

SENATE BILL No. 398

By Legislative Educational Planning Committee
(By Request of the Kansas Autism Task Force)

1-3

10 AN ACT concerning insurance; providing coverage for autism; amending
11 K.S.A. 2007 Supp. 40-2,103, 40-2,105, 40-2,105a and 40-19c09 and
12 repealing the existing sections.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) (1) Any individual or group health insurance pol-
16 icy, medical service plan, contract, hospital service corporation contract,
17 hospital and medical service corporation contract, fraternal benefit society
18 or health maintenance organization which provides coverage for accident
19 and health services and which is delivered, issued for delivery, amended
20 or renewed on or after July 1, 2008, shall provide coverage for the treat-
21 ment of autism.

22 (2) Such coverage shall be provided in a manner determined in con-
23 sultation with the health care provider and the patient. Services provided
24 under this section shall be limited to those services prescribed by the
25 health care provider in accordance with a treatment plan. Such coverage
26 may be subject to annual deductibles and coinsurance provisions as may
27 be deemed appropriate and as are consistent with those established for
28 other benefits under the plan or coverage.

29 (b) Each individual or group health insurance policy, medical service
30 plan, contract, hospital service corporation contract, hospital and medical
31 service corporation contract, fraternal benefit society or health mainte-
32 nance organization which provides coverage for accident and health serv-
33 ices which provides medical and surgical benefits shall provide written
34 notice, as currently required, to all enrollees, insureds or subscribers re-
35 garding the coverage required by this section.

36 (c) No individual or group health insurance policy, medical service
37 plan, contract, hospital service corporation contract, hospital and medical
38 service corporation contract, fraternal benefit society or health mainte-
39 nance organization which provides coverage for accident and health serv-
40 ices which provides coverage with respect to autism shall:

41 (1) Deny to a patient eligibility, or continued eligibility, to enroll or
42 to renew coverage under the terms of the plan, solely for the purpose of
43 avoiding the requirements of this section;

- 1 (2) deny or refuse to issue coverage on, refuse to contract with, or
2 refuse to renew, refuse to reissue or otherwise terminate or restrict cov-
3 erage on an individual under an insurance policy solely because the in-
4 dividual is diagnosed with autism;
- 5 (3) impose on the coverage required by this section any dollar limits,
6 deductibles or coinsurance provisions that are less favorable to an insured
7 than the dollar limits, deductibles or coinsurance provisions that apply to
8 physical illness generally under the accident and sickness insurance policy;
9 or
- 10 (4) penalize or otherwise reduce or limit the reimbursement of a
11 health care provider, or provide incentives (monetary or otherwise) to a
12 health care provider, to induce such health care provider to provide care
13 to an individual participant or beneficiary in a manner inconsistent with
14 this section.
- 15 (d) The provisions of this section shall not apply to any policy or
16 certificate which provides coverage for any specified disease, specified
17 accident or accident only coverage, credit, dental, disability income, hos-
18 pital indemnity, long-term care insurance as defined by K.S.A. 40-2227,
19 and amendments thereto, vision care or any other limited supplemental
20 benefit nor to any medicare supplement policy of insurance as defined
21 by the commissioner of insurance by rule and regulation, any coverage
22 issued as a supplement to liability insurance, workers' compensation or
23 similar insurance, automobile medical-payment insurance or any insur-
24 ance under which benefits are payable with or without regard to fault,
25 whether written on a group, blanket or individual basis.
- 26 (e) For the purposes of this section: (1) "Autism" means and includes
27 all disorders within the autism spectrum including, but not limited to,
28 autism, Asperger's disorder, Rett's disorder, childhood disintegrative dis-
29 order, pervasive developmental disorders and pervasive developmental
30 disorder not otherwise specified, as such terms are specified in the di-
31 agnostic and statistical manual of mental disorders, fourth edition, text
32 revision (DSM-IV-TR), of the American psychiatric association, as pub-
33 lished in May, 2000, or later versions as established in rules and regula-
34 tions adopted by the behavioral sciences regulatory board pursuant to
35 K.S.A. 74-7507 and amendments thereto.
- 36 (2) "Health care provider" shall have the meaning ascribed to it in
37 K.S.A. 40-22a03, and amendments thereto, except that health care pro-
38 vider shall not include:
- 39 (A) Any state institution for the mentally retarded;
- 40 (B) any state psychiatric hospital;
- 41 (C) any person holding an exempt license issued by the state board
42 of healing arts; or
- 43 (D) any person holding a visiting clinical professor license from the

1 state board of healing arts.

2 (f) The provisions of this section shall be applicable to the Kansas
3 state employees health care benefits program and municipal funded
4 pools.

