House Bill 309

By: Representatives Harbin of the 122nd, Dempsey of the 13th, Ramsey of the 72nd, Randall of the 142nd, Neal of the 2nd, and others

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 33-24-59.10 of the Official Code of Georgia Annotated, relating to insurance coverage for autism, so as to provide a short title; to provide for definitions; to provide for certain insurance coverage of autism spectrum disorders; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as "Ava's Law."

SECTION 2.

Code Section 33-24-59.10 of the Official Code of Georgia Annotated, relating to insurance coverage for autism, is amended as follows:

"33-24-59.10.

(a) As used in this Code section, the term:

(1) 'Accident and sickness contract, policy, or benefit plan' shall have the same meaning as found in Code Section 33-24-59.1. Accident and sickness contract, policy, or benefit plan shall also include without limitation any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45.

(2) ~~'Autism' means a developmental neurological disorder, usually appearing in the first three years of life, which affects normal brain functions and is manifested by compulsive, ritualistic behavior and severely impaired social interaction and communication skills~~ '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.

(3) 'Autism spectrum disorder' means any of the pervasive developmental disorders or autism spectrum disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, Asperger's disorder, and pervasive developmental disorder not otherwise specified.

(4) 'Behavioral health treatment' means counseling services and treatment programs that develop, maintain, or restore, to the maximum extent possible, the functioning of an individual, including applied behavior analysis and other structured behavioral or developmental programs that use evidence based practices, provided by or under the direction of a licensed psychiatrist, licensed psychologist, board certified behavior analyst, or other qualified professional.

(5) 'Board certified behavior analyst' means an individual who has met all requirements of and is currently certified by the Behavior Analyst Certification Board, Inc.

(6) 'Evidence based practices' means the integration of evidence based research with clinical expertise in the context of patient characteristics and values.

(7) 'Pharmacy care' means medications prescribed by a licensed physician, licensed physician assistant, or certified nurse practitioner.

(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 a psychologist licensed in the state in which the psychologist practices.

(10) 'Therapeutic care' means services provided by a licensed speech therapist, occupational therapist, or physical therapist.

(11) 'Treatment for an autism spectrum disorder' means medically necessary services for the evaluation, assessment, testing, screening, diagnosing, and treatment of autism spectrum disorders using evidence based practices and includes behavioral health treatment, pharmacy care, psychiatric care, psychological care, and therapeutic care.

(b) An insurer ~~that provides benefits for neurological disorders, whether under a group or individual accident and sickness contract, policy, or benefit plan, shall not deny providing benefits in accordance with the conditions, schedule of benefits, limitations as to type and scope of treatment authorized for neurological disorders, exclusions, cost-sharing arrangements, or copayment requirements which exist in such contract, policy, or benefit plan for neurological disorders because of a diagnosis of autism. The provisions of this subsection shall not expand the type or scope of treatment beyond that authorized for any other diagnosed neurological disorder~~ shall not deny, refuse to issue coverage on, contract with, renew, or reissue or otherwise terminate or restrict coverage under an accident and sickness contract, policy, or benefit plan on a group individual solely because an individual

is diagnosed with an autism spectrum disorder or has received treatment for an autism spectrum disorder.

(c) Coverage under this Code section shall not be subject to dollar limits, deductibles, coinsurance provisions, or coverage periods that are less favorable to an insured than the dollar limits, deductibles, coinsurance provisions, or coverage periods that apply to physical illness generally under an accident and sickness contract, policy, or benefit plan, except as provided in subsection (e) of this Code section. No treatment for an autism spectrum disorder under this Code section shall be denied on the basis that it is habilitative or not restorative in nature.

(d) Treatment for an autism spectrum disorder, prescribed by a licensed physician or licensed psychologist as medically necessary and appropriate for the type of care, shall be a covered benefit under an accident and sickness contract, policy, or benefit plan except as provided in subsection (e) of this Code section. An insurer shall have the right to request updated treatment plans annually to review whether a treatment for an autism spectrum disorder is medically necessary, unless the insurer and treatment provider agree in a particular case that a more frequent review is necessary due to emerging clinical circumstances. No such agreement shall be a standard term in a provider agreement. The cost of obtaining any medically necessary review shall be borne by the insurer.

(e) Behavioral health treatments under this Code section may be subject to a maximum benefit of $50,000.00 per year, but shall not be subject to any limits on the number of visits or hours per visit.

(f) This Code section shall not be construed to affect any obligation to provide services to an individual under an individualized family service plan, an individual education plan as required by the federal Individuals with Disabilities in Education Act, or an individualized service plan.

(g) This Code section shall not be construed to limit benefits that are otherwise available to an individual under an accident and sickness contract, policy, or benefit plan.

(h) Beginning on January 1, 2014, the Commissioner shall, on an annual basis, adjust the maximum benefit as provided in subsection (e) of this Code section for inflation, which shall be based on the Medical Care Component of the Consumer Price Index for all Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics of the United States Department of Labor. The Commissioner shall submit the adjusted maximum benefit for publication annually no later than July 1of each calendar year, and the published adjusted maximum shall be applicable in the following calendar year to any accident and sickness contract, policy, or benefit plan subject to this Code section. Payments made by an insurer on behalf of a covered individual for any care, treatment, intervention, service, medical

device, or item unrelated to behavioral health treatment shall not be applied to any maximum benefit established under this Code section.

(i) Beginning January 1, 2014, to the extent that this Code section requires benefits that exceed the essential health benefits required under Section 1302(b) of the federal Patient Protection and Affordable Care Act, P. L. 111-148, the specific benefits that exceed the required essential health benefits shall not be required of a 'qualified health plan' as defined in such act when the qualified health plan is offered in this state through the exchange. Nothing in this subsection shall nullify the application of this Code section to plans offered outside the state's exchange.″

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.