

ASSEMBLY BILL

No. 796

**Introduced by Assembly Member Nazarian
(Coauthor: Assembly Member Rendon)**

February 26, 2015

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Section 10144.51 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as introduced, Nazarian. Health care coverage: autism and pervasive developmental disorders.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A violation of those provisions is a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance.

Existing law requires every health care service plan contract and health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism. Existing law requires every health care service plan and health insurance policy to maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Existing law defines “qualified autism service professional” and “qualified autism service paraprofessional” for this purpose to mean a person who meets specified educational and training requirements.

This bill would expand the eligibility for a person to be a qualified autism service professional to include a person who possesses a bachelor

of arts or science degree and meets other specified requirements, a registered psychological assistant, a registered psychologist, or an associate clinical social worker. The bill would also expand the eligibility for a person to be a qualified autism service paraprofessional to include a person with a high school diploma or equivalent and, among other things, 6 months experience working with persons with developmental disabilities.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) Autism and other pervasive developmental disorders are
4 complex neurobehavioral disorders that include impairments in
5 social communication and social interaction combined with rigid,
6 repetitive behaviors, interests, and activities.
- 7 (b) Autism covers a large spectrum of symptoms and levels of
8 impairment ranging in severity from somewhat limiting to a severe
9 disability that may require institutional care.
- 10 (c) One in 68 children born today will be diagnosed with autism
11 or another pervasive developmental disorder.
- 12 (d) Research has demonstrated that children diagnosed with
13 autism can often be helped with early administration of behavioral
14 health treatment.
- 15 (e) There are several forms of evidence-based behavioral health
16 treatment, including, but not limited to, applied behavioral analysis.
- 17 (f) Children diagnosed with autism respond differently to
18 behavioral health treatment.
- 19 (g) It is critical that each child diagnosed with autism receives
20 the specific type of evidence-based behavioral health treatment
21 best suited to him or her, as prescribed by his or her physician or
22 developed by a psychologist.
- 23 (h) The Legislature intends that all forms of evidence-based
24 behavioral health treatment be covered by health care service plans,
25 pursuant to Section 1374.73 of the Health and Safety Code, and
26 health insurance policies, pursuant to Section 10144.51 of the
27 Insurance Code.

1 (i) The Legislature intends that health care service plan provider
2 networks include qualified professionals practicing all forms of
3 evidence-based behavioral health treatment other than just applied
4 behavioral analysis.

5 SEC. 2. Section 1374.73 of the Health and Safety Code is
6 amended to read:

7 1374.73. (a) (1) Every health care service plan contract that
8 provides hospital, medical, or surgical coverage shall also provide
9 coverage for behavioral health treatment for pervasive
10 developmental disorder or autism no later than July 1, 2012. The
11 coverage shall be provided in the same manner and shall be subject
12 to the same requirements as provided in Section 1374.72.

13 (2) Notwithstanding paragraph (1), as of the date that proposed
14 final rulemaking for essential health benefits is issued, this section
15 does not require ~~any~~ benefits to be provided that exceed the
16 essential health benefits that all health plans will be required by
17 federal regulations to provide under Section 1302(b) of the federal
18 Patient Protection and Affordable Care Act (Public Law 111-148),
19 as amended by the federal Health Care and Education
20 Reconciliation Act of 2010 (Public Law 111-152).

21 (3) This section shall not affect services for which an individual
22 is eligible pursuant to Division 4.5 (commencing with Section
23 4500) of the Welfare and Institutions Code or Title 14
24 (commencing with Section 95000) of the Government Code.

25 (4) This section shall not affect or reduce any obligation to
26 provide services under an individualized education program, as
27 defined in Section 56032 of the Education Code, or an individual
28 service plan, as described in Section 5600.4 of the Welfare and
29 Institutions Code, or under the federal Individuals with Disabilities
30 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
31 regulations.

32 (b) Every health care service plan subject to this section shall
33 maintain an adequate network that includes qualified autism service
34 providers who supervise and employ qualified autism service
35 professionals or paraprofessionals who provide and administer
36 behavioral health treatment. Nothing shall prevent a health care
37 service plan from selectively contracting with providers within
38 these requirements.

