

AMENDMENTS TO LB254

Introduced by Coash

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 44-7,104, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

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

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

1 or injected anticancer medications.

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

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

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

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

17 Sec. 2. (1) For purposes of this section:

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

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

1 this section;

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

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

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

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

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

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

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

26 (i) Treatment means evidence-based care, including
27 related equipment, that is prescribed or ordered for an individual

1 diagnosed with an autism spectrum disorder by a licensed physician
2 or a licensed psychologist, including:

3 (i) Behavioral health treatment;

4 (ii) Pharmacy care;

5 (iii) Psychiatric care;

6 (iv) Psychological care; and

7 (v) Therapeutic care.

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

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

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

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

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

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

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

14 Sec. 3. The Department of Health and Human Services
15 shall establish a program to provide amino acid-based elemental
16 formulas for the diagnosis and treatment of Immunoglobulin E
17 and non-Immunoglobulin E mediated allergies to multiple food
18 proteins, food-protein-induced enterocolitis syndrome, eosinophilic
19 disorders, and impaired absorption of nutrients caused by disorders
20 affecting the absorptive surface, functional length, and motility
21 of the gastrointestinal tract, when the ordering physician has
22 issued a written order stating that the amino acid-based elemental
23 formula is medically necessary for the treatment of a disease or
24 disorder. Up to fifty percent of the actual out-of-pocket cost, not
25 to exceed twelve thousand dollars, for amino acid-based elemental
26 formulas shall be available to an individual without fees each
27 twelve-month period. The department shall distribute funds on a

1 first-come, first-served basis. Nothing in this section is deemed
2 to be an entitlement. The maximum total General Fund expenditures
3 per year for amino acid-based elemental formulas shall not exceed
4 two hundred fifty thousand dollars each fiscal year in FY2014-15
5 and FY2015-16. The Department of Health and Human Services shall
6 provide an electronic report on the program to the Legislature
7 annually on or before December 15 of each year.

8 Sec. 4. There is hereby appropriated (1) \$362,500 from
9 the General Fund for FY2014-15 and (2) \$725,000 from the General
10 Fund for FY2015-16 to the Board of Regents of the University of
11 Nebraska, for Program 781, to aid in carrying out the provisions of
12 this legislative bill.

13 Sec. 5. There is hereby appropriated (1) \$250,000 from
14 the General Fund for FY2014-15 and (2) \$250,000 from the General
15 Fund for FY2015-16 to the Department of Health and Human Services,
16 for Program 514, to aid in carrying out the provisions of this
17 legislative bill.

18 No expenditures for permanent and temporary salaries and
19 per diems for state employees shall be made from funds appropriated
20 in this section.

21 Sec. 6. There is hereby appropriated (1) \$10,000 from
22 the General Fund for FY2014-15 and (2) \$10,000 from the General
23 Fund for FY2015-16 to the Department of Health and Human Services,
24 for Program 33, to aid in carrying out the provisions of this
25 legislative bill.

26 Total expenditures for permanent and temporary salaries
27 and per diems from funds appropriated in this section shall not

1 exceed \$10,000 for FY2014-15 or \$10,000 for FY2015-16.

2 Sec. 7. Section 3 of this act becomes operative on
3 July 1, 2014. Sections 4, 5, 6, 7, and 9 of this act become
4 operative on their effective date. The other sections of this act
5 become operative three calendar months after adjournment of this
6 legislative session.

7 Sec. 8. Original section 44-7,104, Revised Statutes
8 Cumulative Supplement, 2012, is repealed.

9 Sec. 9. Since an emergency exists, this act takes effect
10 when passed and approved according to law.