

SENATE BILL No. 303

By Committee on Ways and Means

5-4

1 AN ACT concerning insurance; relating to coverage for autism spectrum  
2 disorder; amending K.S.A. 2014 Supp. 40-2,194 and repealing the  
3 existing section.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 40-2,194 is hereby amended to read as  
7 follows: 40-2,194. (a) (1) (A) Any large group health insurance policy,  
8 medical service plan, contract, hospital service corporation contract,  
9 hospital and medical service corporation contract, fraternal benefit society  
10 or health maintenance organization which provides coverage for accident  
11 and health services and which is delivered, issued for delivery, amended or  
12 renewed on or after January 1, 2015, shall provide coverage for the  
13 diagnosis and treatment of autism spectrum disorder in any covered  
14 individual whose age is less than 12 years. ~~However, coverage for autism~~  
15 ~~spectrum disorder shall not be required of a qualified health plan, as that~~  
16 ~~term is defined in 42 U.S.C. § 18021, as in effect on July 1, 2015.~~

17 (B) Any **individual or small group** ~~grandfathered individual or group~~  
18 health insurance policy, medical service plan, contract, hospital service  
19 corporation contract, hospital and medical service corporation contract,  
20 fraternal benefit society or health maintenance organization which  
21 provides coverage for accident and health services and which is delivered,  
22 issued for delivery, amended or renewed on or after January 1, 2016, shall  
23 provide coverage for the diagnosis and treatment of autism spectrum  
24 disorder in any covered individual whose age is less than 12 years.

25 (2) Such coverage shall be provided in a manner determined in  
26 consultation with the autism services provider and the patient. Services  
27 provided by autism services providers under this section shall include  
28 applied behavior analysis when required by a licensed physician, licensed  
29 psychologist or licensed specialist clinical social worker but otherwise  
30 shall be limited to the care, services and related equipment prescribed or  
31 ordered by a licensed physician, licensed psychologist or licensed  
32 specialist clinical social worker.

33 (3) Coverage provided under this section for applied behavior  
34 analysis shall be subject to a limitation of:

35 (A) 1,300 hours per calendar year for four years beginning on the  
36 later of the date of diagnosis or January 1, 2015, for any covered

1 individual diagnosed with autism spectrum disorder between birth and five  
2 years of age; and

3 (B) except as provided in subparagraph (A), 520 hours per calendar  
4 year for any covered individual less than 12 years of age.

5 Upon prior approval by the health benefit plan, such maximum benefit  
6 limit may be exceeded if the provision of applied behavior analysis  
7 services beyond the maximum limit is medically necessary for such  
8 individual. Any payment made by an insurer on behalf of a covered  
9 individual for any care, treatment, intervention, service or item, the  
10 provision of which was for the treatment of a health condition unrelated to  
11 such covered individual's autism spectrum disorder, shall not be applied  
12 toward any maximum benefit established under this paragraph. Except for  
13 the coverage for applied behavior analysis, no coverage required under this  
14 section shall be subject to the age and hour limitations described in this  
15 paragraph.

16 (4) On or after January 1, 2015, through June 30, 2016,  
17 reimbursement shall be allowed only for services provided by a provider  
18 licensed, trained and qualified to provide such services or by an autism  
19 specialist or an intensive individual service provider as such terms are  
20 defined by the Kansas department for aging and disability services Kansas  
21 autism waiver. On or after July 1, 2016, reimbursement shall be allowed  
22 only for services provided by an autism service provider licensed or  
23 exempt from licensure under the applied behavior analysis licensure act,  
24 except that reimbursement shall be allowed for services provided by an  
25 autism specialist, an intensive individual service provider or any other  
26 individual qualified to provide services under the home and community  
27 based services autism waiver administered by the Kansas department for  
28 aging and disability services.

29 (5) Any insurer or other entity which administers claims for services  
30 provided for the treatment of autism spectrum disorder under this section  
31 shall have the right and obligation to deny any claim for services based  
32 upon medical necessity or a determination that the covered individual has  
33 reached the maximum medical improvement for the covered individual's  
34 autism spectrum disorder.