39 (c) For the purposes of this section, the following definitions
40 shall apply:

1 (1) “Behavioral health treatment” means professional services
2 and treatment programs, including applied behavior analysis and
3 evidence-based behavior intervention programs, that develop or
4 restore, to the maximum extent practicable, the functioning of an
5 individual with pervasive developmental disorder or autism and
6 that meet all of the following criteria:

7 (A) The treatment is prescribed by a physician and surgeon
8 licensed pursuant to Chapter 5 (commencing with Section 2000)
9 of, or is developed by a psychologist licensed pursuant to Chapter
10 6.6 (commencing with Section 2900) of, Division 2 of the Business
11 and Professions Code.

12 (B) The treatment is provided under a treatment plan prescribed
13 by a qualified autism service provider and is administered by one
14 of the following:

15 (i) A qualified autism service provider.

16 (ii) A qualified autism service professional supervised and
17 employed by the qualified autism service provider.

18 (iii) A qualified autism service paraprofessional supervised and
19 employed by a qualified autism service provider.

20 (C) The treatment plan has measurable goals over a specific
21 timeline that is developed and approved by the qualified autism
22 service provider for the specific patient being treated. The treatment
23 plan shall be reviewed no less than once every six months by the
24 qualified autism service provider and modified whenever
25 appropriate, and shall be consistent with Section 4686.2 of the
26 Welfare and Institutions Code pursuant to which the qualified
27 autism service provider does all of the following:

28 (i) Describes the patient’s behavioral health impairments or
29 developmental challenges that are to be treated.

30 (ii) Designs an intervention plan that includes the service type,
31 number of hours, and parent participation needed to achieve the
32 plan’s goal and objectives, and the frequency at which the patient’s
33 progress is evaluated and reported.

34 (iii) Provides intervention plans that utilize evidence-based
35 practices, with demonstrated clinical efficacy in treating pervasive
36 developmental disorder or autism.

37 (iv) Discontinues intensive behavioral intervention services
38 when the treatment goals and objectives are achieved or no longer
39 appropriate.

1 (D) The treatment plan is not used for purposes of providing or
2 for the reimbursement of respite, day care, or educational services
3 and is not used to reimburse a parent for participating in the
4 treatment program. The treatment plan shall be made available to
5 the health care service plan upon request.

6 (2) “Pervasive developmental disorder or autism” shall have
7 the same meaning and interpretation as used in Section 1374.72.

8 (3) “Qualified autism service provider” means either of the
9 following:

10 (A) A person, entity, or group that is certified by a national
11 entity, such as the Behavior Analyst Certification Board, that is
12 accredited by the National Commission for Certifying Agencies,
13 and who designs, supervises, or provides treatment for pervasive
14 developmental disorder or autism, provided the services are within
15 the experience and competence of the person, entity, or group that
16 is nationally certified.

17 (B) A person licensed as a physician and surgeon, physical
18 therapist, occupational therapist, psychologist, marriage and family
19 therapist, educational psychologist, clinical social worker,
20 professional clinical counselor, speech-language pathologist, or
21 audiologist pursuant to Division 2 (commencing with Section 500)
22 of the Business and Professions Code, who designs, supervises,
23 or provides treatment for pervasive developmental disorder or
24 autism, provided the services are within the experience and
25 competence of the licensee.

26 (4) “Qualified autism service professional” means an individual
27 who meets all of the following criteria:

28 (A) Provides behavioral health treatment.

29 (B) Is employed and supervised by a qualified autism service
30 provider.

31 (C) Provides treatment pursuant to a treatment plan developed
32 and approved by the qualified autism service provider.

33 (D) Is a behavioral service provider ~~approved~~ *who meets one*
34 *of the following criteria:*

35 (i) *Is approved* as a vendor by a California regional center to
36 provide services as an Associate Behavior Analyst, Behavior
37 Analyst, Behavior Management Assistant, Behavior Management
38 Consultant, or Behavior Management Program as defined in
39 Section 54342 of Title 17 of the California Code of Regulations.

