

AMENDMENTS TO LB799

(Amendments to Standing Committee amendments, AM1730)

Introduced by Conrad

1 1. Insert the following new sections:

2 Sec. 2. (1) Notwithstanding section 44-3,131, (a) any
3 individual or group sickness and accident insurance policy,
4 certificate, or subscriber contract delivered, issued for delivery,
5 or renewed in this state and any hospital, medical, or surgical
6 expense-incurred policy, except for short-term major medical
7 policies of six months or less duration and policies that
8 provide coverage for a specified disease or other limited-benefit
9 coverage, and (b) any self-funded employee benefit plan to
10 the extent not preempted by federal law shall include coverage
11 for amino acid-based elemental formulas, regardless of delivery
12 method, for the diagnosis and treatment of Immunoglobulin E
13 and non-Immunoglobulin E mediated allergies to multiple food
14 proteins, food-protein-induced enterocolitis syndrome, eosinophilic
15 disorders, and impaired absorption of nutrients caused by disorders
16 affecting the absorptive surface, functional length, and motility
17 of the gastrointestinal tract, when the ordering physician has
18 issued a written order stating that the amino acid-based elemental
19 formula is medically necessary for the treatment of a disease or
20 disorder.

21 (2) This section does not prevent application of
22 deductible or copayment provisions contained in the policy,

1 certificate, contract, or employee benefit plan or require that
2 such coverage be extended to any other procedures.

3 Sec. 3. (1) For purposes of this section:

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

10 (b) Autism spectrum disorder means any of the pervasive
11 developmental disorders or autism spectrum disorder as defined by
12 the Diagnostic and Statistical Manual of Mental Disorders, as the
13 most recent edition of such manual existed on the effective date of
14 this act;

15 (c) Behavioral health treatment means counseling and
16 treatment programs, including applied behavior analysis, that are:

17 (i) Necessary to develop, maintain, or restore, to the maximum
18 extent practicable, the functioning of an individual; and (ii)
19 provided or supervised, either in person or by telehealth, by a
20 behavior analyst certified by a national certifying organization or
21 a licensed psychologist if the services performed are within the
22 boundaries of the psychologist's competency;

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

26 (e) Pharmacy care means a medication that is prescribed
27 by a licensed physician and any health-related service deemed

1 medically necessary to determine the need or effectiveness of the
2 medication;

3 (f) Psychiatric care means a direct or consultative
4 service provided by a psychiatrist licensed in the state in which
5 he or she practices;

6 (g) Psychological care means a direct or consultative
7 service provided by a psychologist licensed in the state in which
8 he or she practices;

9 (h) Therapeutic care means a service provided by a
10 licensed speech-language pathologist, occupational therapist, or
11 physical therapist; and

12 (i) Treatment means evidence-based care, including
13 related equipment, that is prescribed or ordered for an individual
14 diagnosed with an autism spectrum disorder by a licensed physician
15 or a licensed psychologist, including:

16 (i) Behavioral health treatment;

17 (ii) Pharmacy care;

18 (iii) Psychiatric care;

19 (iv) Psychological care; and

20 (v) Therapeutic care.

21 (2) Notwithstanding section 44-3,131, (a) any individual
22 or group sickness and accident insurance policy or subscriber
23 contract delivered, issued for delivery, or renewed in this state
24 and any hospital, medical, or surgical expense-incurred policy,
25 except for policies that provide coverage for a specified disease
26 or other limited-benefit coverage, and (b) any self-funded employee
27 benefit plan to the extent not preempted by federal law, including

1 any such plan provided for employees of the State of Nebraska,
2 shall provide coverage for the screening, diagnosis, and treatment
3 of an autism spectrum disorder in an individual under twenty-one
4 years of age. To the extent that the screening, diagnosis, and
5 treatment of autism spectrum disorder are not already covered by
6 such policy or contract, coverage under this section shall be
7 included in such policies or contracts that are delivered, issued
8 for delivery, amended, or renewed in this state or outside this
9 state if the policy or contract insures a resident of Nebraska on
10 or after January 1, 2015. No insurer shall terminate coverage or
11 refuse to deliver, issue for delivery, amend, or renew coverage of
12 the insured as a result of an autism spectrum disorder diagnosis or
13 treatment. Nothing in this subsection applies to non-grandfathered
14 plans in the individual and small group markets that are required
15 to include essential health benefits under the federal Patient
16 Protection and Affordable Care Act or to medicare supplement,
17 accident-only, specified disease, hospital indemnity, disability
18 income, long-term care, or other limited benefit hospital insurance
19 policies.

