
SUBSTITUTE HOUSE BILL 1412

State of Washington 61st Legislature 2009 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Kagi, Roach, Cody, Roberts, Dickerson, Appleton, Walsh, Green, Hunt, Seaquist, Chase, Morrell, Kessler, Kenney, Simpson, and Nelson)

READ FIRST TIME 02/17/09.

1 AN ACT Relating to health benefit plan coverage of
2 neurodevelopmental therapies; adding a new section to chapter 41.05
3 RCW; adding a new section to chapter 48.43 RCW; creating new sections;
4 repealing RCW 41.05.170, 48.21.310, 48.44.450, and 48.46.520; and
5 providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) Access to appropriate early intervention services significantly
9 improves function in children with developmental delays and
10 developmental disabilities. Health care services, including
11 neurodevelopmental therapies, are an essential component of early
12 intervention services.

13 (2) The provision of early intervention services is a shared
14 responsibility of federal and state government, private health
15 insurance, state purchased health care programs, and schools.

16 (3) The existing neurodevelopmental therapy benefit is unreasonably
17 limited, in light of the nature of the diagnoses that
18 neurodevelopmental services are used to treat. Children with medical
19 disorders that result in developmental delays or developmental

1 disabilities have an ongoing need for appropriate neurodevelopmental
2 services that are designed to improve and maintain their ability to
3 function and to prevent deterioration in functioning. The provision of
4 appropriate health care interventions, such as neurodevelopmental
5 therapies, to treat these disorders significantly and positively
6 affects a child's ability to function in an age-appropriate manner.
7 Research demonstrates that the timing of the provision of these
8 interventions is critical to a child's ability to function and the
9 failure to intervene at a meaningful point in a child's development can
10 result in a lost opportunity that cannot be fully compensated for
11 later.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW
13 to read as follows:

14 (1) Each health plan offered to public employees and their covered
15 dependents under this chapter that is established or renewed on or
16 after January 1, 2011, must include coverage for neurodevelopmental
17 therapies for covered individuals under eighteen years of age.

18 (2) As used in this section:

19 (a) "Neurodevelopmental therapies" means occupational therapy,
20 speech therapy, physical therapy, applied behavior analysis, and other
21 therapies for the treatment of developmental delays, developmental
22 disabilities, or developmental disorders that are consistent with
23 generally accepted standards of practice, as defined in subsection (5)
24 of this section.

25 (b) "Applied behavior analysis" means the design, implementation,
26 and evaluation of therapeutic programs, using behavioral stimuli and
27 consequences, to produce socially significant improvement in human
28 behavior, including the use of direct observation, measurement, and
29 functional analysis of the relationship between social or learning
30 environment and behavior.

31 (3) Neurodevelopmental therapy benefits are payable when the
32 services have been delivered or supervised by a health professional
33 regulated under Title 18 RCW, pursuant to an individualized written
34 treatment plan developed by a health care provider licensed under
35 chapter 18.71 or 18.57 RCW, or when covered services have been rendered
36 by such licensee. The treatment plan must be developed based upon the
37 results of a comprehensive evaluation or periodic reevaluation of the

1 child. A carrier may require that the treatment plan be reviewed
2 periodically. A carrier may require that neurodevelopmental therapy
3 services be delivered by a health care provider who participates in the
4 carrier's provider network, unless no participating provider is
5 available to deliver covered services. Nothing in this section
6 prohibits a carrier from negotiating rates with qualified providers.

7 (4) The treatment plan should complement and not duplicate any
8 other neurodevelopmental services that a child is receiving through
9 publicly funded programs, including special education. Services that
10 are being provided by a school district to a child through an
11 individual education plan under the federal individuals with
12 disabilities education act do not have to be provided to the child
13 under this section. However, consistent with part C of the federal
14 individuals with disabilities education act, for early intervention
15 services provided to children birth to three years of age, a child's
16 health insurance coverage must be considered the primary payer.

17 (5) Benefits are payable for services to improve age-appropriate
18 functioning, and for maintenance of function in cases where significant
19 deterioration in the child's condition would result without the
20 service. Deductibles, copayments, or coinsurance for neurodevelopmental
21 services may be no more than the deductible, copayment, or coinsurance
22 for other medical services otherwise provided under the health plan.
23 Neurodevelopmental therapy coverage under this section is subject to a
24 maximum benefit of fifty thousand dollars per year. Coverage under
25 this section also may be subject to health benefit plan provisions
26 establishing cumulative annual or lifetime benefit limits for all
27 services provided under the health benefit plan.

28 (6) In determining whether services are medically necessary, the
29 health plan may use reasonable criteria that are in accordance with
30 generally accepted standards of practice, and are clinically
31 appropriate, giving strong consideration to the diagnoses for which
32 neurodevelopmental therapies are prescribed for children, the ongoing
33 nature of such diagnoses, and the use of neurodevelopmental therapy
34 services to improve and prevent deterioration in functioning. As used
35 in this subsection, "generally accepted standards of practice" means
36 standards that are based on credible scientific evidence published in
37 peer-reviewed medical literature generally recognized by the relevant
38 medical community, evidence-based clinical guidelines developed by

1 relevant physician or health care practitioner specialty societies, or
2 other clinical guidelines that are supported by multiple site random
3 controlled trials or other credible research demonstrating that the
4 therapy is effective.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW
6 to read as follows:

7 (1) All group health benefit plans entered into, or renewed, on or
8 after January 1, 2011, must include coverage for neurodevelopmental
9 therapies for covered individuals under eighteen years of age.

