19 2. A health insurance policy must provide coverage for the screening for, diagnosis of,
20 and treatment for autism spectrum disorder in insureds under twenty-six years of age.
21 To the extent the screening for, diagnosis of, and treatment for autism spectrum
22 disorder are not covered by a health insurance policy, coverage under this section
23 must be included in health insurance policies that are delivered, executed, issued,
24 amended, adjusted, or renewed in this state. An insurer may not terminate coverage of
25 an insured or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an
26 individual solely because the insured or individual is diagnosed with or has received
27 treatment for an autism spectrum disorder.
28 3. Coverage under this section is not subject to any limits on the number of visits an
29 insured may make for treatment for autism spectrum disorder.
30 4. Except as allowed under subsection 6, coverage under this section is not subject to
31 dollar limits, deductibles, or coinsurance provisions that are less favorable to an

- 1 insured than the dollar limits, deductibles, or coinsurance provisions that apply to
2 substantially all medical and surgical benefits under the health insurance policy.
- 3 5. This section does not limit benefits that are otherwise available to an insured under a
4 health insurance policy.
- 5 6. Coverage for applied behavior analysis under this section is subject to a maximum
6 benefit of fifty thousand dollars per year. Beginning January 1, 2018, and on an annual
7 basis thereafter, the insurance commissioner shall adjust the maximum benefit
8 adjusted for inflation by using the medical care component of the United States
9 department of labor consumer price index for all urban consumers. The commissioner
10 shall submit the adjusted maximum benefit for publication no later than November first
11 of each calendar year, and the published adjusted maximum benefit is applicable in
12 the following calendar year to health insurance policies subject to this section.
- 13 Payments made by an insurer on behalf of a covered individual for treatment other
14 than applied behavior analysis may not be applied toward any maximum benefit
15 established under this section.
- 16 7. Coverage for applied behavior analysis must include the services of the personnel
17 who work under the supervision of the licensed behavior analyst or psychologist
18 overseeing the program.
- 19 8. Except for inpatient services, if an insured is receiving treatment for an autism
20 spectrum disorder, an insurer may review the treatment plan annually, unless the
21 insurer and the insured's treating physician or psychologist agree a more frequent
22 review is necessary. Any agreement regarding the right to review a treatment plan
23 more frequently is limited in application to a particular insured being treated for an
24 autism spectrum disorder. The cost of obtaining a review or treatment plan must be
25 borne by the insurer.
- 26 9. This section does not affect an obligation to provide services to an individual under an
27 individualized family service plan, an individualized education program, or an
28 individualized service plan.
- 29 10. This section does not apply to nongrandfathered plans in the individual and small
30 group markets which are required to include essential health benefits under the federal
31 Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the

1 federal Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] or to
2 medicare supplement, accident-only, specified disease, hospital indemnity, disability
3 income, long-term care, or other limited benefit hospital insurance policies.
4 11. Before August first of each even-numbered year, the insurance commissioner shall
5 submit a biennial report to the legislative management regarding the implementation of
6 the coverage required under this section. The report must include the total number of
7 insureds diagnosed with autism spectrum disorder; the total cost of all claims paid in
8 the immediately preceding two calendar years for coverage required by this section;
9 the cost of coverage per insured per month; and the average cost per insured for
10 coverage of applied behavior analysis. Health carriers and health benefit plans subject
11 to this section shall provide the insurance department with the data requested by the
12 department for inclusion in the biennial report.

13 **SECTION 2.** A new section to chapter 54-52.1 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Autism coverage.**

16 The board shall provide medical benefits coverage under a contract for insurance pursuant
17 to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for autism
18 coverage in the same manner as provided for under section 1 of this Act.

19 **SECTION 3. LEGISLATIVE INTENT.** This Act is not a mandate of health insurance
20 coverage of services under section 54-03-28.