1 (ii) Possesses a bachelor of arts or science degree and has either
2 of the following:

3 (I) Twelve semester units from an accredited institute of higher
4 learning in either applied behavioral analysis or clinical
5 coursework in behavioral health and one year of experience in
6 designing or implementing behavioral health treatment.

7 (II) two years of experience in designing or implementing
8 behavioral health treatment.

9 (iii) The person is a registered psychological assistant or
10 registered psychologist pursuant to Chapter 6.6 (commencing with
11 Section 2900) of Division 2 of the Business and Professions Code.

12 (iv) The person is an associate clinical social worker registered
13 with the Board of Behavioral Sciences pursuant to Section 4996.18
14 of the Business and Professions Code.

15 (E) Has training and experience in providing services for
16 pervasive developmental disorder or autism pursuant to Division
17 4.5 (commencing with Section 4500) of the Welfare and
18 Institutions Code or Title 14 (commencing with Section 95000)
19 of the Government Code.

20 (5) “Qualified autism service paraprofessional” means an
21 unlicensed and uncertified individual who meets all of the
22 following criteria:

23 (A) Is employed and supervised by a qualified autism service
24 provider.

25 (B) Provides treatment and implements services pursuant to a
26 treatment plan developed and approved by the qualified autism
27 service provider.

28 (C) Meets the criteria set forth in the regulations adopted
29 pursuant to Section 4686.3 of the Welfare and Institutions ~~Code~~.
30 ~~Code or meets all of the following:~~

31 (i) Possesses a high school diploma or equivalent.

32 (ii) Has six months experience working with persons with a
33 developmental disability.

34 (iii) Has 30 hours of training in the specific form of
35 evidence-based behavioral health treatment administered by a
36 qualified autism provider or qualified autism service professional.

37 (iv) Has successfully passed a background check conducted by
38 a state-approved agency.

39 (D) Has adequate education, training, and experience, as
40 certified by a qualified autism service provider.

1 (d) This section shall not apply to the following:

2 (1) A specialized health care service plan that does not deliver
3 mental health or behavioral health services to enrollees.

4 (2) A health care service plan contract in the Medi-Cal program
5 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
6 9 of the Welfare and Institutions Code).

7 (3) A health care service plan contract in the Healthy Families
8 Program (Part 6.2 (commencing with Section 12693) of Division
9 2 of the Insurance Code).

10 (4) A health care benefit plan or contract entered into with the
11 Board of Administration of the Public Employees' Retirement
12 System pursuant to the Public Employees' Medical and Hospital
13 Care Act (Part 5 (commencing with Section 22750) of Division 5
14 of Title 2 of the Government Code).

15 (e) Nothing in this section shall be construed to limit the
16 obligation to provide services under Section 1374.72.

17 (f) As provided in Section 1374.72 and in paragraph (1) of
18 subdivision (a), in the provision of benefits required by this section,
19 a health care service plan may utilize case management, network
20 providers, utilization review techniques, prior authorization,
21 copayments, or other cost sharing.

22 (g) This section shall remain in effect only until January 1, 2017,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2017, deletes or extends that date.

25 SEC. 3. Section 10144.51 of the Insurance Code is amended
26 to read:

27 10144.51. (a) (1) Every health insurance policy shall also
28 provide coverage for behavioral health treatment for pervasive
29 developmental disorder or autism no later than July 1, 2012. The
30 coverage shall be provided in the same manner and shall be subject
31 to the same requirements as provided in Section 10144.5.

32 (2) Notwithstanding paragraph (1), as of the date that proposed
33 final rulemaking for essential health benefits is issued, this section
34 does not require any benefits to be provided that exceed the
35 essential health benefits that all health insurers will be required by
36 federal regulations to provide under Section 1302(b) of the federal
37 Patient Protection and Affordable Care Act (Public Law 111-148),
38 as amended by the federal Health Care and Education
39 Reconciliation Act of 2010 (Public Law 111-152).

1 (3) This section shall not affect services for which an individual
2 is eligible pursuant to Division 4.5 (commencing with Section
3 4500) of the Welfare and Institutions Code or Title 14
4 (commencing with Section 95000) of the Government Code.

