

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1129**

Introduced by Coash, 27.

Read first time January 19, 2012

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to insurance; to provide requirements for
- 2 coverage of autism spectrum disorders; to define terms;
- 3 and to provide duties for the Director of Insurance.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) For purposes of this section:

2           (a) Applied behavior analysis means the design,  
3 implementation, and evaluation of environmental modifications, using  
4 behavioral stimuli and consequences, to produce socially significant  
5 improvement in human behavior, including the use of direct  
6 observation, measurement, and functional analysis of the relationship  
7 between environment and behavior;

8           (b) Autism services provider means any licensed  
9 physician, psychiatrist, or psychologist that provides treatment of  
10 autism spectrum disorders;

11           (c) Autism spectrum disorder means any of the pervasive  
12 developmental disorders as defined by the most recent edition of the  
13 Diagnostic and Statistical Manual of Mental Disorders, including  
14 Autistic Disorder, Asperger's Disorder, and Pervasive Developmental  
15 Disorder Not Otherwise Specified;

16           (d) Behavioral health treatment means counseling and  
17 treatment programs, including applied behavior analysis, that are:  
18 (i) Necessary to develop, maintain, and restore, to the maximum  
19 extent practicable, the functioning of an individual; and (ii)  
20 provided or supervised by a behavior analyst or a licensed  
21 psychologist if the services performed are within the boundaries of  
22 the psychologist's competency;

23           (e) Diagnosis means a medically necessary assessment,  
24 evaluation, or test to diagnose if an individual has an autism  
25 spectrum disorder;

1           (f) Pharmacy care means a medication that is prescribed  
2 by a licensed physician and any health-related service deemed  
3 medically necessary to determine the need or effectiveness of the  
4 medication;

5           (g) Psychiatric care means a direct or consultative  
6 service provided by a psychiatrist licensed in the state in which he  
7 or she practices;

8           (h) Psychological care means a direct or consultative  
9 service provided by a psychologist licensed in the state in which he  
10 or she practices;

11           (i) Therapeutic care means a service provided by a  
12 licensed speech-language pathologist, occupational therapist, or  
13 physical therapist; and

14           (j) Treatment means evidence-based care, including  
15 related equipment, that is prescribed or ordered for an individual  
16 diagnosed with an autism spectrum disorder by a licensed physician or  
17 a licensed psychologist who determines the care to be medically  
18 necessary, including:

19           (i) Behavioral health treatment;

20           (ii) Pharmacy care;

21           (iii) Psychiatric care;

22           (iv) Psychological care; and

23           (v) Therapeutic care.

24           (2) Notwithstanding section 44-3,131, (a) any individual  
25 or group sickness and accident insurance policy or subscriber

1 contract delivered, issued for delivery, or renewed in this state and  
2 any hospital, medical, or surgical expense-incurred policy, except  
3 for policies that provide coverage for a specified disease or other  
4 limited-benefit coverage, and (b) any self-funded employee benefit  
5 plan to the extent not preempted by federal law, including any such  
6 plan provided for employees of the State of Nebraska, shall provide  
7 coverage for the screening, diagnosis, and treatment of an autism  
8 spectrum disorder in an individual under twenty-one years of age. To  
9 the extent that the screening, diagnosis, and treatment of autism  
10 spectrum disorder are not already covered by such policy or contract,  
11 coverage under this section shall be included in such policies or  
12 contracts that are delivered, issued for delivery, amended, or  
13 renewed in this state or outside this state if the policy or contract  
14 insures a resident of Nebraska on or after January 1, 2013. No  
15 insurer shall terminate coverage or refuse to deliver, issue for  
16 delivery, amend, or renew coverage of the insured as a result of an  
17 autism spectrum disorder diagnosis or treatment.

18 (3) Except as provided in subsection (4) of this section,  
19 coverage for an autism spectrum disorder shall not be subject to any  
20 limits on the number of visits an individual may make for treatment  
21 of an autism spectrum disorder, nor shall such coverage be subject to  
22 dollar limits, deductibles, copayments, or coinsurance provisions  
23 that are less favorable to an insured than the equivalent provisions  
24 that apply to a general physical illness under the policy.

25 (4) Coverage for behavioral health treatment, including

1 applied behavior analysis and other evidence-based care, shall be  
2 subject to a maximum benefit of seventy thousand dollars per year for  
3 an insured nine years of age or younger and twenty thousand dollars  
4 per year for an insured over nine years of age. On or after January  
5 1, 2014, the Director of Insurance shall, on an annual basis, adjust  
6 the maximum benefit for inflation by using the medical care component  
7 of the United States Department of Labor, Bureau of Labor Statistics,  
8 Consumer Price Index for All Urban Consumers. The director shall  
9 submit the adjusted maximum benefit for publication annually no later  
10 than X of each calendar year, and the published adjusted maximum  
11 benefit will be applicable in the following calendar year to policies  
12 and contracts subject to this section. Payments made by an insurer on  
13 behalf of a covered individual for treatment other than behavioral  
14 health treatment, including applied behavior analysis and other  
15 evidence-based care shall not be applied to any maximum benefit  
16 established under this section.

17 (5) Except in the case of inpatient service, if an  
18 individual is receiving treatment for an autism spectrum disorder, an  
19 insurer shall have the right to request a review of that treatment  
20 not more than once every twelve months unless the insurer and the  
21 individual's licensed physician or licensed psychologist execute an  
22 agreement that a more frequent review is necessary. Any such  
23 agreement regarding the right to review a treatment plan more  
24 frequently shall apply only to a particular individual being treated  
25 for an autism spectrum disorder and shall not apply to all

1 individuals being treated for autism spectrum disorder by a licensed  
2 physician or licensed psychologist. The cost of obtaining a review  
3 under this subsection shall be borne by the insurer.

4 (6) This section shall not be construed as limiting any  
5 benefit that is otherwise available to an individual under a  
6 hospital, surgical, or medical expense-incurred policy or health  
7 maintenance organization contract. This section shall not be  
8 construed as affecting any obligation to provide services to an  
9 individual under an individualized family service plan,  
10 individualized education program, or individualized service plan.