



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3611

Introduced 2/14/2020, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.14
215 ILCS 5/356z.15

Amends the Illinois Insurance Code. Provides that a group or individual policy of accident and health insurance or managed care plan that provides individuals under 21 years of age coverage for the diagnosis of autism spectrum disorders and for the treatment of autism spectrum disorders may not deny or refuse to provide otherwise covered services solely because of the location where services are provided. Provides that a group or individual policy of accident and health insurance or managed care plan that provides coverage for habilitative services for children under 19 years of age with a congenital, genetic, or early acquired disorder under specified conditions may not deny or refuse to provide otherwise covered services solely because of the location where services are provided.

LRB101 19743 BMS 69252 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 356z.14 and 356z.15 as follows:

6 (215 ILCS 5/356z.14)

7 Sec. 356z.14. Autism spectrum disorders.

8 (a) A group or individual policy of accident and health
9 insurance or managed care plan amended, delivered, issued, or
10 renewed after the effective date of this amendatory Act of the
11 95th General Assembly must provide individuals under 21 years
12 of age coverage for the diagnosis of autism spectrum disorders
13 and for the treatment of autism spectrum disorders to the
14 extent that the diagnosis and treatment of autism spectrum
15 disorders are not already covered by the policy of accident and
16 health insurance or managed care plan.

17 (b) Coverage provided under this Section shall be subject
18 to a maximum benefit of \$36,000 per year, but shall not be
19 subject to any limits on the number of visits to a service
20 provider. After December 30, 2009, the Director of the Division
21 of Insurance shall, on an annual basis, adjust the maximum
22 benefit for inflation using the Medical Care Component of the
23 United States Department of Labor Consumer Price Index for All

1 Urban Consumers. Payments made by an insurer on behalf of a
2 covered individual for any care, treatment, intervention,
3 service, or item, the provision of which was for the treatment
4 of a health condition not diagnosed as an autism spectrum
5 disorder, shall not be applied toward any maximum benefit
6 established under this subsection.

7 (c) Coverage under this Section shall be subject to
8 copayment, deductible, and coinsurance provisions of a policy
9 of accident and health insurance or managed care plan to the
10 extent that other medical services covered by the policy of
11 accident and health insurance or managed care plan are subject
12 to these provisions.

13 (d) This Section shall not be construed as limiting
14 benefits that are otherwise available to an individual under a
15 policy of accident and health insurance or managed care plan
16 and benefits provided under this Section may not be subject to
17 dollar limits, deductibles, copayments, or coinsurance
18 provisions that are less favorable to the insured than the
19 dollar limits, deductibles, or coinsurance provisions that
20 apply to physical illness generally.

21 (e) An insurer may not deny or refuse to provide otherwise
22 covered services, or refuse to renew, refuse to reissue, or
23 otherwise terminate or restrict coverage under an individual
24 contract to provide services to an individual because the
25 individual or their dependent is diagnosed with an autism
26 spectrum disorder or due to the individual utilizing benefits

1 in this Section.

2 (e-5) An insurer may not deny or refuse to provide
3 otherwise covered services under a group or individual policy
4 of accident and health insurance or a managed care plan solely
5 because of the location wherein the services are provided.

6 (f) Upon request of the reimbursing insurer, a provider of
7 treatment for autism spectrum disorders shall furnish medical
8 records, clinical notes, or other necessary data that
9 substantiate that initial or continued medical treatment is
10 medically necessary and is resulting in improved clinical
11 status. When treatment is anticipated to require continued
12 services to achieve demonstrable progress, the insurer may
13 request a treatment plan consisting of diagnosis, proposed
14 treatment by type, frequency, anticipated duration of
15 treatment, the anticipated outcomes stated as goals, and the
16 frequency by which the treatment plan will be updated.

17 (g) When making a determination of medical necessity for a
18 treatment modality for autism spectrum disorders, an insurer
19 must make the determination in a manner that is consistent with
20 the manner used to make that determination with respect to
21 other diseases or illnesses covered under the policy, including
22 an appeals process. During the appeals process, any challenge
23 to medical necessity must be viewed as reasonable only if the
24 review includes a physician with expertise in the most current
25 and effective treatment modalities for autism spectrum
26 disorders.

1 (h) Coverage for medically necessary early intervention
2 services must be delivered by certified early intervention
3 specialists, as defined in 89 Ill. Admin. Code 500 and any
4 subsequent amendments thereto.