5 (4) This section shall not affect or reduce any obligation to
6 provide services under an individualized education program, as
7 defined in Section 56032 of the Education Code, or an individual
8 service plan, as described in Section 5600.4 of the Welfare and
9 Institutions Code, or under the federal Individuals with Disabilities
10 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
11 regulations.

12 (b) Pursuant to Article 6 (commencing with Section 2240) of
13 Title 10 of the California Code of Regulations, every health insurer
14 subject to this section shall maintain an adequate network that
15 includes qualified autism service providers who supervise and
16 employ qualified autism service professionals or paraprofessionals
17 who provide and administer behavioral health treatment. Nothing
18 shall prevent a health insurer from selectively contracting with
19 providers within these requirements.

20 (c) For the purposes of this section, the following definitions
21 shall apply:

22 (1) “Behavioral health treatment” means professional services
23 and treatment programs, including applied behavior analysis and
24 evidence-based behavior intervention programs, that develop or
25 restore, to the maximum extent practicable, the functioning of an
26 individual with pervasive developmental disorder or autism, and
27 that meet all of the following criteria:

28 (A) The treatment is prescribed by a physician and surgeon
29 licensed pursuant to Chapter 5 (commencing with Section 2000)
30 of, or is developed by a psychologist licensed pursuant to Chapter
31 6.6 (commencing with Section 2900) of, Division 2 of the Business
32 and Professions Code.

33 (B) The treatment is provided under a treatment plan prescribed
34 by a qualified autism service provider and is administered by one
35 of the following:

- 36 (i) A qualified autism service provider.
- 37 (ii) A qualified autism service professional supervised and
38 employed by the qualified autism service provider.
- 39 (iii) A qualified autism service paraprofessional supervised and
40 employed by a qualified autism service provider.

1 (C) The treatment plan has measurable goals over a specific
2 timeline that is developed and approved by the qualified autism
3 service provider for the specific patient being treated. The treatment
4 plan shall be reviewed no less than once every six months by the
5 qualified autism service provider and modified whenever
6 appropriate, and shall be consistent with Section 4686.2 of the
7 Welfare and Institutions Code pursuant to which the qualified
8 autism service provider does all of the following:

9 (i) Describes the patient’s behavioral health impairments or
10 developmental challenges that are to be treated.

11 (ii) Designs an intervention plan that includes the service type,
12 number of hours, and parent participation needed to achieve the
13 plan’s goal and objectives, and the frequency at which the patient’s
14 progress is evaluated and reported.

15 (iii) Provides intervention plans that utilize evidence-based
16 practices, with demonstrated clinical efficacy in treating pervasive
17 developmental disorder or autism.

18 (iv) Discontinues intensive behavioral intervention services
19 when the treatment goals and objectives are achieved or no longer
20 appropriate.

21 (D) The treatment plan is not used for purposes of providing or
22 for the reimbursement of respite, day care, or educational services
23 and is not used to reimburse a parent for participating in the
24 treatment program. The treatment plan shall be made available to
25 the insurer upon request.

26 (2) “Pervasive developmental disorder or autism” shall have
27 the same meaning and interpretation as used in Section 10144.5.

28 (3) “Qualified autism service provider” means either of the
29 following:

30 (A) A person, entity, or group that is certified by a national
31 entity, such as the Behavior Analyst Certification Board, that is
32 accredited by the National Commission for Certifying Agencies,
33 and who designs, supervises, or provides treatment for pervasive
34 developmental disorder or autism, provided the services are within
35 the experience and competence of the person, entity, or group that
36 is nationally certified.

37 (B) A person licensed as a physician and surgeon, physical
38 therapist, occupational therapist, psychologist, marriage and family
39 therapist, educational psychologist, clinical social worker,
40 professional clinical counselor, speech-language pathologist, or

1 audiologist pursuant to Division 2 (commencing with Section 500)
2 of the Business and Professions Code, who designs, supervises,
3 or provides treatment for pervasive developmental disorder or
4 autism, provided the services are within the experience and
5 competence of the licensee.

