

By the Committees on Banking and Insurance; and Health Regulation; and Senators Ring, Gardiner, and Fasano

597-03654-10

2010214c2

1 A bill to be entitled
2 An act relating to autism; creating s. 381.986, F.S.;
3 requiring that a physician refer a minor to an
4 appropriate specialist for screening for autism
5 spectrum disorder under certain circumstances;
6 defining the term "appropriate specialist"; amending
7 ss. 627.6686 and 641.31098, F.S.; defining the terms
8 "developmental disability" and "direct patient
9 access"; providing health insurance coverage for
10 individuals with certain developmental disabilities;
11 requiring certain insurers and health maintenance
12 organizations to provide direct patient access to an
13 appropriate specialist for the screening, evaluation,
14 or diagnosis of autism spectrum disorder or other
15 developmental disabilities; requiring the insurer's
16 policy or the health maintenance organization's
17 contract to provide a minimum number of visits per
18 year for the screening, evaluation, or diagnosis of
19 autism spectrum disorder or other developmental
20 disabilities; revising the effective dates of certain
21 enforcement provisions; providing a declaration of
22 important state interest; providing applicability;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 381.986, Florida Statutes, is created to
28 read:

29 381.986 Screening for autism spectrum disorder.-

597-03654-10

2010214c2

30 (1) If the parent or legal guardian of a minor believes
31 that the minor exhibits symptoms of autism spectrum disorder as
32 defined in ss. 627.6686 and 641.31098, the parent or legal
33 guardian may report his or her observation to a physician
34 licensed in this state. The physician shall perform screening in
35 accordance with American Academy of Pediatrics' guidelines. If
36 the physician determines that referral to a specialist is
37 medically necessary, he or she shall refer the minor to an
38 appropriate specialist to determine whether the minor meets
39 diagnostic criteria for autism spectrum disorder as defined in
40 ss. 627.6686 and 641.31098. If the physician determines that
41 referral to a specialist is not medically necessary, the
42 physician shall inform the parent or legal guardian that they
43 can self-refer to the Early Steps intervention program or other
44 specialist in autism. This section does not apply to a physician
45 providing care under s. 395.1041.

46 (2) As used in this section, the term "appropriate
47 specialist" means a qualified professional who is experienced in
48 the evaluation of autism spectrum disorder as defined in ss.
49 627.6686 and 641.31098, is licensed in this state, and has
50 training in validated diagnostic tools. The term includes, but
51 is not limited to:

52 (a) A psychologist;

53 (b) A psychiatrist;

54 (c) A neurologist;

55 (d) A developmental or behavioral pediatrician; or

56 (e) A professional whose licensure is deemed appropriate by
57 the Children's Medical Services Early Steps Program within the
58 Department of Health.

597-03654-10

2010214c2

59 Section 2. Section 627.6686, Florida Statutes, is amended
60 to read:

61 627.6686 Coverage for individuals with developmental
62 disabilities ~~autism spectrum disorder required; exception.~~-

63 (1) This section and s. 641.31098 may be cited as the
64 "Steven A. Geller Autism Coverage Act."

65 (2) As used in this section, the term:

66 (a) "Applied behavior analysis" means the design,
67 implementation, and evaluation of environmental modifications,
68 using behavioral stimuli and consequences, to produce socially
69 significant improvement in human behavior, including, but not
70 limited to, the use of direct observation, measurement, and
71 functional analysis of the relations between environment and
72 behavior.

73 (b) "Autism spectrum disorder" means any of the following
74 disorders as defined in the most recent edition of the
75 Diagnostic and Statistical Manual of Mental Disorders of the
76 American Psychiatric Association:

- 77 1. Autistic disorder.
78 2. Asperger's syndrome.
79 3. Pervasive developmental disorder not otherwise
80 specified.

81 (c) "Developmental disability" means a disorder or syndrome
82 attributable to cerebral palsy or Down syndrome, which manifests
83 before the age of 18 years and constitutes a substantial
84 handicap that can reasonably be expected to continue
85 indefinitely. As used in this section:

- 86 1. "Cerebral palsy" has the same meaning as in s. 393.063.
87 2. "Down syndrome" means a disorder caused by the presence

597-03654-10

2010214c2

88 of an extra chromosome 21.