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

7 Sec. 2. K.S.A. 2007 Supp. 40-2,103 is hereby amended to read as
8 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
9 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,
10 inclusive, 40-2250, K.S.A. 2007 Supp. 40-2,105a ~~and 40-2,105b, 40-~~
11 ~~2,105b and section 1~~, and amendments thereto, shall apply to all insurance
12 policies, subscriber contracts or certificates of insurance delivered, re-
13 newed or issued for delivery within or outside of this state or used within
14 this state by or for an individual who resides or is employed in this state.

15 Sec. 3. K.S.A. 2007 Supp. 40-2,105 is hereby amended to read as
16 follows: 40-2,105. (a) On or after the effective date of this act, every
17 insurer which issues any individual or group policy of accident and sick-
18 ness insurance providing medical, surgical or hospital expense coverage
19 for other than specific diseases or accidents only and which provides for
20 reimbursement or indemnity for services rendered to a person covered
21 by such policy in a medical care facility, must provide for reimbursement
22 or indemnity under such individual policy or under such group policy,
23 except as provided in subsection (d), which shall be limited to not less
24 than 30 days per year when such person is confined for treatment of
25 alcoholism, drug abuse or nervous or mental conditions in a medical care
26 facility licensed under the provisions of K.S.A. 65-429, and amendments
27 thereto, a treatment facility for alcoholics licensed under the provisions
28 of K.S.A. 65-4014, and amendments thereto, a treatment facility for drug
29 abusers licensed under the provisions of K.S.A. 65-4605, and amend-
30 ments thereto, a community mental health center or clinic licensed under
31 the provisions of K.S.A. 75-3307b, and amendments thereto, or a psy-
32 chiatric hospital licensed under the provisions of K.S.A. 75-3307b and
33 amendments thereto. Such individual policy or such group policy shall
34 also provide for reimbursement or indemnity, except as provided in sub-
35 section (d), of the costs of treatment of such person for alcoholism, drug
36 abuse and nervous or mental conditions, limited to not less than 100% of
37 the first \$100, 80% of the next \$100 and 50% of the next \$1,640 in any
38 year and limited to not less than \$7,500 in such person's lifetime, in the
39 facilities enumerated when confinement is not necessary for the treat-
40 ment or by a physician licensed or psychologist licensed to practice under
41 the laws of the state of Kansas.

42 (b) For the purposes of this section "nervous or mental conditions"
43 means disorders specified in the diagnostic and statistical manual of men-

1 tal disorders, fourth edition, (~~DSM-IV, 1994~~) of the American psychiatric
2 association text revision (*DSM-IV-TR*), of the American psychiatric as-
3 sociation, as published in May, 2000, or later versions as established in
4 rules and regulations adopted by the behavioral sciences regulatory board
5 pursuant to K.S.A. 74-7507, and amendments thereto, but shall not in-
6 clude conditions:

7 (1) Not attributable to a mental disorder that are a focus of attention
8 or treatment (~~DSM-IV, 1994~~); and

9 (2) defined as a mental illness in K.S.A. 2007 Supp. 40-2,105a and
10 amendments thereto.

11 (c) The provisions of this section shall be applicable to health main-
12 tenance organizations organized under article 32 of chapter 40 of the
13 Kansas Statutes Annotated.

14 (d) There shall be no coverage under the provisions of this section
15 for any assessment against any person required by a diversion agreement
16 or by order of a court to attend an alcohol and drug safety action program
17 certified pursuant to K.S.A. 8-1008, and amendments thereto, or for eval-
18 uations and diagnostic tests ordered or requested in connection with
19 criminal actions, divorce, child custody or child visitation proceedings.

20 (e) The provisions of this section shall not apply to any medicare
21 supplement policy of insurance, as defined by the commissioner of in-
22 surance by rule and regulation.

23 (f) The provisions of this section shall be applicable to the Kansas
24 state employees health care benefits program developed and provided by
25 the Kansas state employees health care commission.

26 (g) The outpatient coverage provisions of this section shall not apply
27 to a high deductible health plan as defined in federal law if such plan is
28 purchased in connection with a medical or health savings account pur-
29 suant to that federal law, regardless of the effective date of the insurance
30 policy. After the amount of eligible deductible expenses have been paid
31 by the insured, the outpatient costs of treatment of the insured for al-
32 colism, drug abuse and nervous or mental conditions shall be paid on
33 the same level they are provided for a medical condition, subject to the
34 yearly and lifetime maximums provided in subsection (a).

35 Sec. 4. K.S.A. 2007 Supp. 40-2,105a is hereby amended to read as
36 follows: 40-2,105a. (a) (1) Any group health insurance policy, medical
37 service plan, contract, hospital service corporation contract, hospital and
38 medical service corporation contract, fraternal benefit society or health
39 maintenance organization which provides coverage for mental health ben-
40 efits and which is delivered, issued for delivery, amended or renewed on
41 or after January 1, 2002, shall include coverage for diagnosis and treat-
42 ment of mental illnesses. Except as provided in paragraph (2), such cov-
43 erage shall be subject to the same deductibles, coinsurance and other

1 limitations as apply to other covered services.