6 (4) “Qualified autism service professional” means an individual
7 who meets all of the following criteria:

8 (A) Provides behavioral health treatment.

9 (B) Is employed and supervised by a qualified autism service
10 provider.

11 (C) Provides treatment pursuant to a treatment plan developed
12 and approved by the qualified autism service provider.

13 (D) Is a behavioral service provider ~~approved~~ *who meets one*
14 *of the following criteria:*

15 (i) *Is approved* as a vendor by a California regional center to
16 provide services as an Associate Behavior Analyst, Behavior
17 Analyst, Behavior Management Assistant, Behavior Management
18 Consultant, or Behavior Management Program as defined in
19 Section 54342 of Title 17 of the California Code of Regulations.

20 (ii) *Possesses a bachelor of arts or science degree and has either*
21 *of the following:*

22 (I) *Twelve semester units from an accredited institute of higher*
23 *learning in either applied behavioral analysis or clinical*
24 *coursework in behavioral health and one year of experience in*
25 *designing or implementing behavioral health treatment.*

26 (II) *Two years of experience in designing or implementing*
27 *behavioral health treatment.*

28 (iii) *The person is a registered psychological assistant or*
29 *registered psychologist pursuant to Chapter 6.6 (commencing with*
30 *Section 2900) of Division 2 of the Business and Professions Code.*

31 (iv) *The person is an associate clinical social worker registered*
32 *with the Board of Behavioral Sciences pursuant to Section 4996.18*
33 *of the Business and Professions Code.*

34 (E) Has training and experience in providing services for
35 pervasive developmental disorder or autism pursuant to Division
36 4.5 (commencing with Section 4500) of the Welfare and
37 Institutions Code or Title 14 (commencing with Section 95000)
38 of the Government Code.

1 (5) “Qualified autism service paraprofessional” means an
2 unlicensed and uncertified individual who meets all of the
3 following criteria:

4 (A) Is employed and supervised by a qualified autism service
5 provider.

6 (B) Provides treatment and implements services pursuant to a
7 treatment plan developed and approved by the qualified autism
8 service provider.

9 (C) Meets the criteria set forth in the regulations adopted
10 pursuant to Section 4686.3 of the Welfare and Institutions Code.
11 *Code or meets all of the following:*

12 (i) *Possesses a high school diploma or equivalent.*

13 (ii) *Has six months experience working with persons with a*
14 *developmental disability.*

15 (iii) *Has 30 hours of training in the specific form of*
16 *evidence-based behavioral health treatment administered by a*
17 *qualified autism provider or qualified autism service professional.*

18 (iv) *Has successfully passed a background check conducted by*
19 *a state-approved agency.*

20 (D) Has adequate education, training, and experience, as
21 certified by a qualified autism service provider.

22 (d) This section shall not apply to the following:

23 (1) A specialized health insurance policy that does not cover
24 mental health or behavioral health services or an accident only,
25 specified disease, hospital indemnity, or Medicare supplement
26 policy.

27 (2) A health insurance policy in the Medi-Cal program (Chapter
28 7 (commencing with Section 14000) of Part 3 of Division 9 of the
29 Welfare and Institutions Code).

30 (3) A health insurance policy in the Healthy Families Program
31 (Part 6.2 (commencing with Section 12693)).

32 (4) A health care benefit plan or policy entered into with the
33 Board of Administration of the Public Employees’ Retirement
34 System pursuant to the Public Employees’ Medical and Hospital
35 Care Act (Part 5 (commencing with Section 22750) of Division 5
36 of Title 2 of the Government Code).

37 (e) Nothing in this section shall be construed to limit the
38 obligation to provide services under Section 10144.5.

39 (f) As provided in Section 10144.5 and in paragraph (1) of
40 subdivision (a), in the provision of benefits required by this section,

1 a health insurer may utilize case management, network providers,
2 utilization review techniques, prior authorization, copayments, or
3 other cost sharing.

4 (g) This section shall remain in effect only until January 1, 2017,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 1, 2017, deletes or extends that date.