89 (d) "Direct patient access" means the ability of an insured
90 to obtain services from an in-network provider without a
91 referral or other authorization before receiving services.

92 (e)~~(e)~~ "Eligible individual" means an individual under 18
93 years of age or an individual 18 years of age or older who is in
94 high school and who has been diagnosed as having a developmental
95 disability at 8 years of age or younger.

96 (f)~~(d)~~ "Health insurance plan" means a group health
97 insurance policy or group health benefit plan offered by an
98 insurer which includes the state group insurance program
99 provided under s. 110.123. The term does not include a ~~any~~
100 health insurance plan offered in the individual market, a ~~any~~
101 health insurance plan that is individually underwritten, or a
102 ~~any~~ health insurance plan provided to a small employer.

103 (g)~~(e)~~ "Insurer" means an insurer providing health
104 insurance coverage, which is licensed to engage in the business
105 of insurance in this state and is subject to insurance
106 regulation.

107 (3) A health insurance plan must ~~issued or renewed on or~~
108 ~~after April 1, 2009, shall~~ provide coverage to an eligible
109 individual for:

110 (a) Direct patient access to one appropriate specialist, as
111 defined in s. 381.986, for a minimum of three visits per policy
112 year for the screening for, evaluation of, or diagnosis of
113 autism spectrum disorder or other developmental disability.

114 (b)~~(a)~~ Well-baby and well-child screening for diagnosing
115 the presence of autism spectrum disorder.

116 (c)~~(b)~~ Treatment of autism spectrum disorder or other

597-03654-10

2010214c2

117 developmental disability through speech therapy, occupational
118 therapy, physical therapy, and applied behavior analysis.
119 Applied behavior analysis services shall be provided by an
120 individual certified pursuant to s. 393.17 or an individual
121 licensed under chapter 490 or chapter 491.

122 (4) The coverage required pursuant to subsection (3) is
123 subject to the following requirements:

124 (a) Coverage shall be limited to treatment that is
125 prescribed by the insured's treating physician in accordance
126 with a treatment plan.

127 (b) Coverage for the services described in subsection (3)
128 shall be limited to \$36,000 annually and may not exceed \$200,000
129 in total lifetime benefits.

130 (c) Coverage may not be denied on the basis that provided
131 services are habilitative in nature.

132 (d) Coverage may be subject to other general exclusions and
133 limitations of the insurer's policy or plan, including, but not
134 limited to, coordination of benefits, participating provider
135 requirements, restrictions on services provided by family or
136 household members, and utilization review of health care
137 services, including the review of medical necessity, case
138 management, and other managed care provisions.

139 (5) The coverage required pursuant to subsection (3) may
140 not be subject to dollar limits, deductibles, or coinsurance
141 provisions that are less favorable to an insured than the dollar
142 limits, deductibles, or coinsurance provisions that apply to
143 physical illnesses that are generally covered under the health
144 insurance plan, except as otherwise provided in subsection (4).

145 (6) An insurer may not deny or refuse to issue coverage for

597-03654-10

2010214c2

146 medically necessary services, refuse to contract with, or refuse
147 to renew or reissue or otherwise terminate or restrict coverage
148 for an individual because the individual is diagnosed as having
149 a developmental disability.

150 (7) The treatment plan required pursuant to subsection (4)
151 shall include all elements necessary for the health insurance
152 plan to appropriately pay claims. These elements include, but
153 are not limited to, a diagnosis, the proposed treatment by type,
154 the frequency and duration of treatment, the anticipated
155 outcomes stated as goals, the frequency with which the treatment
156 plan will be updated, and the signature of the treating
157 physician.