35 (6) Except for inpatient services, if an insured is receiving treatment  
36 for autism spectrum disorder, such insurer shall have the right to review  
37 the treatment plan not more than once in a period of six consecutive  
38 months, unless the insurer and the insured's treating physician or  
39 psychologist agree that a more frequent review is necessary. Any such  
40 agreement regarding the right to review a treatment plan more frequently  
41 shall apply only to a particular insured being treated for autism spectrum  
42 disorder and shall not apply to all individuals being treated for autism  
43 spectrum disorder by a physician or psychologist. The cost of obtaining

1 any review or treatment plan shall be borne by the insurer.

2 (7) No insurer can terminate coverage, or refuse to deliver, execute,  
3 issue, amend, adjust or renew coverage to an individual solely because the  
4 individual is diagnosed with or has received treatment for autism spectrum  
5 disorder.

6 (b) For the purposes of this section:

7 (1) "Applied behavior analysis" means the design, implementation  
8 and evaluation of environmental modifications, using behavioral stimuli  
9 and consequences, to produce socially significant improvement in human  
10 behavior, including the use of direct observation, measurement and  
11 functional analysis of the relationship between environment and behavior.

12 (2) "Autism spectrum disorder" means a neurobiological disorder, an  
13 illness of the nervous system, which includes:

14 (A) "Autistic disorder," which is:

15 (i) Six or more items from (a), (b) and (c) of this subparagraph, with  
16 at least two items from (a) of this subparagraph, and one item each from  
17 (b) and (c) of this subparagraph:

18 (a) Qualitative impairment in social interaction, as manifested by at  
19 least two of the following:

20 (1) Marked impairment in the use of multiple nonverbal behaviors  
21 such as eye-to-eye gaze, facial expression, body postures and gestures to  
22 regulate social interaction;

23 (2) failure to develop peer relationships appropriate to developmental  
24 level;

25 (3) a lack of spontaneous seeking to share enjoyment, interests or  
26 achievements with other people; or

27 (4) lack of social or emotional reciprocity;

28 (b) qualitative impairments in communication as manifested by at  
29 least one of the following:

30 (1) Delay in, or total lack of, the development of spoken language;

31 (2) in individuals with adequate speech, marked impairment in the  
32 ability to initiate or sustain a conversation with others;

33 (3) stereotyped and repetitive use of language or idiosyncratic  
34 language; or

35 (4) lack of varied, spontaneous make-believe play or social imitative  
36 play appropriate to developmental level;

37 (c) restricted repetitive and stereotyped patterns of behavior, interests  
38 and activities, as manifested by at least one of the following:

39 (1) Encompassing preoccupation with one or more stereotyped and  
40 restricted patterns of interest that is abnormal either in intensity or focus;

41 (2) apparently inflexible adherence to specific, nonfunctional routines  
42 or rituals;