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

1 (4) Coverage for behavioral health treatment, including
2 applied behavior analysis, shall be subject to a maximum benefit
3 of twenty-five hours per week until the insured reaches twenty-one
4 years of age. Payments made by an insurer on behalf of a covered
5 individual for treatment other than behavioral health treatment,
6 including applied behavior analysis, shall not be applied to any
7 maximum benefit established under this section.

8 (5) Except in the case of inpatient service, if an
9 individual is receiving treatment for an autism spectrum disorder,
10 an insurer shall have the right to request a review of that
11 treatment not more than once every six months unless the insurer
12 and the individual's licensed physician or licensed psychologist
13 execute an agreement that a more frequent review is necessary.
14 Any such agreement regarding the right to review a treatment plan
15 more frequently shall apply only to a particular individual being
16 treated for an autism spectrum disorder and shall not apply to
17 all individuals being treated for autism spectrum disorder by a
18 licensed physician or licensed psychologist. The cost of obtaining
19 a review under this subsection shall be borne by the insurer.

20 (6) This section shall not be construed as limiting
21 any benefit that is otherwise available to an individual under
22 a hospital, surgical, or medical expense-incurred policy or
23 health maintenance organization contract. This section shall not
24 be construed as affecting any obligation to provide services
25 to an individual under an individualized family service plan,
26 individualized education program, or individualized service plan.

27 Sec. 4. Section 44-7,104, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 44-7,104 (1) Notwithstanding section 44-3,131, (a) any
3 individual or group sickness and accident insurance policy,
4 certificate, or subscriber contract delivered, issued for delivery,
5 or renewed in this state and any hospital, medical, or surgical
6 expense-incurred policy, except for policies that provide coverage
7 for a specified disease or other limited-benefit coverage, and (b)
8 any self-funded employee benefit plan to the extent not preempted
9 by federal law that provides coverage for cancer treatment shall
10 provide coverage for a prescribed, orally administered anticancer
11 medication that is used to kill or slow the growth of cancerous
12 cells on a basis no less favorable than intravenously administered
13 or injected anticancer medications that are covered as medical
14 benefits by the policy, certificate, contract, or plan.

15 (2) This section does not prohibit such policy,
16 certificate, contract, or plan from requiring prior authorization
17 for a prescribed, orally administered anticancer medication. If
18 such medication is authorized, the cost to the covered individual
19 shall not exceed the coinsurance or copayment that would be applied
20 to any other cancer treatment involving intravenously administered
21 or injected anticancer medications.

22 (3) A policy, certificate, contract, or plan provider
23 shall not reclassify any anticancer medication or increase a
24 coinsurance, copayment, deductible, or other out-of-pocket expense
25 imposed on any anticancer medication to achieve compliance with
26 this section. Any change that otherwise increases an out-of-pocket
27 expense applied to any anticancer medication shall also be applied

1 to the majority of comparable medical or pharmaceutical benefits
2 under the policy, certificate, contract, or plan.

3 (4) This section does not prohibit a policy, certificate,
4 contract, or plan provider from increasing cost-sharing for all
5 benefits, including cancer treatments.

6 (5) This section shall apply to any policy, certificate,
7 contract, or plan that is delivered, issued for delivery, or
8 renewed in this state on or after October 1, 2012.

9 ~~(6) This section terminates on December 31, 2015.~~

10 Sec. 5. Section 2 of this act becomes operative on
11 January 1, 2015. The other sections of this act become operative on
12 their effective date.

13 2. Renumber the remaining section and correct the
14 repealer accordingly.