158 (8) Beginning January 1, 2011, the maximum benefit under
159 paragraph (4) (b) shall be adjusted annually on January 1 of each
160 calendar year to reflect any change from the previous year in
161 the medical component of the then current Consumer Price Index
162 for all urban consumers, published by the Bureau of Labor
163 Statistics of the United States Department of Labor.

164 (9) This section may not be construed as limiting benefits
165 and coverage otherwise available to an insured under a health
166 insurance plan.

167 (10) The Office of Insurance Regulation may not enforce
168 this section against an insurer that becomes ~~is~~ a signatory ~~no~~
169 ~~later than April 1, 2009,~~ to the developmental disabilities
170 compact established under s. 624.916 by July 1, 2010. The Office
171 of Insurance Regulation shall enforce this section against an
172 insurer that is a signatory to the compact established under s.
173 624.916 if the insurer has not complied with the terms of the
174 compact for all health insurance plans by April 1, 2010.

597-03654-10

2010214c2

175 However, any provisions of this section which are amended
176 effective July 1, 2010, may not be enforced retroactively.

177 Section 3. Subsections (2) and (3) of section 641.31098,
178 Florida Statutes, are amended to read:

179 641.31098 Coverage for individuals with developmental
180 disabilities.—

181 (2) As used in this section, the term:

182 (a) "Applied behavior analysis" means the design,
183 implementation, and evaluation of environmental modifications,
184 using behavioral stimuli and consequences, to produce socially
185 significant improvement in human behavior, including, but not
186 limited to, the use of direct observation, measurement, and
187 functional analysis of the relations between environment and
188 behavior.

189 (b) "Autism spectrum disorder" means any of the following
190 disorders as defined in the most recent edition of the
191 Diagnostic and Statistical Manual of Mental Disorders of the
192 American Psychiatric Association:

- 193 1. Autistic disorder.
- 194 2. Asperger's syndrome.
- 195 3. Pervasive developmental disorder not otherwise
196 specified.

197 (c) "Developmental disability" means a disorder or syndrome
198 attributable to cerebral palsy or Down syndrome, which manifests
199 before the age of 18 years and constitutes a substantial
200 handicap that can reasonably be expected to continue
201 indefinitely. As used in this section:

- 202 1. "Cerebral palsy" has the same meaning as in s. 393.063.
- 203 2. "Down syndrome" means a disorder caused by the presence

597-03654-10

2010214c2

204 of an extra chromosome 21.

205 (d) "Direct patient access" means the ability of an insured
206 to obtain services from an in-network provider without a
207 referral or other authorization before receiving services.

208 (e)~~(e)~~ "Eligible individual" means an individual under 18
209 years of age or an individual 18 years of age or older who is in
210 high school and who has been diagnosed as having a developmental
211 disability at 8 years of age or younger.

212 (f)~~(d)~~ "Health maintenance contract" means a group health
213 maintenance contract offered by a health maintenance
214 organization. The ~~This~~ term does not include a health
215 maintenance contract offered in the individual market, a health
216 maintenance contract that is individually underwritten, or a
217 health maintenance contract provided to a small employer.

218 (3) A health maintenance contract must ~~issued or renewed on~~
219 ~~or after April 1, 2009,~~ shall provide coverage to an eligible
220 individual for:

221 (a) Direct patient access to one appropriate specialist, as
222 defined in s. 381.986, for a minimum of three visits per policy
223 year for the screening for, evaluation of, or diagnosis of
224 autism spectrum disorder or other developmental disability.

225 (b)~~(a)~~ Well-baby and well-child screening for diagnosing
226 the presence of autism spectrum disorder.

227 (c)~~(b)~~ Treatment of autism spectrum disorder or other
228 developmental disability through speech therapy, occupational
229 therapy, physical therapy, and applied behavior analysis
230 services. Applied behavior analysis services shall be provided
231 by an individual certified pursuant to s. 393.17 or an
232 individual licensed under chapter 490 or chapter 491.

597-03654-10

2010214c2

233 Section 4. The Legislature finds that this act fulfils an
234 important state interest.

235 Section 5. This act shall take effect July 1, 2010, and
236 applies to policies issued or renewed on or after that date.