5 (h-5) If an individual has been diagnosed as having an
6 autism spectrum disorder, meeting the diagnostic criteria in
7 place at the time of diagnosis, and treatment is determined
8 medically necessary, then that individual shall remain
9 eligible for coverage under this Section even if subsequent
10 changes to the diagnostic criteria are adopted by the American
11 Psychiatric Association. If no changes to the diagnostic
12 criteria are adopted after April 1, 2012, and before December
13 31, 2014, then this subsection (h-5) shall be of no further
14 force and effect.

15 (h-10) An insurer may not deny or refuse to provide covered
16 services, or refuse to renew, refuse to reissue, or otherwise
17 terminate or restrict coverage under an individual contract,
18 for a person diagnosed with an autism spectrum disorder on the
19 basis that the individual declined an alternative medication or
20 covered service when the individual's health care provider has
21 determined that such medication or covered service may
22 exacerbate clinical symptomatology and is medically
23 contraindicated for the individual and the individual has
24 requested and received a medical exception as provided for
25 under Section 45.1 of the Managed Care Reform and Patient
26 Rights Act. For the purposes of this subsection (h-10),

1 "clinical symptomatology" means any indication of disorder or
2 disease when experienced by an individual as a change from
3 normal function, sensation, or appearance.

4 (h-15) If, at any time, the Secretary of the United States
5 Department of Health and Human Services, or its successor
6 agency, promulgates rules or regulations to be published in the
7 Federal Register or publishes a comment in the Federal Register
8 or issues an opinion, guidance, or other action that would
9 require the State, pursuant to any provision of the Patient
10 Protection and Affordable Care Act (Public Law 111-148),
11 including, but not limited to, 42 U.S.C. 18031(d)(3)(B) or any
12 successor provision, to defray the cost of any coverage
13 outlined in subsection (h-10), then subsection (h-10) is
14 inoperative with respect to all coverage outlined in subsection
15 (h-10) other than that authorized under Section 1902 of the
16 Social Security Act, 42 U.S.C. 1396a, and the State shall not
17 assume any obligation for the cost of the coverage set forth in
18 subsection (h-10).

19 (i) As used in this Section:

20 "Autism spectrum disorders" means pervasive developmental
21 disorders as defined in the most recent edition of the
22 Diagnostic and Statistical Manual of Mental Disorders,
23 including autism, Asperger's disorder, and pervasive
24 developmental disorder not otherwise specified.

25 "Diagnosis of autism spectrum disorders" means one or more
26 tests, evaluations, or assessments to diagnose whether an

1 individual has autism spectrum disorder that is prescribed,
2 performed, or ordered by (A) a physician licensed to practice
3 medicine in all its branches or (B) a licensed clinical
4 psychologist with expertise in diagnosing autism spectrum
5 disorders.

6 "Medically necessary" means any care, treatment,
7 intervention, service or item which will or is reasonably
8 expected to do any of the following: (i) prevent the onset of
9 an illness, condition, injury, disease or disability; (ii)
10 reduce or ameliorate the physical, mental or developmental
11 effects of an illness, condition, injury, disease or
12 disability; or (iii) assist to achieve or maintain maximum
13 functional activity in performing daily activities.

14 "Treatment for autism spectrum disorders" shall include
15 the following care prescribed, provided, or ordered for an
16 individual diagnosed with an autism spectrum disorder by (A) a
17 physician licensed to practice medicine in all its branches or
18 (B) a certified, registered, or licensed health care
19 professional with expertise in treating effects of autism
20 spectrum disorders when the care is determined to be medically
21 necessary and ordered by a physician licensed to practice
22 medicine in all its branches:

23 (1) Psychiatric care, meaning direct, consultative, or
24 diagnostic services provided by a licensed psychiatrist.

25 (2) Psychological care, meaning direct or consultative
26 services provided by a licensed psychologist.

1 (3) Habilitative or rehabilitative care, meaning
2 professional, counseling, and guidance services and
3 treatment programs, including applied behavior analysis,
4 that are intended to develop, maintain, and restore the
5 functioning of an individual. As used in this subsection
6 (i), "applied behavior analysis" means the design,
7 implementation, and evaluation of environmental
8 modifications using behavioral stimuli and consequences to
9 produce socially significant improvement in human
10 behavior, including the use of direct observation,
11 measurement, and functional analysis of the relations
12 between environment and behavior.

13 (4) Therapeutic care, including behavioral, speech,
14 occupational, and physical therapies that provide
15 treatment in the following areas: (i) self care and
16 feeding, (ii) pragmatic, receptive, and expressive
17 language, (iii) cognitive functioning, (iv) applied
18 behavior analysis, intervention, and modification, (v)
19 motor planning, and (vi) sensory processing.

