
HOUSE BILL 1412

State of Washington

61st Legislature

2009 Regular Session

By Representatives Kagi, Roach, Cody, Roberts, Dickerson, Appleton, Walsh, Green, Hunt, Seaquist, Chase, Morrell, Kessler, Kenney, Simpson, and Nelson

Read first time 01/20/09. Referred to Committee on Health Care & Wellness.

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 a written treatment plan
34 developed by an individual licensed under chapter 18.71 or 18.57 RCW,
35 or when covered services have been rendered by such licensee. The
36 treatment plan should complement and not duplicate any other
37 neurodevelopmental services that a child is receiving through publicly

1 funded programs, including special education. The health plan may
2 require that the treatment plan be reviewed periodically, but not more
3 often than quarterly. The health plan may require that
4 neurodevelopmental therapy services be delivered by a health care
5 provider who participates in the health plan provider network, unless
6 no participating provider is available to deliver covered services.
7 Nothing in this section shall prohibit the administrator of a health
8 plan offered under this chapter from negotiating rates with qualified
9 providers.

10 (4) Benefits are payable for services to restore and improve age-
11 appropriate functioning, and for maintenance of function in cases where
12 significant deterioration in the child's condition would result without
13 the service. Deductibles, copayments, or coinsurance for
14 neurodevelopmental services may be no more than the deductible,
15 copayment, or coinsurance for other medical services otherwise provided
16 under the health plan.

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

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

34 (1) All group health benefit plans entered into, or renewed, on or
35 after January 1, 2011, must include coverage for neurodevelopmental
36 therapies for covered individuals under twenty-one years of age.

37 (2) As used in this section:

1 (a) "Neurodevelopmental therapies" means occupational therapy,
2 speech therapy, physical therapy, applied behavior analysis, and other
3 therapies for the treatment of developmental delays, developmental
4 disabilities, or developmental disorders that are consistent with
5 generally accepted standards of practice, as defined in subsection (5)
6 of this section.

7 (b) "Applied behavior analysis" means the design, implementation,
8 and evaluation of therapeutic programs, using behavioral stimuli and
9 consequences, to produce socially significant improvement in human
10 behavior, including the use of direct observation, measurement, and
11 functional analysis of the relationship between the social or learning
12 environment and behavior.

13 (3) Neurodevelopmental therapy benefits are payable when the
14 services have been delivered or supervised by a health professional
15 regulated under Title 18 RCW, pursuant to a written treatment plan
16 developed by an individual licensed under chapter 18.71 or 18.57 RCW,
17 or when covered services have been rendered by such licensee. The
18 treatment plan should complement and not duplicate any other
19 neurodevelopmental services that a child is receiving through publicly
20 funded programs, including special education. A carrier may require
21 that the treatment plan be reviewed periodically, but not more often
22 than quarterly. A carrier may require that neurodevelopmental therapy
23 services be delivered by a health care provider who participates in the
24 carrier's provider network, unless no participating provider is
25 available to deliver covered services. Nothing in this section shall
26 prohibit a carrier from negotiating rates with qualified providers.

27 (4) Benefits shall be payable for services to restore and improve
28 age-appropriate functioning and for maintenance of function in cases
29 where significant deterioration in the child's condition would result
30 without the service. Deductibles, copayments, or coinsurance for
31 neurodevelopmental services may be no more than the deductible,
32 copayment, or coinsurance for other medical services otherwise provided
33 under the health benefit plan.

34 (5) In determining whether services are medically necessary, the
35 carrier may use reasonable criteria that are in accordance with
36 generally accepted standards of practice, and are clinically
37 appropriate, giving strong consideration to the diagnoses for which
38 neurodevelopmental therapies are prescribed for children, the ongoing

1 nature of such diagnoses, and the use of neurodevelopmental therapy
2 services to restore, improve, and prevent deterioration in functioning.
3 As used in this subsection, "generally accepted standards of practice"
4 means standards that are based on credible scientific evidence
5 published in peer-reviewed medical literature generally recognized by
6 the relevant medical community, evidence-based clinical guidelines
7 developed by relevant physician or health care practitioner specialty
8 societies, or other clinical guidelines that are supported by multiple
9 site random controlled trials or other credible research demonstrating
10 that the therapy is effective.

11 NEW SECTION. **Sec. 4.** The department of health shall conduct a
12 review under chapter 18.120 RCW to determine the most appropriate means
13 to regulate persons who utilize applied behavior analysis for the
14 treatment of persons with an autism spectrum disorder. The review
15 should address, at a minimum, whether applied behavior analysis
16 providers should be regulated through establishment of a new health
17 profession or through establishment of a new classification within an
18 existing health profession, and appropriate education and experience
19 requirements. In developing its recommendations, the department shall
20 consult with interested organizations and shall give strong
21 consideration to certification criteria established by the institute
22 for applied behavior analysis. The department must submit its
23 recommendations to the governor and the legislature on or before
24 November 15, 2009.

25 NEW SECTION. **Sec. 5.** The department of health shall identify
26 therapies for the treatment of autism spectrum disorders in individuals
27 under eighteen years of age that should be considered to be in
28 accordance with generally accepted standards of practice, as that term
29 is defined in section 2(5) and section 3(5) of this act. In conducting
30 its work under this section, the department shall consult with health
31 care providers, autism researchers, family members of persons with
32 autism spectrum disorders, carriers, the department of social and
33 health services, the health care authority, educators, and other
34 interested persons. The department must report its findings to the
35 governor and the legislature by November 15, 2009.

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

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

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

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

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

11 NEW SECTION. **Sec. 7.** Section 6 of this act takes effect January
12 1, 2011.

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