

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 505**

Introduced by Coash, 27.

Read first time January 23, 2013

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to insurance; to provide requirements for
- 2 coverage of autism spectrum disorders; to define terms;
- 3 and to provide duties for the Director of Insurance.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) For purposes of this section:

2           (a) Applied behavior analysis means the design,  
3 implementation, and evaluation of environmental modifications, using  
4 behavioral stimuli and consequences, to produce socially significant  
5 improvement in human behavior, including the use of direct  
6 observation, measurement, and functional analysis of the relationship  
7 between environment and behavior;

8           (b) Autism spectrum disorder means any of the pervasive  
9 developmental disorders or autism spectrum disorder as defined by the  
10 most recent edition of the Diagnostic and Statistical Manual of  
11 Mental Disorders;

12           (c) Behavioral health treatment means counseling and  
13 treatment programs, including applied behavior analysis, that are:  
14 (i) Necessary to develop, maintain, and restore, to the maximum  
15 extent practicable, the functioning of an individual; and (ii)  
16 provided or supervised, either in person or by telehealth, by a  
17 board-certified behavior analyst or a licensed psychologist if the  
18 services performed are within the boundaries of the psychologist's  
19 competency;

20           (d) Diagnosis means a medically necessary assessment,  
21 evaluation, or test to diagnose if an individual has an autism  
22 spectrum disorder;

23           (e) Pharmacy care means a medication that is prescribed  
24 by a licensed physician and any health-related service deemed  
25 medically necessary to determine the need or effectiveness of the

1 medication;

2 (f) Psychiatric care means a direct or consultative  
3 service provided by a psychiatrist licensed in the state in which he  
4 or she practices;

5 (g) Psychological care means a direct or consultative  
6 service provided by a psychologist licensed in the state in which he  
7 or she practices;

8 (h) Therapeutic care means a service provided by a  
9 licensed speech-language pathologist, occupational therapist, or  
10 physical therapist; and

11 (i) Treatment means evidence-based care, including  
12 related equipment, that is prescribed or ordered for an individual  
13 diagnosed with an autism spectrum disorder by a licensed physician or  
14 a licensed psychologist who determines the care to be medically  
15 necessary, including:

16 (i) Behavioral health treatment;

17 (ii) Pharmacy care;

18 (iii) Psychiatric care;

19 (iv) Psychological care; and

20 (v) Therapeutic care.

21 (2) Notwithstanding section 44-3,131, (a) any individual  
22 or group sickness and accident insurance policy or subscriber  
23 contract delivered, issued for delivery, or renewed in this state and  
24 any hospital, medical, or surgical expense-incurred policy, except  
25 for policies that provide coverage for a specified disease or other

1 limited-benefit coverage, and (b) any self-funded employee benefit  
2 plan to the extent not preempted by federal law, including any such  
3 plan provided for employees of the State of Nebraska, shall provide  
4 coverage for the screening, diagnosis, and treatment of an autism  
5 spectrum disorder in an individual under twenty-one years of age. To  
6 the extent that the screening, diagnosis, and treatment of autism  
7 spectrum disorder are not already covered by such policy or contract,  
8 coverage under this section shall be included in such policies or  
9 contracts that are delivered, issued for delivery, amended, or  
10 renewed in this state or outside this state if the policy or contract  
11 insures a resident of Nebraska on or after January 1, 2014. No  
12 insurer shall terminate coverage or refuse to deliver, issue for  
13 delivery, amend, or renew coverage of the insured as a result of an  
14 autism spectrum disorder diagnosis or treatment.

15 As of January 1, 2014, to the extent that this section  
16 requires benefits that exceed the essential health benefits required  
17 under section 1302(b) of the federal Patient Protection and  
18 Affordable Care Act, Public Law 111-148, the specific benefits that  
19 exceed the required essential health benefits shall not be required  
20 of a qualified health plan as defined in the act when the qualified  
21 health plan is offered in this state through an insurance exchange by  
22 a health carrier. Nothing in this subsection shall nullify the  
23 application of this section to plans offered outside the state's  
24 insurance exchange.

25 (3) Except as provided in subsection (4) of this section,

1 coverage for an autism spectrum disorder shall not be subject to any  
2 limits on the number of visits an individual may make for treatment  
3 of an autism spectrum disorder, nor shall such coverage be subject to  
4 dollar limits, deductibles, copayments, or coinsurance provisions  
5 that are less favorable to an insured than the equivalent provisions  
6 that apply to a general physical illness under the policy.

7           (4) Coverage for behavioral health treatment, including  
8 applied behavior analysis and other evidence-based care, shall be  
9 subject to a maximum benefit of seventy thousand dollars per year for  
10 the first three years of treatment and twenty thousand dollars per  
11 year for each year of treatment thereafter until the insured reaches  
12 twenty-one years of age. On or after January 1, 2015, the Director of  
13 Insurance shall, on an annual basis, adjust the maximum benefit for  
14 inflation by using the medical care component of the United States  
15 Department of Labor, Bureau of Labor Statistics, Consumer Price Index  
16 for All Urban Consumers. The director shall submit the adjusted  
17 maximum benefit for publication annually no later than X of each  
18 calendar year, and the published adjusted maximum benefit will be  
19 applicable in the following calendar year to policies and contracts  
20 subject to this section. Payments made by an insurer on behalf of a  
21 covered individual for treatment other than behavioral health  
22 treatment, including applied behavior analysis and other evidence-  
23 based care, shall not be applied to any maximum benefit established  
24 under this section.

25           (5) Except in the case of inpatient service, if an

1 individual is receiving treatment for an autism spectrum disorder, an  
2 insurer shall have the right to request a review of that treatment  
3 not more than once every twelve months unless the insurer and the  
4 individual's licensed physician or licensed psychologist execute an  
5 agreement that a more frequent review is necessary. Any such  
6 agreement regarding the right to review a treatment plan more  
7 frequently shall apply only to a particular individual being treated  
8 for an autism spectrum disorder and shall not apply to all  
9 individuals being treated for autism spectrum disorder by a licensed  
10 physician or licensed psychologist. The cost of obtaining a review  
11 under this subsection shall be borne by the insurer.

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

19 (7) The Director of Insurance shall grant a small  
20 employer with a group health plan a waiver from the provisions of  
21 this section if the small employer demonstrates to the director by  
22 actual claims experience over any consecutive twelve-month period  
23 that compliance with this section has increased the cost of the  
24 health insurance policy by an amount of two and one-half percent or  
25 greater over the period of a calendar year in premium costs to the

1 small employer. For purposes of this subsection, small employer has  
2 the same meaning as in section 44-5260.