

AMENDMENTS TO LB999

Introduced by Coash

1 1. Insert the following new sections:

2 Sec. 2. Section 44-7,104, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

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

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

1 (3) A policy, certificate, contract, or plan provider
2 shall not reclassify any anticancer medication or increase a
3 coinsurance, copayment, deductible, or other out-of-pocket expense
4 imposed on any anticancer medication to achieve compliance with
5 this section. Any change that otherwise increases an out-of-pocket
6 expense applied to any anticancer medication shall also be applied
7 to the majority of comparable medical or pharmaceutical benefits
8 under the policy, certificate, contract, or plan.

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

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

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

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

17 (a) Applied behavior analysis means the design,
18 implementation, and evaluation of environmental modifications,
19 using behavioral stimuli and consequences, to produce socially
20 significant improvement in human behavior, including the use of
21 direct observation, measurement, and functional analysis of the
22 relationship between environment and behavior;

23 (b) Autism spectrum disorder means any of the pervasive
24 developmental disorders or autism spectrum disorder as defined by
25 the Diagnostic and Statistical Manual of Mental Disorders, as the
26 most recent edition of such manual existed on the operative date of
27 this section;

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

3 (i) Necessary to develop, maintain, or restore, to the maximum
4 extent practicable, the functioning of an individual; and (ii)
5 provided or supervised, either in person or by telehealth, by a
6 behavior analyst certified by a national certifying organization or
7 a licensed psychologist if the services performed are within the
8 boundaries of the psychologist's competency;

9 (d) Diagnosis means a medically necessary assessment,
10 evaluation, or test to diagnose if an individual has an autism
11 spectrum disorder;

12 (e) Pharmacy care means a medication that is prescribed
13 by a licensed physician and any health-related service deemed
14 medically necessary to determine the need or effectiveness of the
15 medication;

16 (f) Psychiatric care means a direct or consultative
17 service provided by a psychiatrist licensed in the state in which
18 he or she practices;

19 (g) Psychological care means a direct or consultative
20 service provided by a psychologist licensed in the state in which
21 he or she practices;

22 (h) Therapeutic care means a service provided by a
23 licensed speech-language pathologist, occupational therapist, or
24 physical therapist; and

25 (i) Treatment means evidence-based care, including
26 related equipment, that is prescribed or ordered for an individual
27 diagnosed with an autism spectrum disorder by a licensed physician

1 or a licensed psychologist, including:

2 (i) Behavioral health treatment;

3 (ii) Pharmacy care;

4 (iii) Psychiatric care;

5 (iv) Psychological care; and

6 (v) Therapeutic care.

7 (2) Notwithstanding section 44-3,131, (a) any individual
8 or group sickness and accident insurance policy or subscriber
9 contract delivered, issued for delivery, or renewed in this state
10 and any hospital, medical, or surgical expense-incurred policy,
11 except for policies that provide coverage for a specified disease
12 or other limited-benefit coverage, and (b) any self-funded employee
13 benefit plan to the extent not preempted by federal law, including
14 any such plan provided for employees of the State of Nebraska,
15 shall provide coverage for the screening, diagnosis, and treatment
16 of an autism spectrum disorder in an individual under twenty-one
17 years of age. To the extent that the screening, diagnosis, and
18 treatment of autism spectrum disorder are not already covered by
19 such policy or contract, coverage under this section shall be
20 included in such policies or contracts that are delivered, issued
21 for delivery, amended, or renewed in this state or outside this
22 state if the policy or contract insures a resident of Nebraska on
23 or after January 1, 2015. No insurer shall terminate coverage or
24 refuse to deliver, issue for delivery, amend, or renew coverage of
25 the insured as a result of an autism spectrum disorder diagnosis or
26 treatment. Nothing in this subsection applies to non-grandfathered
27 plans in the individual and small group markets that are required

1 to include essential health benefits under the federal Patient
2 Protection and Affordable Care Act or to medicare supplement,
3 accident-only, specified disease, hospital indemnity, disability
4 income, long-term care, or other limited benefit hospital insurance
5 policies.

6 (3) Except as provided in subsection (4) of this section,
7 coverage for an autism spectrum disorder shall not be subject
8 to any limits on the number of visits an individual may make
9 for treatment of an autism spectrum disorder, nor shall such
10 coverage be subject to dollar limits, deductibles, copayments, or
11 coinsurance provisions that are less favorable to an insured than
12 the equivalent provisions that apply to a general physical illness
13 under the policy.

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

21 (5) Except in the case of inpatient service, if an
22 individual is receiving treatment for an autism spectrum disorder,
23 an insurer shall have the right to request a review of that
24 treatment not more than once every six months unless the insurer
25 and the individual's licensed physician or licensed psychologist
26 execute an agreement that a more frequent review is necessary.
27 Any such agreement regarding the right to review a treatment plan

1 more frequently shall apply only to a particular individual being
2 treated for an autism spectrum disorder and shall not apply to
3 all individuals being treated for autism spectrum disorder by a
4 licensed physician or licensed psychologist. The cost of obtaining
5 a review under this subsection shall be borne by the insurer.

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

13 Sec. 4. The Department of Health and Human Services
14 shall establish a program to provide amino acid-based elemental
15 formulas for the diagnosis and treatment of Immunoglobulin E
16 and non-Immunoglobulin E mediated allergies to multiple food
17 proteins, food-protein-induced enterocolitis syndrome, eosinophilic
18 disorders, and impaired absorption of nutrients caused by disorders
19 affecting the absorptive surface, functional length, and motility
20 of the gastrointestinal tract, when the ordering physician has
21 issued a written order stating that the amino acid-based elemental
22 formula is medically necessary for the treatment of a disease or
23 disorder. Up to fifty percent of the actual out-of-pocket cost, not
24 to exceed twelve thousand dollars, for amino acid-based elemental
25 formulas shall be available to an individual without fees each
26 twelve-month period. The department shall distribute funds on a
27 first-come, first-served basis. Nothing in this section is deemed

1 to be an entitlement. The maximum total General Fund expenditures
2 per year for amino acid-based elemental formulas shall not exceed
3 two hundred fifty thousand dollars each fiscal year in FY2014-15
4 and FY2015-16. The Department of Health and Human Services shall
5 provide an electronic report on the program to the Legislature
6 annually on or before December 15 of each year.

7 Sec. 5. Section 4 of this act becomes operative on July
8 1, 2014. Sections 5 and 7 of this act become operative on their
9 effective date. The other sections of this act become operative
10 three calendar months after adjournment of this legislative
11 session.

12 Sec. 6. Original section 44-7,104, Revised Statutes
13 Cumulative Supplement, 2012, is repealed.

14 Sec. 7. Since an emergency exists, this act takes effect
15 when passed and approved according to law.

16 2. Renumber the remaining section accordingly.