10 (2) As used in this section:

11 (a) "Neurodevelopmental therapies" means occupational therapy,
12 speech therapy, physical therapy, applied behavior analysis, and other
13 therapies for the treatment of developmental delays, developmental
14 disabilities, or developmental disorders that are consistent with
15 generally accepted standards of practice, as defined in subsection (5)
16 of this section.

17 (b) "Applied behavior analysis" means the design, implementation,
18 and evaluation of therapeutic programs, using behavioral stimuli and
19 consequences, to produce socially significant improvement in human
20 behavior, including the use of direct observation, measurement, and
21 functional analysis of the relationship between the social or learning
22 environment and behavior.

23 (3) Neurodevelopmental therapy benefits are payable when the
24 services have been delivered or supervised by a health professional
25 regulated under Title 18 RCW, pursuant to an individualized written
26 treatment plan developed by a health care provider licensed under
27 chapter 18.71 or 18.57 RCW, or when covered services have been rendered
28 by such licensee. The treatment plan must be developed based upon the
29 results of a comprehensive evaluation or periodic reevaluation of the
30 child. A carrier may require that the treatment plan be reviewed
31 periodically. A carrier may require that neurodevelopmental therapy
32 services be delivered by a health care provider who participates in the
33 carrier's provider network, unless no participating provider is
34 available to deliver covered services. Nothing in this section
35 prohibits a carrier from negotiating rates with qualified providers.

36 (4) The treatment plan should complement and not duplicate any
37 other neurodevelopmental services that a child is receiving through

1 publicly funded programs, including special education. Services that
2 are being provided by a school district to a child through an
3 individual education plan under the federal individuals with
4 disabilities education act do not have to be provided to the child
5 under this section. However, consistent with part C of the federal
6 individuals with disabilities education act, for early intervention
7 services provided to children birth to three years of age, a child's
8 health insurance coverage must be considered the primary payer.

9 (5) Benefits shall be payable for services to restore and improve
10 age-appropriate functioning and for maintenance of function in cases
11 where significant deterioration in the child's condition would result
12 without the service. Deductibles, copayments, or coinsurance for
13 neurodevelopmental services may be no more than the deductible,
14 copayment, or coinsurance for other medical services otherwise provided
15 under the health benefit plan. Neurodevelopmental therapy coverage
16 under this section is subject to a maximum benefit of fifty thousand
17 dollars per year. Coverage under this section also may be subject to
18 health benefit plan provisions establishing cumulative annual or
19 lifetime benefit limits for all services provided under the health
20 benefit plan.

21 (6) In determining whether services are medically necessary, the
22 carrier may use reasonable criteria that are in accordance with
23 generally accepted standards of practice, and are clinically
24 appropriate, giving strong consideration to the diagnoses for which
25 neurodevelopmental therapies are prescribed for children, the ongoing
26 nature of such diagnoses, and the use of neurodevelopmental therapy
27 services to improve and prevent deterioration in functioning. As used
28 in this subsection, "generally accepted standards of practice" means
29 standards that are based on credible scientific evidence published in
30 peer-reviewed medical literature generally recognized by the relevant
31 medical community, evidence-based clinical guidelines developed by
32 relevant physician or health care practitioner specialty societies, or
33 other clinical guidelines that are supported by multiple site random
34 controlled trials or other credible research demonstrating that the
35 therapy is effective.

36 NEW SECTION. **Sec. 4.** The department of health shall conduct a
37 review under chapter 18.120 RCW to determine the most appropriate means

1 to regulate persons who utilize applied behavior analysis for the
2 treatment of persons with an autism spectrum disorder. The review
3 should address, at a minimum, whether applied behavior analysis
4 providers should be regulated through establishment of a new health
5 profession or through establishment of a new classification within an
6 existing health profession, and appropriate education and experience
7 requirements. In determining appropriate education and experience
8 requirements, the department shall give great weight to the
9 certification criteria established by the institute for applied
10 behavior analysis. In developing its recommendations, the department
11 shall consult with interested organizations. The department must
12 submit its recommendations to the governor and the legislature on or
13 before November 15, 2009.

14 NEW SECTION. **Sec. 5.** The department of health shall establish a
15 process to periodically review credible sources of scientific evidence
16 related to effective therapies for treatment of individuals under
17 eighteen years of age with autism spectrum disorder. The results of
18 the review will identify treatment modalities that should be considered
19 to be in accordance with generally accepted standards of practice, as
20 that term is defined in section 2(6) and section 3(6) of this act. The
21 review shall be conducted with substantial involvement of individuals
22 with medical expertise in this field, and with consultation from
23 health care providers, autism researchers, family members of persons
24 with autism spectrum disorders, carriers, the department of social and
25 health services, the health care authority, educators, and other
26 interested persons. The department must report its findings to the
27 governor and the legislature by November 15, 2009, and on a biannual
28 basis thereafter.

29 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
30 repealed:

31 (1) RCW 41.05.170 (Neurodevelopmental therapies--Employer-sponsored
32 group contracts) and 1989 c 345 s 4;

33 (2) RCW 48.21.310 (Neurodevelopmental therapies--Employer-sponsored
34 group contracts) and 1989 c 345 s 2;

35 (3) RCW 48.44.450 (Neurodevelopmental therapies--Employer-sponsored
36 group contracts) and 1989 c 345 s 1; and

1 (4) RCW 48.46.520 (Neurodevelopmental therapies--Employer-sponsored
2 group contracts) and 1989 c 345 s 3.

3 NEW SECTION. **Sec. 7.** Section 6 of this act takes effect January
4 1, 2011.

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