AN ACT relating to insurance coverage of autism spectrum disorders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.17A-141 is amended to read as follows:

As used in this section and KRS 304.17A-142~~[and 304.17A-143]~~, unless the context requires otherwise:

(1) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, 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 any licensed person, entity, or group that provides treatment of autism spectrum disorders;

(3) "Autism spectrum disorders" means a physical, mental, or cognitive illness or disorder which includes any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders ("DSM") published by the American Psychiatric Association, including Autistic Disorder, Asperger's Disorder, and Pervasive Developmental Disorder Not Otherwise Specified;

(4) "Diagnosis of autism spectrum disorders" means medically necessary assessments, evaluations, or tests to diagnose whether an individual has any of the autism spectrum disorders, including testing tools which shall be appropriate to the presenting characteristics and age of the individual and be empirically validated for autism spectrum disorders to provide evidence that meets the criteria for autism spectrum disorder in the most recent diagnostic and statistical Manual of Mental Disorders published by the American Psychiatric Association;

(5) "Habilitative or rehabilitative care" means professional counseling and guidance services, therapy, and treatment programs, including applied behavior analysis, that

are necessary to develop, maintain, and restore, to the maximum extent practicable, the functioning of an individual;

(6) "Medical care" means services provided by a licensed physician, an advanced registered nurse practitioner, or other licensed health care provider;

(7) "Pharmacy care" means medically necessary medications prescribed by a licensed physician or other health-care practitioner with prescribing authority, if covered by the plan, and any medically necessary health-related services to determine the need or effectiveness of the medications;

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

(9) "Psychological care" means direct or consultative services provided by an individual licensed by the Kentucky Board of Examiners of Psychology or by the appropriate licensing agency in the state in which the individual practices;

(10) "Therapeutic care" means services provided by licensed speech therapists, occupational therapists, or physical therapists; and

(11) "Treatment for autism spectrum disorders" includes the following care for an individual diagnosed with any of the autism spectrum disorders:

(a) Medical care;

(b) Habilitative or rehabilitative care;

(c) Pharmacy care, if covered by the plan;

(d) Psychiatric care;

(e) Psychological care;

(f) Therapeutic care; and

(g) Applied behavior analysis prescribed or ordered by a licensed health or allied health professional.

➔Section 2. KRS 304.17A-142 is amended to read as follows:

(1) ***Any***~~[A large group]~~ health benefit plan ***issued or renewed after the effective date of***

this Act shall provide coverage of an individual between the ages of one (1) through twenty-one (21) years of age, as required by subsection (2) of this section, for the diagnosis and treatment of autism spectrum disorders.~~[To the extent that the diagnosis and treatment of autism spectrum disorders are not already covered by a health insurance policy, coverage under this section shall be included in health benefit plans that are delivered, executed, issued, amended, adjusted, or renewed within the state on or after thirty (30) days after January 1, 2011.]~~ An insurer shall not terminate coverage, or refuse to deliver, execute, issue, amend, adjust, or renew coverage, to an individual solely because the individual is diagnosed with or has received treatment for any of the autism spectrum disorders.

(2) Coverage under this section shall be subject to a maximum annual benefit per covered individual as follows:

(a) ***For large group health benefit plans:***

1. For individuals between the ages of one (1) through their seventh birthday, the maximum annual benefit shall be fifty thousand dollars ($50,000) per individual; ***and***

2.~~[(b)]~~ For individuals between the ages of seven (7) through twenty-one (21), the maximum benefit shall be one thousand dollars ($1,000), per month per individual;~~[and]~~

(b) For all health benefit plans in the individual and small group market for individuals between the ages of one (1) through twenty-one (21), the maximum benefit shall be one thousand dollars ($1,000), per month per individual; and

(c) These limits shall not apply to other health conditions of the individual and services for the individual not related to the treatment of an autism spectrum disorder.

(3) Coverage under this section shall not be subject to any limits on the number of visits an individual may make to an autism services provider.

(4) Coverage under this section may be subject to copayment, deductible, and coinsurance provisions of a health benefit plan that are no less favorable than those that apply to other medical services covered by the health benefit plan.

(5) This section shall not be construed as limiting benefits that are otherwise available to an individual under a health benefit plan.

(6) Except for inpatient services, if an individual is receiving treatment for autism spectrum disorders:

(a) An insurer shall have the right to request a utilization review of that treatment not more than once every twelve (12) months, unless the insurer and the individual's licensed physician, licensed psychologist, or licensed psychological practitioner agree that a more frequent review is necessary. The cost of obtaining any review shall be borne by the insurer;

(b) Upon request of the reimbursing insurer, an autism services provider shall furnish medical records, clinical notes, or other necessary data that substantiate that initial or continued treatment or services that are medically necessary and are resulting in improved clinical status;

(c) When treatment is anticipated to require continued services to achieve demonstrable progress, the insurer may request a treatment plan consisting of diagnosis, proposed treatment by type, frequency, anticipated duration of treatment, anticipated outcomes stated as goals, and the frequency by which the treatment plan will be updated; and

(d) The treatment plan shall contain specific cognitive, social, communicative, self-care, or behavioral goals that are clearly defined, directly observed, and continually measured and that address the characteristics of the autism spectrum disorder.

(7) ~~[This section shall not be construed as requiring coverage for treatment of autism spectrum disorders for individuals covered under an individual or small group~~

~~health benefit plan, except as provided by KRS 304.17A-143.~~

~~(8) [~~Nothing in this section and KRS 304.17A-141 ~~[and 304.17A-143]~~shall be construed as limiting, replacing, or otherwise affecting any obligation to provide services to an individual under an individualized service plan or other publicly funded program. Nothing in this section and KRS 304.17A-141 ~~[and 304.17A-143]~~shall be construed as requiring a health benefit plan to provide benefits for services that are included in an individualized family service plan, an individualized education program, an individualized service plan, or other publicly funded programs. The coverage mandated in this section and KRS 304.17A-141 ~~[and 304.17A-143]~~shall be in addition to any services which an individual is entitled to receive under any such publicly funded programs.

(8) ~~[(9)]~~ No reimbursement is required under this section for services, supplies, or equipment:

(a) For which the insured has no legal obligation to pay in the absence of this or like coverage;

(b) Provided to the insured by a publicly funded program;

(c) Performed by a relative of an insured for which, in the absence of any health benefits coverage, no charge would be made; and

(d) For services provided by persons who are not licensed as required by law.

(9) An insurer offering a health benefit plan shall maintain a Web site page on its Web site which is available to its insureds detailing information for insureds on the process of filing claims for benefits required under this section. The commissioner shall promulgate administrative regulations in accordance with KRS Chapter 13A establishing the information required to be provided under this subsection, which shall include explanations of:

(a) The process for prior authorization of treatment, including specific documentation needed from the insured or provider for the insurer to

consider the request;

(b) The proper coding to use when submitting claims for applied behavioral analysis therapy and any supporting documentation required to be attached to the claim;

(c) Any appeal rights, including the right to an external review process pursuant to KRS 304.17A-621 to 304.17A-633, the insured may have regarding claims for coverage under this section which have been denied or limited; and

(d) The insured's right to file a complaint against the insurer with the department.

➔Section 3. The following KRS section is repealed:

304.17A-143 Coverage for treatment of autism in the individual and small group market -- Limitation -- Definitions.