43 (3) stereotyped and repetitive motor mannerisms; or

- 1 (4) persistent preoccupation with parts of objects;
- 2 (ii) delays or abnormal functioning in at least one of the following
- 3 areas, with onset prior to age three years, including social interaction,
- 4 language as used in social communication or symbolic or imaginative
- 5 play; and
- 6 (iii) the disturbance is not better accounted for by Rett's disorder or
- 7 childhood disintegrative disorder;
- 8 (B) "Asperger's disorder," which is:
- 9 (i) a qualitative impairment in social interaction, as manifested by at
- 10 least two of the following:
- 11 (a) Marked impairment in the use of multiple nonverbal behaviors
- 12 such as eye-to-eye gaze, facial expression, body postures and gestures to
- 13 regulate social interaction;
- 14 (b) failure to develop peer relationships appropriate to developmental
- 15 level;
- 16 (c) lack of spontaneous seeking to share enjoyment, interests or
- 17 achievements with other people; or
- 18 (d) lack of social or emotional reciprocity;
- 19 (ii) restricted repetitive and stereotyped patterns of behavior, interests
- 20 and activities, as manifested by at least one of the following:
- 21 (a) Encompassing preoccupation with one or more stereotyped and
- 22 restricted patterns of interest that is abnormal either in intensity or focus;
- 23 (b) apparently inflexible adherence to specific, nonfunctional routines
- 24 or rituals;
- 25 (c) stereotyped and repetitive motor mannerisms; or
- 26 (d) persistent preoccupation with parts of objects;
- 27 (iii) the disturbance causes clinically significant impairment in social,
- 28 occupational or other important areas of functioning;
- 29 (iv) there is no clinically significant general delay in language;
- 30 (v) there is no clinically significant delay in cognitive development or
- 31 in the development of age-appropriate self-help skills, adaptive behavior
- 32 (other than in social interaction), and curiosity about the environment in
- 33 childhood; and
- 34 (vi) criteria are not met for another specific pervasive developmental
- 35 disorder or schizophrenia;
- 36 (C) "pervasive developmental disorder not otherwise specified," is a
- 37 severe and pervasive impairment in the development of reciprocal social
- 38 interaction associated with impairment in either verbal or nonverbal
- 39 communication skills or with the presence of stereotyped behavior,
- 40 interests and activities, but the criteria are not met for a specific pervasive
- 41 developmental disorder, schizophrenia, schizotypal personality disorder, or
- 42 avoidant personality disorder;
- 43 (D) "Rett's disorder," includes:

- 1 (i) All of the following:
  - 2 (a) Apparently normal prenatal and perinatal development;
  - 3 (b) apparently normal psychomotor development through the first  
4 five months after birth; and
  - 5 (c) normal head circumference at birth;
  - 6 (ii) onset of all of the following after the period of normal  
7 development:
    - 8 (a) Deceleration of head growth between ages five and 48 months;
    - 9 (b) loss of previously acquired purposeful hand skills between ages  
10 five and 30 months with the subsequent development of stereotyped hand  
11 movements;
    - 12 (c) loss of social engagement early in the course of development;
    - 13 (d) appearance of poorly coordinated gait or trunk movements; and
    - 14 (e) severely impaired expressive and receptive language development  
15 with severe psychomotor retardation;
  - 16 (E) "childhood disintegrative disorder," is:
    - 17 (i) Apparently normal development for at least the first two years  
18 after birth as manifested by the presence of age-appropriate verbal and  
19 nonverbal communication, social relationships, play and adaptive  
20 behavior;
    - 21 (ii) clinically significant loss of previously acquired skills in at least  
22 two of the following areas: Expressive or receptive language, social skills  
23 or adaptive behavior, bowel or bladder control or play and motor skills;
    - 24 (iii) abnormalities of functioning in at least two of the following  
25 areas: Qualitative impairment in social interaction; qualitative impairments  
26 in communication; restricted, repetitive and stereotyped patterns of  
27 behavior, interests and activities, including motor stereotypies and  
28 mannerisms; and
    - 29 (iv) the disturbance is not better accounted for by another specific  
30 pervasive developmental disorder or by schizophrenia.
  - 31 (3) "Diagnosis of autism spectrum disorder" means any medically  
32 necessary assessment, evaluation or test performed by a licensed  
33 physician, licensed psychologist or licensed specialist clinical social  
34 worker to determine whether an individual has autism spectrum disorder.
  - 35 (4) "Grandfathered health benefit plan" shall have the meaning  
36 ascribed to such term in 42 U.S.C. § 18011. The term "grandfathered  
37 health benefit plan" includes both small employer group health benefit  
38 plans that are grandfathered and individual health benefit plans that are  
39 grandfathered.
  - 40 (5) "Health benefit plan" shall have the meaning ascribed to such  
41 term in K.S.A. 40-4602, and amendments thereto.
  - 42 (6) "Large employer" means, in connection with a group health  
43 benefit plan with respect to a calendar year and a plan year, an employer

1 who employed an average of at least ~~51~~ **101** employees on business days  
2 during the preceding calendar year and who employs at least one employee  
3 on the first day of the plan year.

