

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1545

By: Representatives M. Davis, L. Johnson, Maddox, Vaught

By: Senator K. Ingram

## For An Act To Be Entitled

AN ACT TO UPDATE THE ARKANSAS CODE REGARDING LANGUAGE  
ASSOCIATED WITH AUTISM SPECTRUM DISORDERS; AND FOR  
OTHER PURPOSES.

## Subtitle

TO UPDATE THE ARKANSAS CODE REGARDING  
LANGUAGE ASSOCIATED WITH AUTISM SPECTRUM  
DISORDERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-77-124 is amended to read as follows:

20-77-124. Medicaid waiver for autism spectrum disorder – Definitions.

(a) As used in this section:

(1) “Autism spectrum disorder” means a ~~neurobiological~~ condition that ~~causes significant communication, social, and behavioral challenges that is diagnosed by a team of professionals, including without limitation a licensed physician, licensed psychologist, and a licensed speech language pathologist~~ diagnosed by at least two (2) qualified professionals who both conclude that a child fully meets the diagnostic criteria under the most recent edition of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders;

(2) “Evidence-based ~~strategies~~ treatment” means ~~treatments that have been proven effective with children diagnosed with autism spectrum disorder as established~~ treatment subject to research that applies rigorous, systematic, and objective procedures to obtain valid knowledge of



effectiveness relative to autism spectrum disorder as published by the National Standards Report by the National Autism Center; and

(3) "Intensive early intervention treatment" means individualized treatment utilizing evidence-based ~~strategies based on treatment determined appropriate following~~ a detailed assessment of the child that occurs:

(A) In the home of the child or a natural community setting; and

(B) In the presence of the parent or legal guardian of the child; and

~~(C) For a maximum period of twenty-five (25) hours per week.~~

(4)(A) "Qualified professional" means a professional who is educated and licensed in fields related to physical health, mental health, and child and adolescent physical and psychological development.

(B) A "qualified professional" only includes a licensed physician, licensed psychologist, or licensed speech-language pathologist.

(b)(1) The Department of Human Services shall ~~seek~~ maintain a Medicaid waiver from the Centers for Medicare & Medicaid Services to provide intensive early intervention treatment to any eligible child who has ~~been diagnosed with a primary diagnosis of~~ an autism spectrum disorder.

~~(2)(A)~~ The waiver shall ~~be~~ provide services for young children ~~eighteen (18) months of age through seven (7) years of age~~ consistent with the terms specified in the waiver application approved by the Centers for Medicare and Medicaid Services.

~~(B) A child shall not participate in the Medicaid waiver under this section for more than three (3) years.~~

~~(C) The Medicaid waiver under this section shall not pay more than fifty thousand dollars (\$50,000) annually per child.~~

(3) The waiver shall seek to develop skills of children in the areas of cognition, behavior, communication, and social interaction.

~~(c)(1) The department shall apply for the Medicaid waiver under this section only as funding becomes available for that purpose.~~

~~(2) No later than January 1, 2016,~~ To the extent funding becomes appropriated and available, the department shall apply to add ~~an~~ additional ~~fifty (50)~~ eligibility slots to the Medicaid waiver for autism, ~~to the extent~~

~~that appropriation and funding are available~~ spectrum disorder.

SECTION 2. Arkansas Code § 23-99-418(a), concerning the definitions for coverage of autism spectrum disorders, is amended to read as follows:

(a) As used in this section:

(1) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications by a board-certified behavior analyst using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior;

(2) "Autism services provider" means a person, entity, or group that provides diagnostic evaluations and treatment of autism spectrum disorders, including licensed physicians, licensed psychiatrists, licensed ~~speech therapists~~ speech-language pathologists, licensed occupational therapists, licensed physical therapists, licensed psychologists, and board-certified behavior analysts;

(3) "Autism spectrum disorder" means ~~any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including:~~

~~(A) Autistic disorder;~~

~~(B) Asperger's disorder; and~~

~~(C) Pervasive developmental disorder not otherwise specified;~~ a condition diagnosed according to the diagnostic criteria under the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders;

(4) "Board-certified behavior analyst" means an individual certified by the ~~nationally accredited~~ Behavior Analyst Certification Board, a ~~nationally accredited~~ national nongovernmental agency that certifies individuals who have completed academic, examination, training, and supervision requirements in applied behavior analysis;

(5)(A) "Diagnosis" means medically necessary assessment, evaluations, or tests to diagnose whether or not an individual has an autism spectrum disorder.

(B) Diagnostic evaluations do not need to be completed concurrently to diagnose autism spectrum disorder;

(6) “Evidence-based treatment” means treatment subject to research that applies rigorous, systematic, and objective procedures to obtain valid knowledge of effectiveness relevant to autism spectrum disorders as published in the National Standards Report of the National Autism Center;

(7)(A) “Health benefit plan” means any group or blanket plan, policy, or contract for healthcare services issued or delivered in this state by healthcare insurers, including indemnity and managed care plans and the plans providing health benefits to state and public school employees under § 21-5-401 et seq., but excluding individual major medical plans and plans providing healthcare services under Arkansas Constitution, Article 5, § 32, the Workers’ Compensation Law, § 11-9-101 et seq., and the Public Employee Workers’ Compensation Act, § 21-5-601 et seq.

(B) “Health benefit plan” does not include an accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policy;

(8) “Healthcare insurer” means any insurance company, hospital and medical service corporation, or health maintenance organization issuing or delivering health benefit plans in this state and subject to any of the following laws:

(A) The insurance laws of this state;

(B) Section 23-75-101 et seq., pertaining to hospital and medical service corporations; and

(C) Section 23-76-101 et seq., pertaining to health maintenance organizations;

(9) “Medically necessary” means reasonably expected to do the following:

(A) Prevent the onset of an illness, condition, injury, or disability;

(B) Reduce or ameliorate the physical, mental, or developmental effects of an illness, condition, injury, or disability; or

(C) Assist to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and the functional capacities that are appropriate for individuals of the same age;

(10) “Pharmacy care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to

determine the need or effectiveness of the medications;

(11) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices;

(12) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices;

(13) "Therapeutic care" means services provided by licensed ~~speech therapists~~ speech-language pathologists, occupational therapists, or physical therapists; and

(14) "Treatment" includes:

(A) The following care prescribed, provided, or ordered for a specific individual diagnosed with an autism spectrum disorder ~~by a licensed physician or a licensed psychologist who determines the care to be medically necessary and evidence-based~~, including without limitation:

(i) Applied behavior analysis when provided by or supervised by a board-certified behavior analyst;

(ii) Pharmacy care;

(iii) Psychiatric care;

(iv) Psychological care;

(v) Therapeutic care; and

(vi) Equipment determined necessary to provide evidence-based treatment; and

(B) Any care for an individual with autism spectrum disorder that is determined by a licensed physician to be:

(i) Medically necessary; and

(ii) Evidence-based.

**APPROVED: 4/12/21**