20 (j) Rulemaking authority to implement this amendatory Act
21 of the 95th General Assembly, if any, is conditioned on the
22 rules being adopted in accordance with all provisions of the
23 Illinois Administrative Procedure Act and all rules and
24 procedures of the Joint Committee on Administrative Rules; any
25 purported rule not so adopted, for whatever reason, is
26 unauthorized.

1 (Source: P.A. 99-788, eff. 8-12-16.)

2 (215 ILCS 5/356z.15)

3 Sec. 356z.15. Habilitative services for children.

4 (a) As used in this Section, "habilitative services" means
5 occupational therapy, physical therapy, speech therapy, and
6 other services prescribed by the insured's treating physician
7 pursuant to a treatment plan to enhance the ability of a child
8 to function with a congenital, genetic, or early acquired
9 disorder. A congenital or genetic disorder includes, but is not
10 limited to, hereditary disorders. An early acquired disorder
11 refers to a disorder resulting from illness, trauma, injury, or
12 some other event or condition suffered by a child prior to that
13 child developing functional life skills such as, but not
14 limited to, walking, talking, or self-help skills. Congenital,
15 genetic, and early acquired disorders may include, but are not
16 limited to, autism or an autism spectrum disorder, cerebral
17 palsy, and other disorders resulting from early childhood
18 illness, trauma, or injury.

19 (b) A group or individual policy of accident and health
20 insurance or managed care plan amended, delivered, issued, or
21 renewed after the effective date of this amendatory Act of the
22 95th General Assembly must provide coverage for habilitative
23 services for children under 19 years of age with a congenital,
24 genetic, or early acquired disorder so long as all of the
25 following conditions are met:

1 (1) A physician licensed to practice medicine in all
2 its branches has diagnosed the child's congenital,
3 genetic, or early acquired disorder.

4 (2) The treatment is administered by a licensed
5 speech-language pathologist, licensed audiologist,
6 licensed occupational therapist, licensed physical
7 therapist, licensed physician, licensed nurse, licensed
8 optometrist, licensed nutritionist, licensed social
9 worker, or licensed psychologist upon the referral of a
10 physician licensed to practice medicine in all its
11 branches.

12 (3) The initial or continued treatment must be
13 medically necessary and therapeutic and not experimental
14 or investigational.

15 (c) The coverage required by this Section shall be subject
16 to other general exclusions and limitations of the policy,
17 including coordination of benefits, participating provider
18 requirements, restrictions on services provided by family or
19 household members, utilization review of health care services,
20 including review of medical necessity, case management,
21 experimental, and investigational treatments, and other
22 managed care provisions.

23 (d) Coverage under this Section does not apply to those
24 services that are solely educational in nature or otherwise
25 paid under State or federal law for purely educational
26 services. Nothing in this subsection (d) relieves an insurer or

1 similar third party from an otherwise valid obligation to
2 provide or to pay for services provided to a child with a
3 disability.

4 (e) Coverage under this Section for children under age 19
5 shall not apply to treatment of mental or emotional disorders
6 or illnesses as covered under Section 370 of this Code as well
7 as any other benefit based upon a specific diagnosis that may
8 be otherwise required by law.

9 (f) The provisions of this Section do not apply to
10 short-term travel, accident-only, limited, or specific disease
11 policies.

12 (g) Any denial of care for habilitative services shall be
13 subject to appeal and external independent review procedures as
14 provided by Section 45 of the Managed Care Reform and Patient
15 Rights Act.

16 (h) Upon request of the reimbursing insurer, the provider
17 under whose supervision the habilitative services are being
18 provided shall furnish medical records, clinical notes, or
19 other necessary data to allow the insurer to substantiate that
20 initial or continued medical treatment is medically necessary
21 and that the patient's condition is clinically improving. When
22 the treating provider anticipates that continued treatment is
23 or will be required to permit the patient to achieve
24 demonstrable progress, the insurer may request that the
25 provider furnish a treatment plan consisting of diagnosis,
26 proposed treatment by type, frequency, anticipated duration of

1 treatment, the anticipated goals of treatment, and how
2 frequently the treatment plan will be updated.

3 (i) Rulemaking authority to implement this amendatory Act
4 of the 95th General Assembly, if any, is conditioned on the
5 rules being adopted in accordance with all provisions of the
6 Illinois Administrative Procedure Act and all rules and
7 procedures of the Joint Committee on Administrative Rules; any
8 purported rule not so adopted, for whatever reason, is
9 unauthorized.

10 (j) An insurer may not deny or refuse to provide otherwise
11 covered services under a group or individual policy of accident
12 and health insurance or a managed care plan solely because of
13 the location wherein the services are provided.

14 (Source: P.A. 95-1049, eff. 1-1-10; 96-833, eff. 6-1-10;
15 96-1000, eff. 7-2-10.)