2 (2) The coverage required by paragraph (1) shall include annual cov-
3 erage for both 45 days of in-patient care for mental illness and for 45
4 visits for out-patient care for mental illness.

5 (b) Notwithstanding the provisions of K.S.A. 40-2249a, and amend-
6 ments thereto, the state insurance department shall deliver to the presi-
7 dent of the senate and to the speaker of the house of representatives on
8 or before January 1, 2003, a report indicating the impact of providing
9 mental illness benefits required by this act. Such report shall include
10 information regarding access to and usage of such services and the cost
11 of such services.

12 (c) For the purposes of this section, "mental illness" means the fol-
13 lowing: Schizophrenia, schizoaffective disorder, schizophreniform disorder,
14 brief reactive psychosis, paranoid or delusional disorder, atypical psy-
15 chosis, major affective disorders (bipolar and major depression),
16 cyclothymic and dysthymic disorders, obsessive compulsive disorder,
17 panic disorder, ~~pervasive developmental disorder, including autism,~~ at-
18 tention deficit disorder and attention deficit hyperactive disorder as such
19 terms are defined in the diagnostic and statistical manual of mental dis-
20 orders, fourth edition, ~~(DSM-IV, 1994)~~ of the American psychiatric as-
21 ~~sociation~~ *text revision (DSM-IV-TR), of the American psychiatric asso-*
22 *ciation, as published in May, 2000, or later versions as established in rules*
23 *and regulations adopted by the behavioral sciences regulatory board pur-*
24 *suant to K.S.A. 74-7507, and amendments thereto,* but shall not include
25 conditions not attributable to a mental disorder that are a focus of atten-
26 tion or treatment.

27 (d) The provisions of this section shall be applicable to health main-
28 tenance organizations organized under article 32 of chapter 40 of the
29 Kansas Statutes Annotated.

30 (e) The provisions of this section shall not apply to any medicare
31 supplement policy of insurance, as defined by the commissioner of in-
32 surance by rule and regulation.

33 (f) The provisions of this section shall be applicable to the Kansas
34 state employees health care benefits program and municipal funded
35 pools.

36 (g) The provisions of this section shall not apply to any policy or cer-
37 tificate which provides coverage for any specified disease, specified ac-
38 cident or accident only coverage, credit, dental, disability income, hospital
39 indemnity, long-term care insurance as defined by K.S.A. 40-2227, and
40 amendments thereto, vision care or any other limited supplemental ben-
41 efit nor to any medicare supplement policy of insurance as defined by
42 the commissioner of insurance by rule and regulation, any coverage issued
43 as a supplement to liability insurance, workers compensation or similar

1 insurance, automobile medical-payment insurance or any insurance un-
2 der which benefits are payable with or without regard to fault, whether
3 written on a group, blanket or individual basis.

4 (h) From and after January 1, 2002, the provisions of K.S.A. 40-2,105,
5 and amendments thereto, shall not apply to mental illnesses as defined
6 in this act.

7 (i) There shall be no coverage under this section for evaluations and
8 diagnostic tests ordered or requested in connection with criminal actions,
9 divorce, child custody or child visitation proceedings.

10 Sec. 5. K.S.A. 2007 Supp. 40-19c09 is hereby amended to read as
11 follows: 40-19c09. (a) Corporations organized under the nonprofit medi-
12 cal and hospital service corporation act shall be subject to the provisions
13 of the Kansas general corporation code, articles 60 to 74, inclusive, of
14 chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit cor-
15 porations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-
16 219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-
17 235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252,
18 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-
19 2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through
20 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-
21 2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-
22 2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-
23 3301 to 40-3313, inclusive, K.S.A. 2007 Supp. 40-2,105a ~~and 40-2,105b,~~
24 ~~40-2,105b and section 1,~~ and amendments thereto, except as the context
25 otherwise requires, and shall not be subject to any other provisions of the
26 insurance code except as expressly provided in this act.

27 (b) No policy, agreement, contract or certificate issued by a corpo-
28 ration to which this section applies shall contain a provision which ex-
29 cludes, limits or otherwise restricts coverage because medicaid benefits
30 as permitted by title XIX of the social security act of 1965 are or may be
31 available for the same accident or illness.

32 (c) Violation of subsection (b) shall be subject to the penalties pre-
33 scribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

34 Sec. 6. K.S.A. 2007 Supp. 40-2,103, 40-2,105, 40-2,105a and 40-
35 19c09 are hereby repealed.

36 Sec. 7. This act shall take effect and be in force from and after its
37 publication in the statute book.