4 (7) "Small employer" means, in connection with a group health  
5 benefit plan with respect to a calendar year and a plan year, an employer  
6 who employed an average of at least one but not more than ~~50~~ **100**  
7 employees on business days during the preceding calendar year and who  
8 employs at least one employee on the first day of the plan year.

9 (c) If an individual has been diagnosed as having autism spectrum  
10 disorder meeting the diagnostic criteria described in the edition of the  
11 diagnostic and statistical manual of mental disorders available at the time  
12 of diagnosis, then that individual shall not be required to undergo any  
13 additional or repeated evaluation based upon the adoption of a subsequent  
14 edition of the diagnostic and statistical manual of mental disorders adopted  
15 by rules and regulations of the behavioral sciences regulatory board in  
16 order to remain eligible for coverage under this section.

17 (d) Except as otherwise provided in subsection (a), no individual or  
18 group health insurance policy, medical service plan, contract, hospital  
19 service corporation contract, hospital and medical service corporation  
20 contract, fraternal benefit society or health maintenance organization  
21 which provides coverage for accident and health services and which  
22 provides coverage with respect to autism spectrum disorder shall:

23 (1) Impose on the coverage required by this section any dollar limits,  
24 deductibles or coinsurance provisions that are less favorable to an insured  
25 than the dollar limits, deductibles or coinsurance provisions that apply to  
26 physical illness generally under the accident and sickness insurance policy;  
27 or

28 (2) impose on the coverage required by this section any limit upon the  
29 number of visits that a covered individual may make for treatment of  
30 autism spectrum disorder.

31 (e) The provisions of this section shall not apply to any policy or  
32 certificate which provides coverage for any specified disease, specified  
33 accident or accident-only coverage, credit, dental, disability income,  
34 hospital indemnity, long-term care insurance as defined by K.S.A. 40-  
35 2227, and amendments thereto, vision care or any other limited  
36 supplemental benefit nor to any medicare supplement policy of insurance  
37 as defined by the commissioner of insurance by rules and regulations, any  
38 coverage issued as a supplement to liability insurance, workers'  
39 compensation or similar insurance, automobile medical-payment insurance  
40 or any insurance under which benefits are payable with or without regard  
41 to fault, whether written on a group, blanket or individual basis.

42 (f) This section shall not be construed as limiting benefits that are  
43 otherwise available to an individual under any individual or group health

1 insurance policy, medical service plan, contract, hospital service  
2 corporation contract, hospital and medical service corporation contract,  
3 fraternal benefit society or health maintenance organization which  
4 provides coverage for accident and health services.

5 (g) The provisions of K.S.A. 40-2249a, and amendments thereto,  
6 shall not apply to the provisions of this section.

7 (h) The commissioner of the department of insurance shall grant a  
8 small employer with a group health benefit plan a waiver from the  
9 provisions of this section, if the small employer demonstrates to the  
10 commissioner by actual claims experience over any consecutive twelve-  
11 month period that compliance with this section has increased the cost of  
12 the health insurance policy by an amount of two and a half percent or  
13 greater over the period of a calendar year in premium costs to the small  
14 employer.

15 (i) Nothing contained in this section shall require coverage for or  
16 payment of full or partial day care or habilitation services, community  
17 support services, services at intermediate care facilities, school-based  
18 rehabilitative services or overnight, boarding and extended stay services at  
19 facilities for autism patients. Only services actually rendered on an hourly  
20 basis or fractional portion thereof by certified applied behavior analysis  
21 (ABA) providers as herein defined shall be required to be covered under  
22 this section. Nothing in this section shall require coverage or payment  
23 hereunder for services that are otherwise provided, authorized or required  
24 to be provided by public or private schools receiving any state or federal  
25 funding for such services.

26 Sec. 2. K.S.A. 2014 Supp. 40-2,194 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after  
28 ***January 1, 2016 and*** its publication in the statute book.