

1
2 Councilmember Muriel Bowser

Councilmember Tommy Wells

3
4
5 A BILL
6
7

8 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
9
10

11
12 Councilmembers Tommy Wells and Muriel Bowser introduced the following bill, which was
13 referred to the Committee on _____.

14
15 To require health care insurers to provide coverage for the diagnosis and evidence-based,
16 medically necessary treatment, including applied behavior analysis, of autism spectrum
17 disorders.

18
19 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
20 act may be cited as the “Health Insurance Coverage for Children with Autism Act of 2009”.

21
22 Sec. 2. Definitions.

23 For the purposes of this act, the term:

24 (1)(A) “Adverse decision” means a utilization review determination by a private review
25 agent, a carrier, or a health care provider acting on behalf of a carrier that:

26 (i) A proposed or delivered health care service covered under the
27 member’s contract is or was not medically necessary, appropriate, or efficient;

28 (ii) May result in noncoverage of the health care service; and

29 (iii) Does not include a decision concerning a subscriber’s status as a
30 member.

31 (B) A determination denying a request for the diagnosis of autism spectrum
32 disorders or the treatment of autism spectrum disorders or denying payment for the diagnosis or
33 autism spectrum disorders or the treatment of autism spectrum disorders is an adverse decision.

34 (2) “Applied behavior analysis” means the design, implementation, and evaluation of
35 environmental modifications, using behavioral stimuli and consequences, to produce socially

1 significant improvement in human behavior, including the use of direct observation,
2 measurement, and functional analysis of the relationship between environment and behavior.

3 (3) "Autism services provider" means any person, entity, or group that provides treatment
4 of autism spectrum disorders.

5 (4) "Autism spectrum disorders" means any of the pervasive developmental disorders, as
6 described in the current version of the Diagnostic and Statistical Manual of Mental Disorders
7 published by the American Psychiatric Association.

8 (5) "Diagnosis of autism spectrum disorders" means medically necessary assessments,
9 evaluations, or tests to clinically diagnose by a licensed health care professional whether an
10 individual has an autism spectrum disorder.

11 (6) "Habilitative or rehabilitative care" means professional, counseling, and guidance
12 services and treatment programs and devices, including speech generating devices, relationship
13 development intervention (RDI), Developmental, Individual Difference, Relationship-based
14 (DIR/Floortime) care, and applied behavior analysis (ABA) provided by or under the supervision
15 of a board certified behavior analyst credentialed by the Behavior Analyst Certification Board,
16 that are necessary to develop, maintain, or restore, to the maximum extent practicable, the
17 functioning of an individual.

18 (7) (A) "Health benefit plan" means any accident and health insurance policy or
19 certificate, hospital and medical services corporation contract, health maintenance organization
20 subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided
21 by another benefit arrangement.

22 (B) The term "health benefit plan" does not mean accident only, credit, or
23 disability insurance; coverage of Medicare services or federal employee health plans, pursuant to
24 contracts with the United States government; Medicare supplemental or long-term care

1 insurance; dental only or vision only insurance; specified disease insurance; hospital
2 confinement indemnity coverage; limited benefit health coverage; coverage issued as a
3 supplement to liability insurance, insurance arising out of a workers' compensation or similar
4 law; automobile medical payment insurance; medical expense and loss of income benefits; or
5 insurance under which benefits are payable with or without regard to fault and that is statutorily
6 required to be contained in any liability insurance policy or equivalent self-insurance.

7 (8) "Health insurer" means any person that provides one or more health benefit plans or
8 insurance in the District of Columbia, including an insurer, a hospital and medical services
9 corporation, a fraternal benefit society, a health maintenance organization, a multiple employer
10 welfare arrangement, or any other person providing a plan of health insurance subject to the
11 authority of the Commissioner.

12 (9) "Pharmacy care" means medications prescribed by a licensed physician and any
13 health-related services deemed medically necessary to determine the need and effectiveness of
14 the medications.

15 (10) "Psychiatric care" means direct or consultative services provided by a licensed
16 psychiatrist.

17 (11) "Psychological care" means direct or consultative services provided by a licensed
18 psychologist.

19 (12) "Speech generating devices" are speech aids that treat severe speech or language
20 impairments by providing individuals with the ability to meet daily communication needs.

21 (13) "Treatment of autism spectrum disorders" means habilitative or rehabilitative care,
22 pharmacy care, psychiatric care, or psychological care prescribed to an individual diagnosed with
23 an autism spectrum disorder.

24 (A) Speech generating devices shall be prescribed by a licensed physician.

1 (B) All other treatment of autism spectrum disorders shall be prescribed by either
2 a licensed physician or a licensed psychologist.

3
4 Sec. 3. Coverage, notice, rule of construction, regulations, and applicability.

5 (a) A health insurer shall:

6 (1) Provide coverage for the diagnosis of autism spectrum disorders and the
7 evidence-based, medically necessary treatment of autism spectrum disorders, for individuals
8 under the age of 21 years.

9 (2) Provide notice to its insureds and enrollees about the coverage required under
10 this act.

11 (b) The coverage is not subject to limits on the number of visits an individual may make
12 to an autism services provider and shall not be more restrictive than coverage for any other
13 illness, condition, or disorder for purposes of determining deductibles, benefit year or lifetime
14 durational limits, benefit year (except as provided in subsection (c)) or lifetime dollar limits,
15 lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year
16 maximum for deductibles and copayments and coinsurance factors.

17 (c) (1) Subject to paragraph (2) of this subsection, coverage for relationship development
18 intervention (RDI), Developmental, Individual Difference, Relationship-based (DIR/Floortime)
19 care, and applied behavior analysis (ABA) shall be limited to a maximum benefit of \$55,000
20 annually.

21 (2) Beginning January 1, 2012, the maximum benefit shall be adjusted annually
22 for inflation by using the Medical Care Component of the United States Department of Labor
23 Consumer Price Index for All Urban Consumers (CPI-U).

1 (d) This act may not be construed as limiting benefits that are otherwise available under a
2 health benefit plan, nor may it be construed as affecting any obligation to provide services under
3 an individualized family service plan, an individualized education program, or an individualized
4 service plan.

5 (e) The Commissioner may issue rules and regulations necessary to implement the
6 provisions of this act.

7 (f) This act shall apply to all individual and group health benefit plans issued or renewed
8 on the first day of the month beginning on or after 180 days following the effective date of this
9 act.

10 Sec. 4. Fiscal impact statement.

11 The Council adopts the fiscal impact statement in the committee report as the fiscal
12 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act
13 approved December 24, 1973 (87 Stat. 813; D.C. Official Code Section 1-206.02(c)(3)).

14
15 Sec. 5. Effective date.

16 This act shall take effect following approval by the Mayor (or in the event of a veto by
17 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
18 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved
19 December 24, 1973 (87 Stat. 813; D.C. Official Code Section 1-206.02(c)(1)), and publication
20 in the